CASE NO.

IN THE SUPREME COURT OF THE UNITED STATES

In Re:

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, JASON M SHEPHERD on behalf of the COBB COUNTY REPUBLICAN PARTY, and BRIAN JAY VAN GUNDY

Petitioners,

STATE OF GEORGIA, BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Respondents

Appendix

SIDNEY POWELL
Counsel of Record
Texas Bar No. 16209700
Sidney Powell, P.C.
2911 Turtle Creek Blvd., Suite 300
Dallas, Texas 75219
(517) 763-7499
sidney@federalappeals.com

Of Counsel

JULIA Z. HALLER
BRANDON JOHNSON
EMILY P. NEWMAN

/s/ Howard Kleinhendler
HOWARD KLEINHENDLER
New York Bar No. 2657120
Howard Kleinhendler Esquire
369 Lexington Avenue, 12th Floor
New York, New York 10017
(917) 793-1188
howard@kleinhendler.com

HARRY W. MACDOUGALD
Georgia Bar No. 463076
Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Ste 1600
Atlanta, Georgia 30346
(404) 843-1956
hmacdougald@cpdlawyers.com

L. LIN WOOD
Georgia Bar No. 774588
L. LIN WOOD, P.C.
P.O. Box 52584
Atlanta, GA 30305-0584
(404) 891-1402

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY

Plaintiffs,

vs.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants,

DEMOCRATIC PARTY OF GEORGIA, INC., DSCC, DCCC, JOHN MANGANO, ALICE O'LENICK, BEN SATTERFIELD, WANDY TAYLOR, and STEPHEN DAY,

Intervenors.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

J U D G M E N T

This action having come before the court, Honorable Timothy C. Batten, Sr., United States District Judge, for consideration of defendant's and the intervenor defendant's motions to dismiss, and the court having granted said motions, it is

Ordered and Adjudged that the action be, and the same hereby is, dismissed.

Dated at Atlanta, Georgia, this 7th day of December, 2020.

JAMES N. HATTEN
CLERK OF COURT

By: s/ D. Barfield
Deputy Clerk

Prepared, Filed, and Entered
in the Clerk's Office
December 7, 2020
James N. Hatten
Clerk of Court

By: s/ D. Barfield
Deputy Clerk

United States District Court
Northern District Of Georgia
Atlanta Division

Coreco Jaqan Pearson, et al.,
Plaintiff,
vs.
Brian Kemp, et al.,
Defendant.

Civil Action
File No. 1:20-CV-4809-TCB

Atlanta, Georgia
Monday December 7, 2020
10:00 a.m.

Transcript of Motions Hearing
Before The Honorable Timothy C. Batten, Sr.
United States District Judge

APPEARANCES:

FOR THE PLAINTIFFS: Sidney Powell
Harry MacDougald
Attorneys at Law

FOR THE DEFENDANTS: Carey Allen Miller
Joshua Barret Belinfante
Charlene Swartz McGowan
Melanie Leigh Johnson
Attorneys at Law

Lori Burgess, Official Court Reporter
(404) 215-1528

Proceedings recorded by mechanical stenography, transcript produced by CAT.

THE COURT: Good morning. I would like to point out that this hearing is being audio streamed nationally, so whatever you say near your microphones will be picked up for the world to hear, so you might want to be discreet in what you have to say this morning with the microphones. Also, I would ask that -- each of y'all should have some plastic bags. As you leave the lectern, take the bag with you, and the next person who comes up should put a new bag. You all have bags, right? Okay. So that is what we are going to do. All right.

In this case, the Plaintiffs are a group of disappointed Republican presidential electors. They assert that the 2020 presidential election in Georgia was stolen, and that the results, Joe Biden winning, occurred only because of massive fraud. Plaintiffs contend that this massive fraud was manifest primarily, but not exclusively, through the use of ballot stuffing. And they allege that this ballot stuffing has been rendered virtually invisible by computer software created and run by foreign oligarchs and dictators from Venezuela to China to Iran.

The defendants deny all of Plaintiffs' accusations. They begin in their motions to dismiss by rhetorically asking what a lot of people are thinking, why would Georgia's Republican Governor and Republican Secretary of State, who were avowed supporters of President Trump, conspire to throw the election in favor of the Democratic candidate for

President.

We are going to turn now to the legal arguments. We have several motions today, but primarily they are grouped into two. First we have a motion to dismiss that has been filed by the State Defendants, the original defendants in the case, and then we have another motion to dismiss filed by the Intervening Defendants in the case. The Plaintiffs of course oppose both of these motions. They've been fully briefed, and I have read everything that has been filed in this case by the Plaintiffs and everything pertaining to these motions. If the Defendants are not successful on those motions to dismiss, we will proceed to hear argument on the substantive merits of the complaint and the claims in the complaint. The way that time is going to be -- well let me begin it this way. In their legal arguments the Defendants contend that Plaintiffs lack standing to bring this suit, which is pretty much what the 11th Circuit just held in Mr. Woods's own separate suit against the State on Saturday. The Defendants further argue that under Georgia law this kind of suit, one for election fraud, should be filed in State Court, not Federal Court. This too is what the 11th Circuit held in a separate but similar case recently. And next, Defendants assert that Plaintiffs waited too long to file this suit which seeks an order decertifying the election results. The Secretary of State has already certified the election result, and there is

no mechanism that the Court is aware of of decertifying it, but that is that the Plaintiffs seek.

And finally, the law is pretty clear that a party cannot obtain the extraordinary remedy of injunctive relief unless he acts quickly. And Defendants contend that the Plaintiffs have failed to do that, pointing out that all of Plaintiffs' claims about the Dominion voting machines, the ballot marking devices, could have been raised months ago, and certainly prior to the November 3 election, and certainly before Plaintiffs filed this suit over three weeks after the election took place.

So these are the procedural arguments that the Defendants are making today, or at least the main ones, I believe. And then the question is, assuming the Plaintiffs can survive these procedural hurdles, what is the relief that they want? They want me to agree with their allegations of massive fraud. And what do they want me to do about it? They want me to enter injunctive relief, specifically the extraordinary remedy of declaring that the winner of the election in Georgia was Donald Trump and not Joe Biden. They ask me to order the Governor and the Secretary of State to undo what they have done, which is certify Joe Biden as the election winner. We will get to those merits if the Plaintiffs survive the motion to dismiss.

At this time we're going to begin with the motion to

dismiss, and the time allotment will be as follows: The State Defendants have 20 minutes -- let me back up. Each side gets 30 minutes. The Plaintiffs get all 30 of their minutes, and the Defendants' 30 minutes are divided among the two sets of Defendants. The State Defendants -- the State Defendants get 20 minutes, and then the Intervening Defendants get 10 minutes, following which we will hear the Plaintiffs' response. They have up to 30 minutes. And then whatever time was saved in -- reserved for rebuttal, the State Defendants and Intervening Defendants will then have.

But before we go forward, is there any way we can stop this fuzzy sound that is coming through up here? I don't know if it is coming through in the whole courtroom. I don't think has anything to do with my microphone. (pause). All right, is that better? I think it was the speaker, one of the two speakers up here on the bench. I talk loud enough and I think the lawyers talk loud enough that I can hear what they are going to say. I don't need a microphone. So at this time I will turn the matter over to the State Defendants.

MR. MILLER: Good morning, Your Honor. Carey Miller on behalf of the State Defendants. I am joined today by Josh Belinfante, Charlene McGowan, and Melanie Johnson. Mr. Belinfante will be handling the motion to dismiss. I do want to raise with the Court, to the extent that we get there, State Defendants would like to renew their motion to alter the

TRO that is in place at this point. I understand that we can address that in that section.

THE COURT: All right. Thank you, sir.

MR. BELINFANTE: I am not checking email, I am trying to keep my time.

THE COURT: Okay.

MR. BELINFANTE: I would ask this. Would the Court allow me to speak without the mask? Or do you prefer I keep the mask on to speak?

THE COURT: I think I need to have everybody keep the mask on.

MR. BELINFANTE: I'll be happy to do it. Good morning, Your Honor. I think you have hit the nail on the head in terms of what the issues are. This case simply does not belong in this Court. The relief that Plaintiffs seek is, as the Court described, extraordinary. It is to substitute by judicial fiat the wishes of the Plaintiffs over presidential election results that have been certified, that have been audited, that have been looked over with a hand-marked count. There is zero authority under the Federal law, under the Constitution of the United States, or even under Georgia law for such a remedy.

If the Plaintiffs wanted the relief they seek, they are not without remedies. They could do what the campaign of the President has done, which is file a challenge in Georgia

court under Georgia law challenging election irregularities. There are three currently pending. I have with me two Rule Nisi orders. One will proceed today at 3:30 in the Cobb Superior Court sitting by designation. Another I believe is Wednesday. And the President's, as I understand it, is to proceed on Friday. That is where these claims should be brought.

To the extent that the claims are about something else, the Court need only look at what has happened in Georgia since roughly 2019 and the passage of House Bill 316. It was at that time that the Georgia legislature completely redid Georgia election law. And there had been suit after suit after suit, many of which brought by the Defendant interveners, their allies, and others who question election outcomes. And in every suit no relief has been ordered that has been upheld by the 11th Circuit. In fact, no court has ordered relief. And to the extent that two have, the *Curling* case and the *New Georgia Project* case on discrete issues, the 11th Circuit stayed those because it concluded that there was a strong likelihood of reversible error.

So what does this tell you? It tells you that Georgia laws are constitutional, Georgia elections are constitutional, and Georgia machines are constitutional. The constitutional that the legislature has set forward is constitutional. Now, that's where the Plaintiffs have backed

themselves into a corner from which they cannot escape. In their reply brief, the claims, from the State's perspective, got significantly crystallized. It became much clearer. And they're relying heavily on *Bush v. Gore*. The problem is that they are turning *Bush v. Gore* on its head.

In *Bush v. Gore* the challenge was that a Florida Supreme Court decision was going to, as the Plaintiffs repeat often, substitute its will for the legislative scheme for appointing presidential elections. That is exactly what they are asking this Court to do, substitute this Court for the Florida Supreme Court, and you have *Bush v. Gore* all over again. And that manifests itself in various different forms that the Court has seen in our brief and the Court has already identified. I will not go through all of them. I will try to hit the high notes on some, but we will rely on our briefs. We're not dropping or conceding arguments, but we will rely on our briefs for those that I don't address expressly.

Let's talk briefly about what the complaint is, because that has been I think significantly clarified with the reply brief. One, the parties are presidential electors. And they argue that that makes a significant difference. But what are the acts of the State? Not Fulton County, not mullahs in Iran, not dictators in Venezuela. What are the acts of the State that are at issue? And it's in the discussion about traceability and the *Jacobson* decision in the 11th Circuit

where that gets fleshed out really for the first time in the reply brief, and there are three. And they tell you, and I will keep coming back to it, on Page 20 of their reply brief.

The Plaintiffs, describing the State, say they picked the Dominion system. Their policies led to de facto abolition of the signature match requirement, their regulations to permit early processing of absentee ballots is unlawful and unconstitutional. Those are the three acts of the State. Everything else is happening at a county level, period. And from that they raise what appears to now be four claims. One is the Elections and Electors Clause citing the absentee ballot opening rule, I will refer to it as, the settlement agreement. They raise equal protection claims saying that the violation of the Election Clause has led to a vote dilution and discrimination against Republican voters. They argue that due process is violated because they have a property interest in lawful elections, again, under the Elections and Electors Clause. And finally, they raise a pure State claim in Federal Court under a voter election challenge.

What is the relief they seek? The Court has identified it. Why do they seek it? The Court is informed of this on Page 25 of the reply brief. And it is -- if the Court will not order a different result than what a certified election has, they seek it through another means. They say on Page 25 that allowing the electors to be chosen by the

legislature under the plenary power granted to them for this purpose by the elections and election laws. One way or the another, the relief they seek is judicial fiat, changing certified election results. And to evaluate these claims the Court does need to consider aspects of State law. And this is where the problem lies. I am going to keep going until you tell me to stop.

(noise from courtroom audio system).

THE COURT: I am sorry, Mr. Belinfante. I don't know what the issue is. We just have to bear through it unless or until somebody fixes it. I've got six kids. It doesn't bother me.

MR. BELINFANTE: I have three, I understand. I also have the loudest dog in America. In any case, to evaluate the claims, you have to look at State law. And because the Plaintiffs raise Code Section 21-2-522 and the statutes that surround it, it's those cases that are important. It allows a challenge based on these grounds - in fact some are pending now - misconduct, fraud, irregularity, illegal votes, and error are all grounds to challenge an election in Georgia. All of these issues can be brought in in those cases. Those election challenges have to be decided promptly under 21-2-525. And, and this is critical, the relief sought is not to declare someone else a winner, it is to have another election. This goes to the point that there is simply no

authority for the relief that they seek.

Turning first, with that factual predicate in mind, to standing. There has been a fair amount of briefing on whether the status as a presidential elector guarantees standing. The 8th Circuit said yes, the 3rd Circuit said no. And I think the 3rd Circuit's analysis is more persuasive. And to the extent that the Plaintiffs say the 3rd Circuit did not consider their status as an electorate, that is true, but the electorate is not what gives you unique status, it's if the electorate is a candidate. And that is expressly what the 3rd Circuit considered in the *Bognet* decision, and we would suggest that that is the more persuasive one that we rely on in our briefs.

But I do want to address two other aspects of standing that are more particularized. One is that when they are seeking to invalidate a State rule or a consent decree that the State has entered into, or anything truly under the Elections Clause, the *Bognet* case speaks to this as well. And it says that because Plaintiffs are not the General Assembly, nor do they bear any conceivable relationship to the State law-making process, they lack standing to sue over the alleged usurpation of the General Assembly's rights under the Elections and Electors Clauses. That is absolutely true here. The *Wood* court, the 11th Circuit *Wood* opinion, says the same, citing *Walker,* because Federal Courts are not constituted as

freewheeling enforcers of the Constitution and laws. And that is the injury that underlies all of their claims, which is why they lack standing.

I am not going to get into traceability as much because I think the most useful aspect of the traceability issue is the crystallizing of Plaintiffs' complaints, and as I've indicated, the isolating of the State acts in particular.

On sovereign immunity, I only want to highlight that a decision just came out in Michigan seeking very similar relief. We will get you the cite. It is Michigan -- it is against Whitmer, *King versus Whitmer*, in the Eastern District of Michigan. Walks through all of the issues in this case and rejects the claims, denies the relief. On sovereign immunity they raise the point that under *Young*, you can only get prospective injunctive relief. That is not decertification, that is a retrospective. And so sovereign immunity would bar that. They do seek to prevent the Governor from mailing the results; that can be prospective, but there is just no relief for it. So that is all I will says on sovereign immunity.

On laches, the Michigan Court also joined in with Judge Grimberg on laches in the *Wood* case and said that there is time that is inexcusable. The Court is well-aware of the elements, was there a delay, was it not excusable, and did the delay cause undue prejudice. Judge Grimberg has already looked at this argument in the context of the *Wood* case and

the challenge to the consent order and said laches applied. And it does here for all of the Plaintiffs' arguments, and all you need to do, again, is go back to that Page 20 and see why. They say that their policies, the State's policies, led to a de facto abolition of the signature requirement. The complaint at Paragraph 58 acknowledges in Exhibit A that that happened in March of this year. There has been plenty of time that they thought the Secretary overstepped his bounds to bring a challenge in that case or to bring a challenge even afterwards, challenge the OEB. They did not.

They say on Page 20 that they, the State, picked the Dominion system. They tell you on Paragraph 12 that happened in 2019. There has been significant litigation over the Dominion system. Nothing has been held in order that the Dominion system is unconstitutional, is flawed, or anything else that has stuck.

Third, they said that their regulation, the absentee ballot regulation, permitted absentee ballots as unlawful and unconstitutional. They tell you in Paragraph 60 that happened in April of 2020. Georgia law, in the Administrative Procedures Act, specifically allows you to challenge rules, 50-13-10. That wasn't done. They certainly could have. And you don't need the fraud, as they allege, to happen first, because their argument is not based on the fraud, it is based on usurpation of power by the Executive Branch. That can be

challenged when the rule has been promulgated, when the order is out, and when the Dominion machines were selected.

We raise in our brief several forms of abstention. And truly, Your Honor, they all kind of get to the same place under different theories. And again, the reply brief made this point to the clearest. I think at the end of the day, while we will rely on our briefs in terms of why those matter, and the Michigan court found that *Colorado River* abstention should apply, there are parallel proceedings in State Court --

THE COURT: Did they even argue why it shouldn't?

MR. BELINFANTE: They argued that in voting rights cases the 11th Circuit does not typically abstain. And those cases are slightly different. They are challenging an underlying statute, for the most part. *Siegel* is a slightly -- it's a different case. But they are mostly challenging underlying statutes. And there is not a pending election challenge on the same thing in State Court. It's like the other cases that we have seen that we've defended since the gubernatorial election in 2018. So no, I don't think so. But I think the *Bush v. Gore* analysis is the one that is most critical, and it is that simply the Secretary -- the legislative scheme for electing presidential electors is set forth in the Code in Title 21, it has a means of challenging fraudulent illegal votes, it has a means of allowing the Secretary to address various issues, the State Election Board

to pass regulations. All of that authority has been delegated by, first, Congress to the Georgia Legislature, and then to the Executive Branch. That is the scheme that is put in place, and that is exactly what they seek to turn on its head. And what the three justice concurrence on which they rely says, makes that impossible. Because the Supreme Court said at Page 120, for the Court, in that case the Florida Court, to step away from this established practice prescribed by the Secretary, the State official charged by the Legislature with the responsibility to obtain and maintain uniformity in the application, operation, and interpretation of election laws was to depart from the legislative scheme.

Read the proposed order. That is exactly what the Plaintiffs seek here, and that is exactly what their own authority says the Court cannot issue in terms of relief, and that would actually trump the remaining claims because it would violate the Elections Clause in order to arguably save some other vague right in terms of due process.

Turning to that, let me talk briefly about the absentee ballot regulation, the return of the ballots. There is nothing that is inconsistent with that, number one, because if you look in the Election Code, there are five times that the General Assembly said something cannot occur earlier than X date. This doesn't say that. This says beginning on this date they can do this, but it doesn't say it can only happen.

And the five times elsewhere in the Code would suggest that the legislature knew how to change it if they wanted. That is 121-2-132, 133, 153, 187, and 384. They are simply reading the regulation to create the conflict, when every piece of Federal and State law says you should read it to avoid the conflict. In terms of the settlement agreement itself, I think Judge Grimberg has sufficiently analyzed that. And it fills the gap. There is no conflict. They can't point to any language that it does. And at the end of the day it is an OEB, an Official Election Bulletin, not a statute and not a regulation of the State Election Board anyway.

On the Dominion machines, I think we will rely on -- Mr. Miller is going to talk about that a good deal, but also they argue that the audit somehow doesn't save it because of *Prohm* and that we are estopped from raising *Prohm.* There are two problems with that. One, estoppel doesn't apply. There has been no final order. They're not estopped from doing anything. That's the *Community State Bank vs. Strong* decision from the 11th Circuit applying Georgia law 2011. And two, there has not been an order in *Curling* saying that the machines are unconstitutional. There have been nine preliminary injunctions filed, no standard relief, and it ignores -- the entire premise of the argument ignores that when a voter gets a ballot from the machine they can read who they voted for. And when the hand count took place, they

didn't scan it back in, they looked at what the ballot said and who they voted for and that is why things were put in different boxes. Their own affidavits talk about that provision of separating the boxes by hand. It resolves the issue.

The remaining theories fail -- again, I want to be cognizant of time and save some time for rebuttal. We rely on our briefs in terms of the merits of those, but the equal protection and due process allegations I think are addressed in *Wood* from the 11th Circuit. On procedural due process, to the extent that that is the due process claim, they don't challenge the Georgia election means of correcting as somehow invalid or insufficient. In fact, they raised it. And so you can't have a procedural due process claim if you have a remedy. You can't have a substantive due process claim if it doesn't shock the conscience, which having to use the remedy here, they can do. Your Honor, with that, unless there are questions, I would will reserve the rest of my time for rebuttal.

THE COURT: Thank you, sir.

MS. CALLAIS: Good morning, Your Honor. I am Amanda Callais on behalf of Intervenor Defendants, the Democratic Party of Georgia, the DSCC and the DCCC, and I am mindful of many of the points Mr. Belinfante just made, and I will not repeat them, but for the record, Your Honor, I would just like

to say that for the statements that we've made in our motion to dismiss, this case should be dismissed. The Plaintiffs in this case lack standing. They bring their claims and assert only generalized grievances. This Court also lacks jurisdiction to hear their claims because this case is moot now that the election has been certified, which is what the 11th Circuit found just this past Saturday in the *Wood v. Raffensperger* case. And then Plaintiffs have also failed to state any cognizable claim under the Election and Elections Clause, Equal Protection Clause, and Due Process Clause.

Where I would like to begin though is where Mr. Belinfante started, and I would like to bring us back to this point about where we are in terms of Georgia elections and with the remedy asked for in this case. Over a month ago five million Georgians cast their ballots in the 2020 presidential election with the majority of them choosing Joseph R. Biden, Jr. as their next President. Those votes, both the ballots that were cast on Dominion machines and the ballots that were cast by absentee were counted. Almost immediately after that count took place, those votes were counted again by hand, and then almost immediately after that count finished, the recount began again, a third time, by machine. Each and every one of those counts has confirmed Georgia voters' choice. Joe Biden should be the next President of The United States. At this point there is simply

no question that Joe Biden won Georgia's presidential election and with it all of Georgia's 16 electoral votes. Despite that, Plaintiffs have come to this Court eight months after a settlement agreement they challenged was entered, three weeks after the election is over, and days after certification took place, and they asked this Court to take back that choice, to set aside the choice that Georgia voters have made, and to choose the next president by decertifying the 2020 presidential election results and ordering the governor to appoint a new slate of electors.

THE COURT: Speaking of taking back, how do the Intervening Defendants respond to the Plaintiffs' point in their complaint that many people, including Stacey Abrams, affiliated with the Democratic Party, opposed these machines from the beginning and said that they are rife with the possibility of fraud?

MS. CALLAIS: I think, Your Honor, that the key there is that when we talk about a possibility of fraud, that does not mean that fraud has actually occurred. And here Plaintiffs come after an election has taken place and they say on very -- as we will talk about if we get to the TRO portion -- on very limited specious evidence that there is a possibility of fraud. A possibility of fraud does not mean that fraud has actually occurred. And truthfully, Your Honor, that is what the Plaintiffs would need to show to get some

sort of -- the relief that they are requesting here, that there has been actual fraud. And that is just not in their complaint, it is not in their evidence. It makes no difference whether there has been a possibility of fraud or issues with the machines. That is a case that is in front of Judge Totenberg and that she is deciding. But that is not the evidence that they have presented here, and it certainly does not support their claims.

So with that, Your Honor, as the 3rd Circuit explained just a little over a week ago when denying an emergency motion to stop certification in a case similar to this one brought by Donald J. Trump's campaign, voters not lawyers choose the President. Ballots not briefs decide elections. Plaintiffs' request for sweeping relief in this case is unprecedented. It is unprecedented anywhere, and it is particularly unprecedented in Georgia where the ballots have been counted not once, not twice, but three times, and the vote has been confirmed. Their request for relief is not just unprecedented, but also provides a separate and independent grounds for this Court to dismiss this case.

As we explained in our motion to dismiss, granting Plaintiffs' remedy in and of itself would require the Court to disenfranchise over 5 million Georgia voters, violating their constitutional right to vote. Post-election disenfranchisement has consistently been found to be a

violation of the Due Process Clause throughout the courts. For example, in *Griffin v. Burns* the 1st Circuit found that throwing out absentee votes post election that voters believed has been lawfully cast would violate the Due Process Clause. Similarly, in *Marks v. Stinson*, a number of years later, the 3rd Circuit found the same thing in their finding where they found even if there is actual evidence of fraud, discarding ballots that were legally cast or that voters believed to be legally cast violates the Due Process Clause and is a drastic remedy. This is precisely what would happen here if this Court were to order the requested relief. That order would violate the Due Process Clause. And because of that, this Court cannot grant the remedy that Plaintiffs seek and the Court should dismiss this suit.

In finding that the Court can't grant this relief, this Court would not be alone, it would be in actually quite good company, not just from the 1st Circuit and the 3rd Circuit in *Griffin* and *Stinson,* but also from more recent cases. In 2016 in *Stein v. Cortes*, the District Court declined to grant Jill Stein's request to a recount because, quote, it would well insure that no Pennsylvania vote counts, which would be outrageous and unnecessary. Just this cycle, in *Donald J. Trump for President v. Boockvar* the Plaintiffs sought to invalidate 7 million mail ballots under the Equal Protection Clause, and the Court explained that it has been

unable to find any case in which a plaintiff has sought such drastic remedy in the contest of an election in terms or the sheer volume of votes asked to be invalidated. The Court also promptly dismissed there.

Just this last Friday in *Law v. Whitmer* in Nevada State Court, which actually would have the ability to hear a contest, found that it would not decertify the election in Nevada. And the list goes on, Your Honor. We could talk about findings in State Court in Arizona on Friday. There have been over 30 challenges to this election that have been repeatedly dismissed since -- basically since election day. Since election day.

So the Court is in good company, and it's not just in company good company nationwide, but it is in good company with the judge right down the hall from here who, just two weeks ago, in a case nearly identical to this one, found a request to disenfranchise nearly 1 million absentee voters in Georgia to be extraordinary. Judge Grimberg explained that to prevent Georgia certification of the votes cast in the general election after millions of people have lawfully cast their ballots, to interfere with the results of an election that has already concluded would be unprecedented and harm the public and in countless ways. Granting injunctive relief here would breed confusion, undermine the public's trust in the election, and potentially disenfranchise over 1 million Georgia voters.

Viewed in comparison to the lack of any demonstrable harm, this Court finds no basis in fact or law to grant Plaintiff the relief he seeks.

That same reasoning applies here. And in fact, it applies here even more because most of the claims that were brought in front of Judge Grimberg are the same, but the amount of votes that Plaintiffs here seek to decertify are far greater in scope.

On this last point, Your Honor, about the inability of the Court to order the remedy, I wanted to respond to something that Plaintiffs raised in their brief last night. In their brief last night they react to the briefing on mootness that we included in our TRO and note that this Court -- this case would not be moot because the Court can decertify an election. And that *Wood v. Raffensperger* that came out by the 11th Circuit didn't discuss decertification of the election, only halting certification.

And I would just like to point out that if this Court were to decertify the election and specifically to point a new slate of electors, which is what is asked, that in and of itself would also violate the law. The U.S. Constitution empowers State Legislatures to choose the manner of appointing presidential electors, and that is the Electors Clause that Plaintiffs actually challenge. And pursuant to that clause, the Georgia General Assembly has chosen to appoint electors

according to popular vote. Those are certified by the governor through certificate of ascertainment. That popular vote has already taken place, Your Honor, and if this Court were to order a new slate of electors to be appointed, that would -- that would violate the Electors Clause.

In addition, Congress has also provided that electors shall be appointed in each and every state on the Tuesday next after the first Monday in November in every 4th year as also known as Election Day, which this year took place on November 3rd. Georgia has held that election on Election Day, and if this Court were to now, months after the -- over a month after the election, to go and order that a new slate be appointed, it would be violating that statute as well. So for the very reasons that the Plaintiffs -- the very relief that Plaintiffs ask is actually what prevents this Court from issuing any relief in this case, and precisely why it should be dismissed.

THE COURT: All right. Thank you. All right, I will hear from the Plaintiffs.

MS. POWELL: May it please the Court. Sidney Powell and Harry MacDougald for the Plaintiffs. We are here on a motion to dismiss which requires the Court to view the pleadings and all the facts alleged in the light most favorable to the Plaintiff. In my multiple decades of practice I have never seen a more specifically pled complaint

of fraud, and replete with evidence of it, both mathematical, statistical, computer, expert, testimonial, video, and multiple other means that show abject fraud committed throughout the State of Georgia.

Forget that this machine and its systems originated in Venezuela to ensure the election of Hugo Chavez and that it was designed for that purpose. Look just at what happened in Georgia. Let's start, for example, with the language, "the insularity of the Defendants' and Dominion's stance here in evaluation and management of the security and vulnerability of the system does not benefit the public or citizens' confident exercise of the franchise. The stealth vote alteration or operational interference risk posed by malware that can be effectively invisible to detection, whether intentionally seeded or not, are high once implanted, if equipment and software systems are not properly protected, implemented, and audited. The modality of the system's capacity to deprive voters of their cast votes without burden, long wait times, and insecurity regarding how their votes are actually cast and recorded in the unverified QR code makes the potential constitutional deprivation less transparently visible as well; at least until any portions of the system implode because of system breach, breakdown, or crashes" -- all of which the State of Georgia experienced -- "the operational shortcuts now in setting up or running election equipment or software

creates other risks that can adversely impact the voting process."

THE COURT: You don't have to get into any of the evidence or any of the statements or averments of the complaint because I have read it. And all these statements, I am assuming that every word of it is true. My question -- the first question I have for you, for the Plaintiffs in the case, is why -- first of all, whether you can or cannot pursue these claims in State Court, specifically in Georgia Superior Courts. Just the question is, can you?

MS. POWELL: No, Your Honor, we can't. These are exclusively Federal claims with the exception of the election contest allegation. They are predominantly Federal claims, they are brought in Federal Court for that purpose. We have a constitutional right to be here under the Election and Electors Clause. I was not reading evidence. What I was reading to the Court was the opinion of Judge Totenberg that was just issued on 10-11-20 which defeats any allegation of laches or lack of concern over the voting machines. This has been apparent to everyone who has looked at these machines or discussed them in any meaningful way or examined them in any meaningful way, beginning with Carolyn Maloney, a Democratic Representative to Congress back in 2006 who objected to them being approved by CFIUS. Judge Totenberg went on to say that "the Plaintiffs' national cybersecurity experts convincingly

present evidence that it's not a question of might this actually ever happen but, quote, when will it happen, especially if further protective measures are not taken. Given the masking nature of malware in the current systems described here, if the State and Dominion simply stand by and say we have never seen it, the future does not bode well." And sure enough, exactly the fears articulated in her 147 page opinion, and all the means and mechanisms and problems discussed in that three day hearing she held have now manifested themselves within the State of Georgia in the most extreme way possible.

THE COURT: She did not address the question before the Court today though as to the propriety of bringing this suit in this Court, did she?

MS. POWELL: There is no other place to bring this suit of Federal Equal Protection claims and the electors.

THE COURT: You couldn't bring all of these claims in State Court? Is that your position?

MS. POWELL: We are entitled to bring these claims in Federal Court, Your Honor. They are Federal constitutional claims.

THE COURT: What do you do with the 11th Circuit's holding in *Wood* on Saturday that we cannot turn back the clock and create a world in which the 2020 election results are not certified?

MS. POWELL: Actually we can, but we don't need to because we are asking the Court to decertify.

THE COURT: Where does that exist?

MS. POWELL: *Bush v. Gore*. *Bush v. Gore* was a decertification case. There are other cases we've cited in our brief that allow the Court the decertify. And at the very minimum this Court should order a preliminary injunction to allow discovery and allow us to examine the forensics of the machines. For example, we know that already in Ware County, which is a very small precinct, there were 37 votes that were admittedly flipped by the machines from Mr. Trump to Mr. Biden. That is a 74 vote swing. That equates to approximately the algorithm, our experts also believe, was run across the State that weighed Biden votes more heavily than it did Trump votes. That is a systemic indication of fraud that Judge Totenberg was expressing concern about in her decision just weeks before the election. We have witness after witness who have explained how the fraud can occur within the machines. We know for example that there were crashes, just like she feared in the decision, and everybody expressed concern about. We know machines were connected to the internet which is a violation of their certification requirements and Federal law itself. We could not have acted more quickly. In fact, the certification issue wasn't even ripe until it was actually certified.

THE COURT: But you weren't limited in your remedies to attacking the certification, you could have attacked the machines months ago.

MS. POWELL: That is what happened in the Totenberg decision, and that is why I read it to the Court. The machines were attacked by parties, and the election was allowed to go forward. And we have come forward with our claims as fast as is humanly possible. This is a massive case, and of great concern not just to the nation and to Georgia, but to the entire world, because it is imperative that we have a voting system that people can trust.

They talk about disenfranchising voters, well there are over a million voters here in Georgia that will be disenfranchised by the counting of illegal ballots that render theirs useless. It's every legal vote that must be counted. Here we have scads of evidence. And the vote count here is narrow. I mean, the disparity now is just a little over 10,000 votes. Just any one of our categories of that we have identified require decertification. For example, 20,311 nonresidents voted illegally. Between 16,000 and 22,000 unrequested absentee ballots were sent in in violation of the legislative scheme. Between 21,000 and 38,000 absentee ballots were returned by voters but never counted. 32,347 votes in Fulton County were identified to be statistically anomalous. And the vote spike for Mr. Biden, that is

completely a mathematical impossibility, according to multiple expert affidavits we provided, shows that it was like 120,000 Biden votes all of a sudden magically appear after midnight on election night. That happens to coincide with the time we have video of the Fulton County election workers running the same stack of rather pristine-looking ballots through the machine multiple times. And as for the recounts, that makes no difference because if you recount the same fake ballots, you achieve -- in the same machines, you achieve the same results. That is why the hand count in Ware County that revealed the 74 swing is so important and indicative of the systemic machine fraud that our experts have identified, and why it is so important that we at least get access for the Department of Defense even, or our own experts, or jointly, to examine the machines in Fulton County and the ten counties that we requested in our protective order, or our motion for --

THE COURT: How is this whole case not moot from the standpoint of even if you were to win, and win Georgia, could Mr. Trump win the election?

MS. POWELL: Well fraud, Your Honor, can't be allowed by a Court of Law to stand --

THE COURT: That is not what I am asking. I am not saying that there may not be other issues that need to be addressed, and that there might not be questions that need to

be investigated, I am asking, as a practical matter, in this particular election, can Mr. Trump even win the election even if he wins Georgia?

MS. POWELL: Yes, he can win the election.

THE COURT: How would that happen?

MS. POWELL: Because there are other states that are still in litigation that have even more serious fraud than we have in Georgia. It is nowhere near over. And it doesn't affect just the presidential election. This fraud affects senate seats, congressional seats, gubernatorial seats, it affects even local elections. Another huge statistic that is enough by itself to change the result is the at least 96,000 absentee ballots that were voted but are not reflected as being returned. All of these instances are violations of Federal law, as well as Georgia law. And in addition, Mr. Ramsland's report finds that the ballot marking machine appears to have abnormally influenced election results and fraudulently and erroneously attributed between thirteen thousand seven hundred and twenty-five thousand and the 136,908 votes to Mr. Biden just in Georgia. We have multiple witnesses who just saw masses of pristine ballots appearing to be computer marked, not hand marked, and those were repeatedly run through machines until votes were injected in the system that night without being observed by lawfully required observers in violation of Georgia and Federal law that

resulted in the mass shoot-up spike of votes for Mr. Biden. Mr. Favorito's affidavit is particularly important. He talks about the Ware County Waycross City Commission candidate who reported that the Ware County hand audit is flipped those 74 votes. That is a statistically significant swing for a precinct that small, and there is no explaining for it other than the machine did it. We have testimony of witnesses who saw that their vote did not come out the same way it was. Mr. Favorito is a computer tech expert. He said that the vote flipping malware was resident on the county election management system of possibly one or more precinct or scanners. There was also an instance where it came out of the Arlo system changed, and there was no way to verify the votes coming out of the individual precincts versus coming out of Arlo because apparently they didn't keep the individual results so that they can be compared. So there was a vote swapping incident through the Arlo process also.

There was a misalignment of results, according to Mr. Favorito, among all three presidential candidates. Rather than just a swapping of the results for two candidates, in other words, they would sometimes put votes into a third-party candidate and take those out and put them in Mr. Biden's pile. The system itself according to its own technological handbook explains that it allows for votes to be put in, it can scan to set or overlook anything it wants to overlook, put those in an

adjudication pile, and then in the adjudication process, which apparently was conducted in top secret at the English Street warehouse, where all kinds of strange things were going on, were just thrown out. They could just literally drag and drop thousands of votes and throw them out. That is why it is so important that we at least get temporary relief to examine the systems and to hold off the certification or decertify or ask the Court to halt the proceedings continuing right now until we can have a few days to examine the machines and get the actual evidence off the machines and look at the ballots themselves, because we know there were a number of counterfeit ballots that were used in the Fulton County count that night. It would be a simple matter to examine 100,000 or so ballots and look at which ones are fake. It is possible to determine that with relative ease.

This is not about who or which government officials knew anything was wrong with the machine. It's entirely possible that many people did not know anything was wrong with them. But it is about ensuring the integrity of the vote and the confidence of the people that the will they expressed in their vote is what actually determines the election. Very few people in this country have any confidence in that level right now. Very few.

The standard is only preponderance of the evidence. We have shown more than enough for a prima facie case to get

to -- meet the standard required -- this Court is required to apply. It is crucial that we decertify and stop the vote. We need to have discovery. It's so important to the American people, particularly in a country that is built on the rule of law, to know that their election system is fair and honest.

THE COURT: But that rule of law limits where these suits can be filed and who can bring them. Specifically on the standing issue, how does your -- how do your clients survive the motion to dismiss with respect to the standing issue if I don't follow the 8th Circuit's case opinion in *Carson*?

MS. POWELL: Even the Court's decision in *Wood* is so distinguishable it should make clear electors have standing. In that case, for example, the State could not even say who did have standing. But under the Constitution, electors clearly do.

THE COURT: But Georgia, unlike Minnesota, differentiates between candidates and Presidential electors. Right?

MS. POWELL: I am not sure about that. But we also have the Cobb County Republican Party official who is suing, and the electors themselves are part of the Constitutional Clause that entitles them to standing.

THE COURT: I just think you have a pretty glib response to what the 11th Circuit has held regarding these

cases. I mean, the 11th Circuit has basically said, you know, we are not -- the Federal Courts are courts of limited jurisdiction and we are not open 24/7 to remedy every freewheeling constitutional issue that comes up. They have made it clear, the Appellate Courts have made it clear, they don't want District Courts handling this matter, they want State Courts handling State election disputes, even regarding in Federal elections. The Federal Government has nothing to do with the State election and how it is conducted. As you said, it is the Secretary of State who is the chief election officer, and decides it. Why shouldn't the State of Georgia investigate this? Why should it be a Federal judge?

MS. POWELL: Because we raise Federal constitutional issues that are paramount to --

THE COURT: They raised Federal constitutional issues in *Wood*.

MS. POWELL: -- to equal protection. He did not request decertification. That is one of the things that distinguished that case. He was not an elector or representative of a county. He was simply an individual. And I am not sure that decision is correct because, in that case, they were also wondering who could challenge it. Well obviously the Federal Equal Protection Clause and the constitutional issues we have raised here give this Court Federal question jurisdiction. This Court's one of the

primary checks and balances on the level of fraud that we are experiencing here. It is extremely important that this Court exercise its jurisdiction as a gatekeeper on these issues. There were numerous departures from the State statute, including the early processing of votes, and the de facto abolition of signature matches that give rise to Federal Equal Protection claims.

THE COURT: Well, back to the standing question. You know, the Plaintiffs allege that their interests are the same, basically one in the same, as any Georgia voters. In Paragraph 156 of the complaint they aver that Defendants diluted the lawful ballots of Plaintiffs and of other Georgia voters and electors. Further, Defendants allege that -- the Plaintiffs allege that Defendants further violated Georgia voters's rights, and they allege, the Plaintiffs, that quote, all candidates, political parties, voters, including without limitation Plaintiffs, have a vested interest. It doesn't sound like your clients are special, that they have some unique status that they enjoy that allows them to bring this suit instead of anyone else. How do they have standing?

MS. POWELL: They have the unique status of being the Presidential electors selected to vote for Donald Trump at the electoral college. They were not certified as -- and decertification is required to make sure they can do their jobs that they were selected to do.

THE COURT: Under the 3rd Circuit case, does your theory survive?

MS. POWELL: Our theory is -- I think the 3rd Circuit decision is wrong, the 8th Circuit decision is correct. There is no circumstance in which a Federal elector should not be able to seek relief in Federal Court, thanks to our Constitution. It is one of our most important principles.

There were multiple means of fraud committed here. We have also the military intelligence proof of interference in the election, the Ware County 37 votes being flipped, the video of the Fulton City vote count, they lied about the water leak, they ran off observers, they brought in unusually packaged ballots from underneath a table. One person is seen scanning the same QR code three different times in the machine and big batch of ballots which would explain why the same number of ballots gets injected repeated into the system. That corresponds with the math and the algorithms showing a spike of 26,000 Biden votes at that time. After Trump's lead of 103,997 votes there were mysteriously 4800 votes injected into the system here in Georgia multiple times, the same number, 4800 repeatedly. That simply doesn't happen in the absence of fraud. All of the facts we have laid out in our well-pleaded complaint require that this Court decertify the election results or at least, at the very least, stop the process now in a timely fashion and give us an opportunity to

examine the machines in ten counties and get further discovery, particularly of what happened in Fulton County. Those things need to be resolved before any citizen of Georgia can have any confidence in the results of this election.

Allowing voters to cast ballots that are solely counted based on their voting designations and not on an unencrypted humanly unverifiable QR code that can be subject to external manipulation and does not allow proper voter verification and ballot vote auditing cannot withstand the scrutiny of a Federal Court and cannot pass muster as a legitimate voting system in the United States of America. For those reasons, we request the Court to deny the motion to dismiss, allow us a few days, perhaps even just five, to conduct an examination of the machines that we have requested from the beginning, and find out exactly what went on and give the Court further evidence it might want to rule in our favor, because the fraud that has happened here has destroyed any public confidence that the will of the people is reflected in their vote, and just simply cannot stand.

THE COURT: Thank you, ma'am. All right, rebuttal? This is Josh Belinfante.

MR. BELINFANTE: Just briefly, Your Honor. Your Honor, just a few points. One, I want the get back to *Colorado River* abstention. There was a means and a process to do that. You had asked earlier about their response. I did

go back and check. The *Siegel* case they rely on cites to only *Burford* and *Pullman* abstention, not *Colorado River*. It is appropriate in this case, and as the Michigan Court concluded, the *Moses Cone* case which establishes it says that there is really not a reason not to do so when you have concurrent jurisdiction.

And that is one of the problems with the Plaintiffs' argument. They keep telling you that they can't go to State Court because they have Federal constitutional claims. Those can be litigated in State Court pursuant to 1983. They also say on laches that -- it is interesting, they have cited to you and read to you numerous aspects of the *Curling* case, and they say that going back to 2006 somebody thought that there was something wrong with these machines. Well if that's the case, then it makes the laches argument even stronger. These are the arguments that they are about the machines. They certainly could have been litigated prior to after the certification of the election.

The other big problem that they raise is that the *Curling* case, everything that was read was stayed by the 11th Circuit, presuming that it is reading the part of the opinion that I think it is. If it is going back to a prior opinion, that is about old machines which aren't even used anymore. And then in Ware County, that was provided in an affidavit that was new as part of the reply brief, it should not be

counted. There is authority for that, *Sharpe v. Global Security International* from the Southern District of Alabama, from 2011. But even still, that can be brought in the State Court under the challenge mechanisms set.

You asked what is the authority for decertifying the election. The citation was *Bush v. Gore*. *Bush v. Gore* stayed a Florida recount, it did not decertify the election. But most importantly, what *Bush v. Gore* said is, when there is a State process, the Elections Clause says that has to continue. And they have not shown you that the State process is insufficient, invalid, whatsoever. On standing, they find themselves in a bind. If they are candidates as electors, the State election code says you can bring a challenge under 21-2-522. If they are not candidates and the 3rd Circuit reasoning applies, then the 11th Circuit in *Wood* would apply too, and say that when you are not a candidate you don't have standing. So either way, they find themselves out of Federal jurisdiction on these arguments.

Just a few points on closing. They tell you that the voters lack confidence in the election system. Well, since 2018 candidates that were not successful have tried to overturn the rule of voters in the Courts. Since 2018 courts have stayed with the State of Georgia and upheld Georgia's election laws and Georgia's election machines. This Court should do the same. The State is doing what it can to enhance

public confidence. That is why we went the extra step of a hand count, not that pushes ballots through a machine, but that looks at what the ballot says, and when the voter had access to that ballot they could see too. And if they voted for Donald Trump it will show it on the ballot; if they voted for Joe Biden it will show it on the ballot. And if not, they can correct it right there. That is the actions that instill confidence, not this. And if they want to challenge those election results, the State Courts are open for them to do it, there are hearings scheduled now, and those hearings should proceed and not this one. Thank you.

THE COURT: Thank you, sir. Ms. Callais, did you have anything else?

MS. CALLAIS: No, Your Honor.

THE COURT: All right. Thank you very much. I have considered the entire record in the case and I find that, even accepting as true every averment of the complaint, I find that this Court must grant the Defendants' motions to dismiss, both of the motions to dismiss, beginning with the proposition that Federal Courts are courts of limited jurisdiction; they are not the legal equivalent to medical hospitals which have emergency rooms that are open 24/7 to all comers. On the contrary, the 11th Circuit has specifically held that Federal Courts don't entertain post election contests about vote counting and misconduct that may properly be filed in the

State courts. So whether the Defendants have been subjected to a Federal claim, which is Equal Protection, Due Process, Elections Clause and Electors Clause, it does not matter. The 11th Circuit has said these claims in this circuit must be brought in State court. There is no question that Georgia has a statute that explicitly directs that election contests be filed in Georgia Superior Courts, and that is what our Federal Courts have said in this circuit, it is that is exactly right.

Sometimes Federal judges are criticized for committing the sin of judicial activism. The appellate courts have responded to that and said enough is enough is right. In fact, enough is too much. And the courts have convincingly held that these types of cases are not properly before Federal Courts, that they are State elections, State courts should evaluate these proceedings from start to finish.

Moreover, the Plaintiffs simply do not have standing to bring these claims. This Court rejects the 8th Circuit's nonbinding persuasive-value-only holding in *Carson vs Simon* and I find that the Defendants -- excuse me -- the Plaintiffs don't have standing, because anyone could have brought this suit and raised the exact same arguments and made the exact same allegations that the Plaintiffs have made in their complaint. The Plaintiffs have essentially alleged in their pleading that their interests are one and the same as any Georgia voter. I do not believe that the 11th Circuit would

follow the reasoning of the 8th circuit in *Carson*.

Additionally, I find that the Plaintiffs waited too late to file this suit. Their primary complaint involves the Dominion ballot marking devices. They say that those machines are susceptible to fraud. There is no reason they could not have followed the Administrative Procedure Act and objected to the rule-making authority that had been exercised by the Secretary of State. This suit could have been filed months ago at the time the machines were adopted. Instead, the Plaintiffs waited until over three weeks after the election to file the suit. There is no question in my mind that if I were to deny the motions to dismiss, the matter would be brought before the 11th Circuit and the 11th Circuit would reverse me. The relief that the Plaintiffs seek, this Court cannot grant. They ask the Court to order the Secretary of State to decertify the election results as if such a mechanism even exists, and I find that it does not. The 11th Circuit said as much in the *Wood* case on Saturday.

Finally, in their complaint, the Plaintiffs essentially ask the Court for perhaps the most extraordinary relief ever sought in any Federal Court in connection with an election. They want this Court to substitute its judgment for that of two-and-a-half million Georgia voters who voted for Joe Biden, and this I am unwilling to do.

The motion for temporary restraining order that was

entered on November 29 is dissolved. The motions to dismiss are granted. And we are adjourned.

(end of hearing at 11:07 a.m.)

* * * * *

REPORTER'S CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

_____

Lori Burgess
Official Court Reporter
United States District Court
Northern District of Georgia

Date: December 8, 2020

IN THE UNITED STATES DISTRICCT COURT, NORTHERN DISTRCOICT OF GEORGIA, ATLANTA DIVISION

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, , CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, **Plaintiffs.** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N.SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.**

COMPLAINT FOR DECLARATORY, EMERGENCY, AND PERMANENT INJUNCTIVE RELIEF

NATURE OF THE ACTION

This civil action brings to light a massive election fraud, multiple violations of Georgia laws, including O.C.G.A. §§ 21-2-30(d), 21-2-31, 21-2-33.1 and §21-2-522, and multiple Constitutional violations, as shown by fact witnesses to specific incidents, multiple expert witnesses and the sheer mathematical impossibilities found in the Georgia 2020 General Election.[1]

1.

As a civil action, the plaintiff's burden of proof is a "preponderance of the evidence" to show, as the Georgia Supreme Court has made clear that, *"[i]t was not incumbent upon [Plaintiff] to show how the [] voters would have voted if their [absentee] ballots had been regular. [Plaintiff] only had to show that there were enough irregular ballots to place in doubt the result."* *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (2004) (*citing Howell v. Fears*, 275 Ga. 627, 571 S.E.2d 392 (2002).

[1] The same pattern of election fraud and voter fraud writ large occurred in all the swing states with only minor variations, see expert reports, regarding Michigan, Pennsylvania, Arizona and Wisconsin. (See William M. Briggs Decl., attached here to as Exh. 1, Report with Attachment). Indeed, we believe that in Arizona at least 35,000 votes were illegally added to Mr. Biden's vote count.

2.

The scheme and artifice to defraud was for the purpose of illegally and fraudulently manipulating the vote count to make certain the election of Joe Biden as President of the United States.

3.

The fraud was executed by many means,[2] but the most fundamentally troubling, insidious, and egregious is the systemic adaptation of old-fashioned "ballot-stuffing." It has now been amplified and rendered virtually invisible by computer software created and run by domestic and foreign actors for that very purpose. Mathematical and statistical anomalies rising to the level of impossibilities, as shown by affidavits of multiple witnesses, documentation, and expert testimony evince this scheme across the state of Georgia. Especially egregious conduct arose in Forsyth, Paulding, Cherokee, Hall, and Barrow County. This scheme and artifice to defraud affected tens of thousands of votes in Georgia alone and "rigged" the election in Georgia for Joe Biden.

[2] 50 USC § 20701 requires Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation, but as will be shown wide pattern of misconduct with ballots show preservation of election records have not been kept; and Dominion logs are only voluntary, with no system wide preservation system.

4.

The massive fraud begins with the election software and hardware from Dominion Voting Systems Corporation ("Dominion") only recently purchased and rushed into use by Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and the Georgia Board of Elections. Sequoia voting machines were used in 16 states and the District of Colombia in 2006. Smartmatic, which has revenue of about $100 million, focuses on Venezuela and other markets outside the U.S. [3]

After selling Sequoia, Smartmatic's chief executive, Anthony Mugica. Mr. Mugica said, he hoped Smartmatic would work with Sequoia on projects in the U.S., though Smartmatic wouldn't take an equity stake." Id.

5.

Smartmatic and Dominion were founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election. (*See* Redacted whistleblower affiant*, attached as Exh*. 2) Notably, Chavez "won" every election thereafter.

[3] *See WSJ.com, Smartmatic to Sell U.S. Unit, End Probe into Venezuelan Links, by Bob Davis, 12/22/2006,* h*ttps://www.wsj.com/articles/SB116674617078557263*

6.

As set forth in the accompanying whistleblower affidavit, the Smartmatic software was designed to manipulate Venezuelan elections in favor of dictator Hugo Chavez:

> Smartmatic's electoral technology was called "Sistema de Gestión Electoral" (the "Electoral Management System"). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter's ballot. The voter's thumbprint was linked to a computerized record of that voter's identity. Smartmatic created and operated the entire system.

7.

A *core requirement* of the Smartmatic software design was the *software's ability to hide its manipulation of votes from any audit.* As the whistleblower explains:

> Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted, but that voter would not be tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that

accomplished that result for President Chavez. (See Id., see also Exh. 3, Aff. Cardozo, attached hereto)).

8.

The design and features *of* the Dominion software do not permit a simple audit to reveal its misallocation, redistribution, or deletion of votes. First, the system's central accumulator does not include a protected real-time audit log that maintains the date and time stamps of all significant election events. Key components of the system utilize unprotected logs. Essentially this allows an unauthorized user the opportunity to arbitrarily add, modify, or remove log entries, causing the machine to log election events that do not reflect actual voting tabulations—or more specifically, do not reflect the actual votes of or the will of the people. (*See* Hursti August 2019 Declaration, attached hereto as Exh. 4, at pars. 45-48; and attached hereto, as Exh. 4B, October 2019 Declaration in Document 959-4, at p. 18, par. 28).

9.

Indeed, under the professional standards within the industry in auditing and forensic analysis, when a log is unprotected, and can be altered, it can no longer serve the purpose of an audit log. There is incontrovertible physical evidence that the standards of physical security of the voting machines and the software were breached, and machines were connected to

the internet in violation of professional standards and state and federal laws. (*See Id.)*

10.

Moreover, lies and conduct of Fulton County election workers about a delay in voting at State Farm Arena and the reasons for it evince the fraud.

11.

Specifically, video from the State Farm Arena in Fulton County shows that on November 3rd after the polls closed, election workers falsely claimed a water leak required the facility to close. All poll workers and challengers were evacuated for several hours at about 10:00 PM. However, several election workers remained unsupervised and unchallenged working at the computers for the voting tabulation machines until after 1:00 AM.

12.

Defendants Kemp and Raffensperger rushed through the purchase of Dominion voting machines and software in 2019 for the 2020 Presidential Election[4]. A certificate from the Secretary of State was awarded to Dominion

[4] Georgia Governor Inks Law to Replace Voting Machines, The Atlanta Journal-Constitution, AJC News Now, Credit: Copyright 2019 The Associated Press, June 2019. https://www.ajc.com/blog/politics/georgia-governor-inks-law-replace-voting-machines/xNXs0ByQAOvtXhd27kJdqO/

Voting Systems but is undated. (*See* attached hereto Exh. 5, copy Certification for Dominion Voting Systems from Secretary of State). Similarly a test report is signed by Michael Walker as Project Manager but is also undated. (See Exh. 6, Test Report for Dominion Voting Systems, Democracy Suite 5-4-A)

13.

Defendants Kemp and Raffensperger disregarded all the concerns that caused Dominion software to be rejected by the Texas Board of Elections in 2018, namely that it was vulnerable to undetected and non-auditable manipulation. An industry expert, Dr. Andrew Appel, Princeton Professor of Computer Science and Election Security Expert has recently observed, with reference to Dominion Voting machines: "I figured out how to make a slightly different computer program that just before the polls were closed, it switches some votes around from one candidate to another. I wrote that computer program into a memory chip and now to hack a voting machine you just need 7 minutes alone with it and a screwdriver." (Attached hereto Exh. 7, Study, Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters by Andrew W. Appel Princeton University, Richard A. DeMillo, Georgia Tech Philip B. Stark, for the Univ. of California, Berkeley, December 27, 2019).[5]

[5] Full unredacted copies of all exhibits have been filed under seal with the Court and Plaintiffs have simultaneously moved for a protective order.

14.

As explained and demonstrated in the accompanying redacted declaration of a former electronic intelligence analyst under 305th Military Intelligence with experience gathering SAM missile system electronic intelligence, the Dominion software was accessed by agents acting on behalf of China and Iran in order to monitor and manipulate elections, including the most recent US general election in 2020. This Declaration further includes a copy of the patent records for Dominion Systems in which Eric Coomer is listed as the first of the inventors of Dominion Voting Systems. (See Attached hereto as Exh. 8, copy of redacted witness affidavit, 17 pages, November 23, 2020).

15.

Expert Navid Keshavarez-Nia explains that US intelligence services had developed tools to infiltrate foreign voting systems including Dominion. He states that Dominion's software is vulnerable to data manipulation by unauthorized means and permitted election data to be altered in all battleground states. He concludes that hundreds of thousands of votes that were cast for President Trump in the 2020 general election were transferred to former Vice-President Biden. (Exh. 26).

16.

Additionally, incontrovertible evidence Board of Elections records demonstrates that at least 96,600 absentee ballots were requested and counted but were never recorded as being returned to county election boards by the voter. *Thus, at a minimum, 96,600 votes must be disregarded.* (See Attached hereto, Exh. 9, R. Ramsland Aff.).

17.

The Dominion system used in Georgia erodes and undermines the reconciliation of the number of voters and the number of ballots cast, such that these figures are permitted to be unreconciled, opening the door to ballot stuffing and fraud. The collapse of reconciliation was seen in Georgia's primary and runoff elections this year, and in the November election, where it was discovered during the hand audit that 3,300 votes were found on memory sticks that were not uploaded on election night, plus in Floyd county, another 2,600 absentee ballots had not been scanned. These "found votes" reduced Biden's lead over Donald Trump[6].

[6] *Recount find thousands of Georgia votes*, Atlanta Journal-Constitution by Mark Niesse and David Wickert,11/19/20. https://www.ajc.com/politics/recount-finds-thousands-of-georgia-votes-missing-from-initial-counts/ERDRNXPH3REQTM4SOINPSEP72M/

18.

Georgia's election officials and poll workers exacerbated and helped, whether knowingly or unknowingly, the Dominion system carry out massive voter manipulation by refusing to observe statutory safeguards for absentee ballots. Election officials failed to verify signatures and check security envelopes. They barred challengers from observing the count, which also facilitated the fraud.

19.

Expert analysis of the actual vote set forth below demonstrates that at least 96,600 votes were illegally counted during the Georgia 2020 general election. All of the evidence and allegation herein is more than sufficient to place the result of the election in doubt. More evidence arrives by the day and discovery should be ordered immediately.

20.

Georgia law, (OCGA 21-5-552) provides for a contest of an election where:

> (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result; . . . (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result; (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

21.

As further set forth below, all of the above grounds have been satisfied and compel this Court to set aside the 2020 General Election results which fraudulently concluded that Mr. Biden defeated President Trump by 12,670 votes.

22.

Separately, and independently, there are sufficient Constitutional grounds to set aside the election results due to the Defendants' failure to observe statutory requirements for the processing and counting of absentee ballots which led to the tabulation of more than fifty thousand illegal ballots.

THE PARTIES

23.

Plaintiff Coreco Ja'Qan ("CJ") Pearson, is a registered voter who resides in Augusta, Georgia. He is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia. He has standing to bring this action under *Carson v. Simon*, 2020 US App Lexis 34184 (8th Cir. Oct. 29, 2020). He brings this action to set aside and decertify the election results for the Office of President of the United States that was certified by the Georgia Secretary of State on November 20, 2020. The certified results showed a plurality of 12,670 votes in favor of former Vice-President Joe Biden over President Trump.

24.

Plaintiff Vikki Townsend Consiglio, is a registered voter who resides in Henry County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

25.

Plaintiff Gloria Kay Godwin, is a registered voter who resides in Pierece County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

26.

Plaintiff James Kenneth Carroll, is a registered voter who resides in Dodge County, Georgia. He is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

27.

Plaintiff Carolyn Hall Fisher, is a registered voter who resides in Forsyth County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

28.

Plaintiff Cathleen Alston Latham, is a registered voter who resides in Coffee County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

29.

Plaintiff Jason M. Shepherd is the Chairman of the Cobb County Republican Party and brings this action in his official capacity on behalf of the Cobb County Republican Party.

30.

Plaintiff Brian Jay Van Gundy is registered voter in Gwinnett County, Georgia. He is the Assistant Secretary of the Georgia Republican Party.

31.

Defendant Governor Brian Kemp (Governor of Georgia) is named herein in his official capacity as Governor of the State of Georgia. On or about June 9, 2019, Governor Kemp bought the new Dominion Voting Systems for Georgia, budgeting 150 million dollars for the machines. Critics are quoted, "Led by Abrams, Democrats fought the legislation and pointed to cybersecurity experts who warned it would leave Georgia's elections susceptible to hacking and tampering." And "Just this week, the Fair Fight voting rights group started by [Stacy] Abrams launched a television ad critical of the bill. In a statement Thursday, the group called it "corruption at its worst" and a waste of money on "hackable voting machines."[7]

[7] *Georgia Governor Inks Law to Replace Voting Machines*, The Atlanta Journal-Constitution, AJC News Now, Credit: Copyright 2019 The Associated Press, June 2019

32.

Defendant Brad Raffensperger ("Secretary Raffensperger") is named herein in his official capacity as Secretary of State of the State of Georgia and the Chief Election Official for the State of Georgia pursuant to Georgia's Election Code and O.C.G.A. § 21-2-50. Secretary Raffensperger is a state official subject to suit in his official capacity because his office "imbues him with the responsibility to enforce the [election laws]." *Grizzle v. Kemp*, 634 F.3d 1314, 1319 (11th Cir. 2011). Secretary Raffensperger serves as the Chairperson of Georgia's State Election Board, which promulgates and enforces rules and regulations to (i) obtain uniformity in the practices and proceedings of election officials as well as legality and purity in all primaries and general elections, and (ii) be conducive to the fair, legal, and orderly conduct of primaries and general elections. *See* O.C.G.A. §§ 21-2-30(d), 21-2-31, 21-2-33.1. Secretary Raffensperger, as Georgia's chief elections officer, is further responsible for the administration of the state laws affecting voting, including the absentee voting system. *See* O.C.G.A. § 21-2-50(b).

33.

Defendants Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Le (hereinafter the "State Election Board") are members of the State Election Board in Georgia, responsible for "formulating, adopting, and promulgating such rules and regulations, consistent with law, as will be

conducive to the fair, legal, and orderly conduct of primaries and elections." O.C.G.A. § 21-2-31(2). Further, the State Election Board "promulgate[s] rules and regulations to define uniform and nondiscriminatory standards concerning what constitutes a vote and what will be counted as a vote for each category of voting system" in Georgia. O.C.G.A. § 21-2-31(7). The State Election Board, personally and through the conduct of the Board's employees, officers, agents, and servants, acted under color of state law at all times relevant to this action and are sued for emergency declaratory and injunctive relief in their official capacities.

JURISDICTION AND VENUE

34.

This Court has subject matter jurisdiction under 28 U.S.C. 1331 which provides, "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

35.

This Court also has subject matter jurisdiction under 28 U.S.C. 1343 because this action involves a federal election for President of the United States. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush v. Gore*, 531 U.S. 98, 113 (2000) (Rehnquist, C.J., concurring); *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

36.

The jurisdiction of the Court to grant declaratory relief is conferred by 28 U.S.C. 2201 and 2202 and by Rule 57 and 65, Fed. R. Civ. P. 7.

37.

This Court has jurisdiction over the related Georgia Constitutional claims and State law claims under 28 U.S.C. 1367.

38.

In Georgia, the "legislature" is the General Assembly. *See* Ga. Const. Art. III, § I, Para. I.

39.

Because the United States Constitution reserves for state legislatures the power to set the time, place, and manner of holding elections for Congress and the President, state executive officers, including but not limited to Secretary Raffensperger, have no authority to exercise that power unilaterally, much less flout existing legislation or the Constitution itself.

STATEMENT OF FACTS

40.

Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988, and under Georgia law, O.C.G.A. § 21-2-522 to remedy deprivations of rights,

privileges, or immunities secured by the Constitution and laws of the United States and to contest the election results.

41.

The United States Constitution sets forth the authority to regulate federal elections, the Constitution provides:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators. U.S. CONST. art. I, § 4 ("Elections Clause").

42.

With respect to the appointment of presidential electors, the Constitution 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. U.S. CONST. art. II, § 1 ("Electors Clause").

43.

Neither Defendant is a "Legislature" as required under the Elections Clause or Electors Clause. The Legislature is "'the representative body which ma[kes] the laws of the people.'" *Smiley* 285 U.S. 365. Regulations of congressional and presidential elections, thus, "must be in accordance with

the method which the state has prescribed for legislative enactments." Id. at 367; see also *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 135 S. Ct. 2652, 2668 (U.S. 2015).

44.

While the Elections Clause "was not adopted to diminish a State's authority to determine its own lawmaking processes," *Ariz. State Legislature,* 135 S. Ct. at 2677, it does hold states accountable to their chosen processes when it comes to regulating federal elections, *id.* at 2668. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush,* 531 U.S. at 113 (Rehnquist, C.J., concurring); *Smiley,* 285 U.S. at 365.

45.

Plaintiffs also bring this action under Georgia law, O.C.G.A. § 21-2-522, Grounds for Contest:

> A result of a primary or election may be contested on one or more of the following grounds:
>
> (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;
>
> (2) When the defendant is ineligible for the nomination or office in dispute;
>
> (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;
>
> (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or

> (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

O.C.G.A. § 21-2-522.

46.

Under O.C.G.A. § 21-2-10, Presidential Electors are elected.

47.

Under O.C.G.A. § 21-2-386(a)(l)(B), the Georgia Legislature instructed the county registrars and clerks (the "County Officials") to handle the absentee ballots as directed therein. The Georgia Legislature set forth the procedures to be used by each municipality for appointing the absentee ballot clerks to ensure that such clerks would "perform the duties set forth in this Article." *See* O.C.G.A. § 21-2-380.1.

48.

The Georgia Election Code instructs those who handle absentee ballots to follow a clear procedure:

> Upon receipt of each [absentee] ballot, a registrar or clerk ***shall*** write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk ***shall*** then compare the identifying information on the oath with the information on file in his or her office, ***shall*** compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absentee elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application, and ***shall,*** if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the

> voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct.

O.C.G.A. § 21-2-386(a)(l)(B) (emphasis added).

49.

Under O.C.G.A. § 21-2-386(a)(l)(C), the Georgia Legislature also established a clear and efficient process to be used by County Officials if they determine that an elector has failed to sign the oath on the outside envelope enclosing the ballot or that the signature does not conform with the signature on file in the registrar's or clerk's office (a "defective absentee ballot").

50.

The Georgia Legislature also provided for the steps to be followed by County Officials with respect to defective absentee ballots:

> ***If the elector has failed to sign the oath, or if the signature does not appear to be valid***, or if the elector has failed to furnish required information ***or information so furnished does not conform with that on file in the registrar's or clerk's office***, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope "Rejected," giving the reason therefor. The board of registrars or absentee ballot clerk *shall* promptly ***notify the elector of such rejection***, a copy of which notification ***shall*** be retained in the files of the board of registrars or absentee ballot clerk for at least one year.

O.C.G.A. § 21-2 -386(a) (l)(C) (emphasis added).

I. DEFENDANTS' UNAUTHORIZED ACTIONS VIOLATED THE GEORGIA ELECTION CODE AND CAUSED THE PROCESSING OF DEFECTIVE ABSENTEE BALLOTS.

51.

Notwithstanding the clarity of the applicable statutes and the constitutional authority for the Georgia Legislature's actions, on March 6, 2020, the Secretary of State of the State of Georgia, Secretary Raffensperger, and the State Election Board, who administer the state elections (the "Administrators") entered into a "Compromise and Settlement Agreement and Release" (the "Litigation Settlement") with the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee (collectively, the "Democrat Party Agencies"), setting forth different standards to be followed by the clerks and registrars in processing absentee ballots in the State of Georgia[8].

52.

Under the Settlement, however, the Administrators agreed to change the statutorily prescribed manner of handling absentee ballots in a manner that is not consistent with the laws promulgated by the Georgia Legislature for elections in this state.

[8] *See Democratic Party of Georgia, Inc., et al. v. Raffensperger, et al.,* Civil Action File No. 1:1 9-cv-05028-WMR, United States District Court for the Northern District of Georgia, Atlanta Division, Doc. 56-1.

53.

The Settlement provides that the Secretary of State would issue an "Official Election Bulletin" to county Administrators overriding the statutory procedures prescribed for those officials. That power, however, does not belong to the Secretary of State under the United States Constitution.

54.

The Settlement also changed the signature requirement reducing it to a broad process with discretion, rather than enforcement of the signature requirement as statutorily required under O.C.G.A. 21-2-386(a)(l).

55.

The Georgia Legislature instructed county registers and clerks (the "County Officials") regarding the handling of absentee ballots in O.C.G.A. S 21-2-386(a)(1)(B), 21-2-380.1. The Georgia Election Code instructs those who handle absentee ballots to follow a clear procedure:

> Upon receipt of each absentee ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absent elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application, and shall, if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath …

O.C.G.A. S 21-2-386(a)(1)(B).

56.

The Georgia Legislature prescribed procedures to ensure that any request for an absentee ballot must be accompanied by sufficient identification of the elector's identity. *See* O.C.G.A. *§* 21-2-38 l(b)(1) (providing, in pertinent part, "In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417 ...").

57.

An Affiant testified, under oath, that "It was also of particular interest to me to see that signatures were not being verified and that there were no corresponding envelopes seen in site." (Attached hereto as Exh. 10, Mayra Romera, at par. 7).

58.

To reflect the very reason for process, it was documented that in the primary election, prior to the November 3, 2020 Presidential election, many ballots got to voters after the election. Further it was confirmed that "Untold thousands of absentee ballot requests went unfulfilled, and tens of thousands of mailed ballots were rejected for multiple reasons including arriving too late

to be counted. See the Associated Press, *Vote-by-Mail worries: A leaky pipeline in many states*, August 8, 2020.[9]

59.

Pursuant to the Settlement, the Administrators delegated their responsibilities for determining when there was a signature mismatch by considering in good faith only partisan-based training - "additional guidance and training materials" drafted by the Democrat Party Agencies' representatives contradicting O.C.G.A. § 21-2-31.

B. Unlawful Early Processing of Absentee Ballots

60.

In April 2020, the State Election Board adopted on a purportedly "Emergency Basis" Secretary of State Rule 183-1-14-0.9-.15, Processing Ballots Prior to Election Day. Under this rule, county election officials are authorized to begin processing absentee ballots up to three weeks befoe election day. Thus, the rule provides in part that "(1) Beginning at 8:00 AM on the third Monday prior to Election Day, the county election superintendent **shall be authorized to open the outer envelope of accepted absentee ballots** …" (Emphasis added).

[9] *https://apnews.com/article/u-s-news-ap-top-news-election-2020-technology-politics-52e87011f4d04e41bfffccd64fc878e7*

61.

Rule 183-1-14-0.9-.15 is in direct and irreconcilable conflict with O.C.G.A. § 21-2-386(a)(2), which prohibits the opening of absentee ballots until election day:

> **After the opening of the polls** on the day of the primary, election, or runoff, the registrars or absentee ballot clerks **shall be authorized to open the outer envelope** on which is printed the oath of the elector in such a manner as not to destroy the oath printed thereon; provided, however, that the registrars or absentee ballot clerk shall not be authorized to remove the contents of such outer envelope or to open the inner envelope marked "Official Absentee Ballot," except as otherwise provided in this Code section.

(Emphasis added).

62.

In plain terms, the statute clearly prohibits opening absentee ballots prior to election day, while the rule authorizes doing so three weeks before election day. There is no reconciling this conflict. The State Election Board has authority under O.C.G.A. § 21-2-31 to adopt lawful and legal rules and regulations, but no authority to promulgate a regulation that is directly contrary to an unambiguous statute. Rule 183-1-14-0.9-.15 is therefore plainly and indisputably unlawful.

63.

The State Election Board re-adopted Rule 183-1-14-0.9-.15 on November 23, 2020 for the upcoming January 2021 runoff election.

C. UNLAWFUL AUDIT PROCEDURES

64.

According to Secretary Raffensperger, in the presidential general election, 2,457,880 votes were cast in Georgia for President Donald J. Trump, and 2,472,002 votes were cast for Joseph R. Biden, which narrowed in Donald Trump's favor after the most recent recount.

65.

Secretary Raffensperger declared that for the Hand Recount:

> Per the instructions given to counties as they conduct their audit triggered full hand recounts, designated monitors will be given complete access to observe the process from the beginning. While the audit triggered recount must be open to the public and media, designated monitors will be able to observe more closely. The general public and the press will be restricted to a public viewing area. Designated monitors will be able to watch the recount while standing close to the elections' workers conducting the recount.
>
> Political parties are allowed to designate a minimum of two monitors per county at a ratio of one monitor per party for every ten audit boards in a county... Beyond being able to watch to ensure the recount is conducted fairly and securely, the two-person audit boards conducting the hand recount call out the votes as they are recounted , providing monitors and the public an additional way to keep tabs on the process.[10]

[10] *Office of Brad Raffensperger, Monitors Closely Observing Audit-Triggered Full Hand Recount: Transparency is Built Into Process*, https://sos.ga.gov/index.php/elections/monitors_closely_observing_audit-triggered_full_hand_recount_transparency_is_built_into_process

66.

The audit was conducted O.C.G.A. § 21-2-498. This code section requires that audits be completed "in public view" and authorizes the State Board of Elections to promulgate regulations to administer an audit "to ensure that collection of validly cast ballots is complete, accurate and trustworthy throughout the audit."

67.

Plaintiffs can show that Democrat-majority counties provided political parties and candidates, including the Trump Campaign, no meaningful access or actual opportunity to review and assess the validity of mail-in ballots during the pre-canvassing meetings. While in the audit or recount, they witnessed Trump votes being put into Biden piles.

68.

Non-parties Amanda Coleman and Maria Diedrich are two individuals who volunteered to serve as designated monitors for the Donald J. Trump Presidential Campaign, Inc. (the "Trump Campaign") on behalf of the Georgia Republican Party (the "Republican Party") at the Hand Recount. (Attached hereto and incorporated herein as Exhibits 2 and 3), respectively, are true and correct copies of (1) the Affidavit of Amanda Coleman in Support of Plaintiffs' Motion for Temporary Restraining Order (the "Coleman Affidavit"), and (2) the Affidavit of Maria Diedrich in Support of Plaintiffs'

Motion for Temporary Restraining Order (the "Diedrich Affidavit"). (See Exh. 11, Coleman Aff.,2; Exh. 12, Diedrich Aff., 2.)

69.

The Affidavits set forth various conduct amounting to federal crimes, clear improprieties, insufficiencies, and improper handling of ballots by County Officials and their employees that Ms. Coleman and Ms. Diedrich personally observed while monitoring the Hand Recount. *(See* Exh. 11, Coleman Aff., 3-10; Exh. 12, Diedrich Aff., 4-14.)

70.

As a result of her observations of the Hand Recount as a Republican Party monitor, Ms. Diedrich declared, "There had been no meaningful way to review or audit any activity" at the Hand Recount. *(See* Exh. 12, Diedrich Aff.,14.)

71.

As a result of their observations of the Hand Recount as Republican Party monitors, Ms. Coleman likewise declared, "There was no way to tell if any counting was accurate or if the activity was proper." (See Exh. 12, Coleman Aff.,10).

72.

On Election Day, when the Republican poll watchers were, for a limited time, present and allowed to observe in various polling locations, they

observed and reported numerous instances of election workers failing to follow the statutory mandates relating to two critical requirements, among other issues:

(1) a voter's right to spoil their mail-in ballot at their polling place on election day and to then vote in-person, and

(2) the ability for voters to vote provisionally on election day when a mail-in ballot has already been received for them, but when they did not cast those mail-in ballots, who sought to vote in person during early voting but was told she already voted; she emphasized that she had not. The clerk told her he would add her manually with no explanation as to who or how someone voted using her name. (Attached hereto as Exh. 13, Aff. Ursula Wolf)

73.

Another observer for the ballot recount testified that "*at no time did I witness any Recounter or individual participate in the recount verifying signatures [on mail-in ballots].*" (Attached hereto as Exh. 14, Nicholas Zeher Aff).

74.

In some counties, there was no actual "hand" recounting of the ballots during the Hand Recount, but rather, County Officials and their employees

simply conducted another machine count of the *same* ballots. (See. Exh. 9, 10). That will not reveal the massive fraud of which plaintiffs complain.

75.

A large number of ballots were identical and likely fraudulent. An Affiant explains that she observed a batch of utterly pristine ballots:

> 14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper - it was if they were intended for absentee use but had not been used for that purposes. There was a difference in the feel.
>
> 15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had com~ from, or where they had been processed. These stood out.
>
> 16. In my 20 years of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joe Biden. I only observed two of these ballots as votes for President Donald J. Trump." (See Exh. 15 Attached hereto).

76.

The same Affiant further testified specifically to the breach of the chain of custody of the voting machines the night before the election stating:

> we typically receive the machines, the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. **In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 AM in the morning on Election Day.**

> The Milton precinct received its machines at 1:00 AM in the morning on Election Day. This is unacceptable and voting machines should [not] be out of custody prior to an Election Day. *Id*.

II. EVIDENCE OF FRAUD

A PATTERN SHOWING THE ABSENCE OF MISTAKE

77.

The stunning pattern of the nature and acts of fraud demonstrate an absence of mistake.

78.

The same Affiant further explained, in sworn testimony, that the breach included: "when we did receive the machines, they were not sealed or locked, the serial numbers were not what were reflected on the related documentation…" *See Id.*

79.

An affiant testified that "While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden, I witnessed this happen at table "A".' (See Exh. 14, par. 27).

80.

The Affiant further testified, that "when this was brought to Ms. Pitts attention, it was met with extreme hostility. At no time did I witness any ballot cast for Joseph Biden be placed in the pile for Donald Trump. (See Exh. 14, par. 28).

81.

Another Affiant in the mail-in ballot and absentee ballot recounting process, testified in her sworn affidavit, that "on November 16, 2020 … It was also of particular interest to me to see that signatures were not being verified and there were no corresponding envelopes seen in sight." (See Exh. 10, at Par. 7).

82.

Yet another Affiant, in the recount process, testified that he received push back and a lack of any cooperation and was even threatened as if he did something wrong, when he pointed out the failure to follow the rules with the observers while open mail-in ballot re-counting was occurring, stating:

> "However, as an observer, I observed that the precinct had twelve (12) counting tables, but only one (1) monitor from the Republican Party. I brought it up to Erica Johnston since the recount rules provided for one (1) monitor from each Party per ten (10) tables or part thereof…"

(See Attached hereto, Exh. 16, Ibrahim Reyes Aff.)

83.

Another Affiant explains a pattern of behavior that is alarming, in his position as an observer in the recount on absentee ballots with barcodes, he testified:

> ***I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray.*** I also witnessed the same two poll workers putting the already separated paper receipt b*a*llots in

> the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray, They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet.

*(*See Attached hereto, Exh.17*,* pars. 4-5, Aff. of Consetta Johson*).*

84.

Another Affiant, a Democrat, testified in his sworn affidavit, that before he was forced to move back to where he could not see, he had in fact seen "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times". (See attached hereto, Exh. 18 at Par. 12, Aff. of Carlos Silva).

85.

Yet another Affiant testified about the lack of process and the hostility only towards the Republican party, which is a violation of the Equal Protection Clause. He testified:

> I also observed throughout my three days in Atlanta, not once did anyone verify these ballots. In fact, there was no authentication process in place and no envelopes were observed or allowed to be observed. I saw hostility towards Republican observers but never towards Democrat observers. Both were identified by badges.

(*See Id*., at pars. 13-14).

86.

Another Affiant explained that his ballot was not only not processed in accordance with Election law, he witnessed people reviewing his ballot to decide where to place it, which violated the privacy of his ballot, and when he

tried to report it to a voter fraud line, he never received any contact or cooperation stating:

> "I voted early on October 12 at the precinct at Lynwood Park … Because of irregularities at the polling location, I called the voter fraud line to ask why persons were discussing my ballot and reviewing it to decide where to place it. When I called the state fraud line, I was directed to a worker in the office of the Secretary of State…"

(See Attached hereto, Exh. 19, Andrea ONeal Aff, at par. 3).

87.

He further testified that when he was an Observer at the Lithonia location, he saw many irregularities, and specifically "saw an auditor sort Biden votes that he collected and sorted into ten ballot stacks, which [the auditor] did not show anyone." Id. at p. 8.

88.

Another Affiant testified about the use of different paper for ballots, that would constitute fraud stating:

> I noticed that almost all of the ballots I reviewed were for Biden. Many batches went 100% for Biden. I also observed that the watermark on at least 3 ballots were solid gray instead of transparent, leading me to believe the ballot was counterfeit. I challenged this and the Elections Director said it was a legitimate ballot and was due to the use of different printers. Many ballots had markings for Biden only, and no markings on the rest of the ballot.

(See Attached hereto, Exh. 20, Aff of Debra J. Fisher, at pars. 4, 5, 6).

89.

An Affiant testified, that while at the Audit, "**While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table "A"**". (*See* attached hereto as Exh. 22, Kevin Peterford, at par. 29). Another Affiant testified, that "I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray. I also witnessed the same two poll workers putting the already separated paper receipt abllots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray, They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet. (See Exh. 17, Johnson, pars. 4-5).

90.

Another Affiant, a Democrat, testified in his sworn affidavit, before he was forced to move back to where he could not see, he had in fact seen**, "*I also saw absentee ballots for Trump inserted***

***into Biden's stack, and counted as Biden votes. This occurred a few times*".** (See Exh. 18, Par. 12).

91.

A Republican National Committee monitor in Georgia's election recount, Hale Soucie, told an undercover journalist there are individuals counting ballots who have made continuous errors," writes O'Keefe. Project Veritas, Watch: Latest Project Veritas Video reveals "Multiple Ballots Meant for Trump Went to Biden in Georgia.[11]

B. THE VOTING MACHINES, SECRECY SOFTWARE USED BY VOTING MACHINES THROUGHOUT GEORGIA IS CRUCIAL

92.

These violations of federal and state laws impacted the election of November 3, 2020 and set the predicate for the evidence of deliberate fraudulent conduct, manipulation, and lack of mistake that follows. The commonality and statewide nature of these legal violations renders certification of the legal vote untenable and warrants immediate

[11] https://hannity.com/media-room/watch-latest-project-veritas-video-reveals-multiple-ballots-meant-for-trump-went-to-biden-in-georgia/

impoundment of voting machines and software used throughout Georgia for expert inspection and retrieval of the software.

93.

An Affiant, who is a network & information cyber-security expert, under sworn testimony explains that after studying the user manual for Dominion Voting Systems Democracy software, he learned that the information about scanned **ballots can be tracked inside the software system for Dominion**:

> (a) When bulk ballot scanning and tabulation begins, the "ImageCast Central" workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning procedure within the software menu. The scanner then begins to scan the ballots which were loaded into the feed tray while the "ImageCast Central" software application tabulates votes in real-time. Information about scanned ballots can be tracked inside the "ImageCast Central" software application.

(*See* attached hereto Exh 22, Declaration of Ronald Watkins, at par. 11).

94.

Affiant further explains that the central operator can remove or discard batches of votes. "After all of the ballots loaded into the scanner's feed tray have been through the scanner, the "ImageCast Central" operator will remove the ballots from the tray then have the option to either "Accept Batch" or "Discard Batch" on the scanning menu …. "(*Id.* at par. 8).

95.

Affiant further testifies that the Dominion/ Smartmatic user manual itself makes clear that the system allows for threshold settings to be set to mark all ballots as "problem ballots" for *discretionary determinations* on where the vote goes. It states:

> *During the scanning process, the "ImageCast Central" software will detect how much of a percent coverage of the oval was filled in by the voter. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a "problem ballot" and may be set aside into a folder named "NotCastImages". Through creatively tweaking the oval coverage threshold settings it should be possible to set thresholds in such a way that a non-trivial amount of ballots are marked "problem ballots" and sent to the "NotCastImages" folder. It is possible for an administrator of the ImageCast Central work station to view all images of scanned ballots which were deemed "problem ballots" by simply navigating via the standard "Windows File Explorer" to the folder named "NotCastImages" which holds ballot scans of "problem ballots". It is possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system.*

Id. at pars. 9-10.

96.

The Affiant further explains the vulnerabilities in the system when the copy of the selected ballots that are approved in the Results folder are made

to a flash memory card – and that is connected to a Windows computer stating:

> *It is possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system. … The upload process is just a simple copying of a "Results" folder containing vote tallies to a flash memory card connected to the "Windows 10 Pro" machine. The copy process uses the standard drag-n-drop or copy/paste mechanisms within the ubiquitous "Windows File Explorer". While a simple procedure, this process may be error prone and* ***is very vulnerable to malicious administrators****.*

Id. at par. 11-13 (emphasis supplied).

97.

It was announced on "Monday, [July 29, 2019], [that] Governor Kemp awarded a contract for 30,000 new voting machines to Dominion Voting Systems, scrapping the state's 17-year-old electronic voting equipment and replacing it with touchscreens that print out paper ballots."[12] Critics are quoted: "Led by Abrams, Democrats fought the legislation and pointed to cybersecurity experts who warned it would leave Georgia's elections susceptible to hacking and tampering." And "Just this week, the Fair Fight voting rights group started by [Stacy] Abrams launched a television ad

[12] *Georgia Buys New Voting Machines for 2020 Presidential Election, by Mark Niesse, the Atlanta Journal-Constitution, July 30, 2019, https://www.ajc.com/news/state--regional-govt--politics/georgia-awards-contract-for-new-election-system-dominion-voting/tHh3V8KZnZivJoVzZRLO4O/*

critical of the bill. In a statement Thursday, the group called it "corruption at its worst" and a waste of money on "hackable voting machines."[13]

98.

It was further reported in 2019 that the new Dominion Voting Machines in Georgia "[w]ith Georgia's current voting system, there's **no way to guarantee that electronic ballots accurately reflect the choices of voters because there's no paper backup to verify results**, with it being reported that:

> (a) Recounts are meaningless on the direct-recording electronic voting machines because they simply reproduce the same numbers they originally generated.
>
> (b) But paper ballots alone won't protect the sanctity of elections on the new touchscreens, called ballot-marking devices.
>
> (c) The new election system depends on voters to verify the printed text of their choices on their ballots, a step that many voters might not take. The State Election Board hasn't yet created regulations for how recounts and audits will be conducted. And paper ballots embed selections in bar codes that are only readable by scanning machines, leaving Georgians uncertain whether the bar codes match their votes.[14]

[13] *Georgia Governor Inks Law to Replace Voting Machines, The Atlanta Journal-Constitution, AJC News Now, by Greg Bluestein and Mark Niesse, June 14, 2019; Credit: Copyright 2019 The Associated Press, June 2019*

i. *As part of the scheme and artifice to defraud the plaintiffs, the candidates and the voters of undiminished and unaltered voting results in a free and legal election, the Defendants and other persons known and unknown committed the following violations of law:*

50 U.S.C. § 20701 requires the retention and preservation of records and papers by officers of elections under penalty of fine and imprisonment:

> **§ 20701. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation**
>
> Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, **all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election,** except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

50 U.S.C.§ 20701.

99.

In the primaries it was confirmed that, "The rapid introduction of new technologies and processes in state voting systems heightens the risk of

foreign interference and insider tampering. That's true even if simple human error or local maneuvering for political advantage are more likely threats[15].

100.

A Penn Wharton Study from 2016 concluded that "Voters and their representatives in government, often prompted by news of high-profile voting problems, also have raised concerns about the reliability and integrity of the voting process, and have increasingly called for the use of modern technology such as laptops and tablets to improve convenience."[16]

101.

As evidence of the defects or features of the Dominion Democracy Suite, as described above, the same Dominion Democracy Suite was denied certification in Texas by the Secretary of State on January 24, 2020 specifically because of a **lack of evidence of efficiency and accuracy and to be safe from fraud or unauthorized manipulation.**[17]

[15] *See Threats to Georgia Elections Loom Despite New Paper Ballot Voting, By Mark Niesse, The Atlanta Journal-Constitution and (The AP, Vote-by-Mail worries: A leaky pipeline in many states, August 8, 2020).*

[16] Penn Wharton Study by Matt Caufield, The Business of Voting, July 2018.

[17] Attached hereto, Exh. 23, copy of Report of Review of Dominion Voting Systems Democracy Suite 5.5-A Elections Division by the Secretary of State's office, Elections Division, January 24, 2020.

102.

Plaintiffs have since learned that the "glitches" in the Dominion system–that have the uniform effect of taking votes from Trump and shifting them to Biden—have been widely reported in the press and confirmed by the analysis of independent experts.

103.

Plaintiffs can show, through expert and fact witnesses that:

c. Dominion/ Smartmatic Systems Have Massive End User Vulnerabilities.

1. Users on the ground have full admin privileges to machines and software. Having been created to "rig" elections, the Dominion system is designed to facilitate vulnerability and allow a select few to determine which votes will be counted in any election. Workers were responsible for moving ballot data from polling place to the collector's office and inputting it into the correct folder. Any anomaly, such as pen drips or bleeds, results in a ballot being rejected. It is then handed over to a poll worker to analyze and decide if it should count. This creates massive opportunity for purely discretionary and improper vote "adjudication."

2. Affiant witness (name redacted for security reasons[18]), in his sworn testimony explains he was selected for the national security guard detail of the President of Venezuela, and that he witnessed the creation of Smartmatic for the purpose of election vote manipulation to insure Venezuelan dictator Hugo Chavez never lost an election and he saw it work. Id.

   "The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes against

> persons running the Venezuelan government to votes in their favor in order to maintain control of the government."

(*See* Exh. 2, pars. 6, 9, 10).

104.

Smartmatic's incorporators and inventors have backgrounds evidencing their foreign connections, including Venezuela and Serbia, specifically its identified inventors:

> Applicant: SMARTMATIC, CORP.
>
> Inventors: Lino Iglesias, Roger Pinate, Antonio Mugica, Paul Babic, Jeffrey Naveda, Dany Farina, Rodrigo Meneses, Salvador Ponticelli, Gisela Goncalves, Yrem Caruso.[19]

105.

The presence of Smartmatic in the United States—owned by foreign nationals, and Dominion, a Canadian company with its offices such as the Office of General Counsel in Germany, would have to be approved by CFIUS. CFIUS was created in 1988 by the Exon-Florio Amendment to the Defense Production Act of 1950. CFIUS' authorizing statute was amended by the Foreign Investment and National Security Act of 2007 (FINSA).

> As amended, section 721 of the DPA directs "the President, acting through [CFIUS]," to review a "**covered transaction to determine the effects of the transaction on the national security of the United States.**" 50 U.S.C. app. § 2170(b)(1)(A). Section 721 defines

19 https://patents.justia.com/assignee/smartmatic-corp

> a covered transaction as "any merger, acquisition, or takeover …, by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States." Id. § 2170(a)(3). *Ralls Corp. v. Comm. on Foreign Inv.*, 758 F.3d 296, 302, 411 U.S. App. D.C. 105, 111, (2014). Review of covered transactions under section 721 begins with CFIUS. As noted, CFIUS is chaired by the Treasury Secretary and its members include the heads of various federal agencies and other high-ranking Government officials with foreign policy, national security and economic responsibilities.

106.

Then Congresswoman Carolyn Maloney wrote October 6, 2006 to the Secretary of Treasury, Henry M. Paulson, Jr., Objecting to approval of Dominion/Smartmatic by CFIUS because of its corrupt Venezuelan origination, ownership and control. (See attached hereto as Exh. 24, Carolyn Maloney Letter of October 6, 2006). Our own government has long known of this foreign interference on our most important right to vote, and it had either responded with incompetence, negligence, willful blindness, or abject corruption. In every CFIUS case, there are two TS/SCI reports generated. One by the ODNI on the threat and one by DHS on risk to critical infrastructure. Smartmatic was a known problem when it was nonetheless approved by CFIUS.

107.

The Wall Street Journal in 2006 did an investigative piece and found that, “Smartmatic came to prominence in 2004 when its machines were used

in an election to recall President Chávez, which Mr. Chávez won handily -- and which the Venezuelan opposition said was riddled with fraud. Smartmatic put together a consortium to conduct the recall elections, including a company called Bizta Corp., in which Smartmatic owners had a large stake. For a time, the Venezuelan government had a 28% stake in Bizta in exchange for a loan.'[20] …"Bizta paid off the loan in 2004, and Smartmatic bought the company the following year. But accusations of Chávez government control of Smartmatic never ended, especially since Smartmatic scrapped a simple corporate structure, in which it was based in the U.S. with a Venezuelan subsidiary, for a far more complex arrangement. The company said it made the change for tax reasons, but critics, including Rep. Carolyn Maloney (D., N.Y.) and TV journalist Lou Dobbs, pounded the company for alleged links to the Chávez regime. *Id*. Since its purchase by Smartmatic, Sequoia's sales have risen sharply to a projected $200 million in 2006, said Smartmatic's chief executive, Anthony Mugica." *Id.*

108.

Indeed, Mr. Cobucci testified, through his sworn affidavit, that he born in Venezuela, is cousins with Antonio ('Anthony') Mugica, and he has

[20] *See WSJ.com, Smartmatic to Sell U.S. Unit, End Probe into Venezuelan Links, by Bob Davis, 12/22/2006,* h*ttps://www.wsj.com/articles/SB116674617078557263*

personal knowledge of the fact that Anthony Mugica incorporated Smartmatic in the U.S. in 2000 with other family members in Venezuela listed as owners. He also has personal knowledge that Anthony Mugica manipulated Smartmatic to ensure the election for Chavez in the 2004 Referendum in Venezuela. He also testified, through his sworn affidavit, that Anthony Mugica received tens of millions of dollars from 2003- 2015 from the Venezuelan government to ensure Smartmatic technology would be implemented around the world, including in the U.S. (See attached hereto, Exh. 25, Juan Carlos Cobucci Aff.)

109.

Another Affiant witness testifies that in Venezuela, she was in an official position related to elections and witnessed manipulations of petitions to prevent a removal of President Chavez and because she protested, she was summarily dismissed. Corroborating the testimony of our secret witness, and our witness Mr. Cobucci, cousin of Anthony Mugica, who began Smartmatic, and this witness explains the vulnerabilities of the electronic voting system and Smartmatica to such manipulations. (See Exh. 3, Diaz Cardozo Aff).

110.

Specific vulnerabilities of the systems in question that have been documented or reported include:

a. Barcodes can override the voters' vote: As one University of California, Berkeley study shows, "In all three of these machines [including Dominion Voting Systems] the ballot marking printer is in the same paper path as the mechanism to deposit marked ballots into an attached ballot box. This opens up a very serious security vulnerability: the voting machine can make the paper ballot (to add votes or spoil already-cast votes) after the last time the voter sees the paper, and then deposit that marked ballot into the ballot box without the possibility of detection." (See Exh. 7). [21]

b. Voting machines were able to be connected to the internet by way of laptops that were obviously internet accessible. If one laptop was connected to the internet, the entire precinct was compromised.

c. We … discovered that at least some jurisdictions were not aware that their systems were online," said Kevin Skoglund, an independent security consultant who conducted the research with nine others, all of them long-time security professionals and academics with expertise in election security. Vice. August 2019. [22]

[21] *Ballot Marking Devices (BMDs) Cannot Assure the Will of the Voters,* Andrew W. Appel, Richard T. DeMillo, University of California, Berkeley, 12/27/2019.
[22] *Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials, Motherboard Tech by Vice, by Kim Zetter, August 8, 2019, https://www.vice.com/en/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials*

d. October 6, 2006 – Congresswoman Carolyn Maloney called on Secretary of Treasury Henry Paulson to conduct an investigation into Smartmatic based on its foreign ownership and ties to Venezuela. (See Exh. 24)

e. Congresswoman Maloney wrote that "It is undisputed that Smartmatic is foreign owned and it has acquired Sequoia … Smartmatica now acknowledged that Antonio Mugica, a Venezuelan businessman has a controlling interest in Smartmatica, but the company has not revealed who all other Smartmatic owners are." *Id*.

f. Dominion "got into trouble" with several subsidiaries it used over alleged cases of fraud. One subsidiary is Smartmatic, a company "that has played a significant role in the U.S. market over the last decade," according to a report published by UK-based AccessWire[23].

g. Litigation over Smartmatic "glitches" alleges they impacted the 2010 and 2013 mid-term elections in the Philippines, raising questions of cheating and fraud. An independent review of the source codes used in the machines found multiple problems, which concluded, "The software

[23] *Voting Technology Companies in the U.S. – Their Histories and Present Contributions, Access Wire, August 10, 2017, https://www.accesswire.com/471912/Voting-Technology-Companies-in-the-US--Their-Histories.*

inventory provided by Smartmatic is inadequate, … which brings into question the software credibility…"[24]

h. Dominion acquired Sequoia Voting Systems as well as Premier Election Solutions (formerly part of Diebold, which sold Premier to ES&S in 2009, until antitrust issues forced ES&S to sell Premier, which then was acquired by Dominion).[25].

i. Dominion entered into a 2009 contract with Smartmatic and provided Smartmatic with the PCOS machines (optical scanners) that were used in the 2010 Philippine election—the biggest automated election run by a private company. The international community hailed the automation of that first election in the Philippines.[26] The results' transmission reached 90% of votes four hours after polls closed and Filipinos knew for the first time who would be their new president on Election Day. In keeping with local election law requirements, Smartmatic and Dominion were required to provide the source code of

[24] *Smartmatic-TIM running out of time to fix glitches, ABS-CBN News, May 4, 2010 https://news.abs-cbn.com/nation/05/04/10/smartmatic-tim-running-out-time-fix-glitches*
[25] *The Business of Voting*, Penn Wharton, Caufield, p. 16.
[26] *Smartmatic-TIM running out of time to fix glitches, ABS-CBN News, May 4, 2010 https://news.abs-cbn.com/nation/05/04/10/smartmatic-tim-running-out-time-fix-glitches*

the voting machines prior to elections so that it could be independently verified.[27]

j. In late December of 2019, three Democrat Senators, Warren, Klobuchar, Wyden, and House Member Mark Pocan wrote about their ***'particularized concerns that secretive & "trouble -plagued companies***'" "***have long skimped on security in favor of convenience***," in the context of how they described the voting machine systems that three large vendors – Election Systems & Software, Dominion Voting Systems, & Hart InterCivic – collectively provide voting machines & software that facilitate voting for over 90% of all eligible voters in the U.S." (See attached hereto as Exh. 26, copy of Senator Warren, Klobuchar, Wyden's December 6, 2019 letter).

k. Senator Ron Wyden (D-Oregon) said the findings [insecurity of voting systems] are "yet another damning indictment of the profiteering election vendors, who care more about the bottom line than protecting our democracy." It's also an indictment, he said, "of the notion that important cybersecurity decisions should be left entirely to county

[27] Presumably the machiens were not altered following submission of the code. LONDON, ENGLAND / ACCESSWIRE / August 10, 2017, *Voting Technology Companies in the U.S. - Their Histories and Present Contributions*

election offices, many of whom do not employ a single cybersecurity specialist."[28]

111.

An analysis of the Dominion software system by a former US Military Intelligence expert concludes that the system and software have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, Dominion neglectfully allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. (See Exh. 7).

112.

An expert witness in pending litigation in the United States District Court, Northern District Court of Georgia, Atlanta Div., 17-cv-02989 specifically testified to the acute security vulnerabilities, among other facts, by declaration filed on October 4, 2020, (See Exh. 4B, Document 959-4

[28] *Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials, Motherboard Tech by Vice, by Kim Zetter, August 8, 2019, https://www.vice.com/en/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials*

attached hereto, paragraph. 18 and 20 of p. 28, Exh. 4, Hursti Declaration). wherein he testified or found:

1) The failure of the Dominion software "*to meet the methods and processes for national standards for managing voting system problems and should not be accepted for use in a public election under any circumstances*."

2) In Hursti's declaration he explained that "There is evidence of remote access and remote troubleshooting which presents a grave security implication and certified identified vulnerabilities should be considered an "extreme security risk." *Id.* Hari Hursti also explained that USB drives with vote tally information were observed to be removed from the presence of poll watchers during a recent election. *Id.* The fact that there are no controls of the USB drives was seen recently seen the lack of physical security and compliance with professional standards, " in one Georgia County, where it is reported that 3,300 votes were found on memory sticks not loaded plus in Floyd county, another 2,600 were unscanned, and the "found votes" reduced Biden's lead over Donald Trump[29].

(a) In the prior case against Dominion, supra, further implicating the secrecy behind the software used in Dominion Systems,

[29] *Recount find thousands of Georgia votes*, Atlanta Journal-Constitution by Mark Niesse and David Wickert,11/19/20. https://www.ajc.com/politics/recount-finds-thousands-of-georgia-votes-missing-from-initial-counts/ERDRNXPH3REQTM4SOINPSEP72M/

Dr. Eric Coomer, a Vice President of Dominion Voting Systems, testified that even he was not sure of what testing solutions were available to test problems or how that was done, " *I have got to be honest, we might be a little bit out of my bounds of understanding the rules and regulations*… and in response to a question on testing for voting systems problems in relation to issues identified in 2 counties, he explained that "*Your Honor, I'm not sure of the complete test plan*… *Again Pro V&V themselves determine what test plan in necessary based on their analysis of the code itself*." (*Id*. at Document 959-4, pages 53, 62 L.25- p. 63 L3).

113.

Hursti stated within said Declaration:

> "The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential remote access are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system."

(See Paragraph 49 of Hursti Declaration).

114.

Rather than engaging in an open and transparent process to give credibility to Georgia's brand-new voting system, the election processes were

hidden during the receipt, review, opening, and tabulation of those votes in direct contravention of Georgia's Election Code and federal law.

115.

The House of Representatives passed H.R. 2722 in an attempt to address these very risks identified by Hursti, on June 27, 2019:

> *This bill addresses election security through grant programs and requirements for voting systems and paper ballots.*
>
> *The bill establishes requirements for voting systems, including that systems (1) use individual, durable, voter-verified paper ballots; (2) make a voter's marked ballot available for inspection and verification by the voter before the vote is cast; (3) ensure that individuals with disabilities are given an equivalent opportunity to vote, including with privacy and independence, in a manner that produces a voter-verified paper ballot; (4) be manufactured in the United States; and (5) meet specified cybersecurity requirements, including the prohibition of the connection of a voting system to the internet.*

ADDITIONAL SPECIFIC FRAUD

116.

On November 4, 2020, the Georgia GOP Chairman issued the following statement:

> *"Let me repeat. Fulton County elections officials told the media and our observers that they were shutting down the tabulation center at State Farm Arena at 10:30 p.m. on election night to continue counting ballots in secret until 1:00 a.m.* [30]

117.

It was widely reported that "As of 7 p.m. on Wednesday Fulton County Elections officials said 30,000 absentee ballots were not processed due to a pipe burst."[31] Officials reassured voters that none of the ballots were damaged and the water was quickly cleaned up. But the emergency delayed officials from processing ballots between 5:30 a.m. and 9:30 a.m. Officials say they continued to count beginning at 8:30 a.m. Wednesday. The statement from Fulton County continues:

> "Tonight, Fulton County will report results for approximately 86,000 absentee ballots, as well as Election Day and Early Voting results. These represent the vast majority of ballots cast within Fulton County.
>
> "As planned, Fulton County will continue to tabulate the remainder of absentee ballots over the next two days. Absentee ballot processing requires that each ballot is opened, signatures verified, and ballots scanned. This is a labor-intensive process that takes longer to tabulate than other forms of voting. Fulton County did not anticipate having all absentee ballots processed on Election Day." Officials said they will work to ensure every vote is counted and all laws and regulations are followed.[32]

[31] "4,000 remaining absentee ballots being counted in Fulton County", Fox 5 Atlanta, November 3, 2020, https://www.fox5atlanta.com/news/pipe-burst-at-state-farm-arena-delays-absentee-ballot-processing

[32] 4,000 remaining absentee ballots being counted in Fulton County, Fox 5 Atlanta, November 3, 2020, https://www.fox5atlanta.com/news/pipe-burst-at-state-farm-arena-delays-absentee-ballot-processing

118.

Plaintiffs have learned that the representation about "a water leak affecting the room where absentee ballots were counted" was not true. The only water leak that needed repairs at State Farm Arena from November 3 – November 5 was a toilet overflow that occurred earlier on November 3. It had nothing to do with a room with ballot counting, but the false water break representation led to "everyone being sent home." Nonetheless, first six (6) people, then three (3) people stayed until 1:05 a.m. working on the computers.

119.

An Affiant recounts how she was present at State Farm Arena on November 3, and saw election workers remaining behind after people were told to leave. (See Exh. 28, Affidavit of Mitchell Harrison; Exh. 29, Affid. of Michelle Branton)

120.

Plaintiffs have also learned through several reports that in 2010 Eric Coomer joined Dominion as Vice President of U.S. Engineering. According to his bio, Coomer graduated from the University of California, Berkeley with a Ph.D. in Nuclear Physics. Eric Coomer was later promoted to Voting Systems Officer of Strategy and Security although Coomer has since been removed from the Dominion page of directors. Dominion altered its website after

Colorado resident Joe Oltmann disclosed that as a reporter he infiltrated ANTIFA, a domestic terrorist organization where he recorded Eric Coomer representing: "Don't worry. Trump won't win the election, we fixed that." – as well as social media posts with violence threatened against President Trump. (See Joe Oltmann interview with Michelle Malkin dated November 13, 2020 which contains copies of Eric Coomer's recording and tweets).[33]

121.

While the bedrock of American elections has been transparency, almost every crucial aspect of Georgia's November 3, 2020, General Election was shrouded in secrecy, rife with "errors," and permeated with anomalies so egregious as to render the results incapable of certification.

MULTIPLE EXPERT REPORTS AND STATISTICAL ANALYSES PROVE HUNDREDS OF THOUSANDS OF VOTES WERE LOST OR SHIFTED THAT COST PRESIDENT TRUMP AND THE REPUBLICAN CANDIDATES OF CONGRESSIONAL DISTRICTS 6 AND 7 THEIR RACES.

122.

As evidenced by numerous public reports, expert reports, and witness statements, Defendants egregious misconduct has included ignoring legislative mandates concerning mail-in and ordinary ballots and led to

33 Malkin Live: Election Update, Interview of Joe Oltmann, by Michelle Malkin, November 13, 2020, *available at:* https://www.youtube.com/watch?v=dh1X4s9HuLo&fbclid=IwAR2EaJc1M9RT3DaUraAjsycM0uPKB3uM_-MhH6SMeGrwNyJ3vNmlcTsHxF4

disenfranchisement of an enormous number of Georgia voters. Plaintiffs experts can show that, consistent with the above specific misrepresentations, analysis of voting data reveals the following:

(a) Regarding uncounted mail ballots, based on evidence gathered by Matt Braynard in the form of recorded calls and declarations of voters, and analyzed by Plaintiff's expert, Williams M. Briggs, PhD, shows, based on a statistically significant sample, **that the total number of mail ballots that voters mailed in, but were never counted, have a 95% likelihood of falling between 31,559 and 38,886 total lost votes.** This range exceeds the margin of loss of President Trump of 12,670 votes by at least 18,889 lost votes and by as many as 26,196 lost votes. (See Exh. 1, Dr. Briggs' Report, with attachments).

(b) Plaintiff's expert also finds that **voters received tens of thousands of ballots that they never requested.** (See Exh. 1). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an absentee ballot that they did not request ranges from 16,938 to 22,771. **This range exceeds the margin of loss of**

President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests. *Id.*

(c) This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. **These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud down ballot as well.**

(d) **Further, as calculated by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state.** (See Id., attachment to report). Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

(e) Applying *pro-rata* the above calculations separately to Cobb County based on the number of unreturned ballots, a range of 1,255 and 1,687 ballots ordered by 3rd parties and a range of 2,338 and 2,897 lost mail ballots, plus 10,684 voters documented in the NCOA as having moved, **for a combined minimum of 14,276 missing and unlawful ballots, and maximum of 15,250 missing and unlawful ballots, which exceeds the statewide Presidential race total margin by a range of as few as 1,606 ballots and as many as 2,580 in the County of Cobb alone impacting the Cobb County Republican Party ("Cobb County Republicans").**

123.

As seen from the **expert analysis of Eric Quinnell**, mathematical anomalies further support these findings, when in various districts within Fulton County such as vote gains that exceed reasonable expectations when compared to 2016, and a failure of gains to be normally distributed but instead shifting substantially toward the tail of the distribution in what is known as a platykurtic distribution. Dr. Quinell identifies numerous anomalies such as votes to Biden in excess of 2016 exceed the registrations that are in excess of 2016. Ultimately, he identifies the counties in order of their excess performance over what would have fit in a

normal distribution of voting gains, revealing a list of the most anomalous counties down to the least. These various anomalies provide evidence of voting irregularities. (See Exh.27, Declaration of Eric Quinnell, with attachments).

124.

In sum, with the expert analysis of William M. Briggs PhD based on recorded calls and declarations, the extent of missing AND unlawfully requested ballots create substantial evidence that the mail ballot system has fundamentally failed to provide a fair voting mechanism. In short, tens of thousands of votes did not count while the pattern of fraud makes clear that tens of thousands were improperly counted. This margin of victory in the election for Mr. Biden was only 12,670 and cannot withstand most of these criticisms individually and certainly not in aggregate.

125.

Cobb county, based on lost votes, unlawfully requested votes and NCOA data on these facts alone would consume more than the entire margin of the statewide difference in the Presidential race. These election results must be reversed.

126.

Applying *pro-rata* the above calculations separately to Cobb County based on the number of unreturned ballots, a range of 1,255 and 1,687 ballots

ordered by 3rd parties and a range of 2,338 and 2,897 lost mail ballots, plus 10,684 voters documented in the NCOA as having moved, **for a combined minimum of 14,276 missing and unlawful ballots, and maximum of 15,250 missing and unlawful ballots, which exceeds the statewide Presidential race total margin by a range of as few as 1,606 ballots and as many as 2,580 in the County of Cobb alone impacting the Cobb County Republican Party ("Cobb County Republicans").** (See Exh. 1).

127.

Mr. Braynard also found a pattern in Georgia of voters registered at totally fraudulent residence addresses, including shopping centers, mail drop stores and other non-residential facilities[34].

128.

In sum, with the expert analysis of William M. Briggs PhD based on extensive investigation, recorded calls and declarations collected by Matt Braynard, (See attachments to Exh. 1, Briggs' report) the extent of missing and unlawfully requested ballots create substantial evidence that the mail ballot system has fundamentally failed to provide a fair voting mechanism. In

[34] Matt Braynard, https://twitter.com/MattBraynard/status/1331324173910761476; https://twitter.com/MattBraynard/status/1331299873556086787?s=20; (a) https://twitter.com/MattBraynard/status/1331299873556086787?s=20

short, tens of thousands of votes did not count while the pattern of fraud and mathematical anomalies that are impossible absent malign human agency makes clear that tens of thousands were improperly counted. This margin of victory in the election for Mr. Biden was only 12,670 and cannot withstand most of these criticisms individually and certainly not in aggregate.

129.

Cobb county, based on lost votes, unlawfully requested votes and NCOA data on these facts alone would consume more than the entire margin of the statewide difference in the Presidential race.

130.

Russell Ramsland confirms that data breaches in the Dominion software permitted rogue actors to penetrate and manipulate the software during the recent general election. He further concludes that at least 96,600 mail-in ballots were illegally counted as they were not cast by legal voters.

131.

In sum, as set forth above, for a host of independent reasons, the Georgia certified election results concluding that Joe Biden received 12,670 more votes that President Donald Trump must be set aside.

COUNT I

DEFENDANTS VIOLATED THE ELECTIONS CLAUSE AND 42 U.S.C. § 1983

132.

Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

133.

The Electors Clause states that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" for President. Art. II, § 1, cl. 2 (emphasis added). Likewise, the Elections Clause of the U.S. Constitution states that "[t]he Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." Art. I, § 4, cl. 1 (emphasis added).

134.

The Legislature is "'the representative body which ma[kes] the laws of the people.'" *Smiley*, 285 U.S. at 193. Regulations of congressional and presidential elections, thus, "must be in accordance with the method which the state has prescribed for legislative enactments." *Id.* at 367; *see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2668 (2015).

135.

Defendants are not part of the General Assembly and cannot exercise legislative power. Rather, Defendants' power is limited to "tak[ing] care that the laws be faithfully executed." Pa. Const. Art. IV, § 2. Because the United States Constitution reserves for the General Assembly the power to set the time, place, and manner of holding elections for the President and Congress, county boards of elections and state executive officers have no authority to unilaterally exercise that power, much less to hold them in ways that conflict with existing legislation.

136.

Defendants are not the legislature, and their unilateral decision to create a "cure procedure" violates the Electors and Elections Clauses of the United States Constitution.

137.

The Secretary of State and the State Election Board are not the legislature, and their decision to permit early processing of absentee ballots in direct violation of the unambiguous requirements of O.C.G.A. § 21-2-386(a)(2) violates the Electors and Elections Clauses of the United States Constitution.

138.

Many Affiants testified to many legal infractions in the voting process, including specifically switching absentee ballots or mail-in ballots for Trump to Biden. Even a Democrat testified in his sworn affidavit that before he was forced to move back to where he could not see, he had in fact seen, "*I also saw absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times*". (See Exh. 18, Par. 12).

139.

Plaintiff's expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1, Dr. Briggs' Report). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an absentee ballot that they did not request one ranges from 16,938 to 22,771. This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.

140.

This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not

be in the database of unreturned ballots analyzed here. *See* O.G.C.A. 21-2-522. These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud.

141.

Further, as shown by data collected by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

142.

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted. Defendants have acted and, unless enjoined, will act under color of state law to violate the Elections Clauses of the Constitution. Accordingly, the results for President and Congress in the November 3, 2020 election must be set aside. The results are infected with Constitutional violations.

COUNT II

THE SECRETARY OF STATE AND GEORGIA COUNTIES VIOLATED THE FOURTEENTH AMENDMENT U.S. CONST. AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF EQUAL PROTECTION

INVALID ENACTMENT OF REGULATIONS AFFECTING OBSERVATION AND MONITORING OF THE ELECTION

143.

Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

144.

The Fourteenth Amendment of the United States Constitution provides "nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. *See also Bush v. Gore*, 531 U.S. 98, 104 (2000)(having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over the value of another's). *Harper v. Virginia Board of Elections*, 383 U.S. 663, 665 (1966) ("Once the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment.").

145.

The Court has held that to ensure equal protection, a "problem inheres in the absence of specific standards to ensure its equal application. The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude, necessary." *Bush v. Gore*, 531 U.S. 98, 106, 121 S. Ct. 525, 530, 148 L. Ed. 2d 388 (2000).

146.

The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights. The requirement of equal protection is particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

147.

In statewide and federal elections conducted in the State of Georgia, including without limitation the November 3, 2020, General Election, all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process in each County to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

148.

Moreover, through its provisions involving watchers and representatives, the Georgia Election Code ensures that all candidates and political parties in each County, including the Trump Campaign, have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent. *See, e.g.* In plain terms, the statute clearly prohibits opening absentee ballots prior to election day, while the rule authorizes doing so three weeks before election day. There is no reconciling this conflict. The State Election Board has authority under O.C.G.A. § 21-2-31 to adopt lawful and legal rules and regulations, but no authority to promulgate a regulation that is directly contrary to an unambiguous statute. Rule 183-1-14-0.9-.15 is therefore plainly and indisputably unlawful.

Plaintiffs also bring this action under Georgia law, O.C.G.A. § 21-2-522, Grounds for Contest:

149.

A result of a primary or election may be contested on one or more of the following grounds:

150.

(1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;

(2) When the defendant is ineligible for the nomination or office in dispute;

(3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;

(4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or

(5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election. O.C.G.A. § 21-2-522.

151.

Several affiants testified to the improper procedures with absentee ballots processing, with the lack of auditable procedures with the logs in the computer systems, which violates Georgia law, and federal election law. See

also, 50 U.S.C. § 20701 requires the retention and preservation of records and papers by officers of elections under penalty of fine and imprisonment.

152.

The State Election Board re-adopted Rule 183-1-14-0.9-.15 on November 23, 2020 for the upcoming January 2021 runoff election.

153.

A large number of ballots were identical and likely fraudulent. An Affiant explains that she observed a batch of utterly pristine ballots:

> 14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper - it was if they were intended for absentee use but had not been used for that purposes. There was a difference in the feel.
>
> 15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had com~ from, or where they had been processed. These stood out.
>
> 16. In my 20 years of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joe Biden. I only observed two of these ballots as votes for President Donald J. Trump." (See Exh. 15).

154.

The same Affiant further testified specifically to the breach of the chain of custody of the voting machines the night before the election stating:

> we typically receive the machines, the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. **In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 AM in the morning on Election Day.** The Milton precinct received its machines at 1:00 AM in the morning on Election Day. This is unacceptable and voting machines should [not] be out of custody prior to an Election Day. *Id*.

155.

Defendants have a duty to treat the voting citizens in each County in the same manner as the citizens in other counties in Georgia.

156.

As set forth in Count I above, Defendants failed to comply with the requirements of the Georgia Election Code and thereby diluted the lawful ballots of the Plaintiffs and of other Georgia voters and electors in violation of the United States Constitution guarantee of Equal Protection.

157.

Specifically, Defendants denied the plaintiffs equal protection of the law and their equal rights to meaningful access to observe and monitor the electoral process enjoyed by citizens in other Georgia Counties by:

(a) mandating that representatives at the pre-canvass and canvass of all absentee and mail-ballots be either Georgia barred

attorneys or qualified registered electors of the county in which they sought to observe and monitor;

(b) not allowing watchers and representatives to visibly see and review all envelopes containing official absentee and mail-in ballots either at or before they were opened and/or when such ballots were counted and recorded; and

(c) allowing the use of Dominion Democracy Suite software and devices, which failed to meet the Dominion Certification Report's conditions for certification.

158.

Instead, Defendants refused to credential all of the Trump Republican's submitted watchers and representatives and/or kept Trump Campaign's watchers and representatives by security and metal barricades from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. Consequently, Defendants created a system whereby it was physically impossible for the candidates and political parties to view the ballots and verify that illegally cast ballots were not opened and counted

159.

Many Affiants testified to switching absentee ballots or mail-in ballots for Trump to Biden, including a Democrat. He testified in his sworn affidavit, that before he was forced to move back to where he could not see, he

had in fact seen, "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times". (See Exh. 18, Par. 12).

160.

Other Georgia county boards of elections provided watchers and representatives of candidates and political parties, including without limitation watchers and representatives of the Republicans and the Trump Campaign, with appropriate access to view the absentee and mail-in ballots being pre-canvassed and canvassed by those county election boards and without restricting representatives by any county residency or Georgia bar licensure requirements.

161.

Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants, depriving them of the equal protection of those state laws enjoyed by citizens in other Counties.

162.

Defendants have acted and will continue to act under color of state law to violate Plaintiffs' right to be present and have actual observation and access to the electoral process as secured by the Equal Protection Clause of the United States Constitution.

163.

Defendants further violated Georgia voters' rights to equal protection insofar as Defendants allowed the Georgia counties to process and count ballots in a manner that allowed ineligible ballots to be counted, and through the use of Dominion Democracy Suite, allowed eligible ballots for Trump and McCormick to be switched to Biden or lost altogether. Defendants thus failed to conduct the general election in a uniform manner as required by the Equal Protection Clause of the Fourteenth Amendment and the Georgia Election Code.

164.

Plaintiffs seek declaratory and injunctive relief holding that the election, under these circumstances, was improperly certified and that the Governor be enjoined from transmitting Georgia's certified Presidential election results to the Electoral College. Georgia law forbids certifying a tally that includes any ballots that were not legally cast, or that were switched from Trump to Biden, through the unlawful use of Dominion Democracy Suite software and devices.

165.

Alternatively, Plaintiffs seek declaratory and injunctive relief holding that the election, under these circumstances, was improperly certified and that the Governor be required to recertify the results declaring that Donald

Trump has won the election and transmitting Georgia's certified Presidential election result in favor of President Trump.

166.

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the declaratory and injunctive relief requested herein is granted. Indeed, the setting aside of an election in which the people have chosen their representative is a drastic remedy that should not be undertaken lightly, but instead should be reserved for cases in which a person challenging an election has clearly established a violation of election procedures and has demonstrated that the violation has placed the result of the election in doubt. Georgia law allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately. O.C.G.A. § 21-2-520 et seq.

167.

In addition to the alternative requests for relief in the preceding paragraphs, hereby restated, Plaintiffs seek a permanent injunction requiring the County Election Boards to invalidate ballots cast by: 1) voters whose signatures on their registrations have not been matched with ballot, envelope and voter registration check; 2) all "dead votes"; and 4) all 900 military ballots in Fulton county that supposedly were 100% for Joe Biden.

COUNT III

FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE U.S. CONST. AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF DUE PROCESS

DISPARATE TREATMENT OF ABSENTEE/MAIL-IN VOTERS AMONG DIFFERENT COUNTIES

168.

Plaintiffs incorporate each of the prior allegations in this Complaint.

Voting is a fundamental right protected by the Fourteenth Amendment to the United States Constitution. The Fourteenth Amendment protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin*, 570 F.2d at 1077-78. "[H]aving once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05.

169.

Defendants are not part of the General Assembly and cannot exercise legislative power. Rather, Defendants' power is limited to executing the laws as passed by the legislature Although the Georgia General Assembly may enact laws governing the conduct of elections, "no legislative enactment may

contravene the requirements of the Georgia or United States Constitutions." *Shankey*, 257 A. 2d at 898.

170.

Federal courts "possess broad discretion to fashion an equitable remedy." *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 781 F.3d 1271, 1290 (11th Cir. 2015); *Castle v. Sangamo Weston, Inc.*, 837 F.2d 1550, 1563 (11th Cir. 1988) ("The decision whether to grant equitable relief, and, if granted, what form it shall take, lies in the discretion of the district court.").

171.

Moreover, "[t]o the extent that a voter is at risk for having his or her ballot rejected due to minor errors made in contravention of those requirements, … the decision to provide a 'notice and opportunity to cure' procedure to alleviate that risk is one best suited for the Legislature[,] . . . particularly in light of the open policy questions attendant to that decision, including what the precise contours of the procedure would be, how the concomitant burdens would be addressed, and how the procedure would impact the confidentiality and counting of ballots, all of which are best left to the legislative branch of Georgia's government." *Id.*

172.

The disparate treatment of Georgia voters, in subjecting one class of voters to greater burdens or scrutiny than another, violates Equal Protection guarantees because "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 555. *Rice v. McAlister*, 268 Ore. 125, 128, 519 P.2d 1263, 1265 (1975); *Heitman v. Brown Grp., Inc.*, 638 S.W.2d 316, 319, 1982 Mo. App. LEXIS 3159, at *4 (Mo. Ct. App. 1982); *Prince v. Bear River Mut. Ins. Co.*, 2002 UT 68, ¶ 41, 56 P.3d 524, 536-37 (Utah 2002).

173.

Defendants are not the legislature, and their unilateral decision to create and implement a cure procedure for some but not all absentee and mail-in voters in this State violates the Due Process Clause of the United States Constitution. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

COUNT IV

FOURTEENTH AMENDMENT, U.S. CONST. ART. I § 4, CL. 1; ART. II, § 1, CL. 2; AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF DUE PROCESS ON THE RIGHT TO VOTE

174.

Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

175.

The right of qualified citizens to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution. *Harper*, 383 U.S. at See also *Reynolds*, 377 U.S. at 554 (The Fourteenth Amendment protects the "the right of all qualified citizens to vote, in state as well as in federal elections."). Indeed, ever since the Slaughter-House Cases, 83 U.S. 36 (1873), the United States Supreme Court has held that the Privileges or Immunities Clause of the Fourteenth Amendment protects certain rights of federal citizenship from state interference, including the right of citizens to directly elect members of Congress. *See Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (*citing Ex parte Yarbrough*, 110 U.S. 651, 663-64 (1884)). *See also Oregon v. Mitchell,* 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting cases).

176.

The fundamental right to vote protected by the Fourteenth Amendment is cherished in our nation because it "is preservative of other basic civil and political rights." *Reynolds*, 377 U.S. at 562. Voters have a "right to cast a ballot in an election free from the taint of intimidation and fraud," Burson v. Freeman, 504 U.S. 191, 211 (1992), and "[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

177.

"Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted" if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315 (1941). "[T]he right to have the vote counted" means counted "at full value without dilution or discount." *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters,* 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

178.

"Every voter in a federal . . . election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes." *Anderson v. United States*, 417 U.S. 211, 227 (1974); see also *Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or

fraudulent votes "debase[]" and "dilute" the weight of each validly cast vote. *See Anderson*, 417 U.S. at 227.

179.

The right to an honest [count] is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States." *Anderson*, 417 U.S. at 226 (quoting *Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff'd due to absence of quorum*, 339 U.S. 974 (1950)).

180.

Practices that promote the casting of illegal or unreliable ballots or fail to contain basic minimum guarantees against such conduct, can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots. *See Reynolds*, 377 U.S. at 555 ("[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.").

181.

In Georgia, the signature verification requirement is a dead letter. The signature rejection rate for the most recent election announced by the Secretary of State was 0.15%. The signature rejection rate for absentee ballot applications was .00167% - only 30 statewide. Hancock County, Georgia,

population 8,348, rejected nine absentee ballot applications for signature mismatch. Fulton County rejected eight. No other metropolitan county in Georgia rejected even a single absentee ballot application for signature mismatch. The state of Colorado, which has run voting by mail for a number of years, has a signature rejection rate of between .52% and .66%.[35] The State of Oregon had a rejection rate of 0.86% in 2016.[36] The State of Washington has a rejection rate of between 1% and 2%.[37]If Georgia rejected absentee ballots at a rate of .52% instead of the actual .15%, approximately 4,600 more absentee ballots would have been rejected.

COUNT V

THERE WAS WIDE-SPREAD BALLOT FRAUD.

OCGA 21-2-522

182.

Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

[35] *See* https://duckduckgo.com/?q=colorado+signature+rejection+rate&t=osx&ia=web last visited November 25,2020

[36] *See* https://www.vox.com/21401321/oregon-vote-by-mail-2020-presidential-election, last visited November 25,2020.

[37] *See* https://www.salon.com/2020/09/08/more-than-550000-mail-ballots-rejected-so-far-heres-how-to-make-sure-your-vote-gets-counted/ last visited November 25, 2020.

183.

Plaintiffs contest the results of Georgia's election, with Standing conferred under pursuant to O.G.C.A. 21-2-521.

184.

Therefore, pursuant to O.G.C.A. 21-2-522, for misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result. The foundational principle that Georgia law "nonetheless allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately." *Martin v. Fulton County Bd. of Registration & Elections*, 307 Ga. 193, 194, 835 S.E.2d 245, 248 (2019). The Georgia Supreme Court has made clear that Plaintiffs need not show how the [] voters would have voted if their [absentee] ballots had been regular. [] only had to show that there were enough irregular ballots to place in doubt the result." See OCGA § 21-2-520 et seq., *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (1994) the Supreme Court invalidated an election, and ordered a new election because it found that,

> Thus, [i]t was not incumbent upon [the Plaintiff] to show how the [481] voters would have voted if their [absentee] ballots had been regular. He only had to show that there were enough irregular ballots to place in doubt the result. He succeeded in that task.

Id. at 271 (citing *Howell v. Fears*, 275 Ga. 627, 571 SE2d 392, (2002) (primary results invalid where ballot in one precinct omitted names of both qualified candidates).

185.

The "glitches" in the Dominion system—that seem to have the uniform effect of hurting Trump and helping Biden have been widely reported in the press and confirmed by the analysis of independent experts.

186.

Prima facie evidence in multiple affidavits shows specific fraudulent acts, which directly resulted in the flipping of the race at issue:

a) votes being switched in Biden's favor away from Trump during the recount;
b) the lack of procedures in place to follow the election code, and the purchase and use, Dominion Voting System despite evidence of serious vulnerabilities;
c) a demonstration that misrepresentations were made about a pipe burst that sent everyone home, while first six, then three, unknown individuals were left alone until the morning hours working on the machines;

d) further a failure to demonstrate compliance with the Georgia's Election Codes, in maintaining logs on the Voting system for a genuine and sound audit, other than voluntary editable logs that prevent genuine audits. While the bedrock of this Democratic Republic rests on citizens' confidence in the validity of our elections and a transparent process, Georgia's November 3, 2020 General Election remains under a pall of corruption and irregularity that reflects a pattern of the absence of mistake. At best, the evidence so far shows ignorance of the truth; at worst, it proves a knowing intent to defraud.

187.

Plaintiff's expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1, Dr. Briggs' Report). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an **absentee ballot that they did not request ranges from 16,938 to 22,771.** This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.

188.

This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud.

189.

Further, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

190.

Plaintiffs" expert Russell Ramsland concludes that at least 96,600 mail-in ballots were fraudulently cast. He further concludes that up to

136,098 ballots were illegally counted as a result of improper manipulation of the Dominion software. (Ramsland Aff).

191.

The very existence of absentee mail in ballots created a heightened opportunity for fraud. The population of unreturned ballots analyzed by William Briggs, PhD, reveals the probability that a far greater number of mail ballots were requested by 3rd parties or sent erroneously to persons and voted fraudulently, undetected by a failed system of signature verification. The recipients may have voted in the name of another person, may have not had the legal right to vote and voted anyway, or may have not received the ballot at the proper address and then found that they were unable to vote at the polls, except provisionally, due to a ballot outstanding in their name.

192.

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin of votes between the presidential candidates in the

state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote.

193.

The right to vote includes not just the right to cast a ballot, but also the right to have it fairly counted if it is legally cast. The right to vote is infringed if a vote is cancelled or diluted by a fraudulent or illegal vote, including without limitation when a single person votes multiple times. The Supreme Court of the United States has made this clear in case after case. See, e.g., *Gray v. Sanders*, 372 U.S. 368, 380 (1963) (every vote must be "protected from the diluting effect of illegal ballots."); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (plurality op. of Stevens, J.) ("There is no question about the legitimacy or importance of the State's interest in counting only the votes of eligible voters."); *accord Reynolds v. Sims*, 377 U.S. 533, 554-55 & n.29 (1964).

194.

Plaintiffs have no adequate remedy at law. As seen from the expert analysis of William Higgs, PhD, based on actual voter data, tens of thousands of votes did not count, and tens of thousands of votes were unlawfully requested.

195.

The Fourteenth Amendment Due Process Clause protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin v. Burns*, 570 F.2d 1065, 1077-78 (1st Cir. 1978).

196.

Separate from the Equal Protection Clause, the Fourteenth Amendment's due process clause protects the fundamental right to vote against "the disenfranchisement of a state electorate." *Duncan v. Poythress*, 657 F.2d 691, 702 (5th Cir. 1981). "When an election process 'reaches the point of patent and fundamental unfairness,' there is a due process violation." *Florida State Conference of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1183-84 (11th Cir. 2008) (*quoting Roe v. Alabama*, 43 F.3d 574, 580 (11th Cir.1995) (*citing Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir.1986))). *See also Griffin*, 570 F.2d at 1077 ("If the election process itself reaches the point of patent and fundamental unfairness, a violation of the due process clause may be indicated and relief under § 1983 therefore in order."); *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994) (enjoining winning state senate candidate from exercising official authority where absentee ballots were obtained and cast illegally).

197.

Part of courts' justification for such a ruling is the Supreme Court's recognition that the right to vote and to free and fair elections is one that is preservative of other basic civil and political rights. *See Black*, 209 F.Supp.2d at 900 (quoting *Reynolds*, 377 U.S. at 561-62 ("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.")); see also *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) ("the political franchise of voting … is regarded as a fundamental political right, because [sic] preservative of all rights.").

198.

"[T]he right to vote, the right to have one's vote counted, and the right to have ones vote given equal weight are basic and fundamental constitutional rights incorporated in the due process clause of the Fourteenth Amendment to the Constitution of the United States." Black, 209 F. Supp. 2d at 900 (a state law that allows local election officials to impose different voting schemes upon some portions of the electorate and not others violates due process). "Just as the equal protection clause of the Fourteenth Amendment prohibits state officials from improperly diluting the right to vote, the due process clause of the Fourteenth amendment forbids state

officials from unlawfully eliminating that fundamental right." *Duncan*, 657 F.2d at 704. "Having once granted the right to vote on equal terms, [Defendants] may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05.

199.

In statewide and federal elections conducted in the State of Georgia, including without limitation the November 3, 2020 General Election, all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

200.

Moreover, through its provisions involving watchers and representatives, the Georgia Election Code ensures that all candidates and political parties, including without limitation Plaintiff, Republicans, and the Trump Campaign, shall be "present" and have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

201.

Defendants have a duty to guard against deprivation of the right to vote through the dilution of validly cast ballots by ballot fraud or election tampering. Rather than heeding these mandates and duties, Defendants arbitrarily and capriciously denied the Trump Campaign and Republicans meaningful access to observe and monitor the electoral process by: (a) mandating that representatives at the pre- canvass and canvass of all absentee and mail-ballots be either Georgia barred attorneys or qualified registered electors of the county in which they sought to observe and monitor; and (b) not allowing watchers and representatives to visibly see and review all envelopes containing official absentee and mail-in ballots either at the time or before they were opened and/or when such ballots were counted and recorded. Instead, Defendants refused to credential all of the Trump Campaign's submitted watchers and representatives and/or kept Trump Campaign's watchers and representatives by security and metal barricades from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. The lack of meaningful access with actual access to see the ballots invited further fraud and cast doubt of the validity of the proceedings.

202.

Consequently, Defendants created a system whereby it was physically impossible for the candidates and political parties to view the ballots and verify that illegally cast ballots were not opened and counted.

203.

Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants, and included the unlawfully not counting and including uncounted mail ballots, and that they failed to follow absentee ballot requirements when thousands of **voters received ballots that they never requested.** Defendants have acted and will continue to act under color of state law to violate the right to vote and due process as secured by the Fourteenth Amendment to the United States Constitution.

204.

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

205.

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these

unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin in the state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote.

206.

Relief sought is the elimination of the mail ballots from counting in the 2020 election. Alternatively, the Presidential electors for the state of Georgia should be disqualified from counting toward the 2020 election.

207.

The United States Code (3 U.S.C. 5) provides that,

> "[i]f any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned.

3 USCS § 5.

REQUEST FOR RELIEF

208.

Accordingly, Plaintiffs seek an emergency order instructing Defendants to de-certify the results of the General Election for the Office of President.

209.

In the alternative, Plaintiffs seek an emergency order prohibiting Defendants from including in any certified results from the General Election the tabulation of absentee and mailing ballots which do not comply with the Election Code, including, without limitation, the tabulation of absentee and mail-in ballots Trump Campaign's watchers were prevented from observing or based on the tabulation of invalidly cast absentee and mail-in ballots which (i) lack a secrecy envelope, or contain on that envelope any text, mark, or symbol which reveals the elector's identity, political affiliation, or candidate preference, (ii) do not include on the outside envelope a completed declaration that is dated and signed by the elector, or (iii) are delivered in-person by third parties for non-disabled voters.

210.

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented

proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin in the state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote. Relief sought is the elimination of the mail ballots from counting in the 2020 election. Alternatively, the electors for the state of Georgia should be disqualified from counting toward the 2020 election. Alternatively, the electors of the State of Georgia should be directed to vote for President Donald Trump.

211.

For these reasons, Plaintiff asks this Court to enter a judgment in their favor and provide the following emergency relief:

1. An order directing Governor Kemp, Secretary Raffensperger and the Georgia State Board of Elections to de-certify the election results;

2. An order enjoining Governor Kemp from transmitting the currently certified election results to the Electoral College;

3. An order requiring Governor Kemp to transmit certified election results that state that President Donald Trump is the winner of the election;

4. An immediate order to impound all the voting machines and software in Georgia for expert inspection by the Plaintiffs.

5. An order that no votes received or tabulated by machines that were not certified as required by federal and state law be counted.

6. A declaratory judgment declaring that Georgia Secretary of State Rule 183-1-14-0.9-.15 violates the Electors and Elections Clause, U.S. CONST. art. I, § 4;

7. A declaratory judgment declaring that Georgia's failed system of signature verification violates the Electors and Elections Clause by working a de facto abolition of the signature verification requirement;

8. A declaratory judgment declaring that current certified election results violates the Due Process Clause, U.S. CONST. Amend. XIV;

9. A declaratory judgment declaring that mail-in and absentee ballot fraud must be remedied with a Full Manual Recount or statistically valid sampling that properly verifies the signatures on absentee ballot envelopes and that invalidates the certified results if the recount or sampling analysis shows a sufficient number of ineligible absentee ballots were counted;

10. An emergency declaratory judgment that voting machines be Seized and Impounded immediately for a forensic audit—by plaintiffs' expects;

11. A declaratory judgment declaring absentee ballot fraud occurred in violation of Constitutional rights, Election laws and under state law;

12. A permanent injunction prohibiting the Governor and Secretary of State from transmitting the currently certified results to the Electoral College based on the overwhelming evidence of election tampering;

13. Immediate production of 36 hours of security camera recording of all rooms used in the voting process at State Farm Arena in Fulton County, GA from 12:00am to 3:00am until 6:00pm on November 3.

14. Plaintiffs further request the Court grant such other relief as is just and proper, including but not limited to, the costs of this action and their reasonable attorney fees and expenses pursuant to 42 U.S.C. 1988.

Respectfully submitted, this 25th day of November, 2020.

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com
Counsel for Plaintiffs

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
Julia Z. Haller *
Emily P. Newman*
Virginia Bar License No. 84265
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219

*Application for admission pro hac vice
Forthcoming

L. Lin Wood
GA Bar No. 774588
L. LIN WOOD, P.C.
P.O. Box 52584
Atlanta, GA 30305-0584
Telephone: (404) 891-1402

Howard Kleinhendler*
NEW YORK BAR NO. 2657120Howard Kleinhendler Esquire
369 Lexington Avenue, 12th Floor
New York, New York 10017
Office (917) 793-1188
Mobile (347) 840-2188
howard@kleinhendler.com
www.kleinhendler.com

*Application for admission pro hac vice
Forthcoming

Attorneys for Plaintiffs

Exh. 1

An Analysis of Surveys Regarding Absentee Ballots Across Several States

William M. Briggs

November 23, 2020

1 Summary

Survey data was collected from individuals in several states, sampling those who the states listed as not returning absentee ballots. The data was provided by Matt Braynard.

The survey asked respondents whether they (a) had ever requested an absentee ballot, and, if so, (b) whether they had in fact returned this ballot. From this sample I produce predictions of the total numbers of: **Error #1**, those who were recorded as receiving absentee ballots *without* requesting them; and **Error #2**, those who returned absentee ballots but whose votes went missing (i.e. marked as unreturned).

The sizes of both errors were large in each state. The states were Georgia, Michigan, Wisconsin, and Arizona where ballots were across parties. Pennsylvania data was for Republicans only.

2 Analysis Description

Each analysis was carried out separately for each state. The analysis used (a) the number of absentee ballots recorded as unreturned, (b) the total responding to the survey, (c) the total of those saying they did not request a ballot, (d) the total of those saying they did request a ballot, and of these (e) the number saying they returned their ballots. I assume survery respondents are representative and the data is accurate.

From these data a simple parameter-free predictive model was used to calculate the probability of all possible outcomes. Pictures of these probabilities were derived, and the 95% prediction interval of the relevant numbers was calculated. The pictures appear in the Appendix at the end. They are summarized here with their 95% prediction intervals.

Error #1: being recorded as sent an absentee ballot without requesting one.

Error #2: sending back an absentee ballot and having it recorded as not returned.

State	Unreturned ballots	Error #1	Error #2
Georgia	138,029	16,938–22,771	31,559–38,866
Michigan	139,190	29,611–36,529	27,928–34,710
Pennsylvania*	165,412	32,414–37,444	26,954–31,643
Wisconsin	96,771	16,316–19,273	13,991–16,757
Arizona	518,560	208,333–229,937	78,714–94,975

*Number for Pennsylvania represent Republican ballots only.

Ballots that were not requested, and ballots returned and marked as not returned were classed as *troublesome*. The estimated average number of troublesome ballots for each state were then calculated using the table above and are presented next.

State	Unreturned ballots	Estimated average troublesome ballots	Percent
Georgia	138,029	53,489	39%
Michigan	139,190	62,517	45%
Pennsylvania*	165,412	61,780	37%
Wisconsin	96,771	29,594	31%
Arizona	518,560	303,305	58%

*Number for Pennsylvania represent Republican ballots only.

3 Conclusion

There are clearly a large number of troublesome ballots in each state investigated. Ballots marked as not returned that were never requested are clearly an error of some kind. The error is not small as a percent of the total recorded unreturned ballots.

Ballots sent back and unrecorded is a separate error. These represent votes that have gone missing, a serious mistake. The number of these missing ballots is also large in each state.

Survey respondents were not asked if they received an unrequested ballot whether they sent these ballots back. This is clearly a lively possibility, and represents a third possible source of error, including the potential of voting twice (once by absentee and once at the polls). No estimates or likelihood can be calculated for this potential error due to absence of data.

4 Declaration of William M. Briggs, PhD

1. My name is William M. Briggs. I am over 18 years of age and am competent to testify in this action. All of the facts stated herein are true and based on my personal knowledge.
2. I received a Ph.D of Statistics from Cornell University in 2004.
3. I am currently a statistical consultant. I make this declaration in my personal capacity.
4. I have analyzed data regarding responses to questions relating to mail ballot requests, returns and related issues.
5. I attest to a reasonable degree of professional certainty that the resulting analysis are accurate.

I declare under the penalty of perjury that the foregoing is true and correct.

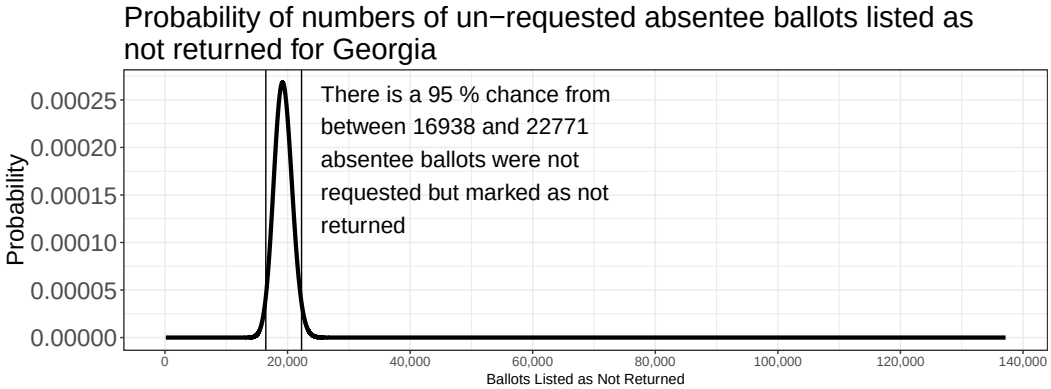


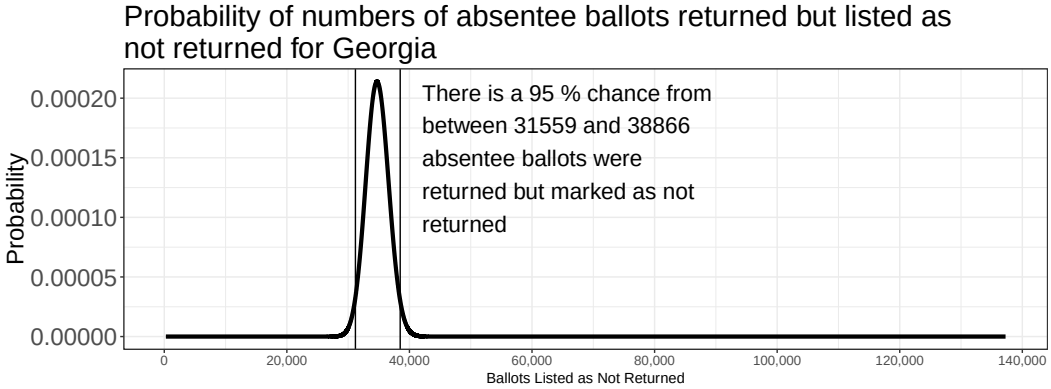
23 November 2020

William M. Briggs

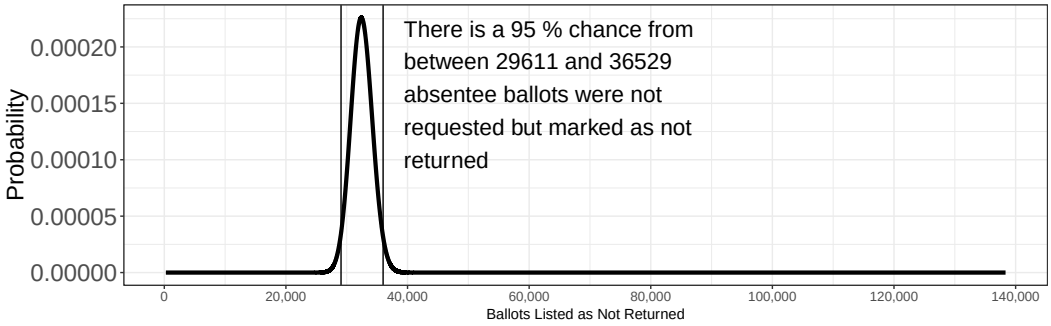
5 Appendix

The probability pictures for each state for each outcome as mentioned above.

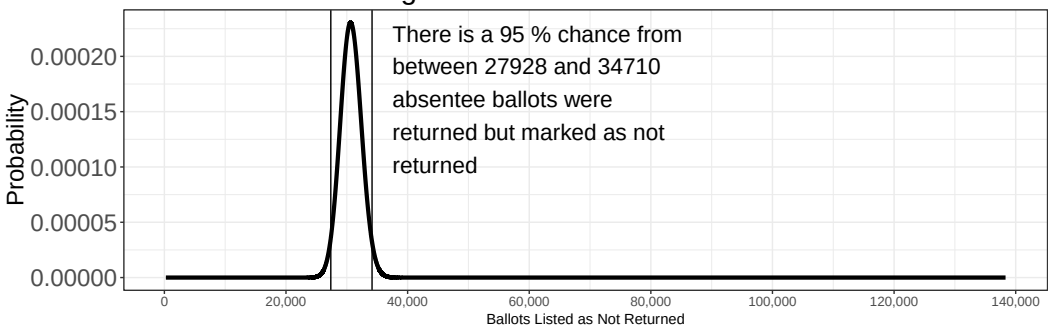




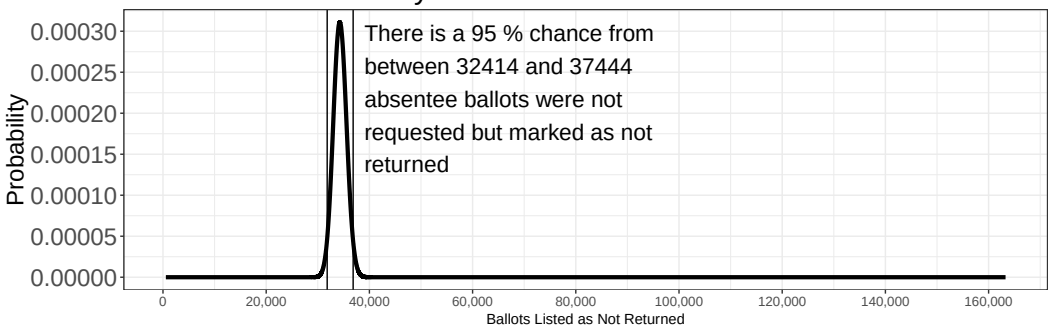
Probability of numbers of un−requested absentee ballots listed as not returned for Michigan



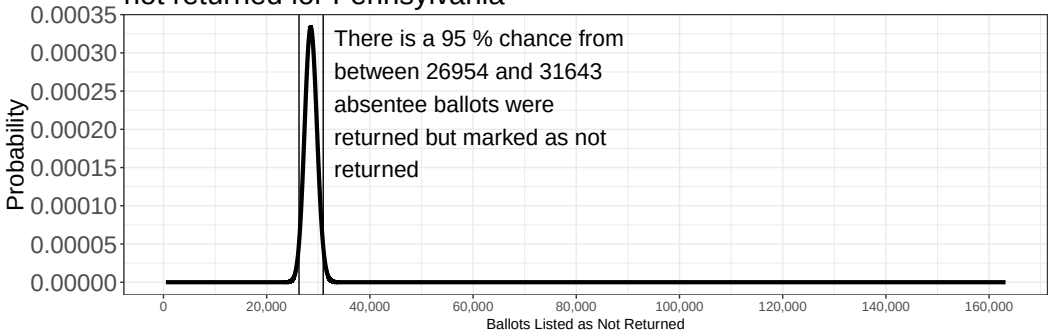
Probability of numbers of absentee ballots returned but listed as not returned for Michigan



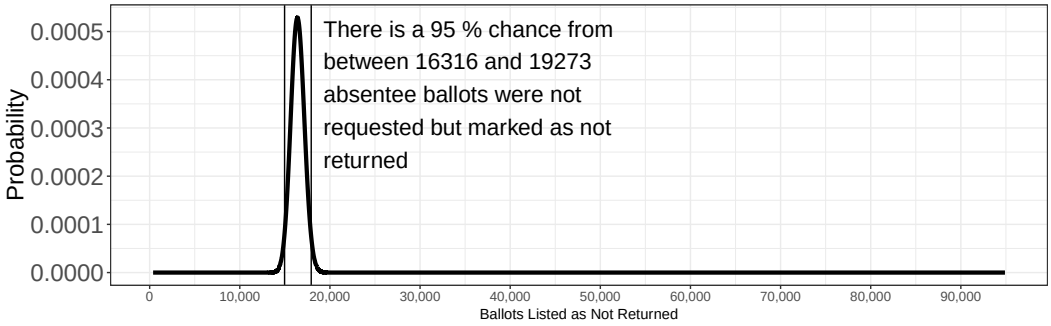
Probability of numbers of un−requested absentee ballots listed as not returned for Pennsylvania



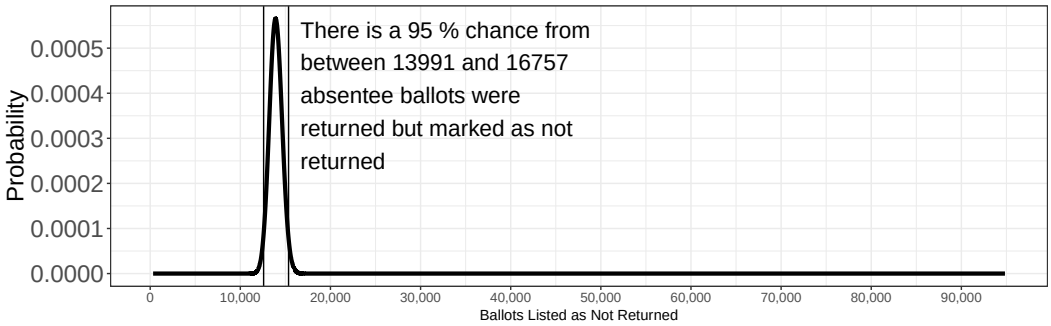
Probability of numbers of absentee ballots returned but listed as not returned for Pennsylvania



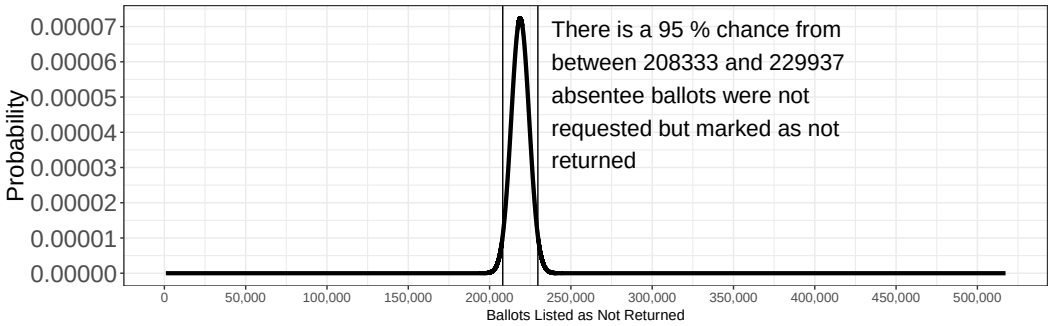
Probability of numbers of un−requested absentee ballots listed as not returned for Wisconsin



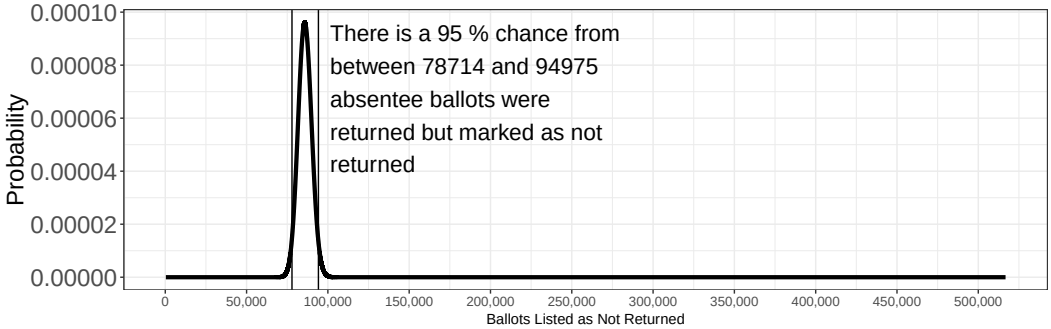
Probability of numbers of absentee ballots returned but listed as not returned for Wisconsin



Probability of numbers of un−requested absentee ballots listed as not returned for Arizona



Probability of numbers of absentee ballots returned but listed as not returned for Arizona



0276 GA Unreturned_Absentee Live ID Topline

			11/16/2020	11/17/2020
15179	**Completes**		**8143**	**7036**
184	**Q5=01 or 02**	status = C	64	120
13,479	**Answering Machines**	status = AM	7090	6389
1,516	**up/RC**	status = R, IR, RC, DC	989	527
4,902	**Numbers/Language**	status = D, BC,WN, NE	2436	2466
0	**MA**	status = MA	0	0
58.45%	**List Penetration**			
34,355	**Data Loads**		34,355	

Q1 - May I please speak to <lead on screen>?		**Response**	**16-Nov**	**17-Nov**
767	65.28%	1. Reached Target [Go to Q2].	446	321
255	21.70%	[Go to Q2].	165	90
153	13.02%	X = Refused <Go to CLOSE A>	104	49
385	32.77%	Q = Hangup <Go to CLOSE A>	267	118
1,175	**100.00%**	**Sum of All Responses**	**982**	**578**

Q2 - Did you request an absentee ballot?		**Response**	**16-Nov**	**17-Nov**
591	61.31%	1. Yes. [Go to Go to Q3].	343	248
128	13.28%	2. No. [Go to Q4].	84	44

39	4.05%	member confirmed “Yes” [Go to	24	15
14	1.45%	member confirmed “No” [Go to Q4]	11	3
40	4.15%	5. Unsure. [Go to Q3].	26	14
82	8.51%	moment. [Go to Close A]	48	34
70	7.26%	X = Refused <Go to CLOSE A>	42	28
58	6.02%	Q = Hangup <Go to CLOSE A>	33	25
964	**100.00%**	**Sum of All Responses**	**611**	**411**

Q3 - Did you mail back that ballot?		**Response**	**16-Nov**	**17-Nov**
240	38.52%	1. Yes. [Go to Go to Q4].	149	91
317	50.88%	2. No. [Go to Close A].	174	143
17	2.73%	member confirmed “Yes” [Go to	10	7
9	1.44%	member confirmed “No” [Go to Close A]	4	5
24	3.85%	5. Unsure. [Go to Close A].	14	10
11	1.77%	moment. [Go to Close A]	8	3
5	0.80%	X = Refused <Go to CLOSE A>	5	0
7	1.12%	Q = Hangup <Go to CLOSE A>	3	4
623	**100.00%**	**Sum of All Responses**	**367**	**263**

Q4 - Can you please give us the best phone number to reach you at?		**Response**	**16-Nov**	**17-Nov**
313	82.15%	01 = Yes <Go to Q5>	205	108
49	12.86%	02 = No <Go to Q5>	26	23
19	4.99%	X = Refused <Go to CLOSE A>	13	6
18	4.72%	Q = Hangup <Go to CLOSE A>	10	8

381	**100.00%**	**Sum of All Responses**	**254**	**145**

Q5 - May we please have an email address to follow-up as well?		**Response**	**16-Nov**	**17-Nov**
99	28.86%	01 = Yes <Go to CLOSE B>	64	35
229	66.76%	02 = No <Go to CLOSE B>	144	85
15	4.37%	X = Refused <Go to CLOSE A>	11	4
19	5.54%	Q = Hangup <Go to CLOSE A>	12	7
343	**100.00%**	**Sum of All Responses**	**231**	**131**

MI Unreturned Live Agent - Mass Markets

			11/15/2020	11/16/2020	11/17/2020	
3,815	**Completes**		**-**	**990**	**2,825**	
248	**Q4=01**	1-Completed Survey	-	36	212	
1,257	**VM Message Left**	2-Message Delivered VM	-	388	869	
2,310	**up/RC**	3-Refused	-	566	1,744	
62,569	**No Answer**	4-No Answer	-	15,482	47,087	
3,644	**Numbers/Language**	5-Bad Number	-	570	3,074	
100.00%	**List Penetration**					
70,030	**Data Loads**					

Q1 - May I please speak to <lead on screen>?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
958	23.65%	A-Reached Target	-	158	800
142	3.51%	Uncertain	-	57	85
2,950	72.84%	X = Refused	-	883	2,067
0	0.00%				
4,050	**100.00%**	**Sum of All Responses**	**-**	**1,098**	**2,952**

Q2 - Did you request Absentee Ballot in state of MI?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
752	49.64%	A-Yes [Go to Q3]	-	167	585

239	15.78%	B-No [Go to Q4]	-	39	200
50	3.30%	Member) [Go to Q3]	-	5	45
17	1.12%	Member) [Go to Q4]	-	2	15
37	2.44%	E-Unsure [Go to Close A]	-	4	33
11	0.73%	Moment [Go to Close A]	-	2	9
409	27.00%	X = Refused	-	63	346
1,515	**100.00%**	**Sum of All Responses**	**-**	**282**	**1,233**

Q3 - Did you mail your ballot back?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
232	21.28%	A-Yes [Go to Q4]	-	41	191
472	43.30%	B-No [Go to Close A]	-	109	363
10	0.92%	Member) [Go to Q4]	-	2	8
28	2.57%	Member) [Go to Close A]	-	2	26
22	2.02%	Close A]	-	5	17
326	29.91%	X = Refused	-	60	266
			-		
1,090	**100.00%**	**Sum of All Responses**	**-**	**219**	**871**

Q4 - Can you please give us the best phone number to reach you at?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
246	69.89%	[illegible] to Q5]	-	36	210
106	30.11%	B-Refused [Go to Q5]	-	27	79

0	0.00%				
0	0.00%				
352	**100.00%**	**Sum of All Responses**	**-**	**63**	**289**

Q5 - Can you provide us your email address?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
18	7.26%	01-Yes [Go to Close B]	-	5	13
230	92.74%	02-No [Go to Close B]	-	31	199
0	0.00%				
248	**100.00%**	**Sum of All Responses**	**-**	**36**	**212**

WI Unreturned Live Agent - Mass Markets

			11/15/2020	11/16/2020	11/17/2020
4,614	**Completes**		**-**	**3,483**	**1,131**
433	**Completed survey** - Q4=0**	1-Completed Survey	-	300	133
1,053	**VM Message Left**	2-Message Delivered VM	-	804	249
3,128	**Refused/Early Hang up/RC**	3-Refused	-	2,379	749
50,712	**No Answer**	4-No Answer	-	40,391	10,321
1,944	**Bad/Wrong Numbers/Langu**	5-Bad Number	-	1,289	655
100.00%	**List Penetration**				
57,271	**Data Loads**				

Q1 - May I please speak to <lead on screen>?		**Response**	11/15/2020	11/16/2020	11/17/2020
2,261	64.69%	A-Reached Target + B-What Is This About? / Uncertain	-	1,343	475
1,677	47.98%	X = Refused	-	1,202	475
0	0.00%				
3,495	**100.00%**	**Sum of All Responses**	**-**	**2,545**	**950**

Q2 - Did you request Absentee Ballot in state of WI?		**Response**	11/15/2020	11/16/2020	11/17/2020
1,699	62.39%	A-Yes [Go to Q3]	-	1,374	325

379	13.92%	B-No [Go to Q4]	-	240	139
32	1.18%	C-Yes (per Spouse/family Member) [Go to Q3]	-	16	16
4	0.15%	D-No (per Spouse/family Member) [Go to Q4]	-	-	4
44	1.62%	E-Unsure [Go to Close A]	-	25	19
4	0.15%	F-Not Available At The Moment [Go to Close A]	-	2	2
561	20.60%	X = Refused	-	405	156
2,723	**100.00%**	**Sum of All Responses**	**-**	**2,062**	**661**

Q3 - Did you mail your ballot back?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
316	14.67%	A-Yes [Go to Q4]	-	238	78
1,286	59.70%	B-No [Go to Close A]	-	1,069	217
9	0.42%	C-Yes (per Spouse/family Member) [Go to Q4]	-	4	5
15	0.70%	D-No (per Spouse/family Member) [Go to Close A]	-	8	7
28	1.30%	E-Unsure / Refused [Go to Close A]	-	24	4
500	23.21%	X = Refused	-	314	186
			-		
2,154	**100.00%**	**Sum of All Responses**	**-**	**1,657**	**497**

Q4 - Can you please give us the best phone number to reach you at?		Response	11/15/2020	11/16/2020	11/17/2020
432	80.00%	A-Yes (Capture Number) [Go to Q5]	-	300	132
108	20.00%	B-Refused [Go to Q5]	-	77	31
0	0.00%				
0	0.00%				
540	**100.00%**	**Sum of All Responses**	**-**	**377**	**163**

Q5 - Can you provide us your email address?		Response	11/15/2020	11/16/2020	11/17/2020
50	11.55%	01-Yes [Go to Close B]	-	37	13
383	88.45%	02-No [Go to Close B]	-	263	120
0	0.00%				
433	**100.00%**	**Sum of All Responses**	**-**	**300**	**133**



0270 PA Absentee Live ID Topline

			11/9/2020	11/10/2020	11/11/2020
18037	**Completes**		**4419**	**13618**	**0**
834	**survey** - Q4=01**	status = C	178	656	
14,203	**Machines**	status = AM	3465	10738	
3,000	**Hang up/RC**	status = R, IR, RC, DC	776	2224	
3,521	**Numbers/Languag**	status = D, BC,WN, NE	556	2965	
0	**MA**	status = MA			
87.70%	**List Penetration**				
24,581	**Data Loads**		24,581		

Q1 - May I please speak to <lead on screen>?		**Response**	**9-Nov**	**10-Nov**	**11-Nov**
2,262	75.86%	1. Reached Target [Go to Q2].	593	1,669	
422	14.15%	Q2].	102	320	
298	9.99%	X = Refused <Go to CLOSE A>	77	221	
739	24.78%	Q = Hangup <Go to CLOSE A>	160	579	
2,982	**100.00%**	**Sum of All Responses**	**932**	**2789**	**0**

Q2 - Did you request an absentee ballot?		**Response**	**9-Nov**	**10-Nov**	**11-Nov**
1,114	43.91%	1. Yes. [Go to Go to Q3].	331	783	
531	20.93%	2. No. [Go to Q4].	131	400	

36	1.42%	confirmed “Yes” [Go to Q3]	12	24	
25	0.99%	confirmed “No” [Go to Q4]	9	16	
91	3.59%	5. Unsure. [Go to Q3].	25	66	
89	3.51%	moment. [Go to Close A]	17	72	
544	21.44%	A]	105	439	
107	4.22%	X = Refused <Go to CLOSE A>	29	78	
147	5.79%	Q = Hangup <Go to CLOSE A>	36	111	
2,537	**100.00%**	**Sum of All Responses**	**695**	**1989**	**0**

Q3 - Did you mail back that ballot?		**Response**	**9-Nov**	**10-Nov**	**11-Nov**
452	39.75%	1. Yes. [Go to Go to Q4].	90	362	
632	55.58%	2. No. [Go to Close A].	229	403	
11	0.97%	confirmed “Yes” [Go to Q4]	1	10	
11	0.97%	confirmed “No” [Go to Close A]	4	7	
15	1.32%	5. Unsure. [Go to Close A].	6	9	
2	0.18%	moment. [Go to Close A]	0	2	
14	1.23%	X = Refused <Go to CLOSE A>	5	9	
13	1.14%	Q = Hangup <Go to CLOSE A>	8	5	
1,137	**100.00%**	**Sum of All Responses**	**343**	**807**	**0**

Q4 - Can you please give us the best phone number to reach you at?		**Response**	**9-Nov**	**10-Nov**	**11-Nov**
834	87.61%	01 = Yes <Go to CLOSE B>	178	656	
118	12.39%	X = Refused <Go to CLOSE A>	36	82	
67	7.04%	Q = Hangup <Go to CLOSE A>	17	50	
952	**100.00%**	**Sum of All Responses**	**231**	**788**	**0**

AZ Unreturned Live Agent - Mass Markets

			11/15/2020	11/16/2020	11/17/2020	
5,604	**Completes**		**745**	**1,881**	**2,978**	
684	**Q4=01**	1-Completed Survey	116	212	356	
1,945	**VM Message Left**	2-Message Delivered VM	90	657	1,198	
2,975	**up/RC**	3-Refused	539	1,012	1,424	
74,437	**No Answer**	4-No Answer	6,764	25,056	42,617	
1,663	**Numbers/Language**	5-Bad Number	245	384	1,034	
100.00%	**List Penetration**					
81,708	**Data Loads**					

Q1 - May I please speak to <lead on screen>?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
1,812	40.05%	A-Reached Target	307	554	951
335	7.40%	Uncertain	80	124	131
2,377	52.54%	X = Refused	382	854	1,141
0	0.00%				
4,524	**100.00%**	**Sum of All Responses**	**769**	**1,532**	**2,223**

Q2 - Did you request Absentee Ballot in state of AZ?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
1,120	45.00%	A-Yes [Go to Q3]	210	361	549

885	35.56%	B-No [Go to Q4]	162	286	437
24	0.96%	Member) [Go to Q3]	5	9	10
21	0.84%	Member) [Go to Q4]	3	10	8
72	2.89%	E-Unsure [Go to Close A]	10	18	44
7	0.28%	[Go to Close A]	-	1	6
360	14.46%	X = Refused	45	69	246
2,489	**100.00%**	**Sum of All Responses**	**435**	**754**	**1,300**

Q3 - Did you mail your ballot		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
344	16.16%	A-Yes [Go to Q4]	67	112	165
696	32.69%	B-No [Go to Close A]	116	237	343
11	0.52%	Member) [Go to Q4]	2	2	7
9	0.42%	Member) [Go to Close A]	1	4	4
14	0.66%	Close A]	3	4	7
1,055	49.55%	X = Refused	201	326	528
2,129	**100.00%**	**Sum of All Responses**	**390**	**685**	**1,054**

Q4 - Can you please give us the best phone number to reach you at?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
678	82.48%	A-Yes (Capture Number) [Go to Q5]	116	212	350
144	17.52%	B-Refused [Go to Q5]	38	50	56

0	0.00%				
0	0.00%				
822	**100.00%**	**Sum of All Responses**	**154**	**262**	**406**

Q5 - Can you provide us your email address?		**Response**	**11/15/2020**	**11/16/2020**	**11/17/2020**
127	18.57%	01-Yes [Go to Close B]	24	36	67
557	81.43%	02-No [Go to Close B]	92	176	289
0	0.00%				
684	**100.00%**	**Sum of All Responses**	**116**	**212**	**356**

William M. Briggs, PhD
Statistician to the Stars!
matt@wmbriggs.com
917-392-0691

1. Experience

(1) 2016: Author of *Uncertainty: The Soul of Modeling, Probability & Statistics*, a book which argues for a complete and fundamental change in the philosophy and practice of probability and statistics. Eliminate hypothesis testing and estimation, and move to verifiable predictions. This includes AI and machine learning. Call this The Great Reset, but a good one.

(2) 2004-2016 Adjunct Professor of Statistical Science, Cornell University, Ithaca, New York
I taught a yearly Masters course to people who (rightfully) hate statistics. Interests: philosophy of science & probability, epistemology, epidemiology (ask me about the all-too-common epidemiologist fallacy), Bayesian statistics, medicine, climatology & meteorology, goodness of forecasts, overconfidence in science; public understanding of science, limitations of science, scientism; scholastic metaphysics (as it relates to epistemology).

(3) 1998-present. Statistical consultant, Various companies
Most of my time is spent coaxing people out of their money to tell them they are too sure of themselves. All manner of analyses cheerfully undertaken. Example: Fraud analysis; I created the *Wall Street Journal's* College Rankings. I consultant regularly at Methodist and other hospitals, start-ups, start-downs, and with any instition willing to fork it over.

(4) 2003-2010. Research Scientist, New York Methodist Hospital, New York
Besides the usual, I sit/sat on the Institutional Review Committee to assess the statistics of proposed research. I was an Associate Editor for *Monthly Weather Review* (through 2011). Also a member of the American Meteorological Society's Probability and Statistics Committee (through 2011). At a hospital? Yes, sir; at a hospital. It rains there, too, you know.

(5) Fall 2007, Fall 2010 Visiting Professor of Statistics, Department of Mathematics, Central Michigan University, Mt. Pleasant, MI
Who doesn't love a visit from a statistician? Ask me about the difference between "a degree" and "an education."

(6) 2003-2007, Assistant Professor Statistics, Weill Medical College of Cornell University, New York, New York
Working here gave me a sincere appreciation of the influences of government money; grants galore.

(7) 2002-2003. Gotham Risk Management, New York
A start-up then, after Enron's shenanigans, a start-down. We set future weather derivative and weather insurance contract prices that incorporated information from medium- and long-range weather and climate forecasts.

(8) 1998-2002. DoubleClick, New York
Lead statistician. Lot of computer this and thats; enormous datasets.

(9) 1993-1998. Graduate student, Cornell University

Meteorology, applied climatology, and finally statistics. Was Vice Chair of the graduate student government; probably elected thanks to a miracle.

(10) 1992-1993. National Weather Service, Sault Ste. Marie, MI
Forecast storms o' the day and launched enormous balloons in the name of Science. My proudest moment came when I was able to convince an ancient IBM-AT machine to talk to an *analog*, 110 baud, phone-coupled modem, all using BASIC!

(11) 1989-1992. Undergraduate student, Central Michigan University
Meteorology and mathematics. Started the local student meteorology group to chase tornadoes. Who knew Michigan had so few? Spent a summer at U Michigan playing with a (science-fiction-sounding) lidar.

(12) 1983-1989. United States Air Force
Cryptography and other secret stuff. Shot things; learned pinochle. I adopted and became proficient with a fascinating and versatile vocabulary. Irritate me for examples. TS/SCI, etc. security clearance (now inactive).

2. Education

(1) Ph.D., 2004, Cornell University. Statistics.
(2) M.S., 1995, Cornell University. Atmospheric Science.
(3) B.S., Summa Cum Laude, 1992, Central Michigan University. Meteorology and Math.

3. Publications

3.0.1. *Popular.*

(1) Op-eds in various newspapers; articles in *Stream*, *Crisis Magazine*, *The Remnant*, *Quadrant*, *Quirks*; blog with ∼70,000 monthly readers. Various briefs submitted to government agencies, such as California Air Resources Board, Illinois Department of Natural Resources. Talks and holding-forths of all kinds.

3.0.2. *Books.*

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(11) Briggs, WM, 2017. The Substitute for p-Values. *JASA*, 112, 897–898.
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Exh. 2

DECLARATION OF [redacted]

I, [redacted], hereby state the following:

1. [redacted]

2. I am an adult of sound mine. All statements in this declaration are based on my personal knowledge and are true and correct.

3. I am making this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive, anything in exchange for my testimony and giving this statement. I have no expectation of any profit or reward and understand that there are those who may seek to harm me for what I say in this statement. I have not participated in any political process in the United States, have not supported any candidate for office in the United States, am not legally permitted to vote in the United States, and have never attempted to vote in the United States.

4. I want to alert the public and let the world know the truth about the corruption, manipulation, and lies being committed by a conspiracy of people and companies intent upon betraying the honest people of the United States and their legally constituted institutions and fundamental rights as citizens. This conspiracy began more than a decade ago in Venezuela and has spread to countries all over the world. It is a conspiracy to wrongfully gain and keep power and wealth. It involves political leaders, powerful companies, and other persons whose purpose is to gain and keep power by changing the free will of the people and subverting the proper course of governing.

5. [redacted] Over the course of my career, I specialized in the marines [redacted]

6. Due to my training in special operations and my extensive military and academic formations, I was selected for the national security guard detail of the President of Venezuela. [redacted]

[redacted]

[redacted]

7. [redacted] Señor Cabello was a long-time confederate of President Chavez and instrumental in his gaining power. In 2002, Señor Cabello had very briefly taken over the duties of the presidency while Hugo Chavez was imprisoned. Within hours of Señor Cabello taking over the presidency, Hugo Chavez was released from prison and regained the office of President. On December 11, 2011, Cabello was installed as the Vice-President of the United Socialist Party – the party of President Chávez and became the second most powerful figure in the party after Hugo Chávez. Cabello was appointed president of the National Assembly in early 2012 and was re-elected to that post in January 2013. After Hugo Chávez's death, Cabello was next in line for the presidency of the country, but he remained president of the National Assembly and yielded to Nicolás Maduro holding the position of President of Venezuela.

8. [redacted] President Chavez was very precise and exacting in his instructions in the details about meetings he wanted, where the meeting was to occur, who was to attend, what was to be done. [redacted]

9. [redacted] I was witness to the creation and operation of a

sophisticated electronic voting system that permitted the leaders of the Venezuelan government to manipulate the tabulation of votes for national and local elections and select the winner of those elections in order to gain and maintain their power.

10. Importantly, I was a direct witness to the creation and operation of an electronic voting system in a conspiracy between a company known as Smartmatic and the leaders of conspiracy with the Venezuelan government. This conspiracy specifically involved President Hugo Chavez Frias, the person in charge of the National Electoral Council named Jorge Rodriguez, and principals, representatives, and personnel from Smartmatic which included [redacted]. The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes *against* persons running the Venezuelan government to votes *in their favor* in order to maintain control of the government.

11. In mid-February of 2009, there was a national referendum to change the Constitution of Venezuela to end term limits for elected officials, including the President of Venezuela. The referendum passed. This permitted Hugo Chavez to be re-elected an unlimited number of times.

12. After passage of the referendum, President Chavez instructed me to make arrangements for him to meet with Jorge Rodriguez, then President of the National Electoral Council, and three executives from Smartmatic. Among the three Smartmatic representatives were [redacted] President Chavez had multiple meetings with Rodriguez and the Smartmatic team at which I was present. In the first of four meetings, Jorge Rodriguez promoted the idea to create software that would manipulate elections. Chavez was very excited and made it clear that he would provide whatever Smartmatic needed. He wanted them immediately to create a voting system which would ensure that any time anything was going to be voted on the voting system would guarantee results that Chavez wanted. Chavez offered Smartmatic many inducements, including large sums of money, for Smartmatic to create or modify the voting system so that it would guarantee Chavez would win every election cycle. Smartmatic's team agreed to create such a system and did so.

13. I arranged and attended three more meetings between President Chavez and the representatives from Smartmatic at which details of the new

[redacted]

voting system were discussed and agreed upon. For each of these meetings, I communicated directly with [redacted] on details of where and when to meet, where the participants would be picked up and delivered to the meetings, and what was to be accomplished. At these meetings, the participants called their project the "Chavez revolution." From that point on, Chavez never lost any election. In fact, he was able to ensure wins for himself, his party, Congress persons and mayors from townships.

14. Smartmatic's electoral technology was called "Sistema de Gestión Electoral" (the "Electoral Management System"). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter's ballot. The voter's thumbprint was linked to a computerized record of that voter's identity. Smartmatic created and operated the entire system.

15. Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted, but that voter would not tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that accomplished that result for President Chavez.

16. After the Smartmatic Electoral Management System was put in place, I closely observed several elections where the results were manipulated using Smartmatic software. One such election was in December 2006 when Chavez was running against Rosales. Chavez won with a landslide over Manuel Rosales - a margin of nearly 6 million votes for Chavez versus 3.7 million for Rosales.

17. On April 14, 2013, I witnessed another Venezuelan national election in which the Smartmatic Electoral Management System was used to manipulate and change the results for the person to succeed Hugo Chávez

[redacted]

as President. In that election, Nicolás Maduro ran against Capriles Radonsky. [redacted] Inside that location was a control room in which there were multiple digital display screens – TV screens – for results of voting in each state in Venezuela. The actual voting results were fed into that room and onto the displays over an internet feed, which was connected to a sophisticated computer system created by Smartmatic. People in that room were able to see in "real time" whether the vote that came through the electronic voting system was in their favor or against them. If one looked at any particular screen, they could determine that the vote from any specific area or as a national total was going against either candidate. Persons controlling the vote tabulation computer had the ability to change the reporting of votes by moving votes from one candidate to another by using the Smartmatic software.

18. By two o'clock in the afternoon on that election day Capriles Radonsky was ahead of Nicolás Maduro by two million votes. When Maduro and his supporters realized the size of Radonsky's lead they were worried that they were in a crisis mode and would lose the election. The Smartmatic machines used for voting in each state were connected to the internet and reported their information over the internet to the Caracas control center in real-time. So, the decision was made to reset the entire system. Maduro's and his supporters ordered the network controllers to take the internet itself offline in practically all parts in Venezuela and to change the results.

19. It took the voting system operators approximately two hours to make the adjustments in the vote from Radonsky to Maduro. Then, when they turned the internet back on and the on-line reporting was up and running again, they checked each screen state by state to be certain where they could see that each vote was changed in favor of Nicholas Maduro. At that moment the Smartmatic system changed votes that were for Capriles Radonsky to Maduro. By the time the system operators finish, they had achieved a convincing, but narrow victory of 200,000 votes for Maduro.

20. After Smartmatic created the voting system President Chavez wanted, he exported the software and system all over Latin America. It was sent to Bolivia, Nicaragua, Argentina, Ecuador, and Chile – countries that were in alliance with President Chavez. This was a group of leaders who wanted to be able to guarantee they maintained power in their countries. When Chavez died, Smartmatic was in a position of being the only

[redacted]

company that could guarantee results in Venezuelan elections for the party in power.

21. I want to point out that the software and fundamental design of the electronic electoral system and software of Dominion and other election tabulating companies relies upon software that is a descendant of the Smartmatic Electoral Management System. In short, the Smartmatic software is in the DNA of every vote tabulating company's software and system.

22. Dominion is one of three major companies that tabulates votes in the United States. Dominion uses the same methods and fundamentally same software design for the storage, transfer and computation of voter identification data and voting data. Dominion and Smartmatic did business together. The software, hardware and system have the same fundamental flaws which allow multiple opportunities to corrupt the data and mask the process in a way that the average person cannot detect any fraud or manipulation. The fact that the voting machine displays a voting result that the voter intends and then prints out a paper ballot which reflects that change does not matter. It is the software that counts the digitized vote and reports the results. The software itself is the one that changes the information electronically to the result that the operator of the software and vote counting system intends to produce that counts. That's how it is done. So the software, the software itself configures the vote and voting result -- changing the selection made by the voter. The software decides the result regardless of what the voter votes.

23. All of the computer controlled voting tabulation is done in a closed environment so that the voter and any observer cannot detect what is taking place unless there is a malfunction or other event which causes the observer to question the process. I saw first-hand that the manipulation and changing of votes can be done in real-time at the secret counting center which existed in Caracas, Venezuela. For me it was something very surprising and disturbing. I was in awe because I had never been present to actually see it occur and I saw it happen. So, I learned first-hand that it doesn't matter what the voter decides or what the paper ballot says. It's the software operator and the software that decides what counts – not the voter.

24. If one questions the reliability of my observations, they only have to read the words of [redacted] a time period in [redacted]

which Smartmatic had possession of all the votes and the voting, the votes themselves and the voting information at their disposition in Venezuela. [redacted] he was assuring that the voting system implemented or used by Smartmatic was completely secure, that it could not be compromised, was not able to be altered.

25. But later, in 2017 when there were elections where Maduro was running and elections for legislators in Venezuela, [redacted] and Smartmatic broke their secrecy pact with the government of Venezuela. He made a public announcement through the media in which he stated that all the Smartmatic voting machines used during those elections were totally manipulated and they were manipulated by the electoral council of Venezuela back then. [redacted] stated that all of the votes for Nicholas Maduro and the other persons running for the legislature were manipulated and they actually had lost. So I think that's the greatest proof that the fraud can be carried out and will be denied by the software company that [redacted] admitted publicly that Smartmatic had created, used and still uses vote counting software that can be manipulated or altered.

26. I am alarmed because of what is occurring in plain sight during this 2020 election for President of the United States. The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela. What happened in the United States was that the vote counting was abruptly stopped in five states using Dominion software. At the time that vote counting was stopped, Donald Trump was significantly ahead in the votes. Then during the wee hours of the morning, when there was no voting occurring and the vote count reporting was off-line, something significantly changed. When the vote reporting resumed the very next morning there was a very pronounced change in voting in favor of the opposing candidate, Joe Biden.

27. [redacted] I have worked in gathering information, researching, and working with information technology. That's what I know how to do and the special knowledge that I have. Due to these recent election events, I contacted a number of reliable and intelligent ex-co-workers of mine that are still informants and work with the intelligence community. I asked for them to give me information that was up-to-date information in as far as how all these businesses are acting, what actions they are taking.

[redacted]

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was prepared in Dallas County, State of Texas, and executed on November 15, 2020.

[redacted]

[redacted] - Page 8 of 8

Exh. 3

STATEMENT BY ANA MERCEDES DÍAZ CARDOZO

I, Ana Mercedes Díaz Cardozo, hereby declare the following:

1. My name is Ana Mercedes Díaz Cardozo. I'm known as Ana Diaz by many. I am an adult of the sound mine and was born in Caracas, Venezuela on March 24, 1960. I'm a naturalized American citizen. I reside at 923 Gulf Stream Court, Weston, Florida 33327.

2. I make this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive anything in exchange for my testimony and give this statement. I have no expectation of any benefit or reward and understand that there are those who can try to hurt me for what I say in this statement.

3. I moved from Venezuela to the United States in 2004 due to political corruption and rapid decline in my home country of Venezuela. I want to alert the public and let the world know the truth about corruption, manipulation, and lies committed through a conspiracy of individuals and businesses with the intention of betraying the honest people of the United States and its legally constituted institutions and fundamental rights as citizens. This conspiracy began more than a decade ago in Venezuela and has spread to countries around the world. It is a conspiracy to unjustly gain and maintain power and wealth. These are political leaders, powerful companies, and others whose purpose is to gain and maintain power by changing people's free will and subverting the proper course of governing.

4. After graduating from high school, I attended the University of Santa Maria in Caracas, Venezuela and graduated as a lawyer in 1987. Then I studied a postgraduate degree in administrative law at the University of Central Venezuela. Before I could submit my thesis for a Master's degree in Administrative Law, I moved to the United States. I'm certified as an arbiter of international trade.

5. I was a career official for 25 years at the Supreme Electoral Council of Venezuela, which is the name that it was called in the 1970's. It is currently called the National Electoral Council. This is the highest electoral administrative agency in Venezuela and oversees all elections in Venezuela. In 1979, at the age of 19, I began my career at the Supreme Electoral Council of Venezuela as secretary in the regional delegation of the federal district. When I graduated from the university as a lawyer, my position on the Supreme Electoral Council changes to the position as an adviser to the Judicial Council of the Supreme Council Electoral. In 1991, I was appointed Assistant Director General of Political Parties, where I served until Hugo Chavez came to power in 1998. Also during this time, I served for seven years as a member of the Legislative Commission of the Venezuelan Electoral Council. It was the role of the Legislative Commission to review and identify any issues related to candidates

for elected positions. The Legislative Commission and my office had access to many resources within the various departments of the Electoral Council, including an information technology section that had experts in computers, computer programming, computer systems and telecommunications features such as modems, telephone lines. I was regularly in communication with the various departments of the Electoral Body for my daily duties. In the last years of my work for the Electoral Counsel, a little of my activities and duties were to learn about electronic voting systems and their functioning by Council experts.

6. As Deputy Director General of Political Parties in the Supreme Electoral Council, it was my duty to oversee everything related to political parties in Venezuela, particularly the participation of political parties in elections and the selection and qualifications of candidates for political office. My office reviewed everything to do with the ability of political parties to participate in the electoral process. Before a political party could be formed, it had to undergo a process for approval. This included legal approval of the party name, its colors and a list of its members. The proposed party had to have a certain percentage of Venezuela's population depending on whether it wanted to be a regional or national party. It could not be constituted as a political party until it was approved by the Supreme Electoral Council. My office also oversaw the creation of ballots that bore the name of the candidates and any party symbol or color that the candidate would like to use. When our office approved these matters, we sent the ballot for printing and circulation. Any conflict over which group could be a political party, which would be a candidate for elected office, how that candidate would be included in the vote, were decided by my office. I was a signatory to all decisions taken by the Political Parties office at the Supreme Electoral Council.

7. After Hugo Chavez was elected, he changed the Venezuelan Constitution. One such change was in the Supreme Electoral Council, now the Electoral Power. In February 2009, a national referendum was passed to change Venezuela's Constitution to end mandate limits for elected officials, including the President of Venezuela. This change allowed Hugo Chavez to be re-elected an unlimited number of times.

8. In 2003, I was appointed Director General of Political Parties at the National Electoral Council. At the end of that year there was a national effort to hold a referendum to remove Hugo Chavez from the post of President. In 2004 I was appointed to the Validation Committee that was responsible for reviewing petitions, the requirements of the signatories were their name, their signature, their fingerprint and their identification number. I discovered many ways that the party in power was trying to override requests. One was the change of forms to reflect that the petition was a referendum on the removal of members of the Venezuelan Congress

rather than the removal of the Venezuelan president. The purpose of manipulating petitions was to prevent a referendum to remove President Chavez from office. I investigated the allegations of fraud with the referendum petitions and lobbied for the fraudulent changes to be rectified. Because of my resistance and protests to this voter fraud, I received a letter in March 2004 stating that my position was trusted and trust had been lost in me and I was fired from the service.

9. After my dismissal, I decided to commit to the study of electoral processes both within Venezuela and in other countries, particularly in South American countries that were experiencing electoral unrest and government manipulation of constitutions, laws and elections. I joined a small group of highly educated and informed people who had access to information about the Venezuelan government and its activities. This group and I conduct interviews with Venezuelan citizens, read news publications and specialized treaties, and write evaluating the political, economic, legal and electoral changes taking place in Venezuela, South American countries, and other parts of the world controlled by socialist dictators and oligarchies. I read these treatises, studies, and publications to educate myself on how elections were manipulated and the use of empirical analysis to detect and identify the manipulation of elections and their results. In addition, I have collected copies of official Venezuelan government documents.

10. Official documents of the Venezuelan government include documents showing the bidding process for the implementation of a new electronic voting system in March 2004 and the award of the contract for that new system to Smartmatic. A true and authentic copy of the venezuelan National Electoral Council's tender documents, internal memorandums and contract signed between the Venezuelan government and the SBC Consortium (Smartmatic) are labeled Exhibit 1 and this statement is attached. I received the documents that constitute Exhibit 1 from a reliable person who had taken some notes on the documents and highlighted some parts for my attention. I have not made any alterations to what I have received, and the substantive content of the documents is authentic. For convenience, I've had the Bates document tagged at the bottom right of each page.

11. I have studied the documents contained in Exhibit 1 and have several observations. Exhibit 1 says that it is a contract between the National Electoral Council and the SBC Consortium (Smartmatic) and is dated 15 March 2004. It has a stamp that says Bolivarian Republic of Venezuela, Secretary General of the National Electoral Council. That is the official seal of the Secretary of the National Electoral Council. The initials at the bottom right side confirm the document's authenticity.

12. You would notice that page DIAZ 00002 is important because it shows that the contract is being made on February 16, 2004. Page DIAZ 00027, reflects that on February 14, 2004 at 11:50 a.m., in the Council's session room, Francisco Carrasquero López, Ezequiel Zamora Presilla, Jorge Rodríguez Gómez (Jorge Rodríguez), Sobella Mejías, and William Pacheco Medina, Vice President, the directors of the Secretary General of Electoral Voters respectively, in order to proceed with the delivery to the technical commissions, designated at the meeting dated 13 February 2004, they opened the tender envelopes containing the tenders of the companies that wanted to be awarded a contract for the automation of Venezuela's voting system and the processes used to carry out the 2004 referendum on the revocation of Hugo Chavez's election. Below you can read the amounts of offers made by Smartmatic SBC, Diebold and other bidders.

13. Then, on page DIAZ 000031, there is an internal note from the Director General of Administration, Mr. Medina. It was dated 14 February 2004 and said that a report on the research and evaluation of companies bidding for the automation of the voting system needed to be prepared.

14. It would then draw attention to the page marked DIAZ 000029. It is a document made on February 13, 2004. While this page is out of sequence, it shows the speed at which the decision was made to award the electoral system contract. The tender began on February 13 and had ended on February 16th -- a three-day period to review contracts and evaluate the specifications and performance of bidders' systems, including software, hardware, security, performance and bidding costs for the procurement, installation, training and operation of the systems. By February 16th, a decision to choose Smartmatic was made. This is convincing evidence that there was no genuine competition for the electoral system contract or serious consideration for alternative contracts. There was no due diligence and the bidding was rigged. It is not possible that within three or four days to do the formal investigation to evaluate the bids and award a contract of this size and important. The impropriety of this action is confirmed by the fact that the contract with Smartmatic was signed a month later, on 15 March 2004.

15. After the contract was awarded to Smartmatic, it was learned that Smartmatic had no previous experience in conducting elections and electoral tabulations. More importantly, it was discovered that the Smartmatic voting system contained two-way communication functions that allowed voting data not only to be sent to a central system of operation and voting, but the central voting system in operation and tabulation to send operational instructions and data to voting machines. It is not mentioned in the contract documents and specifications that the system would be bidirectional and would allow the transmission of data and instructions from the central operating system directly to voting machines. One

simply has to examine the system diagram on page DIAZ 000057 of Exhibit 1. If this feature of the Smartmatic system had been disclosed to the Electoral Council, it could not have adequately accepted Smartmatic's offer because it would allow the Smartmatic voting system to be handled in a way that manipulated votes and interfered with the legitimate voting and electoral process by impersonating the will to govern officials with the will of the electorate: the citizens of Venezuela. It was not surprising that Hugo Chávez and his successors then constantly won the election through the use and manipulation of the Smartmatic voting system.

16. In the 16 years since I left my post as Director General of Political Parties at the National Electoral Council of Venezuela, I have studied the electoral systems of Bolivia, Colombia, Ecuador, Guatemala, Honduras and Nicaragua and have observed elections and participated in pro-democratic forums in Colombia, Ecuador, Honduras and Nicaragua. I have also studied and researched electoral processes in Europe, participating in public academic conferences in Spain and Italy on the subject of democratic electoral processes.

17. Based on my specialized experiences with electoral systems, I have a firm view that no legitimate electronic voting system should be allowed to have the ability of two-way communications to send data and instructions between central tabulation operations and voting machines over telephone lines or the Internet. Having such characteristics compromise the integrity of the entire voting process by allowing injection of data and instructions to manipulate voting before, during and after an election and to avoid detection of processes and mechanisms designed to prevent voting manipulation and fraud.

I declare under penalty of perjury that the above is true and correct and that this Statement was prepared in Dallas County, Texas, and executed on November 20, 2020.

Ana Mercedes Díaz Cardozo

Exh. 4

EXHIBIT

2

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

DONNA CURLING, ET AL.,	)	
	)	
Plaintiffs,	)	
	)	**CIVIL ACTION**
vs.	)	
	)	**FILE NO. 1:17-cv-2989-AT**
BRAD RAFFENSPERGER, ET AL.,	)	
	)	
	)	
Defendants.	)	

DECLARATION OF HARRI HURSTI

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

1. My name is Harri Hursti. I am over the age of 21 and competent to give this testimony. The facts stated in this declaration are based on my personal knowledge, unless stated otherwise.

2. My background and qualifications in voting system cybersecurity are set forth in my December 16, 2019 declaration. (Doc. 680-1, pages 37 *et seq*). I stand by everything in that declaration and in my August 21, 2020 declaration. (Doc. 800-2).

3. I am also an expert in ballot scanning because of extensive background in digital imaging prior by work researching election systems. In addition, in 2005 I started an open source project for scanning and auditing paper ballots from images. As a result, I am familiar with different scanner types, how scanner settings and image processing features change the images, and how file format choices affect the quality and accuracy of the ballots.

4. I am engaged as an expert in this case by Coalition for Good Governance.

5. In developing this declaration and opinion, I visited Atlanta to observe certain operations of the June 9, 2020 statewide primary, and the August 11 runoff. During the June 9 election, I was an authorized poll watcher in some locations and was a public observer in others. On August 11, I was authorized as an expert inspecting and observing under the Coalition for Good Governance's Rule 34 Inspection request in certain polling places and the Fulton County Election Preparation Center. As I will explain below in this declaration, my extensive experience in the area of voting system security and my observations of these elections lead to additional conclusions beyond those in my December 16, 2019 declaration. Specifically:

a) the scanner and tabulation software settings being employed to determine which votes to count on hand marked paper ballots are likely causing clearly intentioned votes not to be counted;

b) the voting system is being operated in Fulton County in a manner that escalates the security risk to an extreme level; and

c) voters are not reviewing their BMD printed ballots, which causes BMD generated results to be un-auditable due to the untrustworthy audit trail.

Polling Place Observations

6. Election observation on Peachtree Christian Church. The ballot marking devices were installed so that 4 out of 8 touchscreen devices were clearly visible from the pollbook check in desk. Voter's selections could be effortlessly seen from over 50 ft away.

7. Over period of about 45 minutes, I only observed one voter who appeared to be studying the ballot after picking it up from the printer before casting it in the scanner. When voters do not fully verify their ballot prior to casting, the ballots cannot be considered a reliable auditable record.

8. The scanner would reject some ballots and then accept them after they were rotated to a different orientation. I noted that the scanner would vary in the amount of time that it took to accept or reject a ballot. The delay varied between 3

and 5 seconds from the moment the scanner takes the ballot until the scanner either accepts the ballot or rejects it. This kind of behavior is normal on general purpose operating systems multitasking between multiple applications, but a voting system component should be running only a single application without outside dependencies causing variable execution times.

9. Further research is necessary to determine the cause of the unexpected scanning delays. A system that is dedicated to performing one task repeatedly should not have unexplained variation in processing time. As security researcher, we are always suspicious about any unexpected variable delays, as those are common telltale signs of many issues, including a possibility of unauthorized code being executed. So, in my opinion changes of behaviors between supposedly identical machines performing identical tasks should always be investigated.

When ballots are the same and are produced by a ballot marking device, there should be no time difference whatsoever in processing the bar codes. Variations in time can be the result of many things - one of them is that the scanner encounters an error reading the bar code and needs to utilize error correcting algorithms to recover from that error. Further investigation is

necessary to determine the root cause of these delays, the potential impact of the error correcting algorithms if those are found to be the cause, and whether the delay has any impact upon the vote.

10. Election observation in Central Park Recreation Center. The Poll place manager told me that no Dominion trained technician had reported on location to help them that morning.

11. The ballot marking devices were originally installed in a way that voter privacy was not protected, as anyone could observe across the room how people are voting on about 2/3 devices.

12. The ballot scanner took between 4 and 6 seconds to accept the ballot. I observed only one ballot being rejected.

13. Generally, voters did not inspect the ballots after taking it from the printer and casting it into the scanner.

14. Election observation in Fanplex location. Samantha Whitley and Harrison Thweatt were poll watchers at the Fanplex polling location. They contacted me at approximately 9:10am about problems they were observing with the operation of the BMDs and Poll Pads and asked me to come to help them

understand the anomalies they were observing. I arrived at FanPlex at approximately 9:30am.

15. I observed that the ballot scanner located by a glass wall whereby standing outside of the building observe the scanning, would take between 6 and 7 seconds to either accept or reject the ballot.

16. For reasons unknown, on multiple machines, while voters were attempting to vote, the ballot marking devices sometimes printed "test" ballots. I was not able to take a picture of the ballot from the designated observation area, but I overheard the poll worker by the scanner explaining the issue to a voter which was sent back to the Ballot-Marking Device to pick up another ballot from the printer tray. Test ballots are intended to be used to test the system but without being counted by the system during an election. The ballot scanner in election settings rejects test ballots, as the scanners at FanPlex did. This caused confusion as the voters needed to return to the ballot-marking device to retrieve the actual ballot. Some voters returned the test ballot into the printer tray, potentially confusing the next voter. Had voters been reviewing the ballots at all before taking them to the scanner, they would have noticed the "Test Ballot" text on the ballot. I observed no voter really questioning a poll worker why a "Test" ballot was printed in the first place.

17. Obviously, during the election day, the ballot marking device should not be processing or printing any ballot other than the one the voter is voting. While the cause of the improper printing of ballots should be examined, the fact that this was happening at all is likely indicative of a wrong configuration given to the BMD, which in my professional opinion raises another question: Why didn't the device print only test ballots? And how can the device change its behavior in the middle of the election day? Is the incorrect configuration originating from the Electronic Pollbook System? What are the implications for the reliability of the printed ballot and the QR code being counted?

18. Election observation Park Tavern. The scanner acceptance delay did not vary as it had in previous locations and was consistently about 5 seconds from the moment the scanner takes the ballot, to the moment the scanner either accepts the ballot or rejects it. The variation between scanners at different locations is concerning because these are identical physical devices and should not behave differently while performing the identical task of scanning a ballot.

19. The vast majority of voters at Park Tavern did not inspect the ballots after taking them from the printer and before casting them in the scanner.

Fulton Tabulation Center Operation-Election Night, August 11, 2020

20. In Fulton County Election Preparation Center ("EPC") on election night I reviewed certain operations as authorized by Rule 34 inspection.

21. I was permitted to view the operations of the upload of the memory devices coming in from the precincts to the Dominion Election Management System ("EMS") server. The agreement with Fulton County was that I could review only for a limited period of time; therefore, I did not review the entire evening's process. Also, Dominion employees asked me to move away from the monitors containing the information and messages from the upload process and error messages, limiting my ability to give a more detailed report with documentation and photographs of the screens. However, my vantage point was more than adequate to observe that system problems were recurring and the Dominion technicians operating the system were struggling with the upload process.

22. It is my understanding the same EMS equipment and software had been used in Fulton County's June 9, 2020 primary election.

23. It is my understanding that the Dominion technician ("Dominic") charged with operating the EMS server for Fulton County had been performing

these duties at Fulton County for several months, including during the June 9 primary.

24. During my August 11 visit, and a follow-up visit on August 17, I observed that the EMS server was operated almost exclusively by Dominion personnel, with little interaction with EPC management, even when problems were encountered. In my conversations with Derrick Gilstrap and other Fulton County Elections Department EPC personnel, they professed to have limited knowledge of or control over the EMS server and its operations.

25. Outsourcing the operation of the voting system components directly to the voting system vendors' personnel is highly unusual in my experience and of grave concern from a security and conflict of interest perspective. Voting system vendors' personnel have a conflict of interest because they are not inclined to report on, or address, defects in the voting systems. The dangers this poses is aggravated by the absence of any trained County personnel to oversee and supervise the process.

26. In my professional opinion, the role played by Dominion personnel in Fulton County, and other counties with similar arrangements, should be considered an elevated risk factor when evaluating the security risks of Georgia's voting system.

27. Based on my observations on August 11 and August 17, Dell computers running the EMS that is used to process Fulton county votes appeared not to have been hardened.

28. In essence, hardening is the process of securing a system by reducing its surface of vulnerability, which is larger when a system performs more functions; in principle it is to the reduce the general purpose system into a single-function system which is more secure than a multipurpose one. Reducing available ways of attack typically includes changing default passwords, the removal of unnecessary software, unnecessary usernames or logins, grant accounts and programs with the minimum level of privileges needed for the tasks and create separate accounts for privileged operations as needed, and the disabling or removal of unnecessary services.

29. Computers performing any sensitive and mission critical tasks such as elections should unquestionably be hardened. Voting system are designated by the Department of Homeland Security as part of the critical infrastructure and certainly fall into the category of devices which should be hardened as the most fundamental security measure. In my experience, it is unusual, and I find it unacceptable for an EMS server not to have been hardened prior to installation.

30. The Operating System version in the Dominion Election Management computer, which is positioned into the rack and by usage pattern appears to be the main computer, is Windows 10 Pro 10.0.14393. This version is also known as the Anniversary Update version 1607 and it was released August 2, 2016. Exhibit A is a true and correct copy of a photograph that I took of this computer.

31. When a voting system is certified by the EAC, the Operating System is specifically defined, as Windows 10 Pro was for the Dominion 5.5-A system. Unlike consumer computers, voting systems do not and should not receive automatic "upgrades" to newer versions of the Operating System. without undergoing tests for conflicts with the new operating system software.

32. That computer and other computers used in Georgia's system for vote processing appear to have home/small business companion software packages included. Exhibits B and C are true and correct copies of photographs that I took of the computer located in the rack and the computer located closest to the rack on the table to the right. The Start Menu shows a large number of game and entertainment software icons. As stated before, one of the first procedures of hardening is removal of all unwanted software, and removal of those game icons and the associated games and installers alongside with all other software which is not absolutely needed in the computer for election processing purposes would be

one of the first and most basic steps in the hardening process. In my professional opinion, independent inquiry should be promptly made of all 159 counties to determine if the Dominion systems statewide share this major deficiency.

33. Furthermore, when I asked the Dominion employee Dominic assigned to the Fulton County election server operation about the origin of the Windows operating system, he answered that he believed that "it has been provided by the State."

34. Since Georgia's Dominion system is new, it is a reasonable assumption that all machines in the Fulton County election network had the same version of Windows installed. However, not only the two computers displayed different entertainment software icons, but additionally one of the machines in Fulton's group of election servers had an icon of computer game called "*Homescapes"* which is made by Playrix Holding Ltd., founded by Dmitry and Igor Bukham in Vologda, Russia. Attached as Exhibit C is a true and correct copy of a photograph that I took of the Fulton voting system computer" Client 02". The icon for Homescapes is shown by the arrow on Exhibit C.

35. The *Homescapes* game was released in August 2017, one year after Fulton County's operating system release. If the *Homescapes* game came with the operating system it would be unusual, because at the time of the release of

Homescapes, Microsoft had already released 3 major Microsoft Windows 10 update releases after build 14393 and before the release of that game. This calls into question whether all Georgia Dominion system computers have the same operating system version, or how the game has come to be having a presence in Fulton's Dominion voting system.

36. Although this Dominion voting system is new to Georgia, the Windows 10 operating system of at least the 'main' computer in the rack has not been updated for 4 years and carries a wide range of well-known and publicly disclosed vulnerabilities. At the time of this writing, The National Vulnerability Database maintained by National Institute of Standards and Technology lists 3,177 vulnerabilities mentioning "Windows 10 Pro" and 203 vulnerabilities are specifically mentioning "Windows 10 Pro 1607" which is the specific version number of the build 14393 that Dominion uses.

37. Even without internet connectivity, unhardened computers are at risk when those are used to process removable media. It was clear that when Compact Flash storage media containing the ballot images, audit logs and results from the precinct scanners were connected to the server, the media was automounted by the operating system. When the operating system is automounting a storage media, the operating system starts automatically to interact with the device. The zero-day

vulnerabilities exploiting this process has been recurringly discovered from all operating systems, including Windows. Presence of automount calls also into question presence of another setting which is always disabled in hardening process. It is autorun, which automatically executes some content on the removable media. While this is convenient for consumers, it poses extreme security risk.

38. Based on my experience and mental impression observing the Dominion technician's activities, Fulton County's EMS server management seems to be an *ad hoc* operation with no formalized process. This was especially clear on the manual processing of the memory cards storage devices coming in from the precincts on election night and the repeated access of the operating system to directly access filesystem, format USB devices, etc. This kind of operation in naturally prone to human errors. I observed personnel calling on the floor asking if all vote carrying compact flash cards had been delivered from the early voting machines for processing, followed by later finding additional cards which had been overlooked in apparent human error. Later, I heard again one technician calling on the floor asking if all vote carrying compact flashes had been delivered. This clearly demonstrates lack of inventory management which should be in place to ensure, among other things, that no rogue storage devices would be inserted into the computer. In response, 3 more compact flash cards were hand-delivered. Less

than 5 minutes later, I heard one of the county workers say that additional card was found and was delivered for processing. All these devices were trusted by printed label only and no comparison to an inventory list of any kind was performed.

39. In addition, operations were repeatedly performed directly on the operating system. Election software has no visibility into the operations performed directly on the operating system, and therefore those are not included in election system event logging. Those activities can only be partially reconstructed from operating system logs – and as these activities included copying election data files, election software log may create false impression that the software is accessing the same file over a period of time, while in reality the file could had been replaced with another file with the same name by activities commanded to the operating system. Therefore, any attempt to audit the election system operated in this manner must include through analysis of all operating system logs, which complicates the auditing process. Unless the system is configured properly to collect file system auditing data is not complete. As the system appears not to be hardened, it is unlikely that the operating system has been configured to collect auditing data.

40. A human error when operating live election system from the operating system can result in a catastrophic event destroying election data or even rendering the system unusable. Human error is likely given the time pressure involved and,

at least in Fulton County, no formal check lists or operating procedures were followed to mitigate the human error risk. The best practice is to automate trivial tasks to reduce risk of human error, increase the quality assurance of overall operations and provide auditability and transparency by logging.

41. Uploading of memory cards had already started before I arrived at EPC. While one person was operating the upload process, the two other Dominion employees were troubleshooting issues which seemed to be related to ballot images uploads. I repeatedly observed error messages appearing on the screen of the EMS server. I was not able to get picture of the errors on August 11th, I believe the error was the same or similar that errors recurring August 17th as shown on Exhibit D and discussed later in this declaration. Dominion employees were troubleshooting the issue with 'trial-and-error' approach. As part of this effort they accessed "Computer Management" application of Windows 10 and experimented with trouble shooting the user account management feature. This demonstrates that they had complete access to the computer. This means there are no meaningful access separation and privileges and roles controls protecting the county's primary election servers. This also greatly amplifies the risk of catastrophic human error and malicious program execution.

42. I overheard the Dominion technician's conversation that they had issues with file system structure and "need 5 files out of EMS server and paste. Delete everything out of there and put it there." To communicate the gravity of the situation to each other they added "Troubleshooting in the live environment". These conversations increased the mental image that they were not familiar the issue they were troubleshooting.

43. After about 45 minutes of trying to solve the issue by instructions received over the phone, the two Dominion employees' (who had been troubleshooting) behavior changed. The Dominion staff member walked behind the server rack and made manual manipulations which could not be observed from my vantage point. After that they moved with their personal laptops to a table physically farther away from the election system and stopped trying different ways to work around the issue in front of the server, and no longer talked continuously with their remote help over phone.

44. In the follow-up-calls I overheard them ask people on the other end of the call to check different things, and they only went to a computer and appeared to test something and subsequently take a picture of the computer screen with a mobile phone and apparently send it to a remote location.

45. Based on my extensive experience, this all created a strong mental impression that the troubleshooting effort was being done remotely over remote access to key parts of the system. Additionally, new wireless access point with a hidden SSID access point name appeared in the active Wi-Fi stations list that I was monitoring, but it may have been co-incidental. Hidden SSIDs are used to obscure presence of wireless networking from casual observers, although they do not provide any real additional security.

46. If in fact remote access was arranged and granted to the server, this has gravely serious implications for the security of the new Dominion system. Remote access, regardless how it is protected and organized is always a security risk, but furthermore it is transfer of control out of the physical perimeters and deny any ability to observe the activities.

47. I also observed USB drives marked with the Centon DataStick Pro Logo with no visible inventory control numbering system being taken repeatedly from the EMS server rack to the Fulton managers' offices and back. The Dominion employee told me that the USB drives were being taken to the Election Night Reporting Computer in another office. This action was repeated several times during the time of my observation. Carrying generic unmarked and therefore unidentifiable media out-of-view and back is a security risk – especially when the

exact same type of devices was piled on the desk near the computer. During the election night, the Dominion employees reached to storage box and introduced more unmarked storage devices into the ongoing election process. I saw no effort made to maintain a memory card inventory control document or chain of custody accounting for memory cards from the precincts.

48. I also visited the EPC on August 17. During that visit, the staff working on uploading ballots for adjudication experienced an error which appeared similar to the one on election night. This error was repeated with multitude of ballots and at the time we left the location, the error appeared to be ignored, rather that resolved. (EXHIBIT D - the error message and partial explanation of the error being read by the operator.).

49. The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential remote access, are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system.

50. Such a risk could be overcome if the election were conducted using hand marked paper ballots, with proper chain of custody controls. For elections conducted with hand marked paper ballots, any malware or human error involved

in the server security deficiencies or malfunctions could be overcome with a robust audit of the hand marked paper ballots and in case of irregularities detected, remedied by a recount. However, given that BMD ballots are computer marked, and the ballots therefore unauditable for determining the result, no recovery from system security lapses is possible for providing any confidence in the reported outcomes.

Ballot Scanning and Tabulation of Vote Marks

51. I have been asked to evaluate the performance and reliability of Georgia's Dominion precinct and central count scanners in the counting of votes on hand marked paper ballots.

52. On or about June 10th, Jeanne Dufort and Marilyn Marks called me to seek my perspective on what Ms. Dufort said she observed while serving as a Vote Review Panel member in Morgan County. Ms. Dufort told me that she observed votes that were not counted as votes nor flagged by the Dominion adjudication software.

53. Because of the ongoing questions this raised related to the reliability of the Dominion system tabulation of hand marked ballots, I was asked by Coalition Plaintiffs to conduct technical analysis of the scanner and tabulation accuracy. That analysis is still in its early stages.

54. Before addressing the particulars of my findings and research into the accuracy of Dominion's scanning and tabulation, I will address the basic process by which an image on a voted hand marked paper ballot is processed by scanner and tabulation software generally. It is important to understand that the Dominion scanners are Canon off the shelf scanners and their embedded software were designed for different applications than ballot scanning which is best conducted with scanners specifically designed for detecting hand markings on paper ballots.

55. Contrary of public belief, the scanner is not taking a picture of the paper. The scanner is illuminating the paper with a number of narrow spectrum color lights, typically 3, and then using software to produce an approximation what the human eye would be likely to see if there would had been a single white wide-spectrum light source. This process takes place in partially within the scanner and embedded software in the (commercial off the shelf) scanner and partially in the driver software in the host computer. It is guided by number of settings and configurations, some of which are stored in the scanner and some in the driver software. The scanner sensors gather more information than will be saved into the resulting file and another set of settings and configurations are used to drive that part of the process. The scanners also produce anomalies which are automatically removed from the images by the software. All these activities are performed

outside of the Dominion election software, which is relying on the end product of this process as the input.

56. I began reviewing Dominion user manuals in the public domain to further investigate the Dominion process.

57. On August 14, I received 2 sample Fulton County August 11 ballots of high-speed scanned ballot from Rhonda Martin, who stated that she obtained them from Fulton County during Coalition Plaintiff's discovery. The image characteristics matched the file details I had seen on the screen in EPC. The image is TIFF format, about 1700 by 2200 pixels with 1-bit color depth (= strictly black or white pixels only) with 200 by 200 dots per square inch ("dpi") resolution resulting in files that are typically about 64 or 73 kilo bytes in size for August 11 ballots. With this resolution, the outer dimension of the oval voting target is about 30 by 25 pixels. The oval itself (that is, the oval line that encircles the voting target) is about 2 pixels wide. The target area is about 450 pixels; the area of the target a tight bounding box would be 750 pixels and the oval line encircling the target is 165 pixels. In these images, the oval itself represented about 22% value in the bounding box around the vote target oval.

58. Important image processing decisions are done in scanner software and before election software threshold values are applied to the image. These

scanner settings are discussed in an excerpt Dominion's manual for ICC operations My understanding is that the excerpt of the Manual was received from Marilyn Marks who stated that she obtained it from a Georgia election official in response to an Open Records request. Attached as Exhibit E is page 9 of the manual. Box number 2 on Exhibit E shows that the settings used are not neutral factory default settings.

59. Each pixel of the voters' marks on a hand marked paper ballot will be either in color or gray when the scanner originally measures the markings. The scanner settings affect how image processing turns each pixel from color or gray to either black or white in the image the voting software will later process. This processing step is responsible for major image manipulation and information reduction before the election software threshold values are calculated. This process has a high risk of having an impact upon how a voter mark is interpreted by the tabulation software when the information reduction erases markings from the scanned image before the election software processes it.

60. In my professional opinion, any decision by Georgia's election officials about adopting or changing election software threshold values is premature before the scanner settings are thoroughly tested, optimized and locked.

61. The impact of the scanner settings is minimal for markings made with a black felt pen but can be great for markings made with any color ballpoint pens. To illustrate this, I have used standard color scanning settings and applied then standard conversion from a scanned ballot vote target with widely used free and open source image processing software "GNU Image Manipulation Program version 2.10.18" EXHIBIT G shows the color image being converted with the software's default settings from color image to Black-and-White only. The red color does not meet the internal conversion algorithm criteria for black, therefore it gets erased to white instead.

62. Dominion manual for ICC operations clearly show that the scanner settings are changed from neutral factory default settings. EXHIBIT H shows how these settings applied different ways alter how a blue marking is converted into Black-and-White only image.

63. The optimal scanner settings are different for each model of scanner and each type of paper used to print ballots. Furthermore, because scanners are inherently different, the manufacturers use hidden settings and algorithms to cause neutral factory settings to produce similar baseline results across different makes and models. This is well-studied topic; academic and image processing studies published as early as 1979 discuss the brittleness of black-or-white images in

conversion. Subsequently, significance for ballot counting has been discussed in academic USENIX conference peer-reviewed papers.

64. On the August 17th at Fulton County Election Preparation Center Professor Richard DeMillo and I participated in a scan test of August 11 test ballots using a Fulton County owned Dominion precinct scanner. Two different ballot styles were tested, one with 4 races and one with 5 races. Attached as Exhibits I and J show a sample ballots with test marks.

65. A batch of 50 test ballots had been marked by Rhonda Martin with varying types of marks and varying types of writing instruments that a voter might use at home to mark an absentee ballot. Professor DeMillo and I participated in marking a handful of ballots.

66. Everything said here concerning the August 17 test is based on a very preliminary analysis. The scanner took about 6 seconds to reject the ballots, and one ballot was only acceptable "headfirst" while another ballot only "tail first." Ballot scanners are designed to read ballots "headfirst" or "tail first," and front side and backside and therefore there should not be ballots which are accepted only in one orientation. I observed the ballots to make sure that both ballots had been cleanly separated from the stub and I could not identify any defects of any kind on the ballots.

67. There was a 15 second cycle from the time the precinct scanner accepted a ballot to the time it was ready for the next ballot. Therefore, the maximum theoretical capacity with the simple 5 race ballot is about 4 ballots per minute if the next ballot is ready to be fed into the scanner as soon as the scanner was ready to take it. In a real-world voting environment, it takes considerably longer because voters move away from the scanner, the next voter must move in and subsequently figure where to insert the ballot. The Dominion precinct scanner that I observed was considerably slower than the ballot scanners I have tested over the last 15 years. This was done with a simple ballot, and we did not test how increase of the number of races or vote targets on the ballot would affect the scanning speed and performance.

68. Though my analysis is preliminary, this test reveals that a significant percentage of filled ovals that would to a human clearly show voter's intent failed to register as a vote on the precinct count scanner.

69. The necessary testing effort has barely begun at the time of this writing, as only limited access to equipment has been made available. I have not had access to the high-volume mail ballot scanner that is expected to process millions of mail ballots in Georgia's upcoming elections. However, initial results suggest that significant revisions must be made in the scanning settings to avoid a

widespread failure to count certain valid votes that are not marked as filled in ovals. Without testing, it is impossible to know, if setting changes alone are sufficient to cure the issue.

Scanned Ballot Tabulation Software Threshold Settings

70. Georgia is employing a Dominion tabulation software tool called "Dual Threshold Technology" for "marginal marks." (See Exhibit M) The intent of the tool is to detect voter marks that could be misinterpreted by the software and flag them for review. While the goal is admirable, the method of achieving this goal is quite flawed.

71. While it is compelling from development cost point of view to use commercial off the shelf COTS scanners and software, it requires additional steps to ensure that the integration of the information flow is flawless. In this case, the software provided by the scanner manufacturer and with settings and configurations have great impact in how the images are created and what information is removed from the images before the election software processes it. In recent years, many defective scanner software packages have been found. These software flaws include 'image enhancement' features which have remained enabled even when the feature has been chosen to be disabled from the scanner software provided by the manufacturer. An example of dangerous feature to keep

enabled is 'Punch Hole Removal', intended to make images of documents removed from notebook binders to look more aesthetically pleasing. The software can and in many cases will misinterpret a voted oval as a punch hole and erase the vote from the image file and to make this worse, the punch holes are expected to be found only in certain places near the edge of the paper, and therefore it will erase only votes from candidates whose targets are in those target zones.

72. Decades ago, when computing and storage capacity were expensive black-and-white image commonly meant 1-bit black-or-white pixel images like used by Dominion system. As computer got faster and storage space cheaper during the last 2-3 decades black-and-white image has become by default meaning 255 shades of gray grayscale images. For the purposes of reliable digitalization of physical documents, grayscale image carries more information from the original document for reliable processing and especially when colored markings are being processed. With today's technology, the difference in processing time and storage prices between grayscale and 1-bit images has become completely meaningless, and the benefits gained in accuracy are undeniable.

73. I am aware that the Georgia Secretary of State's office has stated that Georgia threshold settings are national industry standards for ballot scanners (Exhibit K). This is simply untrue. If, there were an industry standard for that, it

would be part of EAC certification. There is no EAC standard for such threshold settings. As mentioned before, the optimal settings are products of many elements. The type of the scanner used, the scanner settings and configuration, the type of the paper used, the type of the ink printer has used in printing the ballots, color dropout settings, just to name few. Older scanner models, which were optical mark recognitions scanners, used to be calibrated using calibration sheet – similar process is needed to be established for digital imaging scanners used this way as the ballot scanners.

74. Furthermore, the software settings in Exhibit E box 2 show that the software is instructed to ignore all markings in red color ("Color drop-out: Red"), This clearly indicates that the software was expecting the oval to be printed in Red and therefore it will be automatically removed from the calculation. The software does not anticipate printed black ovals as used in Fulton County. Voters have likely not been properly warned that any pen they use which ink contains high concentration of red pigment particles is at risk of not counting, even if to the human eye the ink looks very dark.

75. I listened to the August 10 meeting of the State Board of Elections as they approved a draft rule related to what constitutes a vote, incorporating the following language:

Ballot scanners that are used to tabulate optical scan ballots marked by hand shall be set so that:

1. Detection of 20% or more fill-in of the target area surrounded by the oval shall be considered a vote for the selection;

2. Detection of less than 10% fill-in of the target area surrounded by the oval shall not be considered a vote for that selection;

3. Detection of at least 10% but less than 20% fill-in of the target area surrounded by the oval shall flag the ballot for adjudication by a vote review panel as set forth in O.C.G.A. 21-2-483(g). In reviewing any ballot flagged for adjudication, the votes shall be counted if, in the opinion of the vote review panel, the voter has clearly and without question indicated the candidate or candidates and answers to questions for which such voter desires to vote.

76. The settings discussed in the rule are completely subject to the scanner settings. How the physical marking is translated into the digital image is determined by those values and therefore setting the threshold values without at the same time setting the scanner settings carries no value or meaning. If the ballots will be continuing to be printed with black only, there is no logic in having any drop-out colors.

77. Before the State sets threshold standards for the Dominion system, extensive testing is needed to establish optimal configuration and settings for each step of the process. Also, the scanners are likely to have settings additional configuration and settings which are not visible menus shown in the manual excerpt. All those should be evaluated and tested for all types of scanners approved for use in Georgia, including the precinct scanners

78. As temporary solution, after initial testing, the scanner settings and configuration should be locked and then a low threshold values should be chosen. All drop-out colors should be disabled. This will increase the number of ballots chosen for human review and reduce the number of valid votes not being counted as cast.

Logic and Accuracy Testing

79. Ballot-Marking Device systems inherits the same well-documented systemic security issues embedded in direct-recording electronic (DRE) voting machine design. Such design flaws eventually are causing the demise of DRE voting system across the country as it did in Georgia. In essence the Ballot Marking Device is a general-purpose computer running a general-purpose operating system with touchscreen that is utilized as a platform to run a software, very similar to DRE by displaying a ballot to the voter and recording the voter's intents. The main difference is that instead of recording those internally digitally, it prints out a ballot summary card of voter's choices.

80. Security properties of this approach would be positively different from DREs if the ballot contained only human-readable information and all voters are required to and were capable of verifying their choices from the paper ballot summary. That of course is unrealistic.

81. When voter fails to inspect the paper ballot and significant portion of the information is not in human readable from as a QR barcode, Ballot-Marking Device based voting effectively inherits most of the negative and undesirable security and reliability properties directly from DRE paradigm, and therefore should be subject to the same testing requirements and mitigation strategies as DREs.

82. In response to repeating myriad of issues with DREs, which have been attributed to causes from screen calibration issues to failures in ballot definition configuration distribution, a robust Logic & Accuracy testing regulation have been established. These root causes are present in BMDs and therefore should be evaluated in the same way as DREs have been.

I received the Georgia Secretary of State's manual "Logic and Accuracy Procedures "Version 1.0 January 2020 from Rhonda Martin. Procedure described in section D "Testing the BMD and Printer" is taking significant shortcuts, presumably to cut the labor work required. (Section D is attached as Exhibit L) These shortcuts significantly weaken the security and reliability posture of the system and protections against already known systemic pitfalls, usability predicaments and security inadequacies.

CONCLUSIONS

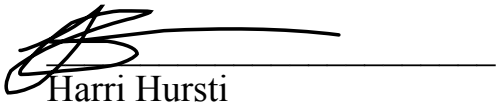
83. The scanner software and tabulation software settings and configurations being employed to determine which votes to count on hand marked paper ballots are likely causing clearly intentioned votes not to be counted as cast.

84. The method of using 1-bit images and calculated relative darkness values from such pre-reduced information to determine voter marks on ballots is severely outdated and obsolete. It artificially and unnecessarily increases the failure rates to recognize votes on hand-marked paper ballots. As a temporary mitigation, optimal configurations and settings for all steps of the process should be established after robust independent testing to mitigate the design flaw and augment it with human assisted processes, but that will not cure the root cause of the software deficiency which needs to be addressed.

85. The voting system is being deployed, configured and operated in Fulton County in a manner that escalates the security risk to an extreme level and calls into question the accuracy of the election results. The lack of well-defined process and compliance testing should be addressed immediately using independent experts. The use and the supervision of the Dominion personnel operating Fulton County's Dominion Voting System should be evaluated.

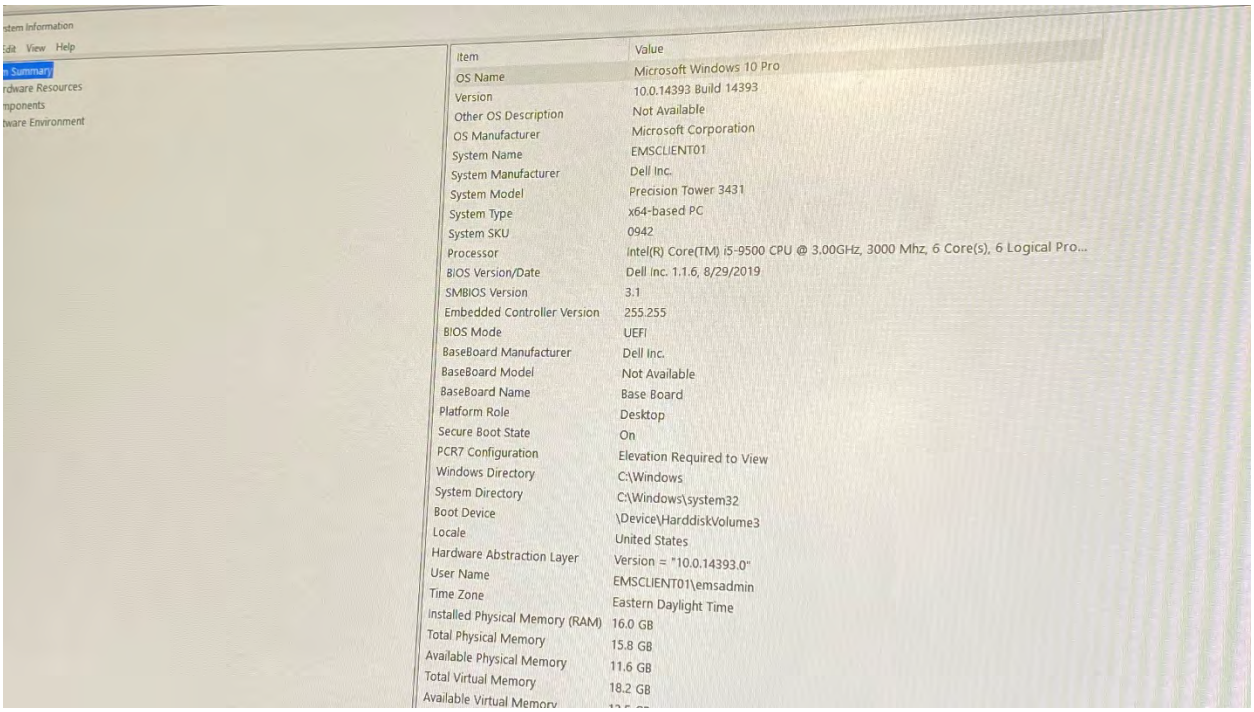
86. Voters are not reviewing their BMD printed ballots before scanning and casting them, which causes BMD-generated results to be un-auditable due to the untrustworthy audit trail. Furthermore, because BMDs are inheriting known fundamental architectural deficiencies from DREs, no mitigation and assurance measures can be weakened, including but not limited to Logic and Accuracy Testing procedures.

This 24th day of August 2020.



Harri Hursti

EXHIBIT A: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Microsoft Windows 10 Pro
Version
10.0.14393 Build 14393
Other OS Description
Not Available
OS Manufacturer
Microsoft Corporation
System Name
EMSCLIENT01
System Manufacturer
Dell Inc.
System Model
Precision Tower 3431
System Type
x64-based PC
System SKU
0942
Processor
Intel(R) Core(TM) i5-9500 CPU @ 3.00GHz, 3000 Mhz, 6 Core(s), 6 Logical Pro...
BIOS Version/Date
Dell Inc. 1.1.6, 8/29/2019
SMBIOS Version
3.1
Embedded Controller Version
255.255
BIOS Mode
UEFI
BaseBoard Manufacturer
Dell Inc.
BaseBoard Model
Not Available
BaseBoard Name
Base Board
Platform Role
Desktop
Secure Boot State
On
PCR7 Configuration
Elevation Required to View
Windows Directory
C:\Windows
System Directory
C:\Windows\system32
Boot Device
\Device\HarddiskVolume3
Locale
United States
Hardware Abstraction Layer
Version = "10.0.14393.0"
User Name
EMSCLIENT01\emsadmin
Time Zone
Eastern Daylight Time
Installed Physical Memory (RAM)
16.0 GB
Total Physical Memory
15.8 GB
Available Physical Memory
11.6 GB
Total Virtual Memory
18.2 GB
Available Virtual Memory

EXHIBIT B:


Most used
EMS Election Event Designer
File Explorer
EMS Results Tally and Reporting
Notepad
ImageCast® Adjudication
Calculator
1-Wire Drivers x64
3D Builder
Acrobat Reader DC
Alarms & Clock
Calculator
Calendar
Camera
Life at a glance
Monday
17
Get all your mail in one place
Mail
Microsoft Edge
Photos
Weather
Skype Preview
Microsoft News
Store
Play and explore
Xbox
Groove Music
Movies & TV
Paint 3D
WinZip Univer...
Get Office
OneNote

EXHIBIT C:

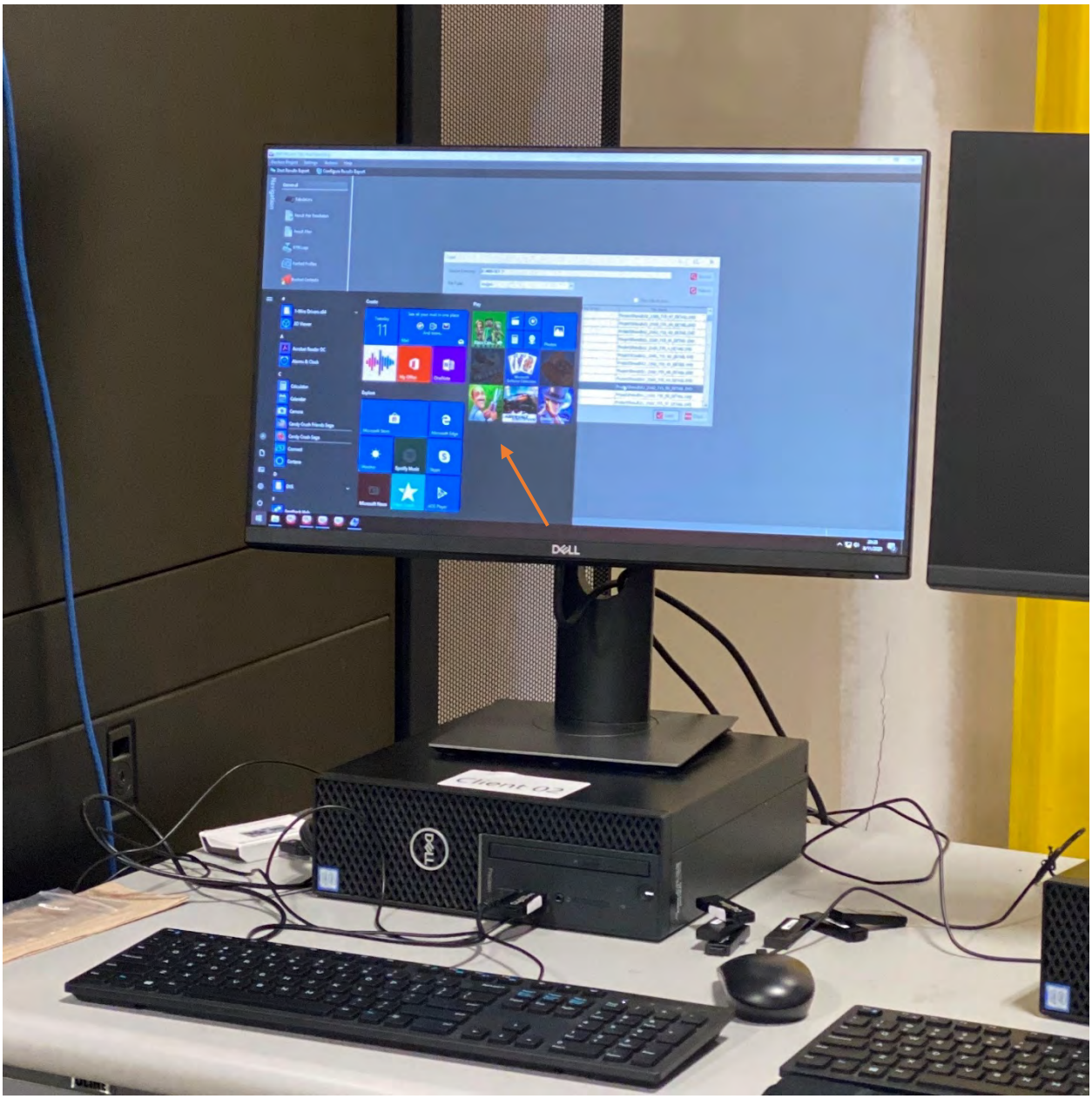
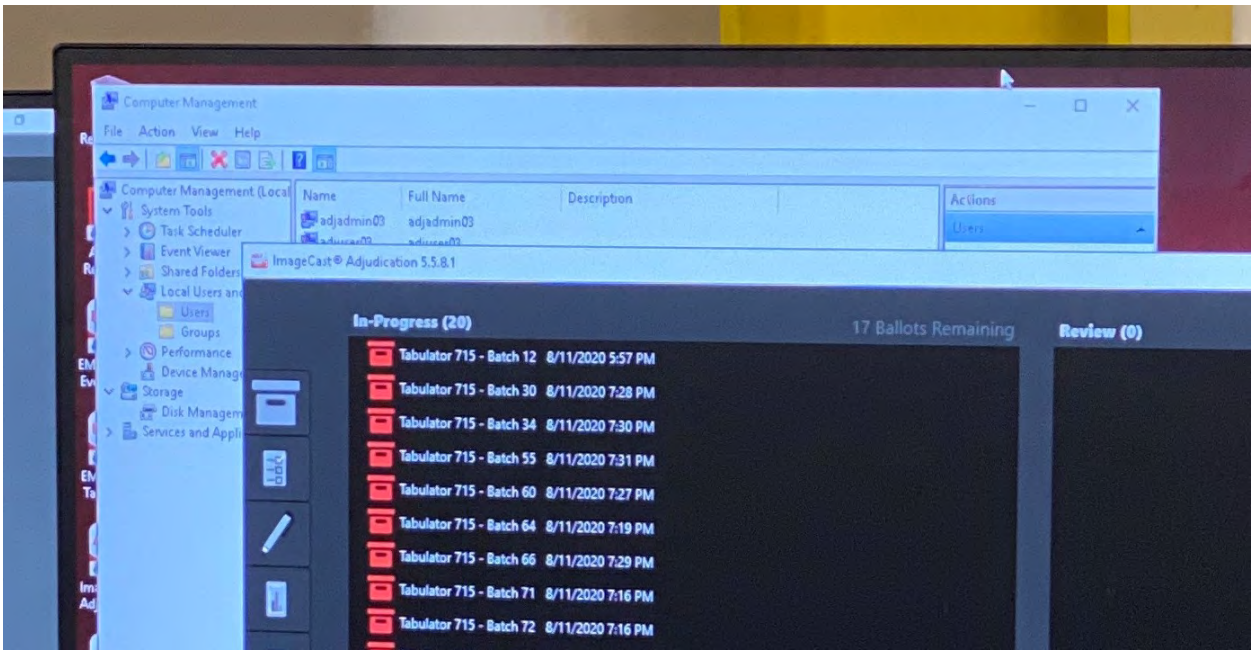


EXHIBIT D:


Computer Management
File Action View Help
Computer Management (Local
System Tools
Task Scheduler
Event Viewer
Shared Folders
Local Users and
Users
Groups
Performance
Device Manage
Storage
Disk Managem
Services and Appli
Name
Full Name
Description
adjadmin03
adjadmin03
Actions
Users
ImageCast® Adjudication 5.5.8.1
In-Progress (20)
17 Ballots Remaining
Review (0)
Tabulator 715 - Batch 12 8/11/2020 5:57 PM
Tabulator 715 - Batch 30 8/11/2020 7:28 PM
Tabulator 715 - Batch 34 8/11/2020 7:30 PM
Tabulator 715 - Batch 55 8/11/2020 7:31 PM
Tabulator 715 - Batch 60 8/11/2020 7:27 PM
Tabulator 715 - Batch 64 8/11/2020 7:19 PM
Tabulator 715 - Batch 66 8/11/2020 7:29 PM
Tabulator 715 - Batch 71 8/11/2020 7:16 PM
Tabulator 715 - Batch 72 8/11/2020 7:16 PM

Case 1:20-cv-04809-TCB Document 1-4 Filed 11/25/20 Page 41 of 49

EXHIBIT E:

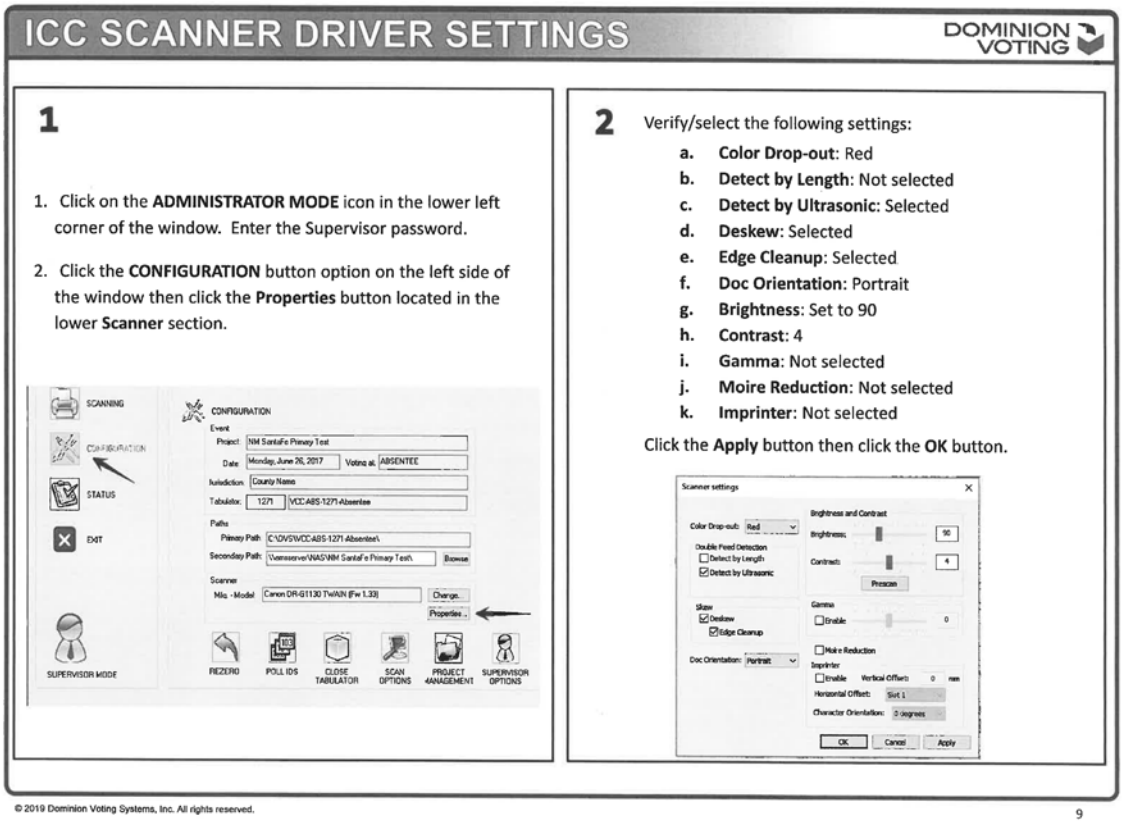


EXHIBIT F:

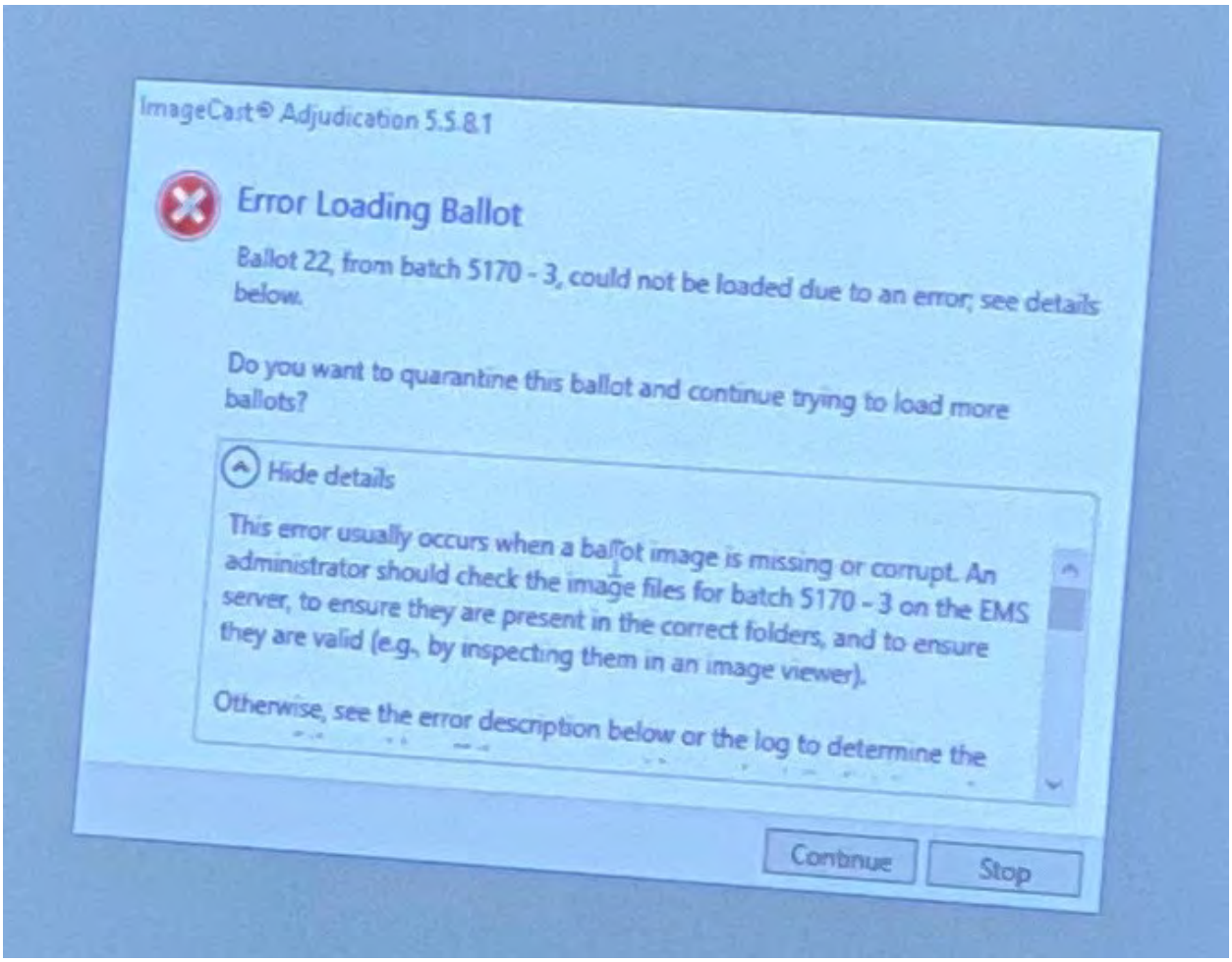

ImageCast® Adjudication 5.5.8.1
Error Loading Ballot
Ballot 22, from batch 5170 - 3, could not be loaded due to an error; see details below.
Do you want to quarantine this ballot and continue trying to load more ballots?
Hide details
This error usually occurs when a ballot image is missing or corrupt. An administrator should check the image files for batch 5170 - 3 on the EMS server, to ensure they are present in the correct folders, and to ensure they are valid (e.g., by inspecting them in an image viewer).
Otherwise, see the error description below or the log to determine the
Continue
Stop

EXHIBIT G:



EXHIBIT H:

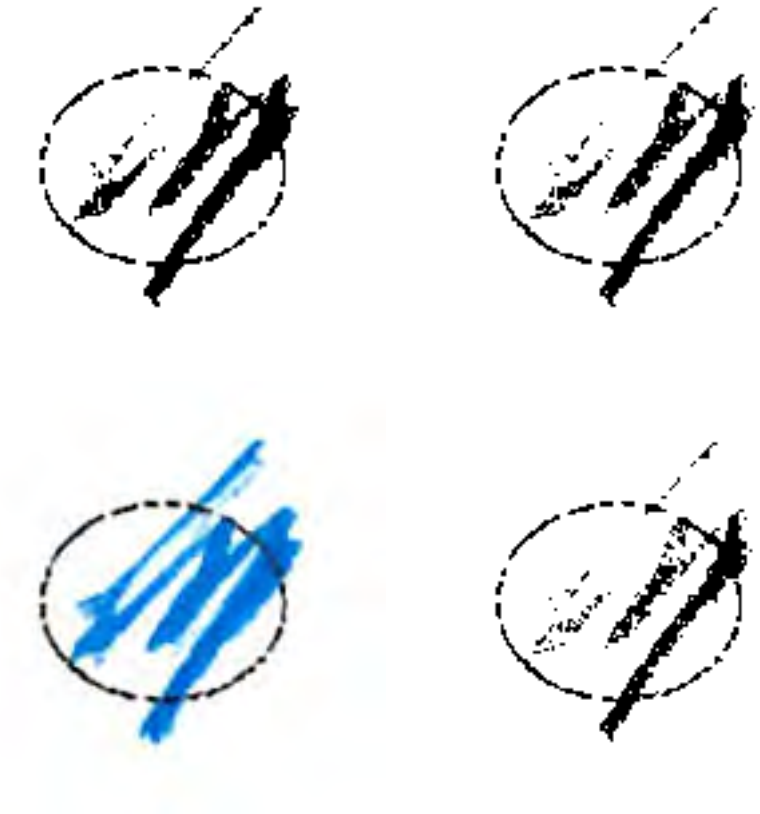
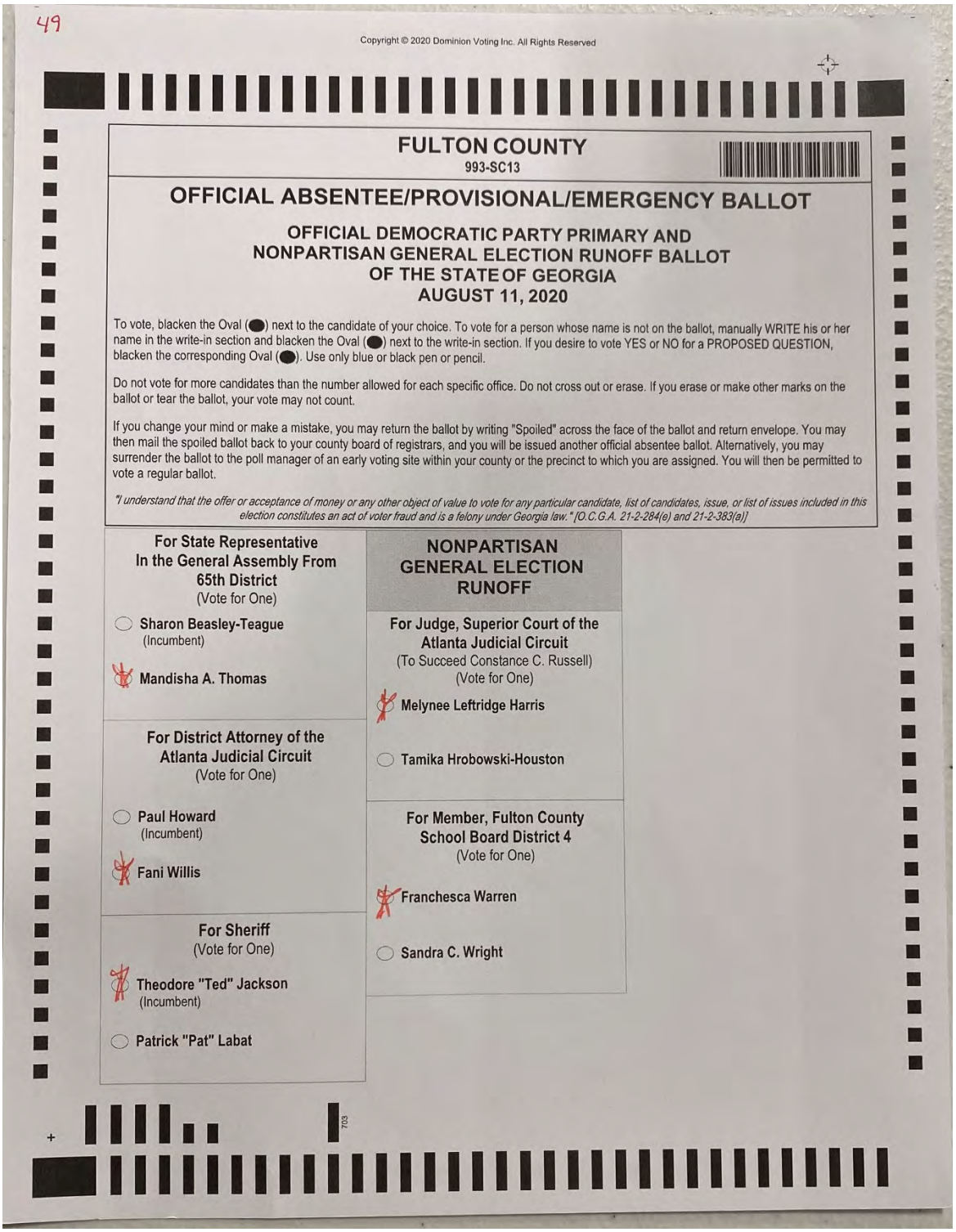


EXHIBIT I:



49

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FULTON COUNTY
993-SC13

OFFICIAL ABSENTEE/PROVISIONAL/EMERGENCY BALLOT

OFFICIAL DEMOCRATIC PARTY PRIMARY AND
NONPARTISAN GENERAL ELECTION RUNOFF BALLOT
OF THE STATE OF GEORGIA
AUGUST 11, 2020

To vote, blacken the Oval (●) next to the candidate of your choice. To vote for a person whose name is not on the ballot, manually WRITE his or her name in the write-in section and blacken the Oval (●) next to the write-in section. If you desire to vote YES or NO for a PROPOSED QUESTION, blacken the corresponding Oval (●). Use only blue or black pen or pencil.

Do not vote for more candidates than the number allowed for each specific office. Do not cross out or erase. If you erase or make other marks on the ballot or tear the ballot, your vote may not count.

If you change your mind or make a mistake, you may return the ballot by writing "Spoiled" across the face of the ballot and return envelope. You may then mail the spoiled ballot back to your county board of registrars, and you will be issued another official absentee ballot. Alternatively, you may surrender the ballot to the poll manager of an early voting site within your county or the precinct to which you are assigned. You will then be permitted to vote a regular ballot.

"I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law." [O.C.G.A. 21-2-284(e) and 21-2-383(a)]

For State Representative In the General Assembly From 65th District
(Vote for One)
- ○ Sharon Beasley-Teague (Incumbent)
- ✓ Mandisha A. Thomas

For District Attorney of the Atlanta Judicial Circuit
(Vote for One)
- ○ Paul Howard (Incumbent)
- ✓ Fani Willis

For Sheriff
(Vote for One)
- ✓ Theodore "Ted" Jackson (Incumbent)
- ○ Patrick "Pat" Labat

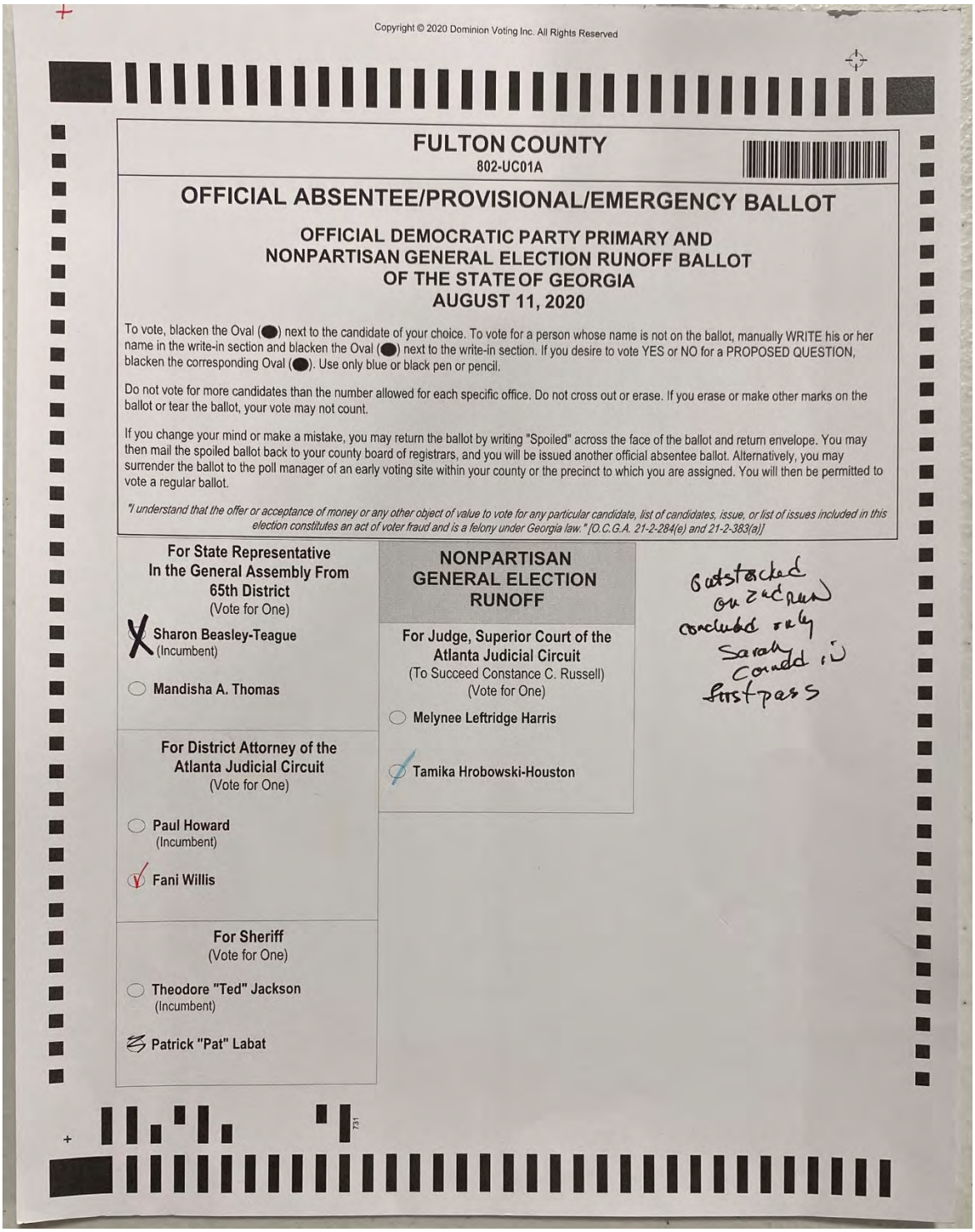
NONPARTISAN GENERAL ELECTION RUNOFF

For Judge, Superior Court of the Atlanta Judicial Circuit
(To Succeed Constance C. Russell)
(Vote for One)
- ✓ Melynee Leftridge Harris
- ○ Tamika Hrobowski-Houston

For Member, Fulton County School Board District 4
(Vote for One)
- ✓ Franchesca Warren
- ○ Sandra C. Wright

703

EXHIBIT J:



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FULTON COUNTY
802-UC01A

OFFICIAL ABSENTEE/PROVISIONAL/EMERGENCY BALLOT

OFFICIAL DEMOCRATIC PARTY PRIMARY AND
NONPARTISAN GENERAL ELECTION RUNOFF BALLOT
OF THE STATE OF GEORGIA
AUGUST 11, 2020

To vote, blacken the Oval (●) next to the candidate of your choice. To vote for a person whose name is not on the ballot, manually WRITE his or her name in the write-in section and blacken the Oval (●) next to the write-in section. If you desire to vote YES or NO for a PROPOSED QUESTION, blacken the corresponding Oval (●). Use only blue or black pen or pencil.

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For State Representative In the General Assembly From 65th District
(Vote for One)

- [X] Sharon Beasley-Teague (Incumbent)
- [ ] Mandisha A. Thomas

For District Attorney of the Atlanta Judicial Circuit
(Vote for One)

- [ ] Paul Howard (Incumbent)
- [✓] Fani Willis

For Sheriff
(Vote for One)

- [ ] Theodore "Ted" Jackson (Incumbent)
- [≈] Patrick "Pat" Labat

NONPARTISAN GENERAL ELECTION RUNOFF

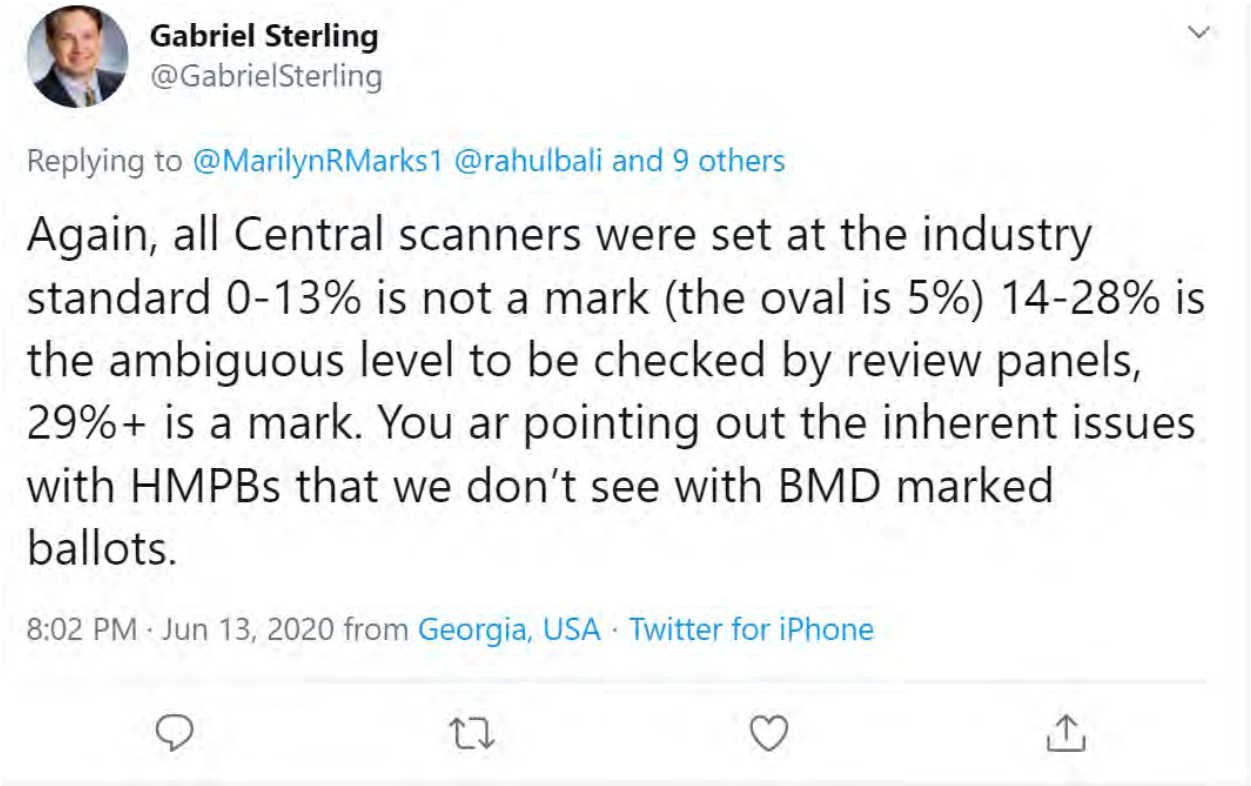
For Judge, Superior Court of the Atlanta Judicial Circuit
(To Succeed Constance C. Russell)
(Vote for One)

- [ ] Melynee Leftridge Harris
- [✓] Tamika Hrobowski-Houston

Botstacked on 2nd pass concluded only Sarah counted in first pass

731

EXHIBIT K:



Gabriel Sterling
@GabrielSterling

Replying to @MarilynRMarks1 @rahulbali and 9 others

Again, all Central scanners were set at the industry standard 0-13% is not a mark (the oval is 5%) 14-28% is the ambiguous level to be checked by review panels, 29%+ is a mark. You ar pointing out the inherent issues with HMPBs that we don't see with BMD marked ballots.

8:02 PM · Jun 13, 2020 from Georgia, USA · Twitter for iPhone

EXHIBIT L:

- Create a voter card from Poll Pad for each unique ballot style within the designated Polling Location
  - Recommend labels be placed on card identifying what ballot style will be displayed by BMD once card is inserted
  - BMD removes the activation code from the Voter Card once used, therefore create the card again from Poll Pad after each use by a BMD

D. Testing the BMD and Printer

Use a combination of Poll Worker Card with Ballot Activation Codes for the polling location, and Voter Cards created from a Poll Pad loaded with the LA/Advance Voting dataset to bring up ballots on the BMD

- Produce at least one printed ballot from each BMD assigned to the polling location
- Produce a test deck from the BMDs assigned to the polling location for each unique ballot style within the polling location. The test deck must contain at least one vote for each candidate listed in each race within the unique ballot style
  - **Example**: Ballot from BMD 1 contains a vote for only the first candidate in each race listed on Ballot Style 1, Ballot from BMD 2 contains a vote only for the second candidate in each race on Ballot Style 1, and continue through the line of devices until all candidates in all races within the unique ballot style have received a single vote
  - **If Number of BMDs outnumber the number of vote positions on the unique ballot style**, start the vote pattern over until all BMDs have produced one printed ballot
  - **If Number of unique ballot styles in the polling place is greater than 1,** once the vote pattern is complete for a unique ballot style, proceed to the next BMD in line to start the review of the next unique Ballot Style
  - **All unique ballot styles do not have to be tested on each BMD**
- Review BMD-generated Test Deck and confirm the vote content before placing in the designated Polling Place Scanner

E. Testing the Polling Place Scanner

- Scan the BMD-generated Test Deck into the Polling Place Scanner
- Scan one blank optical scan ballot style(s) associated to the Polling Place to verify the Polling Place Scanner will recognize the ballot style in case of emergency
- Verify Scanner(s) shows a number of Ballot Cast equal to the number of ballots in the BMD-generated test deck plus the scanned blank Optical Scan ballot styles
- Firmly place the Security Key Tab in the Security Key Slot
- Touch Close Polls
- Enter the passcode
- Touch Enter
- Touch Yes
- Touch No for additional tapes (Scanner will automatically produce 3 copies of the closing tape)

EXHIBIT M:


THE DOMINION DIFFERENCE
DUAL THRESHOLD TECHNOLOGY (MARGINAL MARKS)
From its early beginnings, Dominion Voting has emphasized the use of digital scanning, and continues to set the standard in digital image acquisition and analysis in the tabulation of digitally scanned ballots. When a ballot is fed into an ImageCast® tabulator – at the precinct level or centrally - a complete duplex image is created and then analyzed for tabulation by evaluating the pixel count of a voter mark. The pixel count of each mark is compared with two thresholds (which can be defined through the Election Management System) to determine what constitutes a vote. If a mark falls above the upper threshold, it's a valid vote. If a mark falls below the lower threshold, it will not be counted as a vote.
However, if a mark falls between the two thresholds (known as the "ambiguous zone"), it will be deemed as a marginal mark and the ballot will be returned to the voter for corrective action (please see diagram below). With this feature, the voter is given the ability to determine his or her intent, not an inspection or recount board after the fact, when it is too late. The chart below illustrates the Marginal Mark threshold interpretation.
100%
50%
0%
MARK DENSITY
Counted
Upper Threshold
Marginal
Lower Threshold
Not Counted
Mark #1
Mark #2
Mark #3
Mark #4
THE DOMINION DIFFERENCE
DUAL THRESHOLD TECHNOLOGY
DOMINION VOTING

Exh. 4B

Exhibit 4

From: Samantha Whitley <cgganalyst2@gmail.com>
Sent: Wednesday, October 7, 2020 9:11 AM
To: elections@lowndescounty.com; elections@lumpkincounty.gov; tdean@mcelections.us; Marion County Elections & Registrations <marioncountyelect@gmail.com>; Phyllis Wheeler <Phyllis.Wheeler3@thomson-mcduffie.net>; Doll Gale <egale@darientel.net>; Patty Threadgill <p.threadgill@meriwethercountyga.gov>; Jerry C <registrars@millercountyga.com>; Terry Ross <tross@mitchellcountyga.net>; Kaye Warren <kwarren@monroecoga.org>; rmoxsand@hotmail.com; Jennifer Doran <jdoran@morgancountyga.gov>; vote@murraycountyga.gov; Nancy Boren <nboren@columbusga.org>; Angela Mantle <amantle@co.newton.ga.us>; Fran Leathers <fleathers@oconee.ga.us>; Steve McCannon <smccannon@oglethorpecountyga.gov>; Deidre Holden <deidre.holden@paulding.gov>; Adrienne Ray <adrienne-ray@peachcounty.net>; Julie Roberts <jroberts@pickenscountyga.gov>; Leah Williamson <leah.williamson@piercecountyga.gov>; Sandi Chamblin <schamblin@pikecoga.com>; Lee Ann George <lgeorge@polkga.org>; quit.judge@gqc-ga.org; twhitmire@rabuncounty.ga.gov; Todd Black <rcc.boe@gmail.com>; Lynn Bailey <lbailey@augustaga.gov>; cynthia.welch@rockdalecountyga.gov; Schley Registrars <registrars_schley@yahoo.com>
Subject: Followup - new unsealed documents and response to Harvey bulletin

Providing the Facts—BMD Security Risks and Software Update

The events of the last 11 days have made it clearer than ever that county election officials have the duty to abandon the county-wide use of BMD touchscreen machines and adopt hand marked paper ballots because the BMD units cannot be used securely or legally---certainly making their deployment "impossible," "impractical" or "unusable." [Those are the conditions in the statute and new election rule that call for the superintendent's decision to use hand marked paper ballots.] We offer more facts as your board makes this significant decision.

The 2020 General Election is underway, and last week the Secretary of State ordered election officials across the state to erase the original certified software from 34,000 Ballot Marking Devices and install new software, which was uncertified and untested.

Channel 11 in Atlanta featured the issue tonight. (https://youtu.be/lMJU2p4_LDM) We are aware that several other reporters are trying to get answers as well, without success.

Yesterday the Court unsealed critical information about the voting system changes, which is important for election officials to read. Meantime, the State is pressuring county officials to comply with their instructions, without considering the consequences.

On Monday Chris Harvey issued a bulletin titled***, "Be Wary of False and Misleading Information re: ICX Update"***

The extra capitalization probably tipped you off to be wary of what was to follow.

If you've read many of the Court documents in our Curling v. Raffensperger case, you'll be familiar with the pattern: Coalition for Good Governance presents testimony from the nation's most respected expert witnesses, evidence, science, law, and facts. State responds with hyperbole and unsubstantiated claims, and sometimes name-calling.

The State is attempting to force you into a difficult choice –to follow their orders, and trust that nothing goes wrong, or to use your authority do follow what the statutes and election rules require, risking retribution from the State Election Board. It comes down to this - use the un-auditable BMDs with altered software, or use ballots marked by pen for in-person voting.

The experts confirm that installing hastily written software on the eve of in-person voting is akin to redesigning an aspect of an airplane as it is about to take off.

Here's what's wrong with assertions made in the Monday's Bulletin from Chris Harvey:

Fact: EAC certification requires pre-approval of de minimis changes before they are implemented. The vendor declaring software error-correcting changes "de minimis" does not make it so. When you received the new software on Sept 30, with, instructions to immediately wipe your BMDs clean and install it, the test lab had NOT issued its report (dated Oct 2) and Dominion had not submitted the proposed "de minimis" change to the EAC. We can find no evidence that the proposed change has been submitted to the EAC for certification, despite the Secretary's commitment to the Court that it had been done.

Fact: the lab that tested the software change did not test to be sure it did not "cause any other issues with the operation of the ICX."

Fact: When you were asked to install the software on 9/30, the updated version of the ICX touchscreen software (version 5.5.10.32) was NOT certified by the Secretary of State. It was technically certified (but without conducting the mandated prerequisite tests) yesterday, October 5. This is risk for your voters and their candidates that the county boards simply cannot tolerate.

Fact: The Secretary made no mention that state law requires counties to conduct acceptance testing after installing modified software, and before installing the November programming and conducting LAT, leaving the counties to deal with the consequences of the failure to do so.

With regards to the shocking assertion that the Secretary of State helped draft an intended loophole in the law to make required EAC system certification meaningless – it boggles the imagination. He claims that while the General Assembly ordered that only EAC software be purchased, he can change it behind closed doors to do whatever he wants. The Secretary is shamelessly defending his "election security be damned" policies, despite the his disingenuous "Secure the Vote" logo.

Don't take our word for any of this. The transcript of the October 1 court conference was just unsealed, along with new declarations from experts Alex Halderman, Kevin Skoglund, and Harri Hursti, plus the Pro V&V test lab letter. We attached them for you to read the grave concerns of the nationally respected experts along with the transcript from the sealed proceedings. The State has been unable to engage experts who support their use of BMDs or this software. Instead they only have (often inaccurate) testimony from vendors.

The SOS wants you to bet your voters' ballots, and your counties' candidates' campaigns, on the high-risk notion that the software change solves the original problem, with no unintended consequences, including the introduction of more errors or malware. Also he wants you to bet that losing candidates won't challenge the election on the basis of the host of BMD risks, problems and legal non-compliance from ballot secrecy to failing software that may well hide its defects.

The experts are clear: if you use the altered BMDs, your elections will not be defensible.

The only sound choice is to draw a line in the sand and strictly comply with the law. The law holds the County Superintendent responsible for the conduct of elections. And when things go wrong, and the lawsuits come, the Secretary of State ***will*** blame the counties.

The November 2020 election is consequential. All eyes are on election administrators. And on Georgia. We urge you to put voters first, set aside the problematic BMDs, and use ballots marked by pen for in-person voting as authorized by O.C.G.A 21-2-281 and SEB Rule 183-1-12-.11(2)(c)-(d)—the only legal path before you for conducting an accountable and constitutionally compliant election.

As always, we are happy to hear from you to discuss this further.

Marilyn Marks

Executive Director

Coalition for Good Governance

Marilyn@USCGG.org

704 292 9802

--

Samantha Whitley

Research Analyst

Coalition for Good Governance

Cell: 704 763 8106

cgganalyst2@gmail.com

Exhibit A

OFFICIAL ELECTION BULLETIN

October 5, 2020

TO: **County Election Officials and County Registrars**

FROM: **Chris Harvey, Elections Division Director**

RE: **Be Wary of False and Misleading Information re: ICX Update**

You may have received correspondence today from activists for hand-marked paper ballots and their attorney. These activists have been suing the state and Georgia counties for years because they disagree with the decision of the Georgia General Assembly to use electronic ballot-marking devices instead of hand-marked paper ballots. Because their preferred policy was not enacted, they have tried to force their preferred policy on the state through litigation. The latest correspondence makes false and misleading allegations regarding the recent update to the ICX (touchscreen) component of Georgia's voting system.

As you know, an issue was discovered during Logic and Accuracy testing that, in certain rare circumstances, caused the second column of candidates in the U.S. Senate Special Election to not correctly display on the touchscreen. The issue was caught prior to any in-person voting due to excellent L&A testing by county election officials. Soon after the issue was brought to our attention, Dominion diagnosed the issue and began to work on a solution.

Dominion's solution required a *de minimis* software update to the touchscreen. That update was tested at Dominion, tested again at the state's EAC-certified test lab, and tested again at the Center for Election Systems to determine that it resolved the display issue and did not cause any other issues with the operation of the ICX. The state only distributed the update after verifying the test results with the EAC-certified test lab and acceptance testing the update at CES prior to distribution to counties. This is the normal process to follow for a state certification update. The updated version of the ICX touchscreen software (Version 5.5.10.32) has been certified by the Secretary of State as safe for use in Georgia's elections. You should continue to install the update as instructed

by CES. You should also confirm both the confidential hash value and the version number on each ICX BMD touchscreen during L&A testing.

The correspondence you may have received today also misstates Georgia law when it says that the update has to first be certified by the EAC. Georgia law required the *initial* system procured to be EAC certified, but it does not require that all updates first be certified by the EAC. The law was drafted that way intentionally, with input from our office, to ensure that the state did not have to wait on the EAC when important updates were needed.[1] Even with these provisions of Georgia law, Dominion advises that it has already submitted the update to the EAC for approval as a *de minimis* change, as recommended by the EAC-certified test lab.

Thank you to the counties whose diligent L&A testing allowed this issue to be identified and resolved quickly. And thank you to all county election officials for your continued hard work in this difficult year for election administration.

[1] You probably remember that the EAC was without a quorum for two years, and therefore unable to take any action.

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

DONNA CURLING, ET AL., **Plaintiffs,** **v.** **BRAD RAFFENSPERGER, ET AL.,** **Defendants.**	**DECLARATION OF** **J. ALEX HALDERMAN** **Civil Action No. 1:17-CV-2989-AT**

Pursuant to 28 U.S.C. § 1746, J. ALEX HALDERMAN declares under penalty of perjury that the following is true and correct:

1. I hereby incorporate my previous declarations as if fully stated herein. I have personal knowledge of the facts in this declaration and, if called to testify as a witness, I would testify under oath to these facts.

2. I have reviewed the "Letter Report" prepared by Pro V&V concerning version 5.5.10.32 of the Dominion BMD software (Dkt. No. 939). The report makes clear that Pro V&V performed only cursory testing of this new software. The company did not attempt to independently verify the cause of the ballot display problem, nor did it adequately verify that the changes are an effective solution. Pro

V&V also appears to have made no effort to test whether the changes create new problems that impact the reliability, accuracy, or security of the BMD system.

3. This superficial testing is deeply concerning, because Pro V&V's characterization of the source code changes indicates that they are considerably more complicated than what Dr. Coomer previously testified was the threshold for considering a change to be "de minimis": "literally a one-line configuration change in some config file that would have no material impact on the system" (Dkt. No. 905 at 102:18-103:14). Instead, Pro V&V states that Dominion made two kinds of changes and modified lines in five different source code files. In general, changes that affect more lines of source code or more source code files are riskier than smaller change, as there is a greater likelihood that they will have unintended side-effects. Changes to source code files, as Dominion made here, also tend to be riskier than changes to "config[uration] files."

4. The nature of the changes gives me further reason for concern. According to Pro V&V, one change involved changing a "variable declaration" to modify the "type" of a variable. A variable's type determines both what kind of data it holds and how operations on it function. Although changing a variable declaration often involves differences in only one line of source code, the effect is a change to how the program operates everywhere the variable is used, which could involve

many parts of the source code and span multiple files. For this reason, changing a variable's type frequently introduces new bugs that are difficult to detect. I have often experienced such problems while writing software myself.

5. It is not possible to evaluate the effects of such a change by analyzing only the lines of source code that have been modified. Yet Pro V&V's description of its "source code review" is consistent with having done nothing more. The company could have engaged an expert in the specific programming language to analyze the quality of the changes and look for subtle side-effects throughout the code, but it appears that they did not.

6. Instead, the report states that "Pro V&V conducted functional regression testing." Regression testing has a well-defined meaning in computer science: checking that a change to a system does not break its existing functionality. After a change to a voting system like this, rigorous regression testing is essential for ensuring that the system's reliability, accuracy, and security are not degraded. Yet the testing Pro V&V describes performing is not regression testing at all. Instead, the company focused entirely on checking whether the ballot display problem was fixed and makes no mention of testing any other functionality whatsoever.

7. Even for this limited purpose, Pro V&V's testing methodology is inadequate. They first tried to observe the error while using the current version of the BMD software, 5.5.10.30. They managed to trigger it using an artificial test ballot but failed to reproduce it using the real ballot design from Douglas County (where the problem was observed during L&A testing) even after 400 attempts.[1] They then performed the same checks using the 5.5.10.32 software. Pro V&V's basis for concluding that the new software corrects the problem is that they were unable to trigger the error with either ballot after 400 tries. Yet this ignores the obvious possibility that the error might simply be eluding them, as it did with the Douglas County ballot under version 5.5.10.30.

8. That is the full extent of the testing described in Pro V&V's report. They did not test that the other functionalities of the machine are not impacted by the change. They did not test that the BMD selected and printed results accurately, nor did they test that security was unaffected. Tests only answer the questions you ask. Here—regardless of what Pro V&V intended—the only questions asked were: "Is the stated error observed when using the old software?" and "Is the stated error observed when using the new software?" They did not ask, "Is Dominion correct

[1] It is curious that Pro V&V was unable to reproduce the problem experienced in Douglas County, but they appear not to have made any effort to investigate this.

about the cause of the problem?" They did not ask, "Does this change absolutely and completely fix the issue?" Most importantly, they never asked or answered the key question for determining whether the change is de minimis, "Will these modifications have any impact on the rest of the voting system's functionality?"

9. Even if the change does correct the bug without introducing new problems, it still represents a significant security risk, because of the possibility that attackers could hijack the replacement software to spread malware to Georgia's BMDs.

10. Defendants say they will guard against this using hash comparisons, but the hash comparison process they have described is inadequate in several ways.[2] As I have previously explained, examining the hash that the BMD displays on screen provides no security, because malware on the BMD could be programmed to calculate and display the expected hash. Although the State now says it will perform some acceptance testing at a central facility, such testing has limited value at best. Even if performed correctly—by securely computing the hash of the software using a device that is assuredly not affected by malware—acceptance testing can only

[2] The Pro V&V report lists the hash of a file named ICX.iso, which presumably contains the APK as well as other files. Without access to the ICX.iso file, I cannot confirm whether that the software purportedly being installed on the BMDs is the same as the software Pro V&V built and tested.

confirm that the new software was not modified between Pro V&V and the test facility. It does not ensure that the new software actually matches Dominion's source code or that it will not be modified during later distribution to counties or installation on the tens of thousands of BMDs statewide.

11. The report mentions that Pro V&V performed a "trusted build" of the new software. This refers to the process by which Pro V&V compiled the source code to produce the APK file for distribution and installation throughout Georgia. The result of compiling source code, often called a software "binary," is in a non-human readable format, and it is not possible in general to confirm that a binary faithfully matches source code from which it was purportedly compiled. As a result, if Pro V&V were to modify the BMD software to introduce malicious functionality—or if attackers who infiltrated their systems were to do so[3]—there

[3] Notably, Pro V&V's website (http://www.provandv.com/) does not support HTTPS encryption, and modern web browsers warn users that it is not secure, as shown below. In my experience, organizations that fail to support HTTPS are likely to be ignoring other security best practices too, which increases the likelihood of attackers successfully infiltrating their systems.



would be no readily available way for the State or Dominion to detect the change. The State's election security experts themselves have emphasized the risk of election manipulation by so-called "insiders."

12. Defendants state that Pro V&V has submitted the report to the EAC to seek approval for a de minimis change. The EAC's de minimis software change process was introduced less than a year ago, and, as far as I am aware, it has only been invoked on one or two occasions so far. In my opinion, the EAC cannot make an informed determination as to whether the new Dominion software meets the de minimis standard based on the information contained in Pro V&V's report, and I sincerely hope the agency demands more rigorous testing before allowing the software to be used under its certification guidelines.

I declare under penalty of the perjury laws of the State of Georgia and the United States that the foregoing is true and correct and that this declaration was executed this 3rd day of October, 2020 in Ann Arbor, Michigan.

J. ALEX HALDERMAN

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

DONNA CURLING, et al. **Plaintiff,** **vs.** **BRAD RAFFENSPERGER, et al.** **Defendant.**	**CIVIL ACTION FILE NO.: 1:17-cv-2989-AT**

SUPPLEMENTAL DECLARATION OF KEVIN SKOGLUND

KEVIN SKOGLUND declares, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I hereby incorporate my previous declarations as if fully stated herein. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.
2. I have read the Letter Report regarding "Dominion Voting Systems ICX Version 5.5.10.32" from Pro V&V to Michael Barnes dated October 2, 2020 ("Letter Report").
3. The Letter Report describes Pro V&V's evaluation of a proposed code change by Dominion to address a flaw in the current ICX software related to reliably displaying two columns of candidates.

4. Pro V&V's evaluation is inadequate to verify Dominion's opinion of the root cause of the error, Dominion's proposed fix for the error, or whether the nature of the proposed change is considered "de minimis" as defined by the U.S. Election Assistance Commission ("EAC").

High Impact Changes

5. The Letter Report describes changes that are potentially high impact.
6. I expected the change to be limited to one or two lines in a configuration file based its description in the hearings. A configuration file change would provide a new value for the existing code to use.
7. The impact of changing a value being *used* by code is far less than the impact of changing the code *itself*, in the same way that changing the furniture in a house has less impact than moving walls. The value may be different but it will travel the same pathways through the code during operation. The structure and governing rules are unchanged.
8. Instead, the Letter Report describes two sets of changes to the source code *itself* in a total of five files. It does not quantify the number of lines changed, but it must be at least five. These are not merely configuration changes. Variable and function definitions in the source code are changed.

9. The changes described may sound minor, for example changing a variable from an integer (e.g., 123) to a string (e.g., “123”), but I would give them no less consideration. I have broken plenty of code making similar changes.

10. One reason is that any code elsewhere in the program that uses a changed variable or function could be impacted. Another part of the code may act correctly when given 123 but act incorrectly when given “123”. The first can have numbers added and subtracted, while the second can be searched for a specific character, but the reverse is often not true.

11. The Letter Report describes a source code review limited to the changed lines of source code. The code comparison performed is similar to reviewing the changed text in a legal blackline. It does not appear that Pro V&V looked throughout the source code for other interactions which could prove problematic.

12. The Letter Report states that Dominion believes the problem is a collision of resource identifiers between their software and the underlying operating system. I think it’s a fair analogy to say that Dominion’s software and the operating system sometimes try to park in the same parking space.

13. In my experience, an abundance of caution is necessary when the operating system and software running on it are working in a shared

space and not playing well together. A misstep could create additional problems in their interactions and any change should be carefully considered and well tested.

14. The Letter Report does not describe any review of the proposed software's interaction with the operating system. It does not mention the involvement of any expert on the operating system or an opinion regarding colliding resource identifiers—the reported cause and the target of the resolution. This is a concerning oversight.

Inadequate Testing of the Root Cause of the Error

15. Pro V&V was unable to reliably reproduce the error with the current version of the software, ICX 5.5.10.30. In fact, they reported producing the error only once out of 810 total attempts.

16. Pro V&V appears to have taken Dominion's word for the root cause of the error. The Letter Report does not mention any independent investigation to determine the cause.

17. The description of Pro V&V's first test, using a sample election database, begins with a procedure likely suggested by Dominion—toggling between font sizes to trigger the error. When the 10th toggle produced the error, Pro V&V considered the root cause to be confirmed. That is in itself not unreasonable.

18. However, the same test procedure was later performed using an actual election database, from Douglas County where logic and accuracy testing had revealed the error previously, and 400 toggles and several reboots could not produce the error. Of two test cases that should have both failed, one failed and one did not.

19. Despite these conflicting test results, Pro V&V did not investigate further. They did not consider what might be different between these two test cases to cause contradictory results. They did not consider if the sample election database at the center of their tests was a poor substitute for a real database. They did not consider that the root cause could be different, or that toggling the font size might not be a good trigger for the error.

20. Pro V&V wrote the Letter Report without having confirmed that Dominion's opinion of the root cause was correct.

Inadequate Testing of the Proposed Fix for the Error

21. It is impossible to verify that a proposed change sufficiently addresses an error if the root cause is unconfirmed. A change may only appear to fix the error due to coincidence. Correlation is not causation. A change may incompletely fix the error or create subtle side effects.

22. I have learned this lesson many times while fixing software bugs during my 23 years as a programmer, and I teach that lesson in a course on

software testing. I have also had the practical experience of taking a car to the auto mechanic over and over as they try different solutions for an uncertain cause.

23. Pro V&V's basis for determining that the error was fully resolved by the proposed change, ICX 5.5.10.32, was that the error was not observed after 400 toggles and several reboots.

24. This is not an ideal test case because "absence of evidence is not evidence of absence." The conclusion requires an assumption that subsequent attempts would not surface the error. Given that the first test required only 10 toggles to trigger the error, after 400 toggles and several reboots I might have made a similar assumption.

25. However, when Pro V&V performed the subsequent test on the Douglas County database and also could not observe the anticipated error after 400 toggles and several reboots, they did not revisit their conclusion about ICX 5.5.10.32. They should have.

26. They did not consider that the error could be eluding them in ICX 5.5.10.32 as it was with ICX 5.5.10.30 using Douglas County's database. They did not consider that their assumption that 400 toggles was enough to surface the error was wrong. They did not consider that the proposed change might be an insufficient remedy for the problem.

27. To be clear, I am not suggesting that Dominion's opinion of the root cause is incorrect or that Dominion's proposed change does not fix it. I am saying that testing was insufficient to verify either one. Pro V&V showed no skepticism about their findings when the results created a logical fallacy.

28. Even more surprising, Pro V&V had a real election database from Douglas County in hand, yet they did not test it with ICX 5.5.10.32. The stated purpose of this eleventh-hour software change was to resolve this error for the current election database, rather than create and distribute a new one. The test lab hired to confirm that the new software will work with the current database in a matter of days did not even check.

29. Pro V&V wrote the Letter Report without having confirmed that Dominion's proposed fixed correctly addressed the error, neither on the sample election database nor on the election county database counties are planning to use.

Inadequate Testing of "De Minimis"

30. The EAC defines a de minimis change as:

> A de minimis change is a change to a certified voting system's hardware, software, TDP, or data, the nature of which will not materially alter the system's reliability, functionality, capability, or

operation. Under no circumstances shall a change be considered de minimis if it has reasonable and identifiable potential to impact the system's performance and compliance with the applicable voting Standard.[1]

31. The Letter Report does not describe any testing to demonstrate that the nature of the proposed change does not "materially alter the system's reliability, functionality, capability, or operation" and does not have a "reasonable and identifiable potential to impact the system's performance and compliance with the applicable voting Standard."

32. Pro V&V ignored these critical, foundational requirements in their testing.

33. Pro V&V did not test whether *any* other functionalities of the device are impacted. They did not test whether the new build of the software correctly selects candidates in a series of contests and accurately prints them on a ballot. They did not test other screens to ensure that a fix to the two-column layout did not break another. They did not check if it was still possible to change languages or screen contrast, or whether the audio ballot, used by voters with disabilities, was still working. They did not test whether the device's security was impacted.

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[1] "Testing and Certification Program Manual," Section 3.4.2, available at: https://www.eac.gov/sites/default/files/eac_assets/1/6/Cert_Manual_7_8_15_FINAL.pdf

34. Pro V&V did not answer the litmus test for de minimis. Does the change materially alter the system's reliability, functionality, capability, or operation?

35. The Letter Report describes "functional regression testing," which might help answer this question, but it misuses the term.

36. Regression testing is a "re-running functional and non-functional tests to ensure that previously developed and tested software still performs after a change."[2] It is so named because a regression is a step backwards in the development of software, the proverbial "two steps forward, one step back."

37. Pro V&V examined the rendering of the two-column layout in their tests. Regression testing would validate that *other* parts of the software still perform correctly.

38. Regardless of Pro V&V's determination, this change is not a de minimis change until the EAC reviews it and approves in writing. "The EAC has sole authority to determine whether any VSTL endorsed change constitutes a de minimis change under this section. The EAC will inform the Manufacturer and VSTL of its determination in writing."[3]

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[2] "Regression Testing", Wikipedia, available at https://en.wikipedia.org/wiki/Regression_testing

[3] "Testing and Certification Program Manual," Section 3.4.3

39. The EAC prohibited *any* software changes to be considered de minimis until recently out of concern that even small changes might alter the system functionality, due to potential ripple effects I described earlier.

40. Given that the process is new, I expect that the EAC will scrutinize any request for a software de minimis change carefully. I expect the EAC to ask for more rigorous testing and reporting than the Letter Report.

Concerns about the Time Remaining for Review and Testing

41. In my previous declaration I expressed concern about a software change at this late date and fear that time pressures may result in less thorough review and testing of the proposed change.

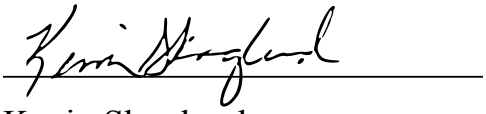
42. The Letter Report is a wholly inadequate review. Its tests are incomplete.

43. The EAC has not yet begun to review this proposed software change. Using the revised software without the EAC's approval will void the federal certification. EAC approval must be granted in the next five business days to allow early voting to commence on the following Monday.

44. Yet the uncertified software has been distributed and counties have been instructed to install it on over 30,000 ImageCast X devices and to begin testing them.

45. Last week, I heard Michael Barnes describe the current procedures for logic and accuracy testing. The procedures do not test every device, for every ballot style, for every candidate. The procedures do not include any additional testing related to this error. This problem and others could pass through logic and accuracy testing undetected.

Executed on this date, October 4, 2020.



Kevin Skoglund

DECLARATION OF HARRI HURSTI

Pursuant to 28 U.S.C. § 1746, HARRI HURSTI declares under penalty of perjury that the following is true and correct:

1. This declaration supplements my prior declarations (Docs. 680-1, 800-2, 809-3, 860-1, 877, and 923-2) a nd I stand by the statements in those declarations.

2. I arrived at the Fulton County Election Preparation Center ("EPC") on October 1, 2020 around 3:45pm. I was there in my capacity as an expert engaged by the Coalition Plaintiffs to conduct a Rule 34 inspection. (Exhibit 1) . I was accompanied during part of my visit by Marilyn Marks of Coalition for Good Governance.

3. My goal for this observation and inspection was to review the ongoing updating of the Dominion software for Fulton County ballot marking device ("BMD") touchscreen units to ICX software version 5.5.10.32. It is my understanding that Fulton has an inventory of over 3,300 BMD touchscreens, all of which are to be updated with this software. A number of the machines were in the EPC warehouse and were staged to be updated or marked after the update had been completed.

4. Upon our arrival, Ms. Marks and I were informed by Derrick Gilstrap, the manager of EPC, that all of the people working to upgrade the devices were

Dominion technicians. Mr. Gilstrap stated that he did not feel comfortable installing a last-minute software change, and did not want Fulton County staff to be responsible for installing it. He told us that he told Dominion to conduct this operation, prior to having his staff install the November 2020 election programming and Logic and Accuracy testing ("LAT").

5. Mr. Gilstrap told us that after the software update step that LAT would immediately begin, and made no mention of Acceptance Testing that should occur prior to LAT.

6. Acceptance Testing is an almost universally mandated basic test of the hardware and software when a change or repair to either has been made before counties are permitted to install election programming and deploy voting system components. Acceptance testing must be performed on each unit, and cannot be performed on a sample basis. Fulton's failure to conduct such testing should be a serious warning sign of further recklessness in the installation of inadequately tested software.

7. Mr. Gilstrap stated that Dominion had started the software update project with four workers, but soon realized that the task would take extended periods of time. Mr. Gilstrap stated that Dominion had accordingly increased the workforce to 14 and expected the installation work to be completed on Monday, October 5.

8. The new software was contained on USB sticks. However, there was no inventory management present for the USB sticks. There also was no inventory control for the technician authorization smartcards, which provide access to the controls of the touchscreen. Workers did not sign or otherwise document when they took possession or returned the technician cards and software upgrade USB sticks. Those items were in an open plastic bag which was sometimes placed on table, and sometimes carried around the working area by the manager. Anyone was able to pick up a USB stick or drop them there freely, permitting the easy substitution of USB sticks containing malware or to leave the premises with copies of the software update.

9. Some workers worked one BMD touchscreen machine at the time, while others simultaneously worked on 2 or 3 machines. There was no accountability for how many sticks and technician smart-cards each worker had in their possession. Clearly, the USB sticks were not considered to be security sensitive items at all.

10. Some of the workers had instructions for software update visible in their pockets, while others did not seem to have the instructions readily available. One worker showed me the instructions, but it was different from the instructions I had seen that were sent to the counties. None of the technicians that I observed were following the instructions as they installed the new software.

11. Technicians were not following a common process, and they all made their own variations on the workflow. In my experience, this can negatively affect the quality and reliability of the software installation. Many workers were texting and making phone calls while working and not focusing on their work. As a result, I observed repeated human errors such as skipping steps of the process.

12. Some workers consistently took an extra step to destroy previous application data before uninstalling the old version of the software. Uninstalling software packages results in destroying application data, but that is known to be unreliable in old versions of Android. The step they took is ensuring, among other things, destruction of forensic evidence of Fulton's use of the equipment in prior elections.

13. To avoid destruction of all forensic evidence from the BMDs, a number of images of the electronic data contained on the BMDs should be taken from a sample of them before installation of the new software.

14. As part of the updating process, the workers are directed to enable the "Install from Unknown Sources" setting. This is an insecure mode because it turns off the operating system verification of trusted sources and therefore allows software from any source to be installed. During the 45 minutes of my observation, I observed that many units had been left in insecure mode. I estimate 15% of the units were already in the insecure mode when the work began on them, having

been left that way during the last software installations, or because of interim tampering.

15. As described before, most workers I observed were not focusing on the work they were tasked to do, and as result, they were accidentally skipping steps. I observed that, as result of these human errors, the units were erroneously left in the insecure mode either by the workers skipping the step to place the machine into the secure mode after upgrade, or doing the step at such a fast pace that the system did not register the touch to toggle the switch and the worker did not stop to verify the action.

16. The State Defendants and Dominion have repeatedly overstated the value of their hash test, but my observation showed that they themselves are not relying on such test as a control measure. Dominion workers are not even checking the hash value. I deliberately followed many workers when they processed the units. During over 45 minutes of observation, none of the workers took the step of verifying the hash value. Some workers did not realize that the upgrade had failed and the mistake was only caught by persons who were closing the cabinets when and if they looked at the software version numbers before closing the doors.

17. I also observed random errors that were not caused by humans. For example, software sometimes refused to uninstall because the uninstall button was

disabled, or the installation silently failed. The technicians treated devices with issues by simply rebooting them. Technicians made no effort to diagnose or document the cause of the issues. The casual nature of dealing with the irregularities caused me to conclude that these abnormal incidents are commonplace.

18. Based on my observations of the software update, I would anticipate that these machines are likely to behave inconsistently in the polling place, depending on a number of factors including the care taken in the software installation process.

19. The current abbreviated LAT protocol adopted by Fulton County and the State cannot be relied on to identify problems created by the new software or its installation (or other problems with programming and configuration unrelated to the new software). Even if counties were conducting the full LAT required, it is but one step that is needed, and is quite insufficient for ensuring the reliability of the BMD touchscreens—which at the end of the day, simply cannot be done.

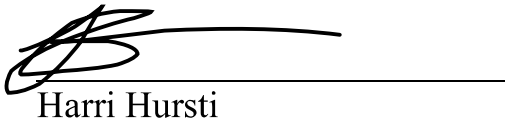
20. In my professional opinion, the methods and processes of adopting and installing this software change is completely unacceptable. The methods and processes adopted by Dominion and Fulton County do not meet national standards for managing voting system technical problems and remedies, and should not be accepted for use in a public election under any circumstances.

21. It is important that full details of the software change made be available for analysis and testing to determine the potential impact of the changes. I concur with Dr. Halderman's opinion in Paragraph 8 of his September 28, 2020 declaration (Doc. 923-1), in which he states that if the problem is as limited as described by Dominion, it could have been addressed with far less risk by the State without making an uncertified, untested software change.

22. In my opinion, the installation of the last-minute software change adds intolerable risk to the upcoming election, and the simple solution of removing the BMD units from the process and adopting hand marked paper ballots is imperative.

23. I note that I wanted to document the upgrading process, but Mr. Gilstrap told me that I was prohibited from taking photographs or video. I showed him the Rule 34 inspection document and pointed out the paragraph permitting photographing. He read that carefully but told me that he needed to clear that with his superiors before I could start taking pictures. He never cleared this with his superiors while we were there.

I declare under penalty of the perjury laws of the State of Georgia and the United States that the foregoing is true and correct and that this declaration was executed this 4th day of October, 2020 in Atlanta, Georgia.



Harri Hursti

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

DONNA CURLING, *et al.* *Plaintiffs*, v. BRAD RAFFENSPERGER, *et al.*, *Defendants*.	CIVIL ACTION FILE NO. 1:17-cv-2989-AT

STATE DEFENDANTS' NOTICE OF FILING
REDACTED VOTING SYSTEM TEST LABORATORY REPORT

Pursuant to the Court's September 30, 2020 docket entry, and as discussed in Defendants' Notice of Filing Regarding the Court's Request for Documentation, [Doc. 929], State Defendants provide notice of filing a redacted copy of the Voting System Test Laboratory Report, attached hereto as **Exhibit 1.**

Respectfully submitted this 5th day of October 2020,

/s/ Carey Miller
Vincent R. Russo
Georgia Bar No. 242628
vrusso@robbinsfirm.com
Josh Belinfante
Georgia Bar No. 047399
jbelinfante@robbinsfirm.com
Carey A. Miller
Georgia Bar No. 976240

cmiller@robbinsfirm.com
Alexander Denton
Georgia Bar No. 660632
adenton@robbinsfirm.com
Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street, N.W.
Atlanta, Georgia 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

Bryan P. Tyson
Georgia Bar No. 515411
btyson@taylorenglish.com
Bryan F. Jacoutot
Georgia Bar No. 668272
bjacoutot@taylorenglish.com
Diane F. LaRoss
Georgia Bar No. 430830
dlaross@taylorenglish.com
Loree Anne Paradise
Georgia Bar No. 382202
lparadise@taylorenglish.com
TAYLOR ENGLISH DUMA LLP
1600 Parkwood Circle, Suite 200
Atlanta, GA 30339
Telephone: 678-336-7249

Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing **STATE DEFENDANTS' NOTICE OF FILING REDACTED VOTING SYSTEM TEST LABORATORY REPORT** has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Carey Miller
Carey Miller

Exhibit 1

Letter Report

To: Michael Barnes

From: Wendy Owens - Pro V&V, Inc.

CC: Jack Cobb - Pro V&V, Inc.

Date: October 02, 2020

Subject: Dominion Voting Systems ICX Version 5.5.10.32

Dear Mr. Barnes:

Pro V&V is providing this letter to report the results of the evaluation effort on the ICX version 5.5.10.32. An examination was performed to confirm that this version of the ICX software corrected the issue with displaying of two column contests found in ICX version 5.5.10.30.

Background

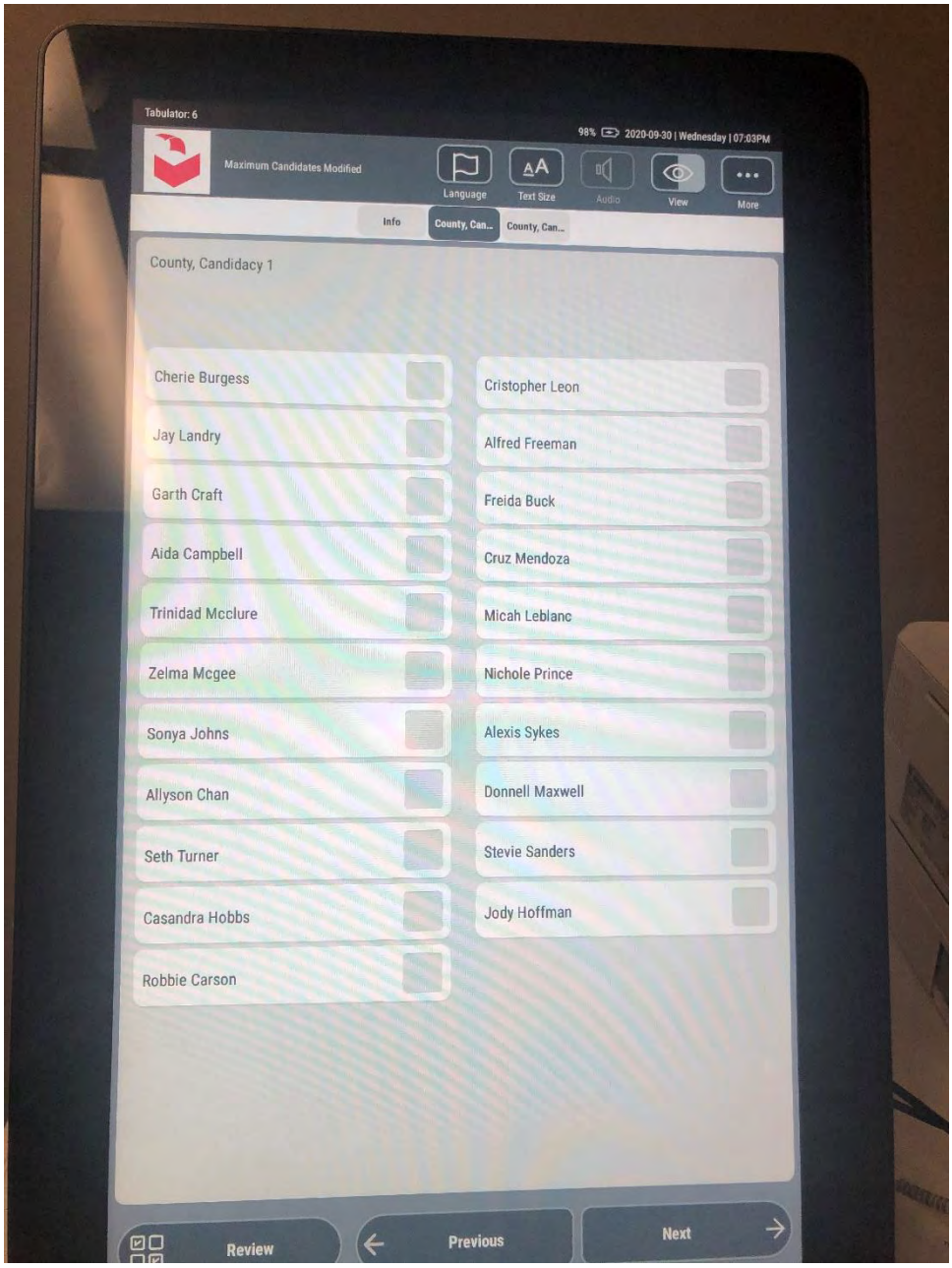
Pro V&V was contacted by Georgia Secretary of State Office and Dominion Voting System to analyze an issue that was discovered in Georgia's Election Logic and Accuracy Testing (L&A testing) for the 2020 General Election. It was discovered during L&A testing that a display error, under certain conditions, would occur where the second column of candidates would not be displayed properly. Dominion Voting Systems researched the issue and found that a static container identifier was causing a collision with an Android automated process for assigning container identifiers. This collision caused the display for the second column candidates not to be rendered on the screen properly and occurred so infrequently that it appeared intermittent.

Test Summary

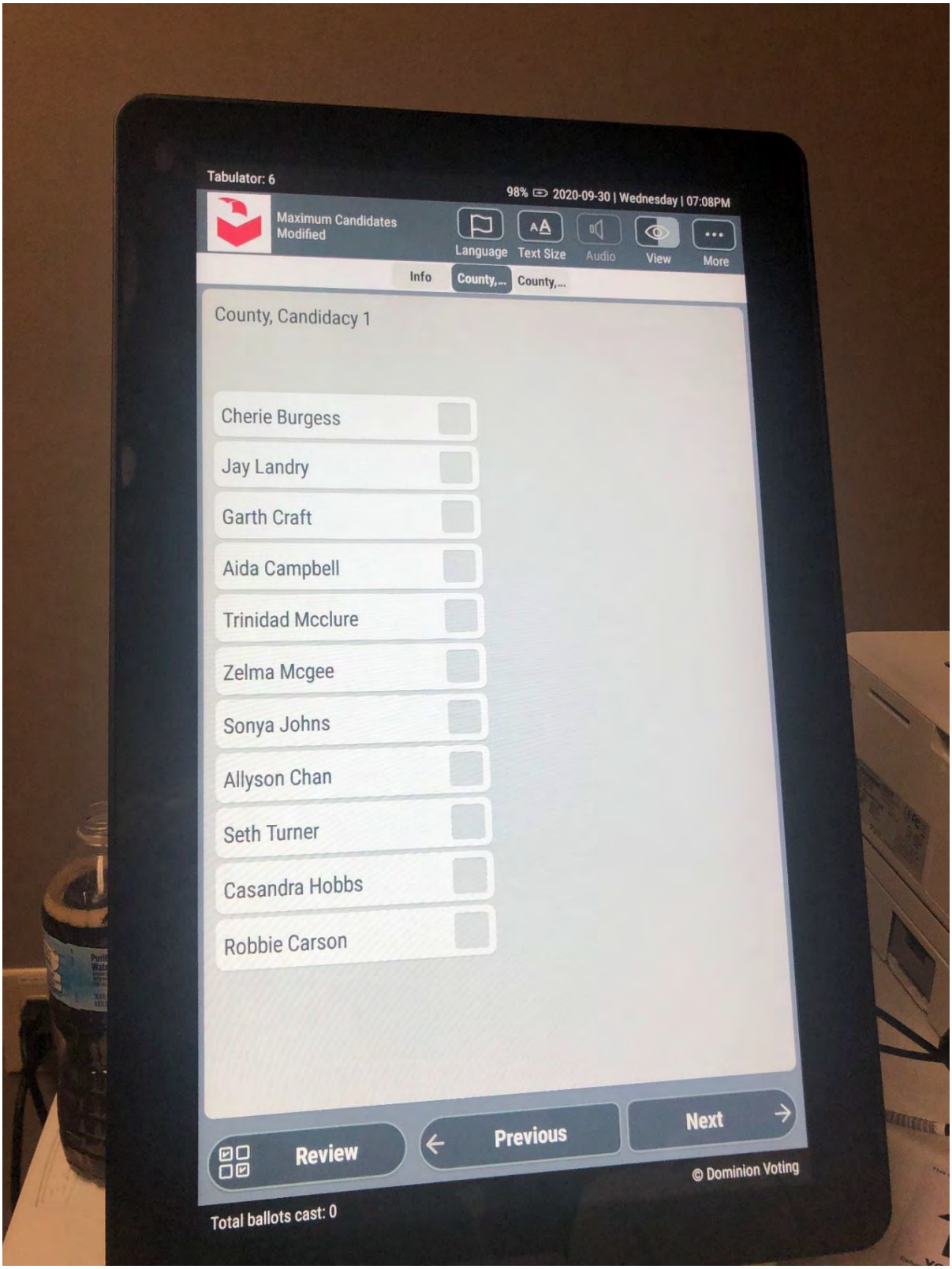
Dominion Voting Systems submitted source code for ICX version 5.5.10.32 to Pro V&V. Pro V&V then conducted a comparative source code review comparing ICX version 5.5.10.32 to the VSTL-provided previous ICX version 5.5.10.30. The source code review found two source code changes in a total of five files. One change was a variable declaration change the variable type to a string from an integer and changing the assignment from a static number to assigning another variable. The other update was to change a function call passing a "wrapper tag" instead of a "wrapper ID". All other source code remained constant. After conducting the source code review, a Trusted Build process was conducted. The Product from this build is the ICX.iso file. The SHA-256 hash for this file is as follows:

ICX.iso - [redacted]

Pro V&V conducted functional regression testing using version 5.5.10.30 and 5.5.10.32. An ICX machine was loaded with 5.5.10.30 and an election containing two 2 column contests. Pro V&V toggled between "Normal" and "Big" font sizes. Approximately on the 10th toggle the column disappeared as presented in Photograph 1.and 2 below:



Photograph 1: Max Candidate Election Contest One



Photograph 2: Second column was not rendered.

After reproducing the issue. The same device was load with the ICX version 5.5.10.32 and the same election. Pro V&V toggled 50 times then rebooted, 100 times then rebooted and finally 250 times. Pro V&V never observed the issue.

Pro V&V requested Douglas County Georgia's 2020 General Election database that had produced the issue, but could not reproduce the issue for the ICX software version 5.5.10.30. Even though Pro V&V could not reproduce the issue, Pro V&V ran the same test as the test election toggling 50 times then rebooted, 100 times then rebooted and finally 250 times. Pro V&V never observed the issue.

Conclusion

Based on the review of the source code and nature of the change, Pro V&V recommends the change be deemed as de minimis. Based on the testing performed and the results obtained, it was verified through source code review and functional testing that the issue found in ICX version 5.5.10.30 can not be reproduced in ICX version 5.5.10.32.

Should you require additional information or would like to discuss this matter further, please contact me at 256-713-1111.

Sincerely,

Wendy Owens

Wendy Owens
VSTL Program Manager
wendy.owens@provandv.com

SEALED TRANSCRIPT

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

DONNA CURLING, ET AL.,	:	
	:	
PLAINTIFFS,	:	
vs.	:	DOCKET NUMBER
	:	1:17-CV-2989-AT
BRAD RAFFENSPERGER, ET AL.,	:	
	:	
DEFENDANTS.	:	

TRANSCRIPT OF ZOOM VIDEO CONFERENCE PROCEEDINGS

BEFORE THE HONORABLE AMY TOTENBERG

UNITED STATES DISTRICT JUDGE

OCTOBER 1, 2020

9:08 A.M.

MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED TRANSCRIPT PRODUCED BY:

OFFICIAL COURT REPORTER: ***SHANNON R. WELCH, RMR, CRR***
2394 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SOUTHWEST
ATLANTA, GEORGIA 30303
(404) 215-1383

A P P E A R A N C E S O F C O U N S E L

FOR THE PLAINTIFFS DONNA CURLING, DONNA PRICE, JEFFREY SCHOENBERG:

DAVID D. CROSS
MORRISON & FOERSTER, LLP

FOR THE PLAINTIFFS COALITION FOR GOOD GOVERNANCE, LAURA DIGGES, WILLIAM DIGGES, III, AND RICARDO DAVIS:

BRUCE BROWN
BRUCE P. BROWN LAW

ROBERT ALEXANDER McGUIRE, III (VIA VIDEO CONFERENCE)
ROBERT McGUIRE LAW FIRM

FOR THE STATE OF GEORGIA DEFENDANTS:

VINCENT ROBERT RUSSO, JR.
CAREY A. MILLER
ROBBINS ROSS ALLOY BELINFANTE LITTLEFIELD, LLC

FOR THE FULTON COUNTY DEFENDANTS:

CHERYL RINGER
OFFICE OF THE FULTON COUNTY ATTORNEY

P R O C E E D I N G S

(Atlanta, Fulton County, Georgia; October 1, 2020.)

THE COURT: Good morning. Counsel, would you just check the extra numbers here -- anyone with an extra number here or person here to make sure everyone here is identified with you. I can see what they appear to be.

Mr. Martin, is this everybody that you have let in?

COURTROOM DEPUTY CLERK: Yes, ma'am, this is everybody.

THE COURT: All right. So if -- the two individuals who are just solely appearing by telephone, can you identify yourselves?

MS. RINGER: Phone number ending in 8737 is Cheryl Ringer from Fulton County.

THE COURT: Okay. Very good. That is fine.

And the person whose number ends in 8993, would you identify yourself.

MR. FRONTERA: Your Honor, can you hear me? This is Mike Frontera, general counsel, with Dominion Voting Systems.

THE COURT: Very good. Thank you very much. All right. That is fine. Everyone is authorized to be on.

Thank you, everyone, for being here. I want to say from the start that we have this now on the platform -- a different Zoom platform, and we are -- I am -- I have authorized the videotaping of the hearing solely for the

purpose of if I determine that some portion of this really should have been on the public record that it can be made available on the record.

Not knowing what was going to be discussed exactly and understanding that there might be some confidentiality issues, I decided that we should just proceed in this way, rather than by making it open and then trying to pull it back. So that is the purpose of videotaping it. I don't really -- normally wouldn't do that.

But under the emergency circumstances here, I have proceeded this way. And I think it is the soundest way of proceeding in that way. And also I can make any portion of this that would be public be available to the public.

Additionally, I want to note though that the videotape is not -- will not be the transcript of record. The only transcript of record of that will be created by Ms. Welch as the court reporter in this matter. And you are not to refer to the videotape at any point as kind of the official record in this matter. And, of course, the transcript will be filed.

I am -- just was, frankly, perplexed by the response that the State filed last night. And I know everyone is busy. I'm not trying to in any way minimize how busy you are. And -- and Mr. Russo already has told me from the start that he has to be out -- that he has to be complete by 10:00.

Are you starting the hearing in front of Judge Brown

at 10:00, Mr. Russo?

MR. RUSSO: Your Honor, that hearing is at 10:00. But we have sent two of our colleagues there to do it so we could be here. So Mr. Belinfante and Mr. Tyson are there, and Mr. Miller and me are here. So you have got us today.

THE COURT: Okay. Very good. Wonderful.

MR. MILLER: And I think the 10:00 issue was specific to Dr. Coomer's availability.

THE COURT: All right. Very good. So please, everyone, bear that in mind as to Dr. Coomer's availability because if there is something that he needs to address early on, whether it is from the perspective of the Court or the State, let's be sure we just jump ahead and get his input.

MR. RUSSO: Your Honor, also, we have the staff from the Secretary's office on standby. We have Mr. Germany, the general counsel, on right now. But Mr. Sterling and Mr. Barnes are -- we told them to continue working since they have election stuff going on and that if you needed something from them we would patch them in accordingly.

THE COURT: That's fine. All right. Well, as I understand it, the -- from what you -- from what the State submitted last night -- and it wasn't on the record. That was just, I think, a letter from counsel. It was that you -- that basically the State defendants were proceeding, that you were sending the software out today -- the software to jurisdictions

across the state, and basically this is a distraction that I was causing, and it was none of my business. Well, that was the tonality of it. It was a quick letter.

But let me just say -- start from the start is that I think I have endeavored to work cooperatively with everyone. I have an order to issue. I need to -- whatever it says, whether it is just simply -- you know, doesn't do anything at all, which is certainly -- you know, given everything I have told you in the past that I am very reluctant to even consider in this election saying, oh, suddenly do a sudden change to the paper ballot.

But I still -- this is still a record. And I don't know what will happen in the days ahead. But I think that the Court is entitled to, with respect, be given the information needed to issue an intelligent decision. And this was a change of circumstances.

And I am -- I don't know who thought I wouldn't have issued a decision without full knowledge of the circumstances that have arisen. I don't mean this personally against anyone. I think everyone has generally been very professional with me. But this is not an acceptable response, and I know everyone is short on sleep and at their wits' end on some things. So I understand it that way. I sure am very short on sleep too.

And there is a lot of stress under these circumstances. So I humanly recognize all of that. And so I

just sort of had to breathe in and say, all right, where are we going from now, once I got the response and just say, all right, you know, without any drama, I want to understand what is going on.

And that -- the expectation I had was not the -- that things were just proceeding and that I wouldn't basically know what was happening.

So I think that is -- just as an initial matter, that is where we're at. I mean, I am, you know, at 95 percent on having an order ready to be timely issued. And I held it back while this is going on.

And, of course, that is why on Monday we issued the order on the one thing that was clearest that needed to be acted upon as soon as possible. But I was holding back as soon as I heard anything was going on.

So let's just talk about what has happened. My understanding from the letter on September 29th that is on the record that -- as opposed to the letter that I received yesterday from counsel that the acceptance testing -- there would be acceptance testing that would occur before there was going to be distribution.

I guess it is a filing now. I'm sorry. I didn't realize that counsel's letter was filed. So excuse me for that.

In any event, I thought there was going to be

acceptance testing before there was distribution. And maybe there was, and maybe I misunderstood what was instead stated in the brief letter.

So, first of all, let's just start off just as to that. Did that occur?

MR. RUSSO: Your Honor, yes. So, first, you know, let me say we filed the letter under seal because that is what was discussed on Monday. As a letter, you said to file it under seal. So that is why we filed it that way.

THE COURT: That is fine.

MR. RUSSO: We didn't necessarily think there was something in there that was attorneys' eyes only or anything to that extent.

THE COURT: All right. Then I will lift the seal. Okay. Fine.

MR. RUSSO: In terms of the acceptance testing, the Secretary of State's office did conduct acceptance testing prior to distribution of the update. That is correct. Mr. Barnes did that. And then the distribution proceeded.

THE COURT: And when did Mr. Barnes do that?

MR. RUSSO: I believe his acceptance testing was done -- conducted yesterday. Mr. Miller might -- might know if it was done yesterday or the day before. Frankly, my days are starting to run together right now.

THE COURT: Yeah.

MR. MILLER: Your Honor, I believe it was done Monday and Tuesday. And so the kind of process through that -- the acceptance testing was, you know, essentially receiving the application from Pro V&V and running through just a typical acceptance testing and, you know, primarily ensuring also that the rendering issue that was discovered in logic and accuracy testing was not recurring.

And, importantly, you know, there's -- acceptance testing was not the only thing being done. The voting system test laboratory was also doing its part.

And, frankly, Your Honor, as to the filing, we certainly didn't intend any disrespect. We do, you know, have to note our objections. And, of course, it becomes an awkward situation to do so. And we do appreciate your understanding throughout this thing.

But we also, frankly, understood that you may be seeking the Pro V&V evaluation, which the formal evaluation we just -- we don't have right now. They have completed the evaluation. The written report is not done yet.

MR. RUSSO: That's right, Your Honor. That was in our filing yesterday. And we didn't -- you know, we expect that report -- to have it by the end of the week.

To the extent there is any delay from Pro V&V getting us the report, we just didn't want, you know, there to be any -- any misunderstanding about a delay if we made that

representation. But we do expect it by the end of the week, and we will file it upon receipt.

In terms of the EAC issue, you know, the order said to file -- to file anything that is filed with the EAC, presuming a filing is made with the EAC. Dominion actually does -- Dominion would make the filing with the EAC, not the State. And Dr. Coomer can speak to that.

But there appeared to be some misunderstanding in counsel's email yesterday regarding the EAC filing. But to be -- to be clear, we -- since it has not been filed yet, we didn't have any update for you. But that is a Dominion issue, not a Secretary of State issue.

THE COURT: Well, it is obviously the responsibility under the state law still though for you to have an EAC-certified system.

MR. RUSSO: Well, Your Honor, I mean, the update is a de minimis update. So that is according to Dominion.

In terms of what state law requires and what state law doesn't require, I mean, there is not a claim in this case regarding our compliance with state -- with state law. The only state law claim that was in this case was abandoned by plaintiffs earlier and dismissed in Your Honor's order on the dismissal a couple of months ago.

THE COURT: All right. Let me just put it this way. I mean, it is an indicia of -- it is an important indicia of

what is going on and is this -- and from an evidentiary perspective certainly relevant.

So I would -- you know, I went back at least and looked at the most recent regulations issued by the EAC. And I didn't see it as not being a requisite step to -- even a software modification as being requisite. Maybe I will hear differently from Mr. Coomer or Dr. Coomer -- excuse me. And Dr. Coomer is welcome to address at this point where things stand.

DR. COOMER: Good morning, Your Honor. This is Dr. Coomer. Yeah. So I'll try to describe the process again.

So we identified this change. And it was our feeling that it was de minimis. But we do not make that determination ourselves as a company.

So the way the EAC process works is we submit that change to an accredited laboratory, in this case Pro V&V. They analyze the change. They look at the code. And they determine whether it is de minimis or not.

If it is de minimis, then they do whatever testing they need to do to prove the nature of the change and verify it. And then they label it a de minimis change. They write a report. And at that point, it is just submitted to the EAC as what is called an ECO, an engineering change order.

So there is no new EAC certification effort. It is simply updating the current certification for this ECO. And

that is what we --

THE COURT: I'm sorry. ECO? I'm sorry.

DR. COOMER: ECO, engineering change order. And this is a software ECO. And that is how the process works.

So once Pro V&V has the final report, we will submit that to the EAC, Election Assistance Commission, certification as an ECO, engineering change order, for the current EAC-certified system, the 5.5-A.

THE COURT: So the November 15 clarification -- notice of clarification from the EAC that indicates that a proposed de minimis change may not be implemented as such until it has been approved in writing by the EAC, that is meaningless? That is Provision 3.4.3.

DR. COOMER: I have got to be honest. We might be a little bit out of my bounds of understanding of the exact rules and regs there.

THE COURT: And Mr. Maguire, as counsel for you -- it looks like he is present.

MR. MAGUIRE: Yes. That's correct, Your Honor.

THE COURT: Is that said at all?

MR. MAGUIRE: I'm sorry. I'm unprepared to address it, Your Honor.

THE COURT: All right. That is fine. I didn't ask you to be prepared. I just wanted to -- in case you wanted to, I wanted to give you that opportunity.

MR. CROSS: Your Honor, if it is helpful to you, Mr. Skoglund -- this is an area of expertise for him.

Your Honor has hit the nail on the head, which what Dr. Coomer's explanation left off was once that EAC paperwork goes in you still have to wait for approval from the EAC. The EAC has to agree that it is a de minimis change and that it can operate under the existing certification.

If they disagree, then you have got to get a new certification. But until that is approved, you do not have EAC approval to proceed. And Mr. Skoglund can explain that in more detail. So right now they would be proceeding without EAC approval. That is where we stand. That should be undisputed.

THE COURT: Maybe that is what they have determined they must do. But I'll let Mr. Skoglund briefly discuss it. I mean, I think it is sort of evident.

But, Mr. Skoglund, can we -- thank you.

MR. RUSSO: Your Honor, one quick point. O.C.G.A. 21-2-300(a)(3) is clear that the equipment has to be EAC-certified prior to purchase, lease, or acquisition. The ongoing EAC certification that is now being raised, that is not in the statute. But Mr. Skoglund can go ahead and explain the rest of the process.

THE COURT: All right. And I'll get back to you, Mr. Russo.

MR. SKOGLUND: So I would just agree with what has

been represented already. That is correct. You void your certification if you don't have written approval before making this change.

So the correct process is to go to the VSTL, then go to the EAC, have them review it. They are the ones who make the determination of de minimis based on the recommendation of the VSTL. But it is really up to them to decide that. And then they are the ones who bless it as being part of the certification.

THE COURT: Either Mr. Russo or Dr. Coomer, is there any -- has there been any type of contact at this point with the EAC to say you are in emergency circumstances?

DR. COOMER: This is Dr. Coomer. I don't -- I don't believe so. But we were waiting for that final report from Pro V&V. And then that would be immediately submitted to the EAC.

MR. RUSSO: That's right. The Pro V&V report --

THE COURT: I'm sorry. Who is speaking right now?

MR. RUSSO: Vincent Russo.

THE COURT: All right. I'm sorry. We've got a lot of people here.

MR. RUSSO: No problem. The Pro V&V report or Pro V&V has indicated it is a de minimis change. So as Mr. Skoglund mentioned, the EAC will take that report and that recommendation and proceed from there.

But, again, we will file that report with you. And

Dominion will move forward with its piece in reliance on that report.

MR. MILLER: Your Honor, I do also just want to point out briefly that, you know, EAC certification is not necessarily across the board. There are other states that don't have EAC-certified systems. Of course, we're still seeking to -- Dominion is still seeking to obtain the certification. But I did just want to point that out for the Court as well.

THE COURT: This is a -- obviously, it is a provision the EAC has because it is -- no matter whether you call it de minimis or not, it always obviously raises issues when you change a piece of software and then you have to redo everything.

You are obviously all doing testing, and I am glad that you are doing the testing. But the fact that you could be in a place that doesn't require anything is one thing. But, you know, we are using a statewide system. So it has larger repercussions when you have a statewide system also.

All right. And so the software -- the new software is supposed to be distributed today. And what is the schedule from -- since you have said you are going forward even without the EAC approval or without seeing the actual testing documentation, what is your next plan? What is going to happen next?

MR. MILLER: Your Honor, it was distributed yesterday, I think, with the dropoff. And which also I do want to briefly mention, you know, we sent an email about the confidentiality of the dropoff process.

At this point, that is no longer confidential. It was the prior to -- you know, it is a schedule of secure transfer of files that was filed on the public docket. And so that is the issue. I did just want to make sure we don't have a loose thread there.

But in terms of the process next, the counties will begin engaging in that logic and accuracy testing that was put on pause after the last issue was discovered. And so we started that. The counties will also verify the hash value on the software that was given to them, which has already been verified by Pro V&V, the hash outside of the system at the Center for Election Systems, and additionally a hash again outside of the BMD system before those software was copied to the drives that were sent to the counties in sealed envelopes -- sealed, numbered envelopes via the post-certified investigators connected with the Secretary of State's office who met their county liaisons at Georgia State Patrol posts. That was --

THE COURT: What was verified at the Georgia State post?

MR. MILLER: That was where the transfer occurred.

So when the software was received -- you know, Pro V&V conducted their verification and validation, provided the trusted build hash to the Secretary's office. The Secretary's office then compared that trusted build hash to the hash of the actual software they had received outside of the BMD system.

You have heard here before the concept that the BMD can trick you into saying that the hash is verified. But, again, this is wholly outside of the system such that that is -- that is a separate issue entirely.

After that delivery to the counties, the counties will also verify the hash and will then conduct their logic and accuracy testing.

THE COURT: All right. All I was asking was when you said something was verified when they picked it up at the Georgia State Patrol.

That was just the sealing -- the seal of the envelope?

MR. MILLER: Your Honor, yes. So the envelope was sealed by -- right, was sealed by the Center for Election Systems. And then the investigators of the Secretary's office met county superintendents at Georgia State Patrol posts.

THE COURT: Okay. That's fine. Have you in any way expanded the scope of your logic and accuracy testing in light of these circumstances?

MR. MILLER: Your Honor, so I think -- I guess I

would separate it out briefly in that the Center for Election Systems conducted their own sort of modified logic and accuracy testing, which I referred to earlier as logic and accuracy testing within CES, on BMDs that they themselves had that have never been used in elections to verify that -- first of all, that that same issue was not recurring but also to continue the logic and accuracy testing such that -- to confirm that there were no ancillary issues brought in to do so.

At the time it is sent to the counties, the counties will then conduct their logic and accuracy testing, which now also includes before inserting anything into the BMD verifying that hash number, verifying it is the correct software. That is kind of the initial step, which I believe -- I don't have the letter in front of me. But we laid out kind of that first couple of steps of the logic and accuracy testing.

THE COURT: All right. But you haven't decided at this juncture -- to your knowledge that there have been no change in the logic and accuracy testing protocols or just going from one electoral race to the next in the machines so that you don't do the entire ballot on every -- on a larger number of machines in each of the counties?

And that is the process you-all described, one race for one and then round-robin.

MR. MILLER: And I'm not sure I can speak to any of the -- any detailed adjustments. What I will say is the

testing that was done within CES included five different ballot styles that were chosen from Dekalb County being a county that would have large ballot styles -- basically, you know, a number of races, number of different types of ballots on there. And then they were conducted on those different styles and also conducted on the four different machines and printing out basically hundreds of ballots to confirm the testing.

THE COURT: Well, as far as you know, there has been no -- no one has considered trying to test a larger range of the ballot -- the full ballot in a larger range of machines as testified to in -- at the hearing and which was the protocol that Mr. Harvey indicated was the protocol in his testimony? Is that right?

MR. MILLER: Your Honor, as I understand it, the full ballot is tested on all of the machines.

THE COURT: That wasn't his testimony. The testimony was -- is that one race -- you picked a race. You went to the next machine, and it would do the next race. And then you would -- if you exhaust the race, which in Georgia you probably wouldn't exhaust the race, you would start with the next one -- if you had 12 machines, you did the 12 first races. Then you would go back to Number 1 machine, and you would go -- and it would do the 13th race. Then it would go to Number 2 machine, and it would do the 14th race.

That is what I'm getting at. So that, really, you

have a fraction of the machines that are actually doing the race at issue. But it might screw up other races. So that is really what I'm trying to get at.

But it doesn't sound like there have been any change in the process, in any event, from what you know.

MR. MILLER: Your Honor, I would defer to the testimony and the written instructions on logic and accuracy testing. But yes. To answer your question, I couldn't comment as to any sort of very specific minutia within that.

THE COURT: All right. I'm really not asking you to testify yourself as to it.

As far as you know, no one has indicated to you that they changed any of the --

MR. RUSSO: That's correct, Your Honor. As far as we know, the process is the same as Mr. Harvey has discussed previously.

THE COURT: That's all I'm trying to get at.

MR. RUSSO: You know, with respect to printing the ballots and each race that we discussed at the hearing, that hasn't changed. The only change is with the logic and accuracy testing are to ensure that the hash value -- check the hash value of the new software and the version on the front end.

THE COURT: And does Dr. Coomer know what was -- what type of testing was done on the software at PV&V?

DR. COOMER: Your Honor, I'm not sure of the complete

test plan that they completed. Again, Pro V&V themselves determine what test plan is necessary based on their analysis of the code itself.

THE COURT: They didn't tell you?

DR. COOMER: I don't have the details. I would just -- I could probably get that. But I don't have the details.

THE COURT: When did they complete it?

DR. COOMER: I believe they completed that either late Monday or Tuesday.

THE COURT: Do you know who was performing the testing there?

DR. COOMER: The individual employees' names, no, I do not.

THE COURT: I mean, is there a head of the unit that deals with security or not at this point? Because we had very vague testimony of that at the hearing.

DR. COOMER: I don't know the makeup of Pro V&V's employees.

THE COURT: And do you have a backup plan in case, in fact, there are issues that are arising in connection with this? I mean, you are hoping for the best. You are thinking the best will occur. But what -- if there are issues again, what is the plan?

DR. COOMER: We'll work with our -- we'll work with

our partners at the State to do whatever is necessary.

MR. RUSSO: Your Honor, this issue, as you recall, came up as a result of this U.S. Senate special election having too long of a -- too many candidates and the Secretary of State not wanting to have any candidates claim that they were unfairly treated by being on the second page because surely someone would say that by being on the second page they lost votes.

We are not aware of any other issues with the BMDs that would change, you know, the processes going forward. I mean, Mr. Barnes conducted logic and accuracy -- his logic and accuracy testing -- his acceptance testing I should say -- on the machines.

The machines will go through acceptance testing. If anything new is discovered in that process, we'll, of course, have to address that. But we have no reason to believe at this juncture there is anything new since this issue with the ballot -- the number of candidates being on one screen has been resolved.

THE COURT: Dr. Coomer, did you get an opportunity to read Dr. Halderman's affidavit that was filed that if it really was just simply only the first time ran on a machine why wouldn't it have been adequate essentially to address this by just basically running it the first time?

DR. COOMER: Well, so there is a

mischaracterization -- I'm not sure where that came from. So I did not have a chance to --

THE COURT: Uh-oh. Everyone put themselves on mute, and we'll try to --

DR. COOMER: So I didn't read -- I didn't have time to read the entire declaration. But I will say that -- and not to disparage Dr. Halderman whatsoever. But he is making assumptions when he does not have an understanding of the actual issue.

If I had time and charts and I could work on a whiteboard, I could explain exactly what the issue is. But it is not that it happens the first time. I said that it only happens once -- can -- not that it always does -- but can happen only once during a voting cycle. And that is a power cycle of the machine. It is a rare occurrence that based on -- not just the ballot layout but, you know, the sequence of how the voters have gone through the ballot.

There are essentially some indexes that are created by Android operating systems. And we have an index that we are referencing. And if there is a collision between those two, the issue happens. And it can only happen once because Android keeps incrementing these indexes.

So it can only collide once. And there is a very specific set of circumstances that leads to this collision. And it doesn't happen every time.

Our analysis showed us how to actually reproduce that deterministically. So I have seen some other things -- I'm not sure if it was in Dr. Halderman's declaration or not -- that we didn't understand the root cause of this and it was undetermined how and when this could happen. And those statements are not correct either.

So this is why we felt very confident in this change because it is very minimal. Instead of referencing this particular ID, we reference it now as what is called a tag. There is no collision possible between our tag and these Android IDs.

And then just to hit on this point, you know, asking what if something else happens, well, this version -- you know, the certified version that is being used in Georgia has been -- has been used by millions of voters across the U.S.

This is the first time we have seen this issue. And, again, it is due to the unique layout to handle the special Senate contest with the two columns of candidates.

So I just wanted to sort of make that known. You are still on mute, Your Honor.

THE COURT: Can you explain to me what the -- to make sure I don't misunderstand what you mean by power cycle, is it -- basically it could happen every time that -- is it when you turn the power on and then the next time when you turn the power on?

DR. COOMER: Correct. Yeah. When you turn the power off and you turn it back on, Android starts those indexes back over.

THE COURT: All right. Then does it happen each time just in the beginning or any time in the cycle? That was the other part that was a little confusing to me because I had thought you indicated before or somebody had indicated it was right at the start of the cycle.

DR. COOMER: No, it is not right at the start. Again, it depends on a variety of factors. So, you know, it depends on the number of -- the number of display elements that are on the ballot itself and how the voters walk through.

So it could be -- it could be several voters. And, again, it doesn't happen all the time because you have to have this unique overlap, you know. And that is wholly dependent on, you know, the sort of behavior of the voters going through the ballot of whether they just happened to hit on this unique circumstance. But it is not -- it is not necessarily within, you know, X number of voters.

THE COURT: Okay. And it is not -- so if you -- it is not dependent on the fact that this is the first time you've -- it is not the first ballot in any event?

DR. COOMER: Correct.

THE COURT: It is not the voter who gets -- who is the first one in line who gets it necessarily?

DR. COOMER: Correct.

MR. CROSS: Your Honor, could I ask a quick clarifying question?

THE COURT: Yes.

MR. CROSS: I just want to make sure I understand. On Monday, Dr. Coomer said -- he said this happens only once for one voter during a complete machine cycle. That was where Dr. Halderman's understanding was coming from.

So is it right that it is not just once for one voter during a machine cycle? It could happen more than once?

DR. COOMER: No, not during the machine cycle. When I say machine cycle, I was referring to power cycle. So it can only happen once.

MR. CROSS: So then why is Dr. Halderman wrong? Why couldn't you just power it on?

DR. COOMER: Because once is not the same as first.

(Unintelligible cross-talk)

MR. RUSSO: We are here to answer your questions, frankly. Plaintiffs can go do discovery if they would like to. We are in discovery. So you can continue to answer for now. But I did want to raise that before we --

THE COURT: I think -- Mr. Russo, I appreciate that. But it was -- I certainly had the impression that Mr. Cross did too. So I'm very happy that Dr. Coomer is explaining it.

So if Mr. Cross had a misunderstanding too, then I

think he is entitled to try to --

MR. RUSSO: And that is fine. I just wanted to make sure before we got too far down this road that I raised this.

THE COURT: All right.

MR. CROSS: So, Dr. Coomer, all I was asking you: It will happen only once in a power cycle, but you don't know when it will happen, meaning you couldn't just do a single test ballot? You would have to do test ballots until it happened the one time and then you --

DR. COOMER: Right. And, again, to be clear, it doesn't always happen. Right? It is this unique way of going through the ballot. So you could -- you could say, oh, I'm going to wait until this happens and it never happens because you have passed those conditions.

MR. CROSS: Got it. Okay. Thank you. That is really helpful, Dr. Coomer.

DR. COOMER: Sure.

THE COURT: So -- and maybe one has to have Mr. Barnes here or someone else from the department present. So I'm just trying to understand how the logic and accuracy testing that is being performed at this juncture mirrors that -- those conditions since it is not necessarily the first time it has been done.

What were -- what are the instructions to make sure that it doesn't happen, partially because, you know, the point

really is the size -- the vote should be counted properly is you just don't -- it could -- there are repercussions if it does in terms of people getting confused at the polls and other sorts of problems that can happen there that it triggers -- the people are worried about their votes and one comes to a halt, et cetera.

MR. CROSS: Your Honor, could I ask one more question?

Dr. Coomer, you mentioned that you could do -- you figured out a way to do it deterministically, which means you could trigger it. Would that work to -- rather than doing new software, could the counties trigger it using this deterministic approach? Then you could trust it wouldn't happen again with the existing software. Would that be a fix?

DR. COOMER: I mean, that is -- theoretically, that is possible because it depends on, again, a lot of variables. So each -- you know, obviously each county and each machine has -- may have a different set of ballots on there.

So like -- so what we did is -- obviously, this was identified in two counties. And we know the ballot styles that they were testing in those counties. So we zeroed in on that and found a way using those two projects how to make it happen.

We would have to do that for every machine in every location because it is dependent on the ballots that are in that machine to then want to determine whether you could make

those IDs collide.

Does that -- does that clarify? That would be, again, theoretically possible. A nightmare. And then that whole process would have to be done every time the machine is turned on.

THE COURT: Let me start this way simply: You-all did some logic and accuracy testing yourself when you were trying to do the software modification?

DR. COOMER: Oh, extensive testing. Extensive.

THE COURT: All right. How did you modify -- how did you do it so that -- in light of these circumstances in terms of the protocol so that you would -- it would be at least randomly captured?

DR. COOMER: Right. So -- well, the first thing we did is obviously analyze the projects where it was -- where the issue arose. And that led us to figuring out what the root problem was.

Then our initial testing was we actually set up a quick project where -- knowing how the code behaved we knew exactly the steps to take within a few clicks to make this issue happen. Right? And so we set that up, verified on multiple machines that we could make it happen according to step A, B, C.

So then we applied the change and then redid those steps, verified that that issue no longer arose, and then we

took that back to, you know, the actual -- some of the actual real Georgia elections that would be tested and ran full regression tests over several days to verify that nothing else was impacted.

THE COURT: You ran full regression tests to determine what? I didn't hear the last part of your sentence.

DR. COOMER: That no other functionality was impacted.

THE COURT: So have you made any recommendation to the State regarding any additional measures that should be taken in order to test the functionality of both the fix as well as that it didn't impact anything else?

DR. COOMER: So I don't -- I don't know all of the information that was communicated to the State. But I believe we did -- again, as I mentioned, we had those two counties where we -- you know, where the issue was experienced. We know how to make it happen in those two counties. I believe we provided those steps to the State for verification. But, again, I'm not the one that is actually communicating the operational aspects directly with the State.

And then as far as the other functionality again, the pre-logic and accuracy testing process we feel is enough to verify that the system as a whole is still functioning as it should.

THE COURT: Let me just say that in your testimony

before this Court you indicated that you had not been aware that -- that the full ballot had been tested in each machine.

So I guess would it be wise to have more of the full ballot tested in every machine? I mean, for instance, among other things, this particular race?

DR. COOMER: I'm not sure -- I'm not sure I'm following. But, again, you know, the logic and accuracy testing that I'm aware of from the State I believe is adequate.

THE COURT: I don't want to get into a cross-examination with you myself about that. But you do understand that there is only a small fraction of the machines each that are tested for -- for instance, as to this particular race that are going to be out in the field?

DR. COOMER: Again, I don't -- I don't know every single detail of the L&A that they are doing.

THE COURT: All right. That is fine. Then we'll just -- we'll stop at that then.

Mr. Russo and Mr. Miller, is there anyone who is familiar with the -- what the instructions have been to the field with the State available just to talk for -- speak for a minute or two?

I know Dr. Coomer has to leave in four minutes. So before we do that, I want to make sure that there is not anything else that counsel wish for Dr. Coomer to address.

MR. BROWN: Your Honor, this is Bruce Brown. I have

one question for Dr. Coomer.

Our information is that the version of the software that was certified was .30 and the current version is .32.

What was .31, and what is .32? And have the incremental changes from the various versions been tested, certified, or approved?

MR. MILLER: Your Honor, we're just going to raise the same objection earlier as far as cross-examination of the witness right now.

THE COURT: Well, I think it is --

DR. COOMER: Version numbers change for a variety of reasons. I'm not even sure what that question is trying to get at.

THE COURT: Well, it is trying to understand if there have been software change or some other change between the 5.5-A, I guess, .30 and 5.5-A.32, which this is. In other words, what happened -- do you know what was .31?

DR. COOMER: There is absolutely no other change than the one we supplied that we alluded to.

MR. BROWN: So why are there two version numbers?

DR. COOMER: There is not two version numbers. There are a variety of reasons why when you do a build a version number turns out the way it does.

I don't know what you are digging at. But I can tell you -- I can state as fact -- and I just did -- that the

only --

MR. MILLER: Your Honor --

DR. COOMER: -- between those two builds is this change that we submitted.

THE COURT: All right.

MR. BROWN: So there is not a version 31?

(Unintelligible cross-talk)

MR. MILLER: Your Honor, we just reraise the same objection. Dr. Coomer is here voluntarily right now. Dominion is not a party to this. He is trying to be helpful to the Court. And we are going down a path of cross-examination again.

MR. CROSS: Why are they scared to answer questions?

THE COURT: All right. No more commentary, let me just say. My understanding --

DR. COOMER: I'm not scared to answer your questions.

THE COURT: All right.

MR. CROSS: I wasn't talking to you, Dr. Coomer.

THE COURT: My understanding just from what Dr. Coomer said was very -- there were a lot of people speaking -- is that Dr. Coomer said that there was no separate change from the 5.5-A that has been made so that there is -- to the extent the other one had a .30, there was no .31 separate change.

DR. COOMER: That's correct.

THE COURT: Is that correct?

DR. COOMER: That's correct.

THE COURT: All right. Fine. Thank you. Is there anything else?

All right. Doctor, you are welcome to stay as long as you want to stay. But I understood that you had a hard deadline.

DR. COOMER: Yeah. I do have a hard stop, and I do appreciate that.

THE COURT: All right. Thank you very much.

MR. CROSS: Thank you, Dr. Coomer.

THE COURT: Is it Mr. Barnes who is giving directions to people in the field about the L&A testing at this point?

MR. RUSSO: I think Mr. Barnes would be the best person to try to answer your questions. He is involved with the development of logic and accuracy testing.

THE COURT: All right. Is he --

MR. RUSSO: We're going to -- if you can give us one minute here to get in touch with him.

THE COURT: That is fine.

(There was a brief pause in the proceedings.)

THE COURT: Good afternoon, again, or good morning. Morning, Mr. Barnes, also.

I just -- we were discussing the circumstances around the software being distributed and subject to logic and

accuracy testing again. And I wanted to find out whether there were -- to your knowledge, whether there were any additional instructions about conducting logic and accuracy testing that was given to any -- all or any of the counties relative to the software.

MR. BARNES: The one additional instruction was for the counties to verify the new hash signature for the new version number of the ICX application.

THE COURT: And therefore am I to assume that there were no -- there was no other modification and in particular there was no expansion as to the number of the ICX machines that were going to be tested for purposes of looking at that race in particular or any other races?

MR. BARNES: Again, we did not give them another list of instructions to follow for their L&A testing. Part of their normal L&A testing is to check every vote position on every ballot as they go through the ballot style. And that is how the occurrence was found with the old version. So we were just going to have counties follow the same protocols with the new version.

THE COURT: Mr. Harvey had confirmed before though that the instructions were that you would run the ballot -- let's say -- let's -- just consider that there were ten machines, let's say, that were being tested. That you would run race Number 1, which would presumably be the presidential

race, on Number 1 machine. Then you would run race Number 2 in priority on machine Number 2. And when you had finished the ten, then you would go back -- the 11th race would be tested again -- would be tested on the machine Number 1 again.

Is that something different than you know of?

MR. BARNES: No. What my understanding of the L&A procedure is is the ballot is loaded on to the L&A -- on to the test screen ballot. And then the first race of the ballot is displayed. And then on that race, they will mark each -- they will touch the first candidate, validate that the mark is there; proceed to the next race on the ballot; mark the candidate, make sure it is there; and proceed all the way through the ballot until they arrive to the summary screen. And they validate that they see those selections on the summary screen.

They then backtrack. Go back to the first race in the ballot, remove the mark from the first candidate, and then mark the second candidate in that race and proceed through the ballot again all the way through the summary screen.

And this is done to make sure that every vote position is responsive and that the system shows that summary selection at the end. They will produce one printed ballot through that exercise with at least one of those candidates per contest marked. But they won't produce a ballot for every instance, for every candidate in every race on every machine.

They will just produce one printed ballot at the end of that test of that particular BMD.

THE COURT: And have you looked at the instructions that were given in January via Mr. Harvey's office?

MR. BARNES: Yes, ma'am.

THE COURT: And that is what you think is consistent with what -- what you have described is consistent with the protocol described?

MR. BARNES: Yes, ma'am.

THE COURT: Well, let me walk through it again. Because that certainly was not my understanding from the testimony provided or from the observations that were provided by people at the -- observers at the polling.

So I'm not -- so you are saying basically the member of the staff who was testing it will go in and vote on the presidential race? And just walk me through it again so I can stop you now that I have heard the whole -- what you think is supposed to happen.

MR. BARNES: Okay. So we'll take it as a single race, single -- single ballot, single race. And we will say the presidential race, which has four candidate options.

On the testing, they would load the ballot, bring up the contest that shows the four -- the four contestants. They will mark the first contestant and then leave that screen and go to the summary screen to validate that that mark is showing.

They would then go back to the race itself, remove the mark, and then put a mark for the second candidate and then proceed back to the summary screen, confirm that that is showing. Go back again to the ballot, remove the mark, mark the third candidate in the race, proceed to the summary screen, confirm that is showing. And then go back to the race, remove the mark of the third candidate, put a mark for the fourth candidate, which is the write-in, type in some form of a name, proceed to the summary screen, verify again that that is showing.

Then they would backtrack, go back to the race itself, remove the mark, go to the summary screen, verify that that mark again is not showing. Then go back to the race. And now they are going to put a mark on the ballot so that they can produce a printed ballot from the machine.

And they may select the first candidate or second candidate or third candidate depending on what they are needing to produce for their test deck. So they may do the first candidate and then proceed back to the summary screen and then print the ballot.

THE COURT: So is the printed ballot the one with all of the choices?

MR. BARNES: The printed ballot will only have the one selection made at that last operation. The ballot can only have one mark for the race.

THE COURT: I don't -- because I don't know whether -- is anyone with you from -- are you able to receive an email if I send counsel the L&A procedure -- January procedure and they sent it to you at this point?

MR. BARNES: Yes, ma'am. I have access to email.

THE COURT: I don't want to be the person directly sending it to you. But -- all right. But if counsel doesn't have it directly offhand, Ms. Cole can send it to one of you right away so you can send it on.

Send it both to Mr. Miller and Mr. Russo.

LAW CLERK COLE: Okay. I can also send it to Harry, and he can share it on the screen.

THE COURT: Okay. Why don't we do both? Why don't we send it because it is harder for -- let's do both and give Mr. Barnes an opportunity to look at it. All right?

(There was a brief pause in the proceedings.)

MR. BARNES: I haven't received anything as of yet.

LAW CLERK COLE: Mr. Martin has it now if you want him to share his screen.

THE COURT: I want Mr. Barnes to be able to review it without having to see it on the screen first.

MR. RUSSO: My email might be running a little slow. So I emailed it. So it is just a matter of --

THE COURT: That is fine.

Ms. Cole, can you pull up Mr. Harvey's affidavit

also?

LAW CLERK COLE: Yes.

MR. RUSSO: Do you know what docket number that is?

THE COURT: Well, the affidavit?

MR. RUSSO: Yes, ma'am.

LAW CLERK COLE: My recollection is it is 834-3.

MR. RUSSO: Thank you. I was just trying to look through the transcript for that explanation. I was not finding it. I appreciate that.

MR. CROSS: Do you mind forwarding that document that Ms. Cole sent you so that I can pull it up too?

MR. RUSSO: Yes.

MR. CROSS: Thank you.

THE COURT: Does everyone have the procedure?

Mr. Barnes, you don't have it still?

MR. BARNES: No, Your Honor, I do not.

THE COURT: Mr. Russo, did you send it?

MR. RUSSO: I did. Let me try again.

THE COURT: Okay. Very good.

MR. MILLER: I think we both actually sent it.

THE COURT: All right.

(There was a brief pause in the proceedings.)

THE COURT: All right. Mr. Barnes, did you get it yet?

MR. BARNES: Yes, Your Honor. I just received it.

THE COURT: Very good. Let me give you an opportunity -- I'll give you the opportunity to read the portion that deals with the process for looking -- testing the polling place scanner, that one -- I'm sorry -- right above it, testing the BMD and printer.

And have you had an opportunity to look at that, that Section D?

MR. BARNES: Yes, ma'am. I'm reviewing that.

(There was a brief pause in the proceedings.)

MR. BARNES: Your Honor, I've read it.

THE COURT: Thank you very much. So my understanding both from Mr. Harvey's testimony on this particular procedure and what the witnesses to the L&A testing observed when they were able to observe this in a -- because it was public was that the description provided in the text under -- in connection with the word example was what was occurring, that there was not -- every race was not in a particular ballot -- ballot machine -- every race that was listed on the ballot was not, in fact, tested on that one machine. That, in fact, it was -- you went from machine to machine as described under the word example.

MR. BARNES: My -- excuse me.

THE COURT: Yes. Go ahead.

MR. BARNES: My reading of the document outlines that the ballot style will be displayed on, we'll say, machine one

and that the process of creating the ballot that is going to be used for the test deck for machine one would be that the -- that the operator would select the first candidate not for just one race but the first candidate in every race on that ballot, proceed through the whole ballot, and then at the end would then print that one ballot that had the first candidate selected.

So that the machine one would have ballot style one and then it would have the selection of the first candidate in every race selected and print it.

On the second machine, the ballot would be loaded. And then from that machine, the ballot that would be printed for the test deck would be the second candidate in each race. And then that ballot would be printed for the test deck.

And then they would go to machine three, load the ballot. And on this one, the ballot that would be produced for the test deck would be the third candidate in each race within that ballot and so forth and so on.

THE COURT: Well, that certainly is somewhat different than my understanding the testimony and evidence. And -- but I understand what you are saying.

What is the -- so just to summarize again is that you understood that if I -- whoever was Number 3 in each race would have been picked -- if you were on the third machine, you would have picked Number 3 -- the candidate in the third position for

every single race?

MR. BARNES: Yes, Your Honor.

THE COURT: And what if there wasn't a candidate?

MR. BARNES: If there is not a third -- if one race has four candidates but the second race only has two candidates, then you do not make a selection at all. You would skip. There is not a third option to choose. So you would leave that race blank.

THE COURT: Then you would continue down the ballot?

MR. BARNES: Yes, Your Honor.

THE COURT: I think this is sufficiently a material change in the way that perhaps it has been presented. I'm not saying anything -- that you are wrong in any way or -- but I just think that I would like to make sure there is nothing that the plaintiffs want to ask in light of that testimony.

And have you observed this yourself or not?

MR. BARNES: I have not been in the field to observe the L&A testing with the new system, Your Honor.

THE COURT: All right. So you haven't been in the field to observe their application of this procedure?

MR. BARNES: That's correct.

THE COURT: All right.

MR. RUSSO: Your Honor, I pulled up Mr. Harvey's declaration, and I'm looking at that. And he seems to indicate that all -- that testing the ballots -- a test deck where you

use every permutation would be overly burdensome and unnecessary, as the Coalition plaintiffs urge, in other words, to generate test ballots so that all candidates in all races within the unique style have received a single vote.

I think maybe that is where some confusion is coming into play. And I think Mr. Harvey was under the impression -- and his declaration seems clear to me. But to the extent there is some confusion that maybe you thought every permutation on the ballot maybe had to run a test deck with every combination, is that -- and I'm just maybe trying to understand it also myself -- where the disconnect is here, frankly.

THE COURT: Mr. Skoglund was, I think, the Coalition's witness or -- is that right? Or was he Mr. Cross' witness?

MR. CROSS: Mr. Skoglund was a witness for the Coalition.

THE COURT: Okay.

MR. BROWN: I'm sorry, Your Honor.

THE COURT: So I'm assuming that you spent some more time -- particular time on this, Mr. Brown.

So are there any -- anything you want to point out or ask Mr. Barnes about?

MR. BROWN: Thank you, Your Honor. My question would be, sort of to cut to the chase -- and that is: On the logic and accuracy testing as described by Mr. Barnes, all of the way

through tabulation, there is only one ballot that is actually tested and that the other testing that Mr. Barnes described was testing the accuracy of the summary screen rather than the accuracy of the final output.

Is that correct, Mr. Barnes?

MR. BARNES: What I was describing was the generation of the test deck that has to be generated at the end of the L&A testing.

THE COURT: Wait a second. I think we should put ourselves on -- everyone but you on mute so that we make sure that we --

Go ahead.

MR. BARNES: Again, what I was describing was the generation of -- it is two parts. It is the L&A test to validate display of ballot operation of the touchscreen being receptive to touch and then the generation of the record from each device that is used to organize the test deck that is then scanned by the scanner.

So the tester wants to go through and look at each race on the ballot, make sure that all the candidates are displayed, make sure that all candidates are receptive to touch, and take that all the way to the end of the summary screen. And then they back out and continue that through all positions.

But when they have completed that, they have to

produce a record. But they are only required to produce one printed record from that BMD. And then they accomplish to get all positions voted and a vote registered by doing the machine one, the machine two, the machine three through the ballot style.

MR. BROWN: Thanks.

MR. CROSS: Your Honor, could I ask a follow-up question?

Mr. Barnes, did I understand you right so if you've got -- well, let's just take a concrete example. There is a Senate race this year that has, as we understand it, it sounds like 20 or so candidates.

So that means you would generate a test ballot that has -- you would generate a separate test ballot for each of those candidates on however many machines correspond. Right?

So let's say there are 20 candidates. You would generate 20 separate test ballots on 20 consecutive machines selecting each candidate in turn.

Do I have that right?

MR. BARNES: What you would do -- let's say that there are -- let's say that there are 20 machines. We'll make a balanced number. Let's say -- actually we'll say there are 10 machines and there's 20 candidates.

Then you will start with machine one, check all the races, check all of the candidates, make sure they are

responsive. But when you are done with that machine, at the end of that machine, you would select the first candidate in that Senate race and produce a ballot printout.

Then you would go to the second machine. The second machine, again, you would check the full race, check all positions, check responses. But when you are done with that, you would produce one ballot from the second machine and that would have the second candidate.

And you would repeat that process through those ten machines. When you got to the 11th candidate, you would be returning back to machine Number 1. And on machine Number 1, you would now select -- again, you have already looked at all of the candidates again already. So on that machine, you are going to produce a second ballot. And that second ballot is going to have the 11th candidate selected.

And then you will continue to proceed in that manner until you have produced a record that -- a vote record that has every candidate in that race voted one time.

MR. CROSS: And if you have got -- if the other elections have fewer candidates -- right? So let's say you are at candidate 6 out of the 20 and all of the other races have fewer than 6 candidates, at that point forward, you would not have any candidates selected on those races for the test ballots?

MR. BARNES: That's correct.

MR. CROSS: So that would mean if we have got a race this year of, say, 20 or so candidates, you would have a pretty large number of test ballots coming out of machines that have no candidate selected for some of those races?

MR. BARNES: That would be correct.

MR. CROSS: Thank you.

THE COURT: Just state that again, what you were saying, Mr. Cross.

MR. CROSS: Because this year we've got a Senate race that has a large number of candidates -- it sounds like 20 or more -- and because once you get over -- say the next highest number of votes is -- I'm trying to think of the easiest way to say what I just said.

Once you get over the next highest number of -- say every other race had two -- only two selections. Right? Once you get to the race that has three or more candidates, you stop selecting any candidates in all of those other races. You don't go back and just select one that you have already selected.

So that means once you get to 3, 4, 5, 6, on up through 20-something candidates when you are testing it, all the other races on the ballot would have no selections on any of those test ballots for all of those machines. So you would be going machine to machine to machine.

THE COURT: You are only going by position number. I

see.

MR. CROSS: So with this particular year with a race with that many selections -- you are talking a pretty large number of BMDs that would have test ballots with only a single candidate selected, which then gets printed and tabulated. Those BMDs would not have test ballots for candidates for all but one race.

MR. RUSSO: I mean, there's always going to be elections where you only have maybe one person in a race. So, Mr. Barnes, that is what you would do, for example, if you had a county commission race also on the ballot and you've got one person in that race. Right. You would put that -- you could check that person off the first -- on the first test ballot. But going forward -- I mean, there is going to be other contested races, of course. You know, maybe you have a house race, a state house race with three candidates. So you have got to go through those three times. But the county commission race with only one candidate would only have -- be selected the first time through.

MR. BARNES: Correct. Correct. And if --

MR. RUSSO: We have had this happen in every election.

THE COURT: Well, I'm not sure that really helps because, of course, when you have only a single -- a single individual then they are in position one. So they are going to

be tested -- those races are all going to be counted as position one.

The problem here we have is position -- the fact that there might not be any others races that have Position 10 and so -- or Position 8. So that basically in the very race that sort of seemed to have -- on the ballot that had created a quirk, you are going to have the least amount of L&A testing -- that's all -- in terms of output.

MR. CROSS: Well, yeah. I'm not sure that is quite right, Your Honor. Let me back up.

They will test every candidate in that Senate race. So that particular race that has a large number of candidates -- right? -- that will get tested.

What it means is that for all of those ballots beyond, say, the first three or four candidates, depending on what else you have there, there will be no L&A testing for any of those other races.

THE COURT: Right.

MR. RUSSO: Well, they are tested the first time. I mean, I think we are saying the same thing.

MR. CROSS: No. No, they are not. What Mr. Barnes is saying is there is no ballot that will be printed at all from those BMDs that gets printed and scanned and tabulated that has any candidate selected from any race other than the Senate race once you get beyond the max number of candidates in

those other races.

And given a lot of those races are only going to have maybe 2 or 3 candidates but we have got a race with 20 or more, you are talking about maybe 50 to 20 machines each time that are not having a single candidate tested to get printed and scanned and tabulated.

MR. RUSSO: I understand what you are saying. But you would have had -- that person who is -- you know, if it is a race of three people, you would have had a test ballot that would have had that person -- the third ballot would have been, you know, in this example that you gave a race of three people.

Now, when you get to person four -- Mr. Barnes can explain it. And if I'm wrong, I'm wrong. Mr. -- I'll let Mr. Barnes explain it.

MR. CROSS: Because once you get to selection -- again, Mr. Barnes, I thought I -- let me just try my question again. I thought we had it straight.

Let's say the maximum number of candidates on a ballot was 4. That is the most you have in any race is 4, except for you have got the Senate race, let's say, that has 20 candidates.

Are you with me?

MR. BARNES: Yes.

MR. CROSS: Once you get to selection five to test that, meaning printing a ballot and scanning it, in the Senate

race, you are going to do that and that ballot is not going to have any other candidate selected for the test ballot; right?

MR. BARNES: On that ballot style. But when there are multiple ballot styles within the polling location, once you complete ballot style one, you then have to do the same thing for the next unique ballot style within that -- within that polling location. So there is opportunity for more ballots to be generated with more selections.

MR. CROSS: Right. But most -- particularly on election day -- putting aside early voting, on election day, most of your ballots -- most of your polls are going to have a single ballot style; right? Otherwise, you are talking about a polling site that has multiple precincts.

MR. BARNES: There is -- every precinct in the state is different. Some only have one ballot style. Some have many. It is a potpourri out there.

MR. CROSS: But with my example, you would have -- unless you are printing multiple ballot styles on that BMD, you are going to have selections -- you are going to have machines five through -- you are going to have 15 machines -- remaining 5 to 20, you are going to have 15 machines for which your test ballot has only a single selected candidate just in that Senate race; right?

MR. BARNES: The ballot that is printed for the test deck, yes. But every position would have been looked at on

that ballot during the examination.

MR. CROSS: On the screen?

MR. BARNES: Correct.

MR. CROSS: And looking at the screen does not tell you what actually gets tabulated; right?

MR. BARNES: The screen is the interaction and the intent of the voter. The ballot is what will be the official record.

MR. CROSS: Right. So --

THE COURT: And the next step is, of course, the scanner tabulator?

MR. BARNES: Correct.

THE COURT: And you can't really test that just from looking at the screen?

MR. BARNES: Again, that is why we produce the record from the machine so that the scanner can also be used to validate that what is coming from the system is what the scanner then tabulates.

THE COURT: I think that the -- I mean, I'm not sure that what is happening in the field is what you are describing. But, you know, I'm just -- based on what the evidence is and the way that Mr. Harvey described it but -- and why he thought everything else was too burdensome.

But that is -- you know, I understand what you are saying at this juncture. I mean, I'm looking at my -- at a

sample ballot here. And -- and basically when we get down to number -- where we were actually thinking of four candidates, we get down to the fifth one, only one of the major leaders here who is in that first top four is Doug Collins.

So all the testing that would relate to other -- identified at least by the polls leaders in this race are after Number 4. So testing of their -- any ballot, including them, would be -- it would be fewer. But that is if it is, in fact, the way it is indicated.

I'm just looking at Paragraph 6 of Mr. Harvey's affidavit and also testimony. And I can't really know at this point that what Mr. Barnes describes based on the testimony and the evidence presented is exactly what is happening.

But, Mr. Skoglund, did you get an opportunity to be present during any of the L&A testing? Remind me.

MR. SKOGLUND: No, Your Honor, I have not been present for any of it.

Can I offer a thought about this?

THE COURT: Yes.

MR. SKOGLUND: So I think that, as I testified before, you know, logic and accuracy testing depends on what questions you are asking. Right? And the quality of the question you ask depends on the quality of the test. So it really makes sense to think about what questions you are asking, what are you trying to find out.

And I think, you know, this is -- this is more logic and accuracy testing that some jurisdictions do. But I think that is not the standard. I think the question is: Does it meet Georgia statute, which I think is quite good and quite strong? I would go further, if it were me.

I think that the way I would do -- conduct a logic and accuracy test and the way I have seen other people do it is you create a spreadsheet essentially ahead of time with the test pattern for votes for what you plan to do. And in that, you try overvotes and undervotes and races where you vote for two and the audio ballot and trying it in Spanish language. And, you know, you try a variety of scenarios.

And then, you know, knowing that you have good coverage in that spreadsheet, then you go to the machine and ask each machine to accomplish that set of tests. That is closer to what I think the Georgia statute requires.

THE COURT: Well, I just would like to know what is actually going to be -- and whether everyone is going to be doing something different actually. That is my concern at this juncture but -- based on the evidence introduced.

But the other thing was simply because this was the -- the alleged tweak that involving this particular ballot one would really want to know it was -- all permutations of that.

It is hard for me to know without -- what I do know is what -- the issue that Mr. Cross elicited. And it might

behoove the State to consider whether to modify at least this in a way -- whatever the process is, if it is, in fact, like what Mr. Barnes describes as opposed to the inference that was given from the procedure as I identified and witnessed by others who were watching the L&A testing in the last election, it really behooves everyone to think about is there something you want to beef up under the circumstances since you have a software change particularly affecting that race.

I can't really say more at this juncture. I'm going to go back and look. But there's really some material differences between the way Mr. Barnes described it and the way it was otherwise described.

MR. MILLER: Your Honor, I don't have the transcript in front of me from the hearing, so I can't speak exactly of Mr. Harvey's testimony.

But as far as the declaration and as I recall the hearing, I think the concept was the concept that Mr. Barnes described of the difference between printed ballots versus the test on the screen. And so I don't think there is --

(Unintelligible cross-talk)

MR. MILLER: -- necessarily inconsistence there but different topics.

THE COURT: Yeah. I mean, there is no question that it was supposed to be getting at the difference as to whether there was a difference between the way it tabulated and the way

it printed and the ballot.

But it was -- but it was much more helter-skelter because -- as opposed to just testing one office per machine and sometimes more depending on how large the ballot was. So that -- I mean, that is exactly what -- not just through Mr. Harvey's testimony but through the affidavit of people who were witnessing it.

So, Mr. Harvey, are you -- is Mr. Harvey in charge of giving you instructions or -- I gather? Are his folks out in the field at all, or is it -- I'm not -- or is it your folks who are doing the L&A testing? I mean Mr. Barnes.

I mean, it is somebody from the county. But who is the technical adviser, if there is anyone?

MR. BARNES: Logic and accuracy testing is a county responsibility. So it is in the hands of the county.

THE COURT: And do they -- are they relying then on that 2000 -- January 2020 procedures manual in determining how to proceed?

MR. BARNES: To my understanding, yes, Your Honor.

THE COURT: And this is not something that you have given directions to anyone about in the field, I gather?

MR. BARNES: That would be correct.

THE COURT: And do you have any idea whatsoever why there was an impression that it was a database that is going to be distributed rather than software in the communication?

MR. BARNES: Your Honor, I do not know why they chose the word database for distribution. It was always that application install -- an application upgrade installation.

MR. MILLER: Your Honor, I believe we can speak to a little bit of clarity on that in that the form that you saw attached to the email that, I believe, Mr. Brown filed is a standard form that is used when databases are delivered to say, here is the schedule, here is where we're coming through.

And so that form didn't change because it was the same type of run. So it is the same type of thing that the counties are used to doing and that the investigators and liaisons sent out. And, you know, frankly, I think it may have been a bit of a misunderstanding amongst the county liaisons who were the direct contact as to what was being delivered but they knew something was being delivered on this schedule.

THE COURT: I would like to just take a short break so I can talk to Ms. Cole privately, and then -- then we'll resume.

MR. RUSSO: Your Honor, could we let Mr. Barnes go or --

THE COURT: Let him stay for just a minute. I won't keep him much more. Thank you.

(A brief break was taken at 11:00 A.M.)

THE COURT: Mr. Brown, Mr. Miller? Let me just say to counsel -- and I realize this is not Mr. Barnes' direct

responsibility. But he also described the process as he envisioned it at least and testified. So that has some value.

At the very least -- and I would say perhaps more than that -- the procedure that was identified on the January memo is susceptible to a very different interpretation or multiple interpretations.

And given the importance of the software -- the L&A testing, I can't tell you that you are mandated, but I think you would be really behooved -- it would strongly behoove the State in the interest of everyone involved here that there be clarification of what the process is.

You are using -- even though it has been identified as a de minimis change, even if it hadn't been a change, it would have been important for there to be -- in this first use statewide in a major election to have this strong L&A testing.

And even if it is construed the way Mr. Barnes says with the effect of it after you get to position four you are going to have fewer tests, you will still have a lot of tests. But, you know, it would have been -- it would be a better thing to have a different process for dealing with this wrinkle.

But even so, I don't think that -- from what the evidence was in the record that it is -- that the L&A testing is being pursued in the way that -- the more pristine manner described by Mr. Barnes. And maybe it is in some places, but in many places it is not.

So, you know, to the extent that, you know, it is still in process, which it definitely is -- it is just beginning -- I would really encourage the State to think about providing clearer directions, you know, thinking about having -- not just relying on a written one but having some sort of video conference to discuss it. And maybe you-all feel like it is not necessary and that is -- but I think the evidence might point to the contrary and --

MR. MILLER: Your Honor, I would want to say that, you know, the memorandum that Mr. Barnes drafted that was distributed by the elections director, that is not in a vacuum. They conduct monthly webinars. They send various instructions through Firefly. And those kind of things just haven't come into evidence in this case because it, frankly, wasn't at that point as much of a disputed issue.

We, frankly, thought we were talking about malware on ballot-marking devices. But suffice it to say, Your Honor, that there is a significant amount of additional kind of guidance and instructive material to the county superintendents throughout the election process through webinars and things of that nature.

THE COURT: Well --

MR. MILLER: And it touches on this and other issues. And, again, I could go into things that, frankly, are definitely not an issue in this case as to candidate

qualification challenges, things of that nature.

THE COURT: I think that this case deals with a variety of things that relate to the machine translating the vote cast by the citizen that walks into the booth or cast in a different way. So I'm just -- that is -- I'm just making these comments.

I encourage you because of the way the evidence came in and what it shows. I'm not saying -- I'm not in any way obviously in a position to say that you -- Mr. Miller, that the individual messages haven't gone out.

But the -- I still have the testimony in front of me. I have the January procedures, which are the official procedures from the Secretary of State about doing this -- preparing for an election that were in front of me. And then I have voters as well as others who were on the board -- on the boards' affidavits. So that is what I'm relying on in just mentioning it to you. But, you know --

MR. MILLER: I understand, Your Honor. I'm not trying to add additional evidence now.

THE COURT: I'm talking about the long run here. My interest is not -- you know, even though it is described as I'm interfering, my interest is in seeing that the voting system works and the voters' votes are counted and that there are no screwups on elections that end up having you back in court. That is -- and to deal with the case in front of me and to deal

with it in an honest and straightforward way.

And I wouldn't be having this conference otherwise so I can really understand what is going on. And --

MR. MILLER: We understand.

THE COURT: So this is a change. So that is what I'm dealing with.

I still would -- as soon as you do have the -- whatever the submission is from Pro V&V, I would like it to be submitted on the record so that we have it. And the same thing -- and what the submission is to the EAC.

And if there is any further clarification that is provided on L&A testing, I would like to be notified of that. Because right now I have -- I mean, this is exactly what I'm dealing with. I have to issue an order, and I don't want my order to be inaccurate in any respect factually.

You may contest the conclusions. But I don't want it to be inaccurate. And we have all worked really long enough to know that is a concern always.

All right. Now --

MR. MILLER: Yes, Your Honor. I apologize. And I do just to -- as we started off today, I do just want to reiterate that we are appreciative of that and your attention to this. And, frankly, the Secretary has the same goal of ensuring that the election can go forward in the most efficient and effective manner.

And, Your Honor, we are appreciative and will remain responsive to the Court's requests. But it is truly a -- you know, we are at crunch time. And our local election officials are trying to administer elections while they are performing inspections for the Coalition plaintiffs. Our State election officials are trying to help out. And in practical realities -- and I understand the Court did not intend -- and we did not intend to have a negative tone towards the Court.

THE COURT: All right. We'll look at -- when Ms. Welch gets her transcript out, I'll determine if there are any -- what portions of the video could be made available on the public docket.

I don't want to get myself in another problem with not having a hearing being in public that should be. And that's really again -- and there might be nothing here that is confidential.

But you are welcome to send me, just having participated in this, any of your position about this and about what portion should be in the public or if all of it can be in the public.

If you are going to do that, just simply so I can proceed on a timely basis, I would appreciate your letting me know -- let's see. It is 11:00 today. If you could let us know by 4:00.

MR. RUSSO: Your Honor, are we going to get a copy --

how do we go about doing that? Do we get a copy of the video?

I mean, I do think probably Dr. Coomer's testimony is something that may not need to be public. However, I just want to make sure we understand the process here. We review the video and send something to you or just --

THE COURT: Well, I think at this point I'm not sure we're going to be able to -- I have to find out from IT. If we have the video, we'll give it to you. And if not, you're going to have to just simply go by your recollection -- your joint recollection --

MR. RUSSO: Okay.

THE COURT: -- of counsel there.

MR. RUSSO: You say by 4:00 today?

THE COURT: By 4:00. But I'll let you -- we'll let you know right away whether we can get you a video.

MR. RUSSO: Okay. I didn't know how that -- I have never had a recording.

THE COURT: It is either yes or no that we can do it. All right.

MR. CROSS: Your Honor, could I ask just -- because it is something that may be breaking, we have heard a lot of new information today. Could we just have Dr. Halderman just briefly respond to a couple of points? Because it sounds like this is stuff you are considering for Your Honor's order.

THE COURT: All right. But I would like to release

Mr. Barnes so that he can go back to work, unless you have an objection.

MR. CROSS: No.

MR. BROWN: No objection.

THE COURT: All right. Mr. Barnes, you are -- you can go on with life.

MR. BARNES: Thank you, Your Honor.

THE COURT: All right. Thank you very much.

Go ahead.

MR. MILLER: Your Honor, before Dr. Halderman begins, because I don't want to interrupt, we just do want to state our objection on the record to the continued expansion of the evidence at issue.

THE COURT: Well, I think that to the extent that he has something useful that helps me understand what has been said, I think the plaintiffs have an opportunity to --

MR. RUSSO: It may be -- you know, to the extent that Dr. Coomer needs to listen to this -- and I don't know --

THE COURT: You can show -- you are welcome to try to reach Dr. Coomer. But it seemed like he had a conflict.

MR. RUSSO: I guess I could show him the video maybe.

THE COURT: Or you could get Ms. Welch --

MR. RUSSO: And he could respond to any --

THE COURT: You could see if you could get her to give you just his portion of the testimony.

MR. RUSSO: Okay. I just want to make sure we get to respond since there was a disputed issue earlier between the two.

THE COURT: Ms. Welch, are you able just to -- just produce Mr. Halderman's -- we don't know how long it is. But let's say it is 20 minutes. Are you able to do that -- turn that around fairly quickly?

COURT REPORTER: I can turn it all around very quickly, Judge. Whatever they ask of me, I do.

(There was a brief pause in the proceedings.)

THE COURT: All right. We'll get it to you one way or the other. Very good.

Can we unmute Dr. Halderman?

DR. HALDERMAN: Hello. Can you hear me, Your Honor?

THE COURT: Yes.

Mr. Cross, did you want to structure this and give him some questions?

MR. CROSS: Yeah. I mean, I think he's been listening.

Probably the easiest way is: Dr. Halderman, it sounds like there are a few points that you had to respond to. Go ahead.

DR. HALDERMAN: Yes, of course. And however I can be helpful to the Court in this manner.

First, just to respond to the point that Dr. Coomer

made about my suggestion in my most recent affidavit that procedural remedies could cure this problem, I think his response seems to indicate that the problem that we're attempting to or the State is attempting to fix here is a complex one, that it is possible to reproduce it but reproducing it reliably, he testified, requires operating with a simpler version of the ballot.

And that just gives me further concern about whether the software fix can be adequately tested given the time that is available.

Now, beyond that, I would like to reiterate the substance of the security concerns that I have. We have to be clear that even if the change to the source code is a small one, as Dominion says it is, the process of updating this software requires replacing completely the core of the Dominion software on every BMD.

We know that because the update instructions are to uninstall the APK, that is, the package that contains almost all of the Dominion software that runs on the ballot-marking device, and install a new APK, a new copy of all of that software.

So this is, frankly, quite alarming from a security perspective. Replacing the BMD software at this juncture so close to the election is an ideal opportunity for attackers who might want to infiltrate the machines.

If attackers have gained access to Dominion's systems, to Pro V&V's systems, to the CES systems, or to the county systems that are going to be creating and distributing this software change, that would be an opportunity for the attackers to subvert the software that runs on election day. And, frankly, none of the procedures I have heard described here today would be adequate to stop that.

So beyond the security questions, the change at this point seriously concerns me from an accuracy and correctness standpoint. As I said, the software change is fixing a problem that is complex to reproduce. It is difficult to test to ensure that the fix actually does correct that problem and that -- and it is virtually impossible at this last minute to thoroughly test that it doesn't create new problems.

So quite often last-minute changes to complex systems do create other unknown consequences. And while the previous version of the BMD software at least had been tested through use in elections, as Dr. Coomer testified millions of voters in aggregate, this new software has only existed for a matter of days.

I myself personally have spent more time testing the old version of the software than anyone has spent testing the new version of the software because it has only existed for such a short time.

Pro V&V hasn't even had an opportunity to write up

its findings. Those finding have not been reviewed by EAC, which has introduced this de minimis testing categorization for emergency fixes in small -- that are small in nature. But the State isn't even following that -- that special case process that has been put in place by EAC. It seems that that process itself is being circumvented. It just seems quite extreme in -- under these circumstances to forgo even that level of compliance.

I wanted to just briefly address the L&A procedures that we heard described. I think two key points about that are that the L&A testing we have heard about would be trivial for malware to detect and bypass. It has a very clear signature that the BMD can see, that ballots are being printed, that are being marked in the same position across every race.

It would be absolutely simple if you were programming malware for the BMDs to have it avoid cheating on ballots that are marked in the same position across each race.

So the security value of this L&A testing is minimal. And we have also heard -- and I think this point came out clearly for the first time today -- that the L&A testing isn't even checking to make sure that each BMD correctly produces a ballot for each -- for the entire set of candidates in every race.

You don't have to test necessarily every permutation of candidates in order to check that. But the least that I

would expect from an L&A procedure would be that it checks that each BMD can correctly mark a ballot for each candidate.

And as we have heard today, because of the length of the Senate race, many BMDs apparently will not even be tested to make sure that they can print a ballot that is marked for each candidate in the presidential race. And that concerns me because a particular BMD might have a corrupted somehow copy of the database -- of the programming that goes into it.

And the L&A procedures, as described, because they don't involve printing a ballot from each BMD that has been marked for every candidate, wouldn't be able to pick up that problem. You have to actually test that each candidate has been marked and can be tabulated correctly.

THE COURT: Wait a second.

DR. HALDERMAN: Apparently someone is sawing on the outside of my building, and I may have to quickly move to another room.

But I think I have addressed the points that I had in mind. But I'm very happy to answer any questions.

MR. CROSS: Dr. Halderman, just a couple of follow-up questions. And the Court may have questions or Mr. Russo.

In your experience looking at elections over the years, is there any election that comes to mind where a state was replacing the software with new software less than two weeks before the --

DR. HALDERMAN: No, nothing comes to mind. This is -- this is not a typical procedure to be going through. In an emergency, perhaps you would need to. But even then, it would be an extremely risky thing to be doing both from a correctness standpoint and from a security standpoint.

MR. CROSS: And just two final questions. Are there real world examples you have seen where a software change that even had been fully vetted and was intended to fix one discrete problem that that then had unintended consequences that were quite significant?

DR. HALDERMAN: Well, the most significant recent example, of course, is the 737 MAX aircraft where after most of the testing had been completed Boeing introduced what they believed was a relatively small design change to the control system that they didn't believe needed to be rigorously tested because it was the equivalent of de minimis.

But that unfortunately reportedly had fatal consequences and has been tied to crashes that have killed several hundred people. But I think that is an illustration. I think it is a good parallel because both the Georgia election system and the aircraft are examples of complex software systems.

Georgia's election system is millions of lines of source code that are in the Dominion products. And for that reason, small, even seemingly trivial changes can have

consequences that are difficult to understand.

It is just -- it is why we normally in the voting system testing and certification process demand such extended testing for accuracy. That kind of testing can't necessarily rule out security problems. But it does a lot to help ensure that votes are going to be counted correctly in the absence of an attacker.

And it is those processes that are being bypassed here and substituted with apparently less than a week of -- of very rapid-fire testing of some sort. Nothing like the testing that goes into a voting system in the course of a normal software change.

MR. CROSS: Last question, Dr. Halderman. You mentioned that the LAT, the logic and accuracy testing --

(There was a brief pause in the proceedings.)

MR. CROSS: Dr. Halderman, you said that there is a clear signature of testing under this L&A process. For example, the candidates are selected in the same position.

DR. HALDERMAN: Yes.

THE COURT: Does anyone have somebody speaking in the background?

(There was a brief pause in the proceedings.)

MR. CROSS: It seems like it got quieter. Is this better?

Okay. Let me try it again.

Dr. Halderman, the question was: You said that there is a clear signature for the machine to see that it is being tested during the logic and accuracy testing. One example, of course, is all the candidates are in the same position; right? They are all selected in Position 3.

Just to show the Court this is not a hypothetical concern, that the malware can trick the machine during testing, is there a real world example of where that has happened?

DR. HALDERMAN: Of where malware would -- of malware detecting such a thing?

MR. CROSS: Yes. Testing and then --

DR. HALDERMAN: Detecting testing. Well, of course, the prominent example of that is the BMW -- excuse me -- the Volkswagen emissions testing scandal, Dieselgate scandal, where Volkswagen programmed its emission systems to detect -- they were going through EPA testing and emit less pollutants under those circumstances.

So the parallel here is detect that the ballot has been marked in the same position across all races and in that case don't cheat; otherwise, cheat with some probability. That would be -- for malware running on a BMD, that would be absolutely a simple thing to program.

MR. CROSS: Thank you, Your Honor.

THE COURT: Let me just make sure I understand from your perspective what this meant in terms of the testing

that -- in terms of the printing of ballots. Any time -- any ballots -- let's say that there were -- because we were using the example previously of four, that there would not be ballots printed with -- that would reflect any other ballot choices as you -- as they -- for any of the -- any of the times where people had cast ballots for candidates five and onward.

DR. HALDERMAN: Yes, Your Honor. My understanding of the testimony we heard today is that one BMD would be used to print a ballot marked in the first position across every race, another the second position, another the third position, et cetera and that races that had fewer than that number of positions the race would just be left blank on the BMD that was being tested.

So each BMD produces one printout that is marked in one equivalent position across every race. And that, of course, has the problem that for a given BMD most of the possible positions that could be marked are not going to be exercised all the way through being printed and being tabulated.

So if a particular BMD has a database that is somehow corrupted and programmed differently from the other BMDs under testing, the problem would not be discovered.

THE COURT: All right. Anything else, Counsel?

MR. CROSS: Not for us, Your Honor. This is David Cross. If they want to ask questions, they are welcome to.

MR. RUSSO: Your Honor, I don't think we have any questions.

THE COURT: All right. Well, thank you-all very much.

MR. CROSS: Your Honor, I'm sorry. There was one final thing that we wanted to clear up if we could. Mr. Brown sent an email in this morning. I don't know if you saw it.

THE COURT: No, I did not.

MR. CROSS: We're just trying to confirm -- Mr. Tyson sent in an email indicating that there was a message that went out from Mr. Harvey clarifying that there were no new databases coming out as opposed to a software change. He indicated that message went to the counties on Tuesday. The copies that we have -- we have multiple copies from the counties -- indicated it went yesterday around the same time of Mr. Tyson's email.

Vincent or Carey, do you know when that actually went out to the counties?

MR. RUSSO: I mean, I believe that it is -- so we looked at it earlier -- what Bruce sent. Buzz is a webface. It is a web portal. So I think Mr. Harvey posted it on Buzz in accordance with what Mr. Tyson represented. And the email went out the following day due to however Buzz, the program, populates the email that automatically goes out.

MR. CROSS: Okay. Thank you.

That is all, Your Honor. Thank you.

THE COURT: All right. Thank you very much. And we'll be -- we'll be in touch. I mean, I'm trying to get an order out this week. So I appreciate everyone scurrying to get this in front of me.

MR. CROSS: Thank you, Your Honor.

MR. RUSSO: Thank you, Your Honor.

(The proceedings were thereby concluded at 11:32 A.M.)

C E R T I F I C A T E

UNITED STATES OF AMERICA

NORTHERN DISTRICT OF GEORGIA

I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of the United States District Court, for the Northern District of Georgia, Atlanta Division, do hereby certify that the foregoing 76 pages constitute a true transcript of proceedings had before the said Court, held in the City of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 1st day of October, 2020.

Shannon R. Welch

SHANNON R. WELCH, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT

Exh. 5



OFFICE OF SECRETARY OF STATE

I, Brad Raffensperger, Secretary of State of the State of Georgia, do hereby certify that

the Dominion Voting System (EAC Certification Number DVS-DemSuite5.5-A), consisting of the Democracy Suite 5.5-A Election Management System Version 5.5.12.1, EMS Adjudication Version 5.5.8.1, ImageCast X Prime (ICX BMD) Ballot Marking Device Version 5.5.10.30, ImageCast Precinct (ICP) Precinct Scanning Device Version 5.5.3-0002, and ImageCast Central (ICC) Central Scanning Device Version 5.5.3-0002, manufactured by Dominion Voting Systems, Inc., 1201 18th Street, STE 210, Denver, Colorado 80202, has been thoroughly examined and tested and found to be in compliance with the applicable provisions of the Georgia Election Code and Rules of the Secretary of State, and as a result of this inspection, it is my opinion that this kind of voting system and its components can be safely used by the electors of this state in all primaries and elections as provided in Chapter 2 of Title 21 of the Official Code of Georgia; provided however, that I hereby reserve my opinion to reexamine this voting system and its components at anytime so as to ensure that it continues to be one that can be safely used by the voters of this state.

Exh. 6

PRO V&V

VERIFICATION VALIDATION

Test Report

Dominion Voting Systems
D-Suite 5.5-A Voting System
Georgia State Certification Testing

Approved by: Michael L. Walker

Michael Walker, VSTL Project Manager

1 INTRODUCTION

The purpose of this Test Report is to document the procedures that Pro V&V, Inc. followed to perform certification testing of the Dominion Voting Systems D-Suite 5.5-A Voting System Voting System to the requirements set forth for voting systems in the State of Georgia Election Systems Certification Program.

1.1 Authority

The State of Georgia has a unified voting system whereby all federal, state, and county elections are to use the same voting equipment. Beginning in 2020, the unified voting system shall be an optical scanning voting system with ballot marking devices.

The Georgia Board of Elections, under the authority granted to it by the Georgia Election Code, has the duty to promulgate rules and regulations to obtain uniformity in the practices and procedures of local election officials as well as to ensure the fair, legal, and orderly conduct of primaries and elections. The Georgia Board of Elections is to investigate frauds and irregularities in primaries and elections and report violations for prosecution. It can issue orders, after the completion of appropriate proceedings, directing compliance with the Georgia Election Code.

The Georgia Secretary of State is designated as the Chief Election Official and is statutorily tasked with developing, programing, building, and reviewing ballots for use by counties and municipalities on the unified voting system in the state. The Georgia Election Code provides that the Secretary of State is to examine and approve an optical scanning voting system and ballot marking devices prior to their use in the state. County Boards of Elections (CBE) may only use an optical scanning voting system and ballot marking devices that have been approved and certified and that may be continuously reviewed for ongoing certification, by the Secretary of State. The Secretary of State has authority to decertify voting systems. The Secretary of State has promulgated rules and regulations that govern the voting system certification process.

1.2 References

The documents listed below were utilized in the development of this Test Report:

- Election Assistance Commission Testing and Certification Program Manual, Version 2.0
- Election Assistance Commission Voting System Test Laboratory Program Manual, Version 2.0

- National Voluntary Laboratory Accreditation Program NIST Handbook 150, 2016 Edition, "NVLAP Procedures and General Requirements (NIST HB 150-2016)", dated July 2016
- National Voluntary Laboratory Accreditation Program NIST Handbook 150-22, 2008 Edition, "Voting System Testing (NIST Handbook 150-22)", dated May 2008
- Pro V&V, Inc. Quality Assurance Manual, Revision 7.0
- United States 107th Congress Help America Vote Act (HAVA) of 2002 (Public Law 107-252), dated October 2002
- Dominion Voting Systems D-Suite 5.5-ATechnical Data Package

1.3 Terms and Abbreviations

The terms and abbreviations applicable to the development of this Test Plan are listed below:

"BMD" – Ballot Marking Device

"COTS" – Commercial Off-The-Shelf

"EAC" – Election Assistance Commission

"EMS" – Election Management System

"FCA" – Functional Configuration Audit

"PCA" – Physical Configuration Audit

"TDP" – Technical Data Package

"VSTL" – Voting System Test Laboratory

"2005 VVSG" – EAC 2005 Voluntary Voting Systems Guidelines

1.4 Background

The State of Georgia identified the Dominion Voting Systems D-Suite 5.5-A Voting System to be evaluated as part of this test campaign. This report documents the findings from that evaluation.

functions, which are essential to the conduct of an election in the State of Georgia, were evaluated.

The scope of this testing event incorporated a sufficient spectrum of physical and functional tests to verify that the D-Suite 5.5-A Voting System conformed to the State of Georgia requirements. Specifically, the testing event had the following goals:

- Ensure proposed voting systems provide support for all Georgia election management requirements (i.e. ballot design, results reporting, recounts, etc.).

- Simulate pre-election, Election Day, absentee, recounts, and post-election activities on the corresponding components of the proposed voting systems for the required election scenarios.

2 TEST CANDIDATE

The D-Suite 5.5-A Voting System is a paper-based optical scan voting system consisting of the following major components: The Election Management System (EMS), the ImageCast Central (ICC), the ImageCast Precinct (ICP), and the ImageCast X (ICX) BMD. The D-Suite 5.5-A Voting System configuration is a modification from the EAC approved D-Suite 5.0 system configuration. The D-Suite 5.5-A Voting System will be configured with the KNOWiNK Pollpad which utilizes the ePulse Epoll data management system, for voter registration purposes.

The following table provides the software and hardware components of the D-Suite 5.5-A Voting System that were tested, identified with versions and model numbers:

Table 2-1 D-Suite 5.5-A Voting System

D-Suite 5.5-A Voting System Component	Firmware/Software Version	Hardware Model
Software Applications		
EMS Election Event Designer (EED)	5.5.12.1	---
EMS Results Tally and Reporting (RTR)	5.5.12.1	---
EMS Application Server	5.5.12.1	---
EMS File System Service (FSS)	5.5.12.1	---
EMS Audio Studio (AS)	5.5.12.1	---
EMS Data Center Manager (DCM)	5.5.12.1	---
EMS Election Data Translator (EDT)	5.5.12.1	---
ImageCast Voter Activation (ICVA)	5.5.12.1	---

Table 2-1 D-Suite 5.5-A Voting System *(continued)*

D-Suite 5.5-A Voting System Component	Firmware/Software Version	Hardware Model
Device Configuration File (DCF)	5.4.01_20170521	---
Polling Place Scanner (PPS) and Peripherals		
ImageCast Precinct (ICP)	5.5.3-0002	PCOS-320C
ICP Ballot Box	---	BOX-330A
EMS Standard Configuration		
Dell Server R640	---	R640
Dell Precision 3430	---	3430
Dell Network Switch	---	X10206P
EMS Express Configuration		
Dell Precision 3420	---	3420
Dell Monitor	---	P2419H
Dell Network Switch	---	X1008
Central Scanning Device (CSD) Components		
ImageCast Central	5.5.3.0002	---
Canon DR-G1130 Scanner	---	DR-G1130
Canon DR-M160II Scanner	---	DR-M160II
Dell Optiplex 3050AIO Computer	Windows 10 Pro	3050AIO
ADA Compliant Ballot Marking Device		
Avalue ImageCast X Prime 21" BMD	5.5.10.30	HID-21V
HP M402dne Printer	---	M402dne
ePollbook Solution		
KNOWiNK Poll Pad	---	iPad Air Rev. 2
KNOWiNK ePulse Epoll Data Management System	---	---

2.1 Testing Configuration

The following is a breakdown of the D-Suite 5.5-A Voting System components and configurations for the test setup:

Standard Testing Platform (D-Suite 5.5-A):

The system will be configured in the EMS Standard configuration with an Adjudication

The precinct polling station setup will consist of ImageCast X Prime 21" BMD's and ImageCast Precinct tabulators with plastic ballot boxes. The ImageCast X Prime 21" BMD's will be set up as accessible voting stations.

The KNOWiNK Epollbook solution consisting of the Poll Pad and ePulse Epoll data management system, will be setup and interfaced as required with the EMS Standard configuration.

Dominion Voting Systems is expected to provide all previously identified software and equipment necessary for the test campaign along with the supporting materials listed in section 2.2. The State of Georgia is providing the election definitions and ballots.

Express Testing Platform (D-Suite 5.5-A):

The system will be configured in the EMS Express configuration. This platform will be used to test all scenarios as provided by the election definition.

The central office setup will be an EMS Express configuration accompanied by both Canon DR-G1130 and Canon DR-M160II Central Scan tabulators and their associated PC's.

The precinct polling station setup will consist of ImageCast X Prime 21" BMD's and ImageCast Precinct tabulators with plastic ballot boxes. The ImageCast X Prime 21" BMD's will be set up as accessible voting stations.

The KNOWiNK Epollbook solution consisting of the Poll Pad and ePulse Epoll data management system, will be setup and interfaced as required with the EMS Standard configuration.

Dominion Voting Systems provided all previously identified software and equipment necessary for the test campaign along with the supporting materials ,election definitions, and ballots

2.2 Test Support Equipment/Materials

The following materials, if required, were supplied by Dominion Voting Systems to facilitate testing:

- USB Flash Drives

- Ballot Paper
- Marking Devices
- Pressurized air cans
- Lint-free cloth
- Cleaning pad and isopropyl alcohol
- Labels
- Other materials and equipment as required

3 TEST PROCESS AND RESULTS

The following sections outline the test process that was followed to evaluate the D-Suite 5.5-A Voting System under the scope defined in Section 1.5.

3.1 General Information

All testing was conducted under the guidance of Pro V&V by personnel verified by Pro V&V to be qualified to perform the testing. The examination was performed at the Pro V&V, Inc. test facility located in Cummings Research Park, Huntsville, AL.

3.2 Testing Initialization

Prior to execution of the required test scenarios, the systems under test underwent testing initialization to establish the baseline for testing and ensure that the testing candidate matched the expected testing candidate and that all equipment and supplies were present.

The following were completed during the testing initialization:

- Ensure proper system of equipment. Check connections, power cords, keys, etc.
- Check version numbers of (system) software and firmware on all components.
- Verify the presence of only the documented COTS.
- Ensure removable media is clean
- Ensure batteries are fully charged.
- Inspect supplies and test decks

- Retain proof of version numbers.

3.3 Summary Findings

The voting system was evaluated against the requirements set forth for voting systems by the State of Georgia. A Conditions of Satisfaction Checklist was developed based on each identified test requirements. Throughout the test campaign, Pro V&V executed tests, inspected resultant data and performed technical documentation reviews to ensure that each applicable requirement was met. The Conditions of Satisfaction Checklist is presented in Section 4 of this test report. The Summary Findings from each area of evaluation are presented in the following sections.

3.3.1 Physical Configuration Audit (PCA) and Setup

Prior to test initiation, the D-Suite 5.5-A Voting System was subjected to a Physical Configuration Audit (PCA) to baseline the system and ensure all items necessary for testing were present. This process included validating that the hardware and software components received for testing matched hardware and software components proposed and demonstrated to the State during the RFP process. This process also included validating that the submitted components matched the software and hardware components which have obtained EAC certification to the Voluntary Voting System Guidelines (VVSG) Standard 1.0, by comparing the submitted components to the published EAC Test Report. The system was then setup as designated by the manufacturer supplied Technical Documentation Package (TDP).

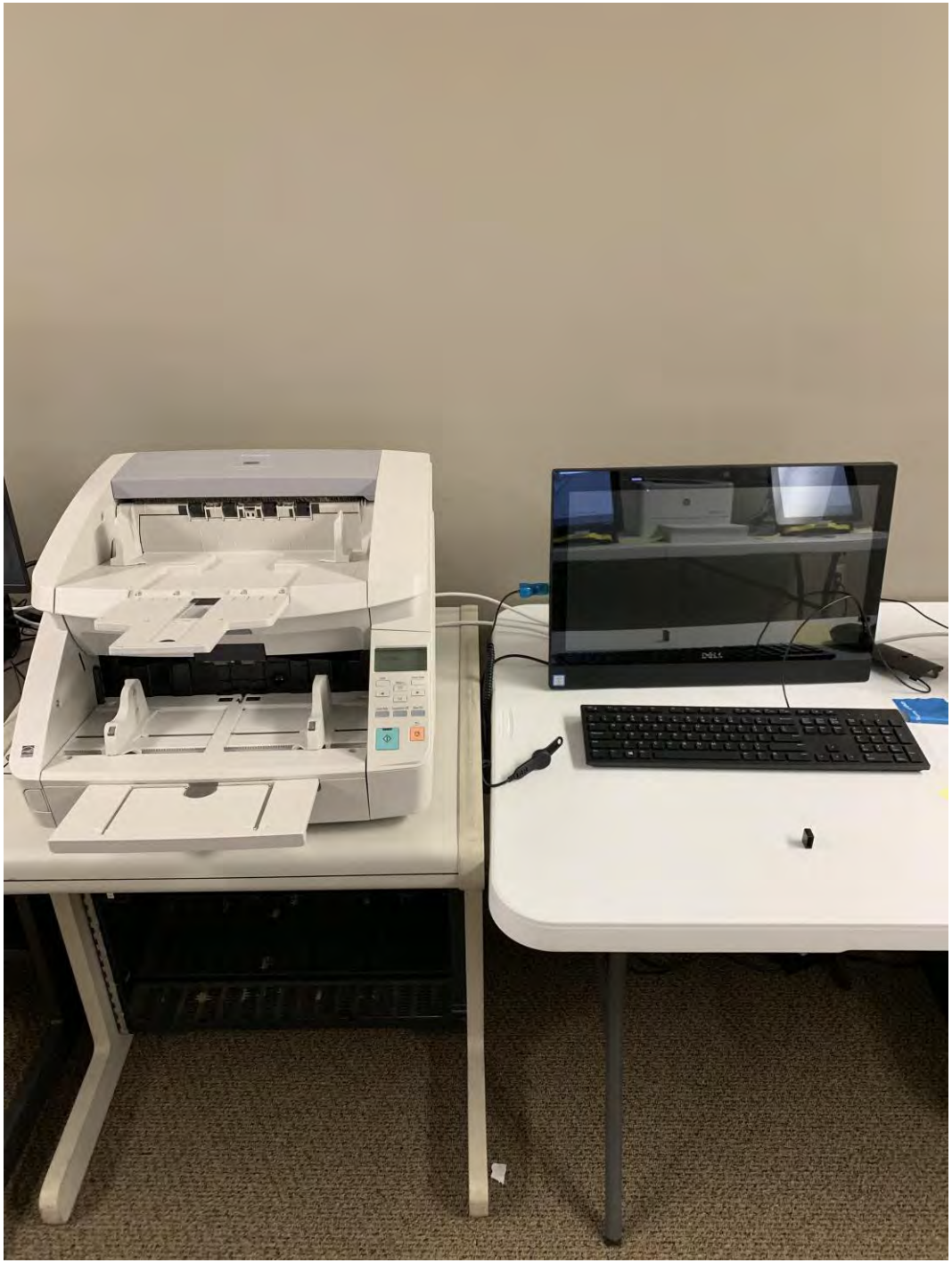
Photographs of the system components, as configured for testing, are presented below:



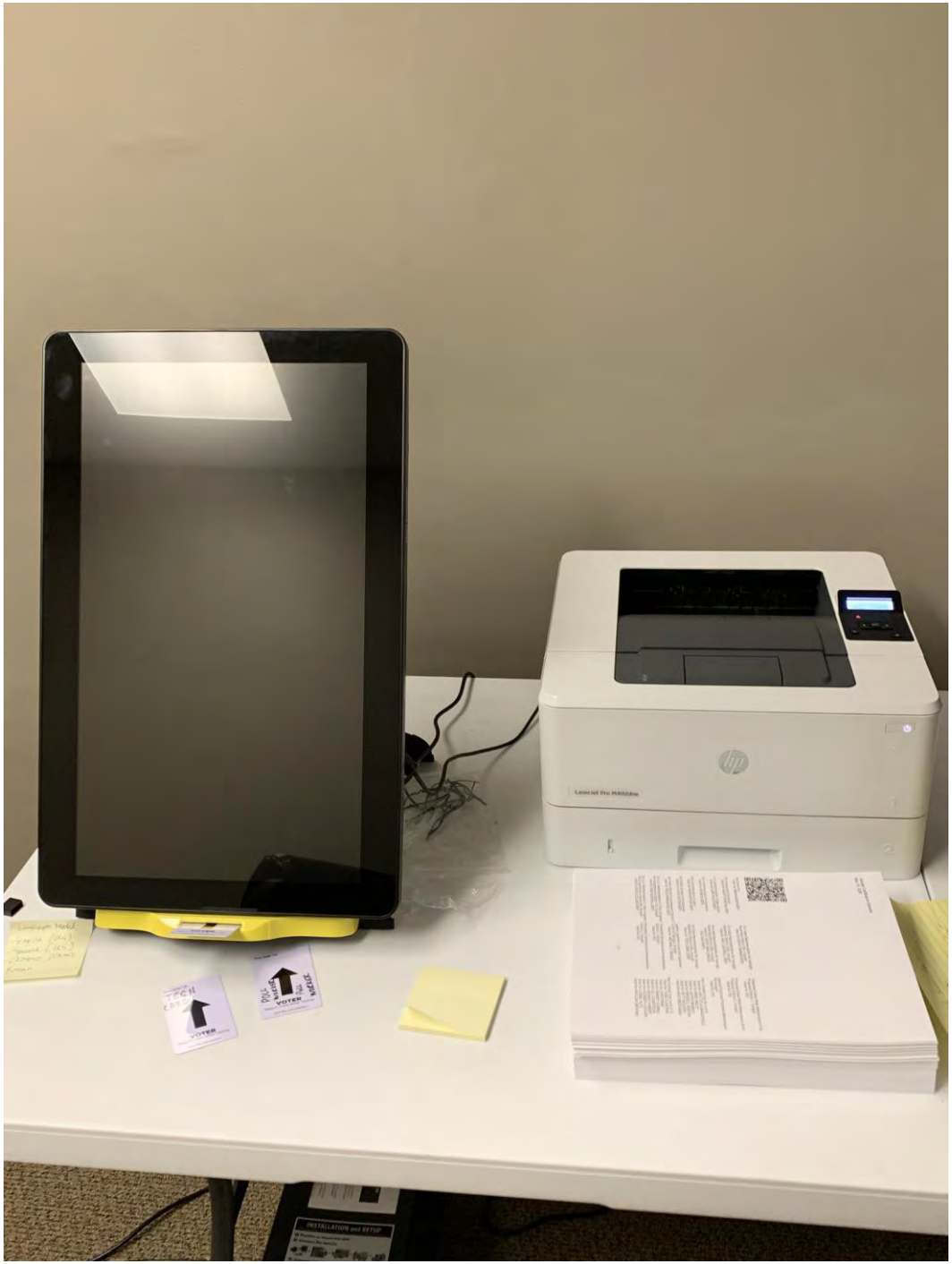
Photograph 1: EMS Express Configuration



Photograph 2: EMS Standard Configuration


DELL


DELL
Canon





Photograph 6: ePollbok

A pre-certification election was then loaded and an Operational Status Check was performed to verify satisfactory system operation. The Operational Status Check consisted of processing ballots and verifying the results obtained against known expected results from pre-determined

Summary Findings

During execution of the test procedure, the components of the D-Suite 5.5-A system were documented by component name, model, serial number, major component, and any other relevant information needed to identify the component. For COTS equipment, every effort was made to verify that the COTS equipment had not been modified for use. Additionally, the Operational Status Check was successfully completed with all actual results obtained during test execution matching the expected results.

3.3.2 System Level Testing

System Level Testing included the Functional Configuration Audit (FCA), the Accuracy Test, the Volume and Stress Test, and the System Integration Test. This testing included all proprietary components and COTS components (software, hardware, and peripherals).

During System Level Testing, the system was configured exactly as it would for normal field use per the manufacturer. This included connecting the supporting equipment and peripherals.

3.3.2.1 Functional Configuration Audit (FCA)

The Functional Configuration Audit (FCA) encompassed an examination of the system to the requirements set forth by the State of Georgia Election Systems Certification Program as designed in the Test Plan, and which are included in this report in the Conditions of Satisfaction Checklist.

Summary Findings

The D-Suite 5.5-A system successfully passed the FCA Tests without any noted issues. The individual testing requirements and their results can be seen in the included Conditions of Satisfaction Checklist.

3.3.2.2 Accuracy Testing

The Accuracy Test ensured that each component of the voting system could process at least 1,549,703 consecutive ballot positions correctly within the allowable target error rate. The Accuracy Test is designed to test the ability of the system to “capture, record, store, consolidate and report” specific selections and absences of a selection. The required accuracy is defined as

Summary Findings

The D-Suite 5.5-A system successfully passed the Accuracy Test. It was noted during test performance that the ICP under test experienced a memory lockup after scanning approximately 4500 ballots. The issue was presented to Dominion for resolution. Dominion provided the following analysis of the issue:

The ICP uClinux operating system does not have a memory management unit (MMU) and, as such, it can be susceptible to memory fragmentation. The memory allocation services within the ICP application are designed to minimize the effects of memory fragmentation. However, if the ICP scans a large number of ballots (over 4000), without any power cycle, it can experience a situation where the allocation of a large amount of memory can fail at the Operating System level due to memory fragmentation across the RAM. This situation produces an error message on the ICP which requires the Poll Worker to power cycle the unit, as documented. Once restarted, the ICP can continue processing ballots without issue. All ballots scanned and counted prior to the power cycle are still retained by the unit; there is no loss in data.

Pro V&V performed a power cycle, as instructed by Dominion, and verified that the issue was resolved and that the total ballot count was correct. Scanning then resumed with no additional issues noted.

A total of 1,569,640 voting positions were processed on the system with all actual results verified against the expected results. The individual testing requirements and their results can be seen in the included Conditions of Satisfaction Checklist.

3.3.2.3 Volume and Stress Testing

The Volume & Stress Tests consisted of tests designed to investigate the system's ability to meet the requirement limits and conditions set forth by the State of Georgia Election Systems Certification Program as designed in the Test Plan, and which are included in this report in the Conditions of Satisfaction Checklist.

Summary Findings

The D-Suite 5.5-A system successfully passed the Volume and Stress Tests without any noted issues. The individual testing requirements and their results can be seen in the included

3.3.2.4 System Integration Test

System Integration is a system level test that evaluates the integrated operation of both hardware and software. System Integration tests the compatibility of the voting system software components, or subsystems, with one another and with other components of the voting system environment. This functional test evaluates the integration of the voting system software with the remainder of the system.

During test performance, the system was configured as it would be for normal field use, with a new election created on the EMS and processed through the system components to final results.

Summary Findings

The D-Suite 5.5-A system successfully passed the System Integration Test without any noted issues. The individual testing requirements and their results can be seen in the included Conditions of Satisfaction Checklist.

3.3.3 e-Pollbook Testing

The ePolllbook Test evaluated the ability of the designated ePollbook to produced voter activation cards that could be successfully processed by the BMD.

Summary Findings

The D-Suite 5.5-A system successfully passed the ePollbook Test without any noted issues. The individual testing requirements and their results can be seen in the included Conditions of Satisfaction Checklist.

3.3.4 Ballot Copy Testing

The Ballot Copy Test evaluated the ability of a photocopy of a ballot produced by the system to be successfully processed by the system's tabulators.

Summary Findings

The D-Suite 5.5-A system successfully passed the Ballot Copy Test without any noted issues. The individual testing requirements and their results can be seen in the included Conditions of

3.3.5 Trusted Build and Software Hash Delivery

At test campaign conclusion, HASH signatures and software installation packets of the tested software were generated for delivery to the State of Georgia.

4 Conditions of Satisfaction

The voting system was evaluated against the requirements set forth for voting systems by the EAC 2005 VVSG and the State of Georgia. Throughout this test campaign, Pro V&V executed tests, inspected resultant data and performed technical documentation reviews to ensure that each applicable requirement was met. The Conditions of Satisfaction Checklist developed for this test campaign is presented in Table 4-1.

Table 4-1 Conditions of Satisfaction Checklist

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
FCA	Single FCA Test Election database(s) containing Republican and Democratic Primaries (Open Primary) and one Non-Partisan election	PASS
FCA	Database is being built for a single county jurisdiction	PASS
FCA	Republican Primary = 5 Races (1 statewide, 2 countywide, 3 county district level)	PASS
FCA	Democratic Primary = 5 Races (1 statewide, 1 countywide, 1 state district level, 2 county district level)	PASS
FCA	Non-Partisan Election = 1 Race (1 statewide)	PASS
FCA	Republican and Democratic races contain 1 to 8	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
FCA	Non-Partisan race contains 4 candidates and 1 write-in	PASS
FCA	All races are Vote for One	PASS
FCA	County contains 5 Precincts, for results reporting purposes	PASS
FCA	Each precinct is split at both state district and county district level	PASS
FCA	Election Day Voting [4 total], 1 Vote Center containing 2 precincts	PASS
FCA	Election Day Voting [4 total], 3 Polling Locations containing 1 precinct each	PASS
FCA	Advance Voting [2 total], Each polling location houses all 5 Precincts	PASS
FCA	Prepare election media from EMS to program PPS's (Polling Place Scanners) and BMD's for Advance Voting Polling locations	PASS
FCA	Prepare election media from EMS to program PPS's and BMD's for Election Day Polling locations	PASS
FCA	Prepare election media from EMS to program CSD's (Central Scan Devices) system for processing of mail-out absentee ballots and provisional ballots	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
FCA	Prepare election media from EMS to program CSD's for processing Advance Voting ballots generated by BMDs	PASS
FCA	Prepare election media from EMS to program CSD's for processing Election Day ballots generated by BMDs	PASS
FCA	Produce watermarked Sample ballots for public distribution	PASS
FCA	Prepare a test deck (Deck 1) of voted ballots with a known result using all available vote positions on all ballot styles generated by the test scenario, including write-ins, overvotes, undervotes, and blank ballots.	PASS
FCA	Prepare an Absentee test deck (Deck 2) of voted absentee ballots with a known result, to be used on the CSD, including write-ins, overvoted races, and blank ballots.	PASS
FCA	Vote test deck (Deck 1) on each BMD and print BMD ballots for each ballot in the test deck	PASS
FCA	Scan ballots created from the BMD's into the associated PPS's	PASS
FCA	Scan the Absentee test deck (Deck 2) on the CSD and confirm the CSD separates ballots by various conditions for physical review when scanning (i.e..	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
FCA	Prepare printouts from PPS's documenting results tabulated and verify them against test deck	PASS
FCA	Prepare printouts from CSD documenting results tabulates and verify them against test deck	PASS
FCA	Scan ballots created from BMD's on the CSD	PASS
FCA	Prepare printouts from CSD documenting results tabulated and verify them against Absentee test deck (Deck 2)	PASS
FCA	Upload to EMS the election media used in PPS and CSD devices	PASS
FCA	Prepare printouts from EMS documenting the results tabulated and verify them against test deck contents	PASS
FCA	Prepare printouts documenting results at various reporting levels:	PASS
FCA	Prepare printouts documenting results at various reporting levels: Precinct	PASS
FCA	Prepare printouts documenting results at various reporting levels: Polling Place	PASS
FCA	Prepare printouts documenting results at various reporting levels: vote Type	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
Accuracy	General election	PASS
Accuracy	21 Contests in election	PASS
Accuracy	2 Column Ballot	PASS
Accuracy	5 Precincts	PASS
Accuracy	Election is produced at County Level	PASS
Accuracy	No Counting Groups	PASS
Accuracy	Incumbency is supported	PASS
Accuracy	No Straight Party Voting	PASS
Accuracy	Non-Partisan contests only (Candidates are not directly linked to parties, but are labeled by party on the ballot)	PASS
	Parties (for labeling purposes): o Democratic	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
Accuracy	Write-Ins present in all races	PASS
Accuracy	Proposed State Wide Referendums	PASS
Accuracy	Advance Voting (Early Voting)	PASS
Accuracy	Elections for Judges are Non-Partisan	PASS
Accuracy	N of M Voting o Test N of M – 6 of 8 o Test N of M – 8 of 10	PASS
Accuracy	1000 Ballots printed from BMD using 3 units as follows (Unit 1: 250 ballots, unit 2: 250 ballots, unit 3: 500 ballots)	PASS
Accuracy	Run the Accuracy Test Election on BMD & Verify results against known expected results	PASS
Accuracy	Run the Accuracy Test Election on PPS & Verify results against known expected results	PASS
Accuracy	Run the Accuracy Test Election on CSD & Verify results against known expected results	PASS
Accuracy	Reporting: Winners: Contest reports review	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
Accuracy	Election Night Reporting: Export Election Night Results in the following formats: o Common Data Format (CDF)	PASS
Accuracy	Election Night Reporting: Export Election Night Results in the following formats: o Non-CDF	PASS
Accuracy	Accuracy in ballot counting and tabulation shall achieve 100% for all votes cast (1,549,703 ballot positions)	PASS
V&S	Volume & Stress Open Primary Election	PASS
V&S	400 Precincts	PASS
V&S	1 County	PASS
V&S	150 Ballot Styles	PASS
V&S	30 Ballot Styles in 1 Precinct	PASS
V&S	3 Languages (English, Spanish, Korean)	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
V&S	30 candidates in 1 contest	PASS
V&S	Referendum (Approximately 15000 words)	PASS
V&S	Referendum: Test using 10pt Arial Font (Currently used in State of Georgia)	PASS
V&S	Referendum: Test using 12pt Sans Serif font (To Accommodate future changes)	PASS
V&S	Referendum: Verify at Normal Size	PASS
V&S	Referendum: Verify when Zoomed-In (Text size increased)	PASS
V&S	Candidate Name Lengths – (Must support 25 characters) – Verify to make sure they display properly	PASS
V&S	Candidate Name Lengths – Check Translations	PASS
V&S	Candidate Name Lengths – Check appearance on BMD Printed Ballot	PASS
V&S	Candidate Name Lengths – Check appearance on Ballot Review Screen	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
V&S	Tabulator Reports – Tabulators print 3 copies of Zero Proof Reports, and Results Reports	PASS
V&S	Run the V&S Test Election on BMD & Verify results against known expected results	PASS
V&S	Run the V&S Test Election on PPS & Verify results against known expected results	PASS
V&S	Run the V&S Test Election on CSD & Verify results against known expected results	PASS
V&S	Reporting: Winners: Contest reports review	PASS
V&S	Reporting: Results: Precinct summary reports, precinct-based reporting, reporting by Congressional District Level	PASS
Epollbook	Verify that the Pollbook can program voter activation cards for BMD	PASS
Epollbook	Verify that voter activation cards activate the correct ballot styles when used on the BMD's	PASS
Ballot Copy	Verify whether or not a ballot produced by the BMD, can be photocopied, and then have the photocopied ballot be successfully cast on:	PASS

Table 4-1 Conditions of Satisfaction Checklist *(continued)*

DOMINION Conditions of Satisfaction Checklist		
Area	**Condition**	**Test Result**
System Integration	Run the SI Test Election on BMD & Verify results against known expected results	PASS
System Integration	Run the SI Test Election on PPS & Verify results against known expected results	PASS
System Integration	Run the SI Test Election on CSD & Verify results against known expected results	PASS
System Integration	Reporting: Winners: Contest reports review	PASS
System Integration	Reporting: Results: Precinct summary reports, precinct-based reporting, reporting by Congressional District Level	PASS

Exh. 7

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Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters

Andrew W. Appel[†]
Princeton University

Richard A. DeMillo[†]
Georgia Tech

Philip B. Stark[†]
Univ. of California, Berkeley

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Abstract

The complexity of U.S. elections usually requires computers to count ballots—but computers can be hacked, so election integrity requires a voting system in which paper ballots can be recounted by hand. However, paper ballots provide no assurance unless they accurately record the votes as expressed by the voters.

Voters can express their intent by indelibly hand-marking ballots, or using computers called ballot-marking device (BMDs). Voters can make mistakes in expressing their intent in either technology, but only BMDs are also subject to hacking, bugs, and misconfiguration of the software that prints the marked ballots. Most voters do not review BMD-printed ballots, and those who do often fail to notice when the printed vote is not what they expressed on the touchscreen. Furthermore, there is no action a voter can take to demonstrate to election officials that a BMD altered their expressed votes, nor is there a corrective action that election officials can take if notified by voters—there is no way to deter, contain, or correct computer hacking in BMDs. These are the essential security flaws of BMDs.

Risk-limiting audits can assure that the votes recorded on paper ballots are tabulated correctly, but no audit can assure that the votes on paper are the ones expressed by the voter on a touchscreen: Elections conducted on current BMDs cannot be confirmed by audits. We identify two properties of voting systems, *contestability* and *defensibility*, necessary for audits to confirm election outcomes. No available EAC-certified BMD is contestable or defensible.

[†]Authors are listed alphabetically; they contributed equally to this work.

1 Introduction: Criteria for Voting Systems

Elections for public office and on public questions in the United States or any democracy must produce outcomes based on the votes that voters *express* when they indicate their choices on a paper ballot or on a machine. Computers have become indispensable to conducting elections, but computers are vulnerable. They can be hacked—compromised by insiders or external adversaries who can replace their software with fraudulent software that deliberately miscounts votes—and they can contain design errors and bugs—hardware or software flaws or configuration errors that result in mis-recording or mis-tabulating votes. Hence there must be some way, *independent* of any software in any computers, to ensure that reported election outcomes are correct, i.e., consistent with the expressed votes as intended by the voters.

Voting systems should be *software independent*, meaning that "an undetected change or error in its software cannot cause an undetectable change or error in an election outcome" [30, 31, 32]. Software independence is similar to tamper-evident packaging: if somebody opens the container and disturbs the contents, it will leave a trace.

The use of software-independent voting systems is supposed to ensure that if someone fraudulently hacks the voting machines to steal votes, we'll know about it. But we also want to know *the true outcome* in order to avoid a do-over election.[1] A voting system is *strongly software independent* if it is software independent and, moreover, a detected change or error in an election outcome (due to change or error in the software) can be corrected using only the ballots and ballot records of the current election [30, 31]. Strong software independence combines tamper evidence with a kind of resilience: there's a way to tell whether faulty software caused a problem, and a way to recover from the problem if it did.

Software independence and *strong software independence* are now standard terms in the analysis of voting systems, and it is widely accepted that voting systems should be software independent. Indeed, version 2.0 of the Voluntary Voting System Guidelines (VVSG 2.0) incorporates this principle [11].

But as we will show, these standard definitions are incomplete and inadequate, because the word *undetectable* hides several important questions: *Who* detects the change or error in an election outcome? How can a person *prove* that she has detected an er-

[1] Do-overs are expensive; they may delay the inauguration of an elected official; there is no assurance that the same voters will vote in the do-over election as voted in the original; they decrease public trust. And if the do-over election is conducted with the same voting system that can only detect but not correct errors, then there may need to be a do-over of the do-over, *ad infinitum.*

ror? *What happens* when someone detects an error—does the election outcome remain erroneous? Or conversely: How can an election administrator *prove* that the election outcome not been altered, or prove that the correct outcome was recovered if a software malfunction was detected? The standard definition does not distinguish evidence available to an election official, to the public, or just to a single voter; nor does it consider the possibility of false alarms.

Those questions are not merely academic, as we show with an analysis of ballot-marking devices. Even if some *voters* "detect" that the printed output is not what they expressed to the BMD—even if some of *those* voters report their detection to election officials—there is no mechanism by which the *election official* can "detect" whether a BMD has been hacked to alter election outcomes. The questions of *who detects, and then what happens,* are critical—but unanswered by the standard definitions.

We will define the terms *contestable* and *defensible* to better characterize properties of voting systems that make them acceptable for use in public elections.[2]

A voting system is *contestable* if an undetected change or error in its software that causes a change or error in an election outcome can always produce *public* evidence that the outcome is untrustworthy. For instance, if a voter selected candidate A on the touchscreen of a BMD, but the BMD prints candidate B on the paper ballot, then this A-vs-B evidence is available to the individual voter, but the voter cannot demonstrate this evidence to anyone else, since nobody else saw—nor should have seen—where the voter touched the screen.[3] Thus, the voting system does not provide a way for the voter who observed the misbehavior to prove to anyone else that there was a problem, even if the problems altered the reported outcome. Such a system is therefore not *contestable*.

While the definition of software independence might allow evidence available only to individual voters as "detection," such evidence does not suffice for a system to be contestable. Contestibility is software independence, plus the requirement that "detect" implies "can generate public evidence." "Trust me" does not count as public evidence. If a voting system is not contestable, then problems voters "detect" might never see the light of day, much less be addressed or corrected.[4]

[2]There are other notions connected to contestability and defensibility, although essentially different: Benaloh et al. [6] define a *P-resilient canvass framework*, *personally verifiable P-resilient canvass framework*, and *privacy-perserving personally verifiable P-resilient canvass frameworks*.

[3]See footnote 17.

[4]If voters are the only means of detecting and quantifying the effect of those problems—as they are for BMDs—then in practice the system is not strongly software independent. The reason is that, as we will show, such claims by (some) voters *cannot* correct software-dependent changes to other voters' ballots, and *cannot* be used as the basis to invalidate or correct an election outcome. Thus, BMD-based

Similarly, while strong software independence demands that a system be able to report the correct outcome even if there was an error or alteration of the software, it does not require *public evidence* that the (reconstructed) reported outcome is correct. We believe, therefore, that voting systems must also be *defensible*. We say that a voting system is defensible if, when the reported electoral outcome is correct, it is possible to generate convincing public evidence that the reported electoral outcome is correct—despite any malfunctions, software errors, or software alterations that might have occurred. If a voting system is not defensible, then it is vulnerable to "crying wolf": malicious actors could claim that the system malfunctioned when in fact it did not, and election officials will have no way to prove otherwise.

By analogy with *strong software independence*, we define: A voting system is *strongly defensible* if it is defensible and, moreover, a detected change or error in an election outcome (due to change or error in the software) can be corrected (with convincing public evidence) using only the ballots and ballot records of the current election.

In short, a system is contestable if it can generate public evidence of a problem whenever a reported outcome is wrong, while a system is defensible if it can generate public evidence whenever a reported outcome is correct—despite any problems that might have occurred. Contestable systems are publicly tamper-evident; defensible systems are publicly, demonstrably resilient.

Defensibility is a key requirement for *evidence-based elections* [39]: defensibility makes it possible in principle for election officials to generate convincing evidence that the reported winners really won—if the reported winners did really win. (We say an election *system* may be defensible, and an *election* may be evidence-based; there's much more *process* to an election than just the choice of system.)

Examples. The only known practical technology for contestable, strongly defensible voting is a system of *hand-marked paper ballots*, kept demonstrably physically secure, counted by machine, audited manually, and recountable by hand.[5] In a hand-marked paper ballot election, ballot-marking software cannot be the source of an error or change-of-election-outcome, because no software is used in marking ballots. Ballot-scanning-and-counting software can be the source of errors, but such errors can be

election systems are not even (weakly) software independent, unless one takes "detection" to mean "somebody claimed there was a problem, with no evidence to support that claim."

[5]The election must also generate convincing evidence that physical security of the ballots was not compromised, and the audit must generate convincing public evidence that the audit itself was conducted correctly.

detected and corrected by audits.

That system is *contestable:* if an optical scan voting machine reports the wrong outcome because it miscounted (because it was hacked, misprogrammed, or miscalibrated), the evidence is *public*: the paper ballots, recounted before witnesses, will not match the claimed results, also witnessed. It is *strongly defensible:* a recount before witnesses can demonstrate that the reported outcome is correct, or can find the correct outcome if it was wrong—and provide public evidence that the (reconstructed) outcome is correct. See Section 4 for a detailed analysis.

Over 40 states now use some form of paper ballot for most voters [19]. Most of the remaining states are taking steps to adopt paper ballots. But *not all voting systems that use paper ballots are equally secure*.

Some are not even software independent. Some are software independent, but not strongly software independent, contestable, or defensible. In this report we explain:

- *Hand-marked paper ballot* systems are the only practical technology for contestable, strongly defensible voting systems.
- *Some ballot-marking devices (BMDs)* can be software independent, but they not strongly software independent, contestable, or defensible. Hacked or misprogrammed BMDs can alter election outcomes undetectably, so elections conducted using BMDs cannot provide public evidence that reported outcomes are correct. If BMD malfunctions are detected, there is no way to determine who really won. Therefore BMDs should not be used by voters who are able to mark an optical-scan ballot with a pen.
- *All-in-one BMD or DRE+VVPAT voting machines* are not software independent, contestable, or defensible. They should not be used in public elections.

2 Background

We briefly review the kinds of election equipment in use, their vulnerability to computer hacking (or programming error), and in what circumstances risk-limiting audits can mitigate that vulnerability.

Voting equipment

Although a voter may form an intention to vote for a candidate or issue days, minutes, or seconds before actually casting a ballot, that intention is a psychological state that cannot be directly observed by anyone else. Others can have access to that intention through what the voter (privately) *expresses* to the voting technology by interacting with it, e.g., by making selections on a BMD or marking a ballot by hand.[6] Voting systems must accurately record the vote as the voter *expressed* it.

With a *hand-marked paper ballot optical-scan* system, the voter is given a paper ballot on which all choices (candidates) in each contest are listed; next to each candidate is a *target* (typically an oval or other shape) which the voter marks with a pen to indicate a vote. Ballots may be either preprinted or printed (unvoted) at the polling place using *ballot on demand* printers. In either case, the voter creates a tamper-evident record of intent by marking the printed paper ballot with a pen.

Such hand-marked paper ballots may be scanned and tabulated at the polling place using a *precinct-count optical scanner* (PCOS), or may be brought to a central place to be scanned and tabulated by a *central-count optical scanner* (CCOS). Mail-in ballots are typically counted by CCOS machines.

After scanning a ballot, a PCOS machine deposits the ballot in a secure, sealed ballot box for later use in recounts or audits; this is *ballot retention*. Ballots counted by CCOS are also retained for recounts or audits.[7]

Paper ballots can also be hand counted, but in most jurisdictions (especially where there are many contests on the ballot) this is hard to do quickly; Americans expect election-night reporting of unofficial totals. Hand counting—i.e., manually determining votes directly from the paper ballots—is appropriate for audits and recounts.

A *ballot-marking device* (BMD) provides a computerized user interface that presents

[6] We recognize that voters make mistakes in expressing their intentions. For example, they may misunderstand the layout of a ballot or express an unintended choice through a perceptual error, inattention, or lapse of memory. The use of touchscreen technology does not necessarily correct for such user errors, as every smartphone user who has mistyped an important text message knows. Poorly designed ballots, poorly designed touchscreen interfaces, and poorly designed assistive interfaces increase the rate of error in voters' expressions of their votes. For the purposes of this report, we assume that properly engineered systems seek to minimize such usability errors.

[7] Regulations and procedures governing custody and physical security of ballots are uneven and in many cases inadequate, but straightforward to correct because of decades of development of best practices.

the ballot to voters and captures their expressed selections—for instance, a touchscreen interface or an assistive interface that enables voters with disabilities to vote independently. Voter inputs (expressed votes) are recorded electronically. When a voter indicates that the ballot is complete and ready to be cast, the BMD prints a paper version of the electronically marked ballot. We use the term *BMD* for devices that mark ballots but do not tabulate or retain them, and *all-in-one* for devices that combine ballot marking, tabulation, and retention into the same paper path.

The paper ballot printed by a BMD may be in the same format as an optical-scan form (e.g., with ovals filled as if by hand) or it may list just the names of the candidate(s) selected in each contest. The BMD may also encode these selections into barcodes or QR codes for optical scanning. We discuss issues with barcodes later in this report.

An *all-in-one touchscreen voting machine* combines computerized ballot marking, tabulation, and retention in the same paper path. All-in-one machines come in several configurations:

- DRE+VVPAT machines—direct-recording electronic (DRE) voting machines with a voter-verifiable paper audit trail (VVPAT)—provide the voter a touchscreen (or other) interface, then print a paper ballot that is displayed to the voter under glass. The voter is expected to review this ballot and approve it, after which the machine deposits it into a ballot box. DRE+VVPAT machines do not contain optical scanners; that is, they do not read what is marked on the paper ballot; instead, they tabulate the vote directly from inputs to the touchscreen or other interface.
- BMD+Scanner all-in-one machines[8] provide the voter a touchscreen (or other) interface to input ballot choices and print a paper ballot that is ejected from a slot for the voter to inspect. The voter then reinserts the ballot into the slot, after which the all-in-one BMD+scanner scans it and deposits it into a ballot box. Or, some BMD+Scanner all-in-one machines display the paper ballot behind plexiglass for the voter to inspect, before mechanically depositing it into a ballot box.

Opscan+BMD with separate paper paths. At least one model of voting machine (the Dominion ICP320) contains an optical scanner (opscan) and a BMD in the same cabinet,[9] so that the optical scanner and BMD-printer are not in the same paper path; no possible configuration of the software could cause a BMD-marked ballot to be deposited in the ballot box without human handling of the ballot. We do not classify this as an *all-in-one* machine.

[8] Some voting machines, such as the ES&S ExpressVote, can be configured as either a BMD or a BMD+Scanner all-in-one. Others, such as the ExpressVoteXL, work only as all-in-one machines.

[9] More precisely, the ICP320 optical scanner and the BMD audio+buttons interface are in the same cabinet, but the printer is a separate box.

Hacking

There are many forms of computer hacking. In this analysis of voting machines we focus on the alteration of voting machine software so that it miscounts votes or mismarks ballots to alter election outcomes. There are many ways to alter the software of a voting machine: a person with physical access to the computer can open it and directly access the memory; one can plug in a special USB thumbdrive that exploits bugs and vulnerabilities in the computer's USB drivers; one can connect to its WiFi port or Bluetooth port or telephone modem (if any) and exploit bugs in those drivers, or in the operating system.

"Air-gapping" a system (i.e., never connecting it to the Internet nor to any other network) does not automatically protect it. Before each election, election administrators must transfer a *ballot definition* into the voting machine by inserting a *ballot definition cartridge* that was programmed on election-administration computers that may have been connected previously to various networks; it has been demonstrated that vote-changing viruses can propagate via these ballot-definition cartridges [18].

Hackers might be corrupt insiders with access to a voting-machine warehouse; corrupt insiders with access to a county's election-administration computers; outsiders who can gain remote access to election-administration computers; outsiders who can gain remote access to voting-machine manufacturers' computers (and "hack" the firmware installed in new machines, or the firmware updates supplied for existing machines), and so on. Supply-chain hacks are also possible: the hardware installed by a voting system vendor may have malware pre-installed by the vendor's component suppliers.[10]

Computer systems (including voting machines) have so many layers of software that it is impossible to make them perfectly secure [24, pp. 89–91]. When manufacturers of voting machines use the best known security practices, adversaries may find it more difficult to hack a BMD or optical scanner—but not impossible. Every computer in every critical system is vulnerable to compromise through hacking, insider attacks or exploiting design flaws.

[10]Given that many chips and other components are manufactured in China and elsewhere, this is a serious concern. Carsten Schürmann has found Chinese pop songs on the internal memory of voting machines (C. Schürmann, personal communication, 2018). Presumably those files were left there accidentally—but this shows that malicious code *could* have been pre-installed deliberately, and that neither the vendor's nor the election official's security and quality control measures discovered and removed the extraneous files.

Election assurance through risk-limiting audits

To ensure that the reported electoral outcome of each contest corresponds to what the voters expressed, the most practical known technology is a *risk-limiting audit* (RLA) of trustworthy paper ballots [35, 36, 23]. The National Academies of Science, Engineering, and Medicine, recommend routine RLAs after every election [24], as do many other organizations and entities concerned with election integrity.[11]

The *risk limit* of a risk-limiting audit is the maximum chance that the audit will not correct the reported electoral outcome, if the reported outcome is wrong. "Electoral outcome" means the political result—who or what won—not the exact tally. "Wrong" means that the outcome does not correspond to what the voters expressed.

A RLA involves manually inspecting randomly selected paper ballots following a rigorous protocol. The audit stops if and when the sample provides convincing evidence that the reported outcome is correct; otherwise, the audit continues until every ballot has been inspected manually, which reveals the correct electoral outcome if the paper trail is trustworthy. RLAs protect against vote-tabulation errors, whether those errors are caused by failures to follow procedures, misconfiguration, miscalibration, faulty engineering, bugs, or malicious hacking.[12]

The risk limit should be determined as a matter of policy or law. For instance, a 5% risk limit means that, if a reported outcome is wrong solely because of tabulation errors, there is at least a 95% chance that the audit procedure will correct it. Smaller risk limits give higher confidence in election outcomes, but require inspecting more ballots, other things being equal. RLAs never revise a correct outcome.

RLAs can be very efficient, depending in part on how the voting system is designed and how jurisdictions organize their ballots. If the computer results are accurate, an efficient RLA with a risk limit of 5% requires examining just a few—about 7 divided by the margin—ballots selected randomly from the contest.[13] For instance, if the margin of victory is 10% and the results are correct, the RLA would need to examine about $7/10\% = 70$ ballots to confirm the outcome at 5% risk. For a 1% margin, the RLA would need to examine about $7/1\% = 700$ ballots. The sample size does not depend

[11] Among them are the Presidential Commission on Election Administration, the American Statistical Association, the League of Women Voters, and Verified Voting Foundation.

[12] RLAs do not protect against problems that cause BMDs to print something other than what was shown to the voter on the screen, nor do they protect against problems with ballot custody.

[13] Technically, it is the *diluted margin* that enters the calculation. The diluted margin is the number of votes that separate the winner with the fewest votes from the loser with the most votes, divided by the number of ballots cast, including undervotes and invalid votes.

much on the total number of ballots cast in the contest, only on the margin of the winning candidate's victory.

RLAs assume that a full hand tally of the paper trail would reveal the correct electoral outcomes: the paper trail must be trustworthy. Other kinds of audits, such as *compliance audits* [6, 23, 39, 37] are required to establish whether the paper trail itself is trustworthy. Applying an RLA procedure to an untrustworthy paper trail cannot limit the risk that a wrong reported outcome goes uncorrected.

Properly preserved hand-marked paper ballots ensure that expressed votes are identical to recorded votes. But BMDs might not record expressed votes accurately, for instance, if BMD software has bugs, was misconfigured, or was hacked: BMD printout is not a trustworthy record of the expressed votes. Neither a compliance audit nor a RLA can possibly check whether errors in recording expressed votes altered election outcomes. RLAs that rely on BMD output therefore cannot limit the risk that an incorrect reported election outcome will go uncorrected.

A paper-based voting system (such as one that uses optical scanners) is systematically more secure than a paperless system (such as DREs) *only if the paper trail is trustworthy and the results are checked against the paper trail using a rigorous method such as an RLA or full manual tally*. If it is possible that error, hacking, bugs, or miscalibration caused the recorded-on-paper votes to differ from the expressed votes, an RLA or even a full hand recount cannot not provide convincing public evidence that election outcomes are correct: such a system cannot be *defensible*. In short, paper ballots provide little assurance against hacking if they are never examined or if the paper might not accurately reflect the votes expressed by the voters.

3 (Non)Contestability/Defensibility of BMDs

A BMD-generated paper trail is not a reliable record of the vote expressed by the voter. Like any computer, a BMD (or a DRE+VVPAT) is vulnerable to bugs, misconfiguration, hacking, installation of unauthorized (fraudulent) software, and alteration of installed software.

If a hacker sought to steal an election by altering BMD software, what would the hacker program the BMD to do? In cybersecurity practice, we call this the *threat model*.

The simplest threat model is this one: In some contests, not necessarily top-of-the-ticket, change a small percentage of the votes (such as 5%).

In recent national elections, analysts have considered a candidate who received 60% of the vote to have won by a landslide. Many contests are decided by less than a 10% margin. Changing 5% of the votes can change the margin by 10%, because "flipping" a vote for one candidate into a vote for a different candidate changes the difference in their tallies—i.e., the margin—by 2 votes. If hacking or bugs or misconfiguration could change 5% of the votes, that would be a very significant threat.

Although public and media interest often focus on top-of-the-ticket races such as President and Governor, elections for lower offices such as state representatives, who control legislative agendas and redistricting, and county officials, who manage elections and assess taxes, are just as important in our democracy. Altering the outcome of smaller contests requires altering fewer votes, so fewer voters are in a position to notice that their ballots were misprinted. And most voters are not as familiar with the names of the candidates for those offices, so they might be unlikely to notice if their ballots were misprinted, even if they checked.

Research in a real polling place in Tennessee during the 2018 election, found that half the voters *didn't look at all* at the paper ballot printed by a BMD, even when they were holding it in their hand and directed to do so while carrying it from the BMD to the optical scanner [14]. Those voters who did look at the BMD-printed ballot spent *an average of 4 seconds* examining it to verify that the eighteen or more choices they made were correctly recorded. That amounts to 222 milliseconds per contest, barely enough time for the human eye to move and refocus under perfect conditions and not nearly enough time for perception, comprehension, and recall [28]. A study by other researchers [8], in a simulated polling place using real BMDs deliberately hacked to alter one vote on each paper ballot, found that only 6.6% of voters told a pollworker something was wrong.[14][15] The same study found that among voters who examined their hand-marked ballots, half were unable to recall key features of ballots cast moments before, a prerequisite step for being able to recall their own ballot choices. This finding is broadly consistent with studies of effects like "change blindness" or "choice blindness," in which human subjects fail to notice changes made to choices

[14] You might think, "the voter really *should* carefully review their BMD-printed ballot." But because the scientific evidence shows that voters *do not* [14] and cognitively *cannot* [17] perform this task well, legislators and election administrators should provide a voting system that counts the votes *as voters express them*.

[15] Studies of voter confidence about their ability to verify their ballots are not relevant: in typical situations, subjective confidence and objective accuracy are at best weakly correlated. The relationship between confidence and accuracy has been studied in contexts ranging from eyewitness accuracy [9, 13, 42] to confidence in psychological clinical assessments [15] and social predictions [16]. The disconnect is particularly severe at high confidence. Indeed, this is known as "the overconfidence effect." For a lay discussion, see *Thinking, Fast and Slow* by Nobel economist Daniel Kahnemann [21].

made only seconds before [20].

Suppose, then, that 10% of voters examine their paper ballots carefully enough to even *see* the candidate's name recorded as their vote for legislator or county commissioner. Of those, perhaps only half will remember the name of the candidate they intended to vote for.[16]

Of those who notice that the vote printed is not the candidate they intended to vote for, what will they think, and what will they do? Will they think, "Oh, I must have made a mistake on the touchscreen," or will they think, "Hey, the machine is cheating or malfunctioning!" There's no way for the voter to know for sure—voters do make mistakes—and there's *absolutely* no way for the voter to prove to a pollworker or election official that a BMD printed something other than what the voter entered on the screen.[17][18]

Either way, polling-place procedures generally advise voters to ask a pollworker for a new ballot if theirs does not show what they intended. Pollworkers should void that BMD-printed ballot, and the voter should get another chance to mark a ballot. Anecdotal evidence suggests that many voters are too timid to ask, or don't know that they have the right to ask, or are not sure whom to ask. Even if a voter asks for a new ballot, training for pollworkers is uneven, and we are aware of no formal procedure for resolving disputes if a request for a new ballot is refused. Moreover, there is no sensible protocol for ensuring that BMDs that misbehave are investigated—nor can there be, as we argue below.

Let's summarize. If a machine alters votes on 5% of the ballots (enabling it to change the margin by 10%), and 10% of voters check their ballots carefully and 50% of the voters who check notice the error, then optimistically we might expect $5\% \times 10\% \times 50\%$ or 0.25% of the voters to request a new ballot and correct their vote.[19] This

[16] We ask the reader, "do you know the name of the most recent losing candidate for county commissioner?" We recognize that some readers of this document *are* county commissioners, so we ask those readers to imagine the frame of mind of their constituents.

[17] You might think, "the voter can prove it by showing someone that the vote on the paper doesn't match the vote onscreen." But that won't work. On a typical BMD, by the time a paper record is printed and ejected for the voter to hold and examine, the touchscreen no longer shows the voter's choice. You might think, "BMDs should be designed so that the choices still show on the screen for the voter to compare with the paper." But a hacked BMD could easily alter the on-screen choices to match the paper, *after* the voter hits the "print" button.

[18] Voters should *certainly not* videorecord themselves voting! That would defeat the privacy of the secret ballot and is illegal in most jurisdictions.

[19] This calculation assumes that the 10% of voters who check are in effect a random sample of voters: voters' propensity to check BMD printout is not associated with their political preferences.

means that the machine will change the margin by 9.75% and get away with it.

In this scenario, 0.25% of the voters, one in every 400 voters, has requested a new ballot. You might think, "that's a form of *detection* of the hacking." But is isn't, as a practical matter: a few individual voters may have detected that there was a problem, but there's no procedure by which this translates into any action that election administrators can take to correct the outcome of the election. Polling-place procedures *cannot correct or deter hacking, or even reliably detect it*, as we discuss next. This is essentially the distinction between a system that is merely software independent and one that is contestable: a change to the software that alters the outcome might generate evidence for an alert, conscientious, individual voter, but it does not generate public evidence that an election official can rely on to conclude there is a problem.

Even if some voters notice that BMDs are altering votes, there's no way to correct the election outcome. That is, BMD voting systems are *not contestable*, *not defensible* (and therefore *not strongly defensible*), and *not strongly software independent*. Suppose a state election official wanted to detect whether the BMDs are cheating, and correct election results, based on actions by those few alert voters who notice the error. What procedures could possibly work against the manipulation we are considering?

1. How about, "If at least 1 in 400 voters claims that the machine misrepresented their vote, void the entire election."[20] No responsible authority would implement such a procedure. A few dishonest voters could collaborate to invalidate entire elections simply by falsely claiming that BMDs changed their votes.
2. How about, "If at least 1 in 400 voters claims that the machine misrepresented their vote, then investigate." Investigations are fine, but then what? The only way an investigation can ensure that the outcome accurately reflects what voters expressed to the BMDs is to void an election in which the BMDs have altered votes and conduct a new election. But how do you know whether the BMDs have altered votes, except based the claims of the voters?[21] Furthermore, the investigation itself would suffer from the same problem as above: how can one

[20]Note that in many jurisdictions, far fewer than 400 voters use a given machine on election day: BMDs are typically expected to serve fewer than 300 voters per day. (The vendor ES&S recommended 27,000 BMDs to serve Georgia's 7 million voters, amounting to 260 voters per BMD [34].) Recall also that the rate 1 in 400 is tied to the amount of manipulation. What if the malware flipped only one vote in 50, instead of 1 vote in 20? That could still change the margin by 4%, but—in this hypothetical—would be noticed by only one voter in 1,000, rather than one in 400. The smaller the margin, the less manipulation it would have taken to alter the electoral outcome.

[21]Forensic examination of the BMD might show that it *was* hacked or misconfigured, but it cannot prove that the BMD *was not* hacked or misconfigured.

distinguish between voters who detected BMD hacking or bugs from voters who just want to interfere with an election?

This is the essential security flaw of BMDs: few voters will notice and promptly report discrepancies between what they saw on the screen and what is on the BMD printout, and even when they do notice, there's nothing appropriate that can be done. Even if election officials are convinced that BMDs malfunctioned, *there is no way to determine who really won*.

Therefore, BMDs should not be used by most voters.

Why can't we rely on pre-election and post-election logic and accuracy testing, or parallel testing? Most, if not all, jurisdictions perform some kind of *logic and accuracy testing* (LAT) of voting equipment before elections. LAT generally involves voting on the equipment using various combinations of selections, then checking whether the equipment tabulated the votes correctly. As the Volkswagen/Audi "Dieselgate" scandal shows, devices can be programmed to behave properly when they are tested but misbehave in use [12]. Therefore, LAT can never prove that voting machines performed properly in practice.

Parallel or "live" testing involves pollworkers or election officials using some BMDs at random times on election day to mark (but not cast) ballots with test patterns, then check whether the marks match the patterns. The idea is that the testing is not subject to the "Dieselgate" problem, because the machines cannot "know" they are being tested on election day. As a practical matter, the number of tests required to provide a reasonable chance of detecting outcome-changing errors is prohibitive, and even then the system is not *defensible.* See Section 6.

Suppose, counterfactually, that it was practical to perform enough parallel testing to guarantee a large chance of detecting a problem if BMD hacking or malfunction altered electoral outcomes. Suppose, counterfactually, that election officials were required to conduct that amount of parallel testing during every election, and that the required equipment, staffing, infrastructure, and other resources were provided. Even then, the system would not be *strongly defensible*; that is, if testing detected a problem, there would be no way to to determine who really won. The only remedy would be a new election.

Don't voters need to check hand-marked ballots, too? It is always a good idea to check one's work, but there is a substantial body of research (e.g., [29]) suggesting

that preventing error as a ballot is being marked is a fundamentally different cognitive task than detecting an error on a previously marked ballot. In cognitively similar tasks, such as proof reading for non-spelling errors, ten percent rates of error detection are common [29, pp 167ff], whereas by carefully attending to the task of correctly marking their ballots, voters apparently can largely avoid marking errors.

A fundamental difference between hand-marked paper ballots and ballot-marking devices is that, with hand-marked paper ballots, voters are responsible for catching and correcting *their own errors*, while if BMDs are used, voters are also responsible for catching *machine errors, bugs, and hacking*. Voters are the *only* people who can detect such problems with BMDs—but, as explained above, if voters do find problems, there's no way they can prove to poll workers or election officials that there were problems and no way to ensure that election officials take appropriate remedial action.

4 Contestability/defensibility of hand-marked opscan

The most widely used voting system in the United States optical-scan counting of hand-marked paper ballots.[22] Computers and computer software are used in several stages of the voting process, and if that software is hacked (or erroneous), then the computers will deliberately (or accidentally) report incorrect outcomes.

- Computers are used to prepare the PDF files from which (unvoted) optical-scan ballots are printed, with ovals (or other targets to be marked) next to the names of candidates. Because the optical scanners respond to the *position on the page,* not the name of the candidate nearest the target, computer software could cheat by reordering the candidates on the page.
- The optical-scan voting machine, which scans the ballots and interprets the marks, is driven by computer software. Fraudulent (hacked) software can deliberately record (some fraction of) votes for Candidate A and votes for Candidate B.
- After the voting machine reports the in-the-precinct vote totals (or, in the case of central-count optical scan, the individual-batch vote totals), computers are used to aggregate the various precincts or batches together. Hacked software could cheat in this addition process.

Protection against any or all of these attacks relies on a system of risk-limiting

[22]The Verifier – Polling Place Equipment – November 2020, https://www.verifiedvoting.org/verifier/, Verified Voting Foundation, fetched February 8, 2020.

audits, along with compliance audits to check that the chain of custody of ballots and paper records is trustworthy. Without such audits, optical-scan ballots (whether hand marked or machine marked) are neither contestable nor defensible.

We analyze the contestability/defensibility of hand-marked optical-scan ballots with respect to each of these threats, assuming a system of RLAs and compliance audits.

- Hacked generation PDFs leading to fraudulently placed ovals. In this case, a change or error in the computer software *can* change the election outcome: on thousands of ballots, voters place a mark next to the name of candidate A, but (because the candidate name has been fraudulently misplaced on the paper), the (unhacked) optical scanner records this as a vote for candidate B. But an RLA will correct the outcome: a human, inspecting and interpreting this paper ballot, will interpret the mark as a vote for candidate A, as the voter intended. The RLA will, with high probability, conclude that the computer-reported election outcome cannot be confirmed, and a full recount must occur. Thus the system is *contestable:* the RLA produces public evidence that the (computer-reported) outcome is untrustworthy. This full recount (in the presence of witnesses, in view of the public) can provide convincing public evidence of its own correctness; that is, the system is *defensible*.
- Hacked optical-scan vote counter, reporting fraudulent vote totals. In this case, a change or error in the computer software *can* change the election outcome: on thousands of ballots, voters place a mark next to the name of candidate A, but the (hacked) optical scanner records this as a vote for candidate B. But an RLA can detect the incorrect outcome (just as in the case above); the system is *contestable*. And a full recount will produce a correct outcome with public evidence: the system is *defensible*.
- Hacked election-management system (EMS), fraudulently aggregating batches. A risk-limiting audit can detect this problem, and a recount will correct it: the system is contestable and defensible. But actually, contestability and defensibility against this attack is even easier and simpler than RLAs and recounts. Most voting machines (including precinct-count optical scanners) print a "results tape" in the polling place, at the close of the polls (in addition to writing their results electronically to a removable memory card). This results tape is (typically) signed by pollworkers and by credentialed challengers, and open to inspection by members of the public, before it is transported (with chain-of custody protections) along with the ballot boxes to a secure central location. The County Clerk or Registrar of Voters can (and in many counties, does) inspect these paper records to verify that they correspond to the precinct-by-precinct machine-reported aggregation. Errors (or fraud) in aggregation can be detected and cor-

rected without the need to inspect individual ballots: the system is contestable and defensible against this class of errors.

5 End-to-end verifiable (E2E-V) systems

In all BMD systems currently on the market, and in all BMD systems certified by the EAC, the printed ballot or ballot summary is the only channel by which voters can verify the correct recording of their ballots, independently of the computers. The analysis in this paper applies to all of those BMD systems.

There is a class of voting systems called "end-to-end verifiable" (E2E-V), which provide an alternate mechanism for voters to verify their votes [7] [2]. The basic idea of an E2E-V system is that a cryptographic protocol encodes the vote; mathematical properties of the cryptographic system allow the voters to verify (probabilistically) that their vote has been accurately counted, but does not compromise secret ballot by allowing voters to prove how they voted. E2E-V systems have not been adopted in public elections (except that Scantegrity was used for municipal elections in Takoma Park, MD in 2009 and 2011).

Each E2E-V system requires its own analysis of contestability/defensibility.

Scantegrity [10] is a system of preprinted optical-scan ballots, counted by conventional precinct-count optical scanners, but with an additional security feature: when the voter fills in an oval with a special pen, the oval is mostly darkened (so it's counted conventionally by the optical scanner), but two-letter code is also revealed that the voter can (optionally) use in the cryptographic protocol. Scantegrity is contestable/defensible, but not because of its E2E-V properties: since it's an add-on to a conventional optical-scan system with hand-marked paper ballots, RLAs and compliance audits can render this system contestable/defensible.

Prêt-à-Voter [33] is the system in which the voter separates the candidate-list from the oval-target list after marking the ballot and before deposit into the optical scanner. This system can be made contestable, with difficulty: the auditing procedure requires participation of the voters in an unintuitive cryptographic challenge. It is not clear that the system is defensible: if this cryptographic challenge proves that the blank ballots

have been tampered with, then no recount can reliably reconstruct the true result with public evidence.

STAR-Vote [5] is a DRE+VVPAT system with a smart ballot box. Voters interact with a device that captures their votes electronically and prints a paper record that voters can inspect, but the electronic votes are held "in limbo" until the paper ballot is deposited in the smart ballot box. The ballot box does not read the votes from the ballot; rather, depositing the ballot tells the system that it has permission to cast the votes it had already recorded from the touchscreen. The claimed advantage of STAR-Vote (and other systems that use the "Benaloh challenge") is that RLAs and ballot-box chain-of-custody are not required in order to obtain software independence. To assure that the E2E-V cryptographic protocol has correctly recorded each vote, the voter can "challenge" the system to prove that the cryptographic encoding of the ballot records the vote actually printed on the paper ballot. To do so, the voter must discard (void) this ballot and vote a fresh ballot; this is because the challenge process reveals the vote to the public, and a voting system must preserve the secrecy of the (cast) ballots. Thus, the voter cannot ensure the correct encoding of their true ballot, but (since STAR-Vote must print the ballot before knowing whether the voter will challenge), the voter can ensure it with any desired *error probability*.

STAR-Vote is software independent but it is not contestable or defensible. The reason is that, while the challenge can produce public evidence that a machine did not accurately encrypt the plaintext vote on the ballot, if the machine prints the wrong plaintext vote and a correct encryption of that incorrect vote, there is no evidence the voter can use to prove that to anyone else.

No E2E-V system is currently certified by the EAC, nor to our knowledge is any such system under review for certification, nor are any of the 5 major voting-machine vendors offering such a system for sale.[23]

[23] Some vendors, notably Scytl, have sold systems advertised as E2E-V in other countries. Those systems were not in fact E2E-V. Moreover, serious security flaws have been found in their implementations. See, e.g., [22].

6 Parallel testing of BMDs

Wallach [41] has proposed (in response to earlier drafts of this paper) that contestability/defensibility failure of BMDs could be mitigated by *parallel testing*, which he also calls "live auditing." Stark [38] has analyzed Wallach's proposal in detail. Here we provide a summary of the proposal and the analyses.

One might like to test each BMD before the election to make sure it's not hacked. Unfortunately, since the computer in a voting machine (including BMDs) has a real-time clock, the software (including fraudulent vote-stealing software) knows whether it's election day or not. Fraudulent software can make sure not to cheat except on election day.

The idea of parallel testing is to have trained auditors test the BMDs, at random times during an actual election: use the BMD to prepare a ballot, inspect that ballot to ensure it's marked correctly, then discard the ballot. The same BMDs in use during the polling will be selected, from time to time, for such test, right there in the polling places.

If the BMDs cheat with uniform random probability p, and if the BMD cannot distinguish an auditor from an ordinary voter, then after n random audits the probability of detecting the malware is $1 - (1 - p)^n$. If $p = 5\%$ and $n = 240$, then the probability of detection is 91%.

Unfortunately, the attacker is not constrained to cheat with uniform random probability; or, to put it another way, BMD malware may indeed be able to distinguish auditors from ordinary voters. Stark [38] discusses many ways in which the "signature" of how auditors interact with the BMD may differ from ordinary voters, enough to give clues to the malware about whether to cheat.[24] Therefore, one cannot simply multiply $(1 - p)^n$ and calculate a probability of detection.

While auditors might try to build an accurate model of voter behavior for live audits, that approach is doomed by privacy concerns and by the "curse of dimensionality": election officials would have to record every nuance of voter behavior (preferences

[24] For example, BMDs do "know" their own settings and other aspects of each voting session, so malware can use that information to target sessions that use the audio interface, increase the font size, use the sip-and-puff interface, set the language to something other than English, or take much longer than average to vote. (Voters who use those settings might be less likely to be believed if they report that the equipment altered their votes.) For parallel testing to have a good chance of detecting all outcome-changing problems, the tests must have a large chance of probing *every* combination of settings and voting patterns that includes enough ballots to change any contest result. It is not practical.

across contests; language settings, font settings, and other UI settings; timing, including speed of voting and hesitation; on-screen review; etc.) for million of voters to accurately approximate voter behavior.

There are many logistical problems with "live auditing." It would require additional voting machines (because testing requires additional capacity), staff, infrastructure, and other resources, *on election day* when professional staff is most stretched. One must be prepared to perform the audits at the busiest times of day, even that will cause lines of voters to lengthen, because otherwise the malware can simply cheat only at the busy times. Live auditing must be done in view of the voters (one cannot carry the voting machine into another room to do it), but some election officials are concerned that the creation of test ballots in the polling place could be perceived as a threat of ballot-box stuffing.

No state, to our knowledge has implemented parallel testing or live auditing of BMDs.

In any case, we can assess the contestability and defensibility of parallel testing.

With a sufficiently high rate of parallel testing, and a sufficiently sophisticated randomization of auditor behavior, it may be possible to make BMDs with parallel testing *contestable:* an audit could detect *and prove* mismarking of paper ballots.

But BMDs with parallel testing is not *defensible*. It will be extremely difficult for an election official to generate convincing public evidence that the audit *would have* detected mismarking, if mismarking were occurring. To generate that public evidence, the election official would have to reveal substantial detail about the parallel-testing protocol: how, exactly, the random selection of times to test is made; how, exactly, the random selection is made of what candidates to vote for in the tests. Revealing such details of the protocol allows the attacker to analyze the protocol for clues about how and when to cheat with less chance of detection.

Furthermore, parallel testing has a severe disadvantage in comparison with other contestable/defensible paper-ballot-based voting systems: If the auditors detect that the BMDs have mismarked a ballot—even once—the entire election must be invalidated, and a do-over election must be held. This is because the auditor will have detected evidence that the BMDs in this election have been systematically mismarking ballots for some proportion of *all* voters. No recount of the paper ballots can correct this.

In contrast, if optical scanners are hacked to cheat on hand-marked paper ballots,

the correct outcome can be calculated by a full hand recount of the paper ballots.[25]

Wallach also suggests, instead of parallel testing, the use of spoiled-ballot rates as a measure of BMD cheating. Suppose, when BMDs are not cheating the baseline rate of spoiled ballots (i.e., voters asking for a "do-over" of their BMD marked ballot) is 1%. Suppose the machines are cheating on 5% of the ballots, and 6% of voters notice this, and ask for a do-over. Then the spoiled ballot rate increases to 1.3%. The election administrator is supposed to act upon this discrepancy. But the only meaningful action the administrator could take is to invalidate the entire election, and call for a do-over election. This is impractical.

Moreover, the underlying "natural" rate of spoilage will not be known exactly, and will vary from election to election, even if the machines function flawlessly. The natural rate might depend on the number of contests on the ballot, the complexity of voting rules (e.g., IRV versus plurality), ballot layout, and many other factors. For any rule, there will be a tradeoff between false alarms and failures to detect problems.

To continue the previous hypothetical, suppose that spoiled ballots follow a Poisson distribution (there is no reason to think that they do). Imagine that the theoretical rate is known to be 1% if the BMDs function correctly, and known to be 1.3% if the BMDs malfunction. How many votes must be cast for it to be possible to limit the chance of a false alarm to 1%, while ensuring a 99% chance of detecting a real problem? The answer is 28,300 votes. If turnout is roughly 50%, jurisdictions (or contests) with fewer than 60,000 voters could not in principle limit the chance of false positives and of false negatives to 1%—even under these optimistic assumptions and simplifications. Twenty-three of California's 58 counties have fewer than 60,000 registered voters.

7 Other tradeoffs, BMDs versus hand-marked opscan

Supporters of ballot-marking devices advance several other arguments for their use.

- **Mark legibility.** A common argument is that a properly functioning BMD will generate clean, error-free, unambiguous marks, while hand-marked paper ballots may contain mistakes and stray marks that make it impossible to discern a voter's intent. However appealing this argument seems at first blush, the data are not nearly so compelling. Experience with statewide recounts in Minnesota

[25] Provided, of course, that secure chain of custody of the ballot boxes can be demonstrated.

and elsewhere suggest that truly ambiguous handmade marks are very rare.[26] For instance, 2.9 million hand-marked ballots were cast in the 2008 Minnesota race between Al Franken and Norm Coleman for the U.S. Senate. In a manual recount, between 99.95% and 99.99% of ballots were unambiguously marked.[27] [28] In addition, usability studies of hand-marked bubble ballots—the kind in most common use in U.S. elections—indicate a *voter* error rate of 0.6%, much lower than the 2.5–3.7% error rate for machine-marked ballots [17].[29] Thus, mark legibility is not a good reason to adopt BMDs for all voters.

- **Undervotes, overvotes.** Another argument offered for BMDs is that the machines can alert voters to undervotes and prevent overvotes. That is true, but modern PCOS systems can also alert a voter to overvotes and undervotes, allowing a voter to eject the ballot and correct it.
- **Bad ballot design.** Ill-designed paper ballots, just like ill-designed touchscreen interfaces, may lead to unintentional undervotes [25]. For instance, the 2006 Sarasota, Florida, touchscreen ballot was badly designed. The 2018 Broward County, Florida, opscan ballot was badly designed: it violated three separate guidelines from the EAC's 2007 publication, "Effective Designs for the Administration of Federal Elections, Section 3: Optical scan ballots." [40] In both of these cases (touchscreens in 2006, hand-marked optical-scan in 2018), undervote rates were high. The solution is to follow standard, published ballot-design guidelines and other best practices, both for touchscreens and for hand-marked ballots [3, 25].
- **Low-tech paper-ballot fraud.** All paper ballots, however they are marked, are vulnerable to *loss*, *ballot-box stuffing*, *alteration*, and *substitution* between the time they are cast and the time they are recounted. That's why it is so important

[26] States do need clear and complete regulations for interpreting voter marks.

[27] "During the recount, the Coleman and Franken campaigns initially challenged a total of 6,655 ballot-interpretation decisions made by the human recounters. The State Canvassing Board asked the campaigns to voluntarily withdraw all but their most serious challenges, and in the end approximately 1,325 challenges remained. That is, approximately 5 ballots in 10,000 were ambiguous enough that one side or the other felt like arguing about it. The State Canvassing Board, in the end, classified all but 248 of these ballots as votes for one candidate or another. That is, approximately 1 ballot in 10,000 was ambiguous enough that the bipartisan recount board could not determine an intent to vote." [1] See also [26]

[28] We have found that some local election officials consider marks to be ambiguous if *machines* cannot read the marks. That is a different issue from *humans* being unable to interpret the marks. Errors in machine interpretation of voter intent can be dealt with by manual audits: if the reported outcome is wrong because machines misinterpreted handmade marks, a RLA has a known, large chance of correcting the outcome.

[29] Better designed user interfaces (UI) might reduce the error rate for machine-marked ballots below the historical rate for DREs; however, UI improvements cannot keep BMDs from printing something other than what the voter is shown on the screen.

to make sure that ballot boxes are always in multiple-person (preferably bipartisan) custody whenever they are handled, and that appropriate physical security measures are in place. Strong, verifiable chain-of-custody protections are essential.

Hand-marked paper ballots are vulnerable to alteration by anyone with a pen. Both hand-marked and BMD-marked paper ballots are vulnerable to substitution: anyone who has poorly supervised access to a legitimate BMD during election day can create fraudulent ballots, not necessarily to deposit them in the ballot box immediately (in case the ballot box is well supervised on election day) but with the hope of substituting it later in the chain of custody.[30]

All those attacks (on hand-marked and on BMD-marked paper ballots) are fairly low-tech. There are also higher-tech ways of producing ballots indistinguishable from BMD-marked ballots for substitution into the ballot box if there is inadequate chain-of-custody protection.

- **Accessible voting technology.** When hand-marked paper ballots are used with PCOS, there is (as required by law) also an accessible voting technology available in the polling place for voters unable to mark a paper ballot with a pen. This is typically a BMD or a DRE. When the accessible voting technology is not the same as what most voters vote on—when it is used by very few voters—it may happen that the accessible technology is ill-maintained or even (in some polling places) not even properly set up by pollworkers. This is a real problem. One proposed solution is to require all voters to use the same BMD or all-in-one technology. But the failure of some election officials to properly maintain their accessible equipment is not a good reason to adopt BMDs for *all* voters. Among other things, it would expose all voters to the security flaws described above.[31] Other advocates object to the idea that disabled voters must use a different method of marking ballots, arguing that their rights are thereby violated. Both HAVA and ADA require reasonable accommodations for voters with physical and cognitive impairments, but neither law requires that those accommodations must be used by all voters. To best enable and facilitate participation by all voters, each voter should be provided with a means of casting a vote best suited to their abilities.
- **Ballot printing costs.** Preprinted optical-scan ballots cost 20–50 cents each.[32]

[30] Some BMDs print a barcode indicating when and where the ballot was produced, but that does not prevent such a substitution attack against currently EAC-certified, commercially available BMDs. We understand that systems under development might make ballot-substitution attacks against BMDs more difficult.

[31] Also, some accessibility advocates argue that requiring disabled voters to use BMDs compromises their privacy since hand-marked ballots are easily distinguishable from machine marked ballots. That issue can be addressed without BMDs-for-all: Accessible BMDs are already available and in use that mark ballots with marks that cannot easily be distinguished from hand-marked ballots.

[32] Single-sheet (one- or two-side) ballots cost 20-28 cents; double-sheet ballots needed for elections

Blank cards for BMDs cost up to 15 cents each, depending on the make and model of BMD.[33] But optical-scan ballots must be preprinted for as many voters as *might* show up, whereas blank BMD cards are consumed in proportion to how many voters *do* show up. The Open Source Election Technology Institute (OSET) conducted an independent study of total life cycle costs[34] for hand-marked paper ballots and BMDs in conjunction with the 2019 Georgia legislative debate regarding BMDs [27]. OSET concluded that, even in the most optimistic (i.e., lowest cost) scenario for BMDs and the most pessimistic (i.e, highest cost) scenario for hand-marked paper ballots and ballot-on-demand (BOD) printers—which can print unmarked ballots as needed—the total lifecycle costs for BMDs would be higher than the corresponding costs for hand-marked paper ballots.[35]

- **Vote centers.** To run a vote center that serves many election districts with different ballot styles, one must be able to provide each voter a ballot containing the contests that voter is eligible to vote in, possibly in a number of different languages. This is easy with BMDs, which can be programmed with all the appropriate ballot definitions. With preprinted optical-scan ballots, the PCOS can be programmed to *accept* many different ballot styles, but the vote center must still maintain *inventory* of many different ballots. BOD printers are another economical alternative for vote centers.[36]
- **Paper/storage.** BMDs that print summary cards rather than full-face ballots can save paper and storage space. However, many BMDs print full-face ballots—so they do not save storage—while many BMDs that print summary cards (which could save storage) use thermal printers and paper that is fragile and can fade in a few months.[37]

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with many contests cost up to 50 cents.

[33] Ballot cards for ES&S ExpressVote cost about 15 cents. New Hampshire's (One4All / Prime III) BMDs used by sight-impaired voters use plain paper that is less expensive.

[34] They include not only the cost of acquiring and implementing systems but also the ongoing licensing, logistics, and operating (purchasing paper stock, printing, and inventory management) costs.

[35] BOD printers currently on the market arguably are best suited for vote centers, but less expensive options suited for polling places could be developed. Indeed, BMDs that print full-face ballots could be re-purposed as BOD printers for polling place use, with modest changes to the programming.

[36] Ballot-on-demand printers *may* require maintenance such as replacement of toner cartridges. This is readily accomplished at a vote center with a professional staff. Ballot-on-demand printers may be a less attractive option for many small precincts on election day, where there is no professional staff—but on the other hand, they are less necessary, since far fewer ballot styles will be needed in any one precinct.

[37] The California Top-To-Bottom Review (TTBR) of voting systems found that thermal paper can also be covertly spoiled wholesale using common household chemicals https://votingsystems.cdn.sos.ca.gov/oversight/ttbr/red-diebold.pdf, last visited 8 April 2019. The fact that thermal paper printing can fade or deteriorate rapidly might mean it does not satisfy the federal requirement to preserve voting materials for 22 months. http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20701&num=0&edition=prelim, last visited 8

Advocates of hand-marked paper ballot systems advance these additional arguments.

- **Cost.** Using BMDs for all voters substantially increases the cost of acquiring, configuring, and maintaining the voting system. One PCOS can serve 1200 voters in a day, while one BMD can serve only about 260 [34]—though both these numbers vary greatly depending on the length of the ballot and the length of the day. OSET analyzed the relative costs of acquiring BMDs for Georgia's nearly seven million registered voters versus a system of hand-marked paper ballots, scanners, and BOD printers [27]. A BMD solution for Georgia would cost taxpayers between 3 and 5 times more than a system based on hand-marked paper ballots. Open-source systems might eventually shift the economics, but current commercial universal-use BMD systems are more expensive than systems that use hand-marked paper ballots for most voters.
- **Mechanical reliability and capacity.** Pens are likely to have less downtime than BMDs. It is easy and inexpensive to get more pens and privacy screens when additional capacity is needed. If a precinct-count scanner goes down, people can still mark ballots with a pen; if the BMD goes down, voting stops. Thermal printers used in DREs with VVPAT are prone to jams; those in BMDs might have similar flaws.

These secondary pros and cons of BMDs do not outweigh the primary security and accuracy concern: BMDs, if hacked or erroneously programmed, can change votes in a way that is not correctable. BMD voting systems are not contestable or defensible. Audits that rely on BMD printout cannot make up for this defect in the paper trail: they cannot reliably detect or correct problems that altered election outcomes.

Barcodes

A controversial feature of some BMDs allows them to print 1-dimensional or 2-dimensional barcodes on the paper ballots. A 1-dimensional barcode resembles the pattern of vertical lines used to identify products by their universal product codes. A 2-dimensional barcode or QR code is a rectangular area covered in coded image *modules* that encode more complex patterns and information. BMDs print barcodes on the same paper ballot that contains human-readable ballot choices. Voters using BMDs are expected to verify the human-readable printing on the paper ballot card, but the presence of barcodes with human-readable text poses some significant problems.

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- **Barcodes are not human readable.** The whole purpose of a paper ballot is to be able to recount (or audit) the *voters'* votes in a way independent of any (possibly hacked or buggy) computers. If the official vote on the ballot card is the barcode, then it is impossible for the voters to verify that the official vote they cast is the vote they expressed. Therefore, before a state even *considers* using BMDs that print barcodes (and we do not recommend doing so), the State must ensure by statute that recounts and audits are based *only* on the human-readable portion of the paper ballot. Even so, audits based on untrustworthy paper trails suffer from the verifiability the problems outlined above.
- **Ballot cards with barcodes contain two different votes.** Suppose a state does ensure by statute that recounts and audits are based on the human-readable portion of the paper ballot. Now a BMD-marked ballot card with both barcodes and human-readable text contains two different votes in each contest: the barcode (used for electronic tabulation), and the human-readable selection printout (official for audits and recounts). In few (if any) states has there even been a discussion of the legal issues raised when the official markings to be counted differ between the original count and a recount.
- **Barcodes pose technical risks.** Any coded input into a computer system—including wired network packets, WiFi, USB thumbdrives, *and barcodes*—pose the risk that the input-processing software can be vulnerable to attack via deliberately ill-formed input. Over the past two decades, many such vulnerabilities have been documented on *each* of these channels (including barcode readers) that, in the worst case, give the attacker complete control of a system.[38] If an attacker were able to compromise a BMD, the barcodes are an attack vector for the attacker to take over an optical scanner (PCOS or CCOS), too. Since it is good practice to close down all such unneeded attack vectors into PCOS or CCOS voting machines (e.g., don't connect your PCOS to the Internet!), it is also good practice to avoid unnecessary attack channels such as barcodes.

8 Insecurity of All-in-One BMDs

Some voting machines incorporate a BMD interface, printer, and optical scanner into the same cabinet. Other DRE+VVPAT voting machines incorporate ballot-marking, tabulation, and paper-printout retention, but without scanning. These are often called

[38] An example of a barcode attack is based on the fact that many commercial barcode-scanner components (which system integrators use to build cash registers or voting machines) treat the barcode scanner using the same operating-system interface as if it were a keyboard device; and then some operating systems allow "keyboard escapes" or "keyboard function keys" to perform unexpected operations.

"all-in-one" voting machines. To use an all-in-one machine, the voter makes choices on a touchscreen or through a different accessible interface. When the selections are complete, the BMD prints the completed ballot for the voter to review and verify, before depositing the ballot in a ballot box attached to the machine.

Such machines are especially unsafe: like any BMD described in Section 3 they are not contestable or defensible, but in addition, if hacked they can print votes onto the ballot *after* the voter last inspects the ballot.

- The ES&S ExpressVote (in all-in-one mode) allows the voter to mark a ballot by touchscreen or audio interface, then prints a paper ballot card and ejects it from a slot. The voter has the opportunity to review the ballot, then the voter redeposits the ballot into the same slot, where it is scanned and deposited into a ballot box.
- The ES&S ExpressVoteXL allows the voter to mark a ballot by touchscreen or audio interface, then prints a paper ballot and displays it under glass. The voter has the opportunity to review the ballot, then the voter touches the screen to indicate "OK," and the machine pulls paper ballot up (still under glass) and into the integrated ballot box.
- The Dominion ImageCast Evolution (ICE) allows the voter to deposit a hand-marked paper ballot, which it scans and drops into the attached ballot box. *Or*, a voter can use a touchscreen or audio interface to direct the marking of a paper ballot, which the voting machine ejects through a slot for review; then the voter redeposits the ballot into the slot, where it is scanned and dropped into the ballot box.

In all three of these machines, the ballot-marking printer is in the same paper path as the mechanism to deposit marked ballots into an attached ballot box. This opens up a very serious security vulnerability: the voting machine can mark the paper ballot (to add votes or spoil already-cast votes) after the last time the voter sees the paper, and then deposit that marked ballot into the ballot box without the possibility of detection.

Vote-stealing software could easily be constructed that looks for *undervotes* on the ballot, and marks those unvoted spaces for the candidate of the hacker's choice. This is very straightforward to do on optical-scan bubble ballots (as on the Dominion ICE) where undervotes are indicated by no mark at all. On machines such as the ExpressVote and ExpressVoteXL, the normal software indicates an undervote with the words NO SELECTION MADE on the ballot summary card. Hacked software could simply leave a blank space there (most voters wouldn't notice the difference), and then fill in that space and add a matching bar code after the voter has clicked "cast this ballot."

An even worse feature of the ES&S ExpressVote and the Dominion ICE is the *auto-*

cast configuration setting (in the manufacturer's standard software) that allows the voter to indicate, "don't eject the ballot for my review, just print it and cast it without me looking at it." If fraudulent software were installed in the ExpressVote, it could change *all* the votes of any voter who selected this option, because the voting machine software would know *in advance of printing* that the voter had waived the opportunity to inspect the printed ballot. We call this auto-cast feature "permission to cheat" [4].

Regarding these all-in-one machines, we conclude:

- Any machine with ballot printing in the same paper path with ballot deposit is not *software independent*; it is *not* the case that "an error or fault in the voting system software or hardware cannot cause an undetectable change in election results." Therefore such all-in-one machines do not comply with the VVSG 2.0 (the Election Assistance Commission's Voluntary Voting Systems Guidelines). Such machines are not contestable or defensible, either.
- All-in-one machines on which all voters use the BMD interface to mark their ballots (such as the ExpressVote and ExpressVoteXL) *also* suffer from the same serious problem as ordinary BMDs: most voters do not review their ballots effectively, and elections on these machines are not contestable or defensible.
- The auto-cast option for a voter to allow the paper ballot to be cast without human inspection is particularly dangerous, and states must insist that vendors disable or eliminate this mode from the software. However, even disabling the auto-cast feature does not eliminate the risk of undetected vote manipulation.

Remark. The Dominion ImageCast Precinct ICP320 is a precinct-count optical scanner (PCOS) that also contains an audio+buttons ballot-marking interface for disabled voters. This machine can be configured to cast electronic-only ballots from the BMD interface, or an external printer can be attached to print paper optical-scan ballots from the BMD interface. When the external printer is used, that printer's paper path is *not* connected to the scanner+ballot-box paper path (a person must take the ballot from the printer and deposit it into the scanner slot). Therefore this machine is as safe to use as any PCOS with a separate external BMD.

9 Conclusion

Ballot-Marking Devices produce ballots that do not necessarily record the vote expressed by the voter when they enter their selections on the touchscreen: hacking, bugs, and configuration errors can cause the BMDs to print votes that differ from what the

voter entered and verified electronically. Because outcome-changing errors in BMD printout do not produce public evidence, BMD systems are not *contestable*. Because there is no way to generate convincing public evidence that reported outcomes are correct despite any BMD malfunctions that might have occurred, BMD systems are not *defensible*. Therefore, BMDs should not be used by voters who can hand mark paper ballots.

All-in-one voting machines, which combine ballot-marking and ballot-box-deposit into the same paper path, are even worse. They have all the disadvantages of BMDs (they are not contestable or defensible), and they can mark the ballot after the voter has inspected it. Therefore they are not even *software independent*, and should not be used by those voters who are capable of marking, handling, and visually inspecting a paper ballot.

When computers are used to record votes, the original transaction (the voter's expression of the votes) is not documented in a verifiable way.[39] When pen-and-paper is used to record the vote, the original expression of the vote *is* documented in a verifiable way (if demonstrably secure chain of custody of the paper ballots is maintained). Audits of elections conducted with hand-marked paper ballots, counted by optical scanners, can ensure that reported election outcomes are correct. Audits of elections conducted with BMDs *cannot* ensure that reported outcomes are correct.

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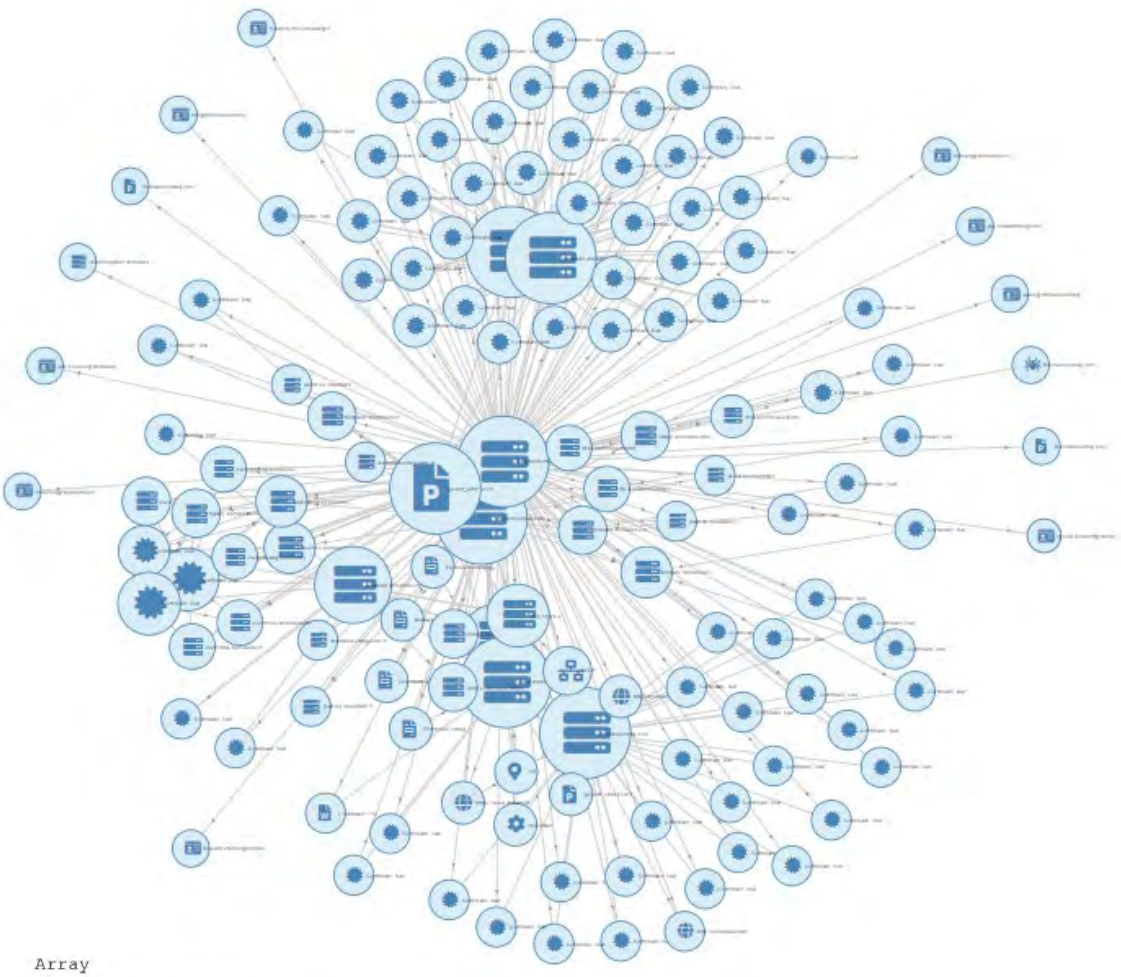
Exh. 7

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, [redacted] make the following declaration.

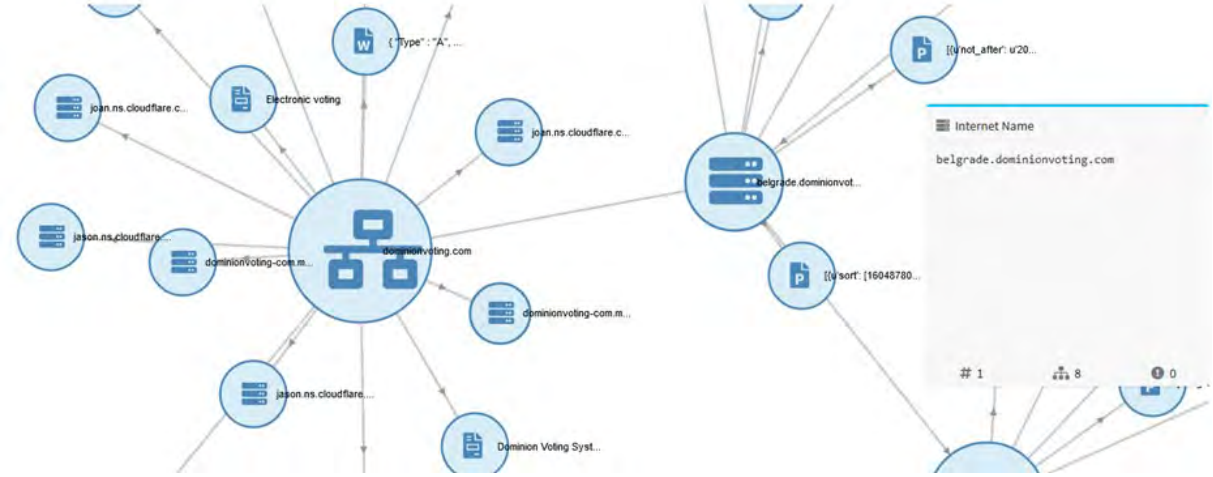
1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I was an electronic intelligence analyst under 305th Military Intelligence with experience gathering SAM missile system electronic intelligence. I have extensive experience as a white hat hacker used by some of the top election specialists in the world. The methodologies I have employed represent industry standard cyber operation toolkits for digital forensics and OSINT, which are commonly used to certify connections between servers, network nodes and other digital properties and probe to network system vulnerabilities.
3. I am a US citizen and I reside [redacted] location in the United States of America.
4. Whereas the Dominion and Edison Research systems exist in the internet of things, and whereas this makes the network connections between the Dominion, Edison Research and related network nodes available for scanning,
5. And whereas Edison Research's primary job is to report the tabulation of the count of the ballot information as received from the tabulation software, to provide to Decision HQ for election results,
6. And whereas Spiderfoot and Robtex are industry standard digital forensic tools for evaluation network security and infrastructure, these tools were used to conduct public security scans of the aforementioned Dominion and Edison Research systems,
7. A public network scan of Dominionvoting.com on 2020-11-08 revealed the following inter-relationships and revealed 13 unencrypted passwords for dominion employees, and 75 hashed passwords available in TOR nodes:

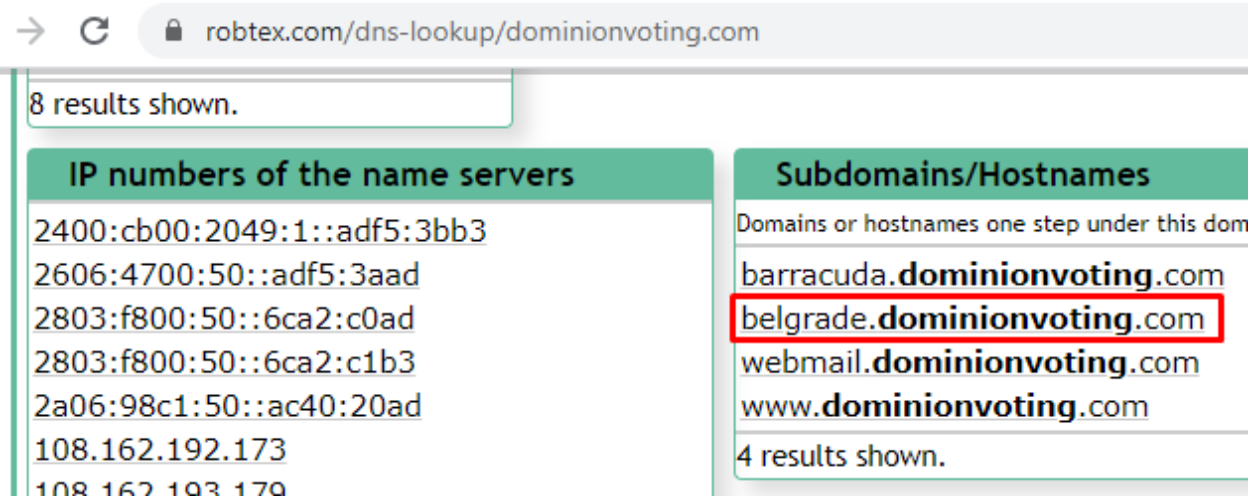


```
Array
(
    [id] => 544167324
    [luser] => ian.macvicar
    [domain] => dominionvoting.com
    [password] => jamley
)

7
Array
(
    [id] => 599400504
    [luser] => jelena.tanaskovic
    [domain] => dominionvoting.com
```

8. The same public scan also showed a direct connection to the group in Belgrade as highlighted below:





9. A cursory search on LinkedIn of "dominion voting" on 11/19/2020 confirms the numerous employees in Serbia:



10. An additional search of Edison Research on 2020-11-08 showed that Edison Research has an Iranian server seen here:



Inputting the Iranian IP into Robtex confirms the direct connection into the "edisonresearch" host from the perspective of the Iranian domain also. This means that it is not possible that the connection was a unidirectional reference.



A deeper search of the ownership of Edison Research "edisonresearch.com" shows a connection to BMA Capital Management, where shareofear.com and bmacapital.com are both connected to edisonresearch.com via a VPS or Virtual Private Server, as denoted by the "vps" at the start of the internet name:

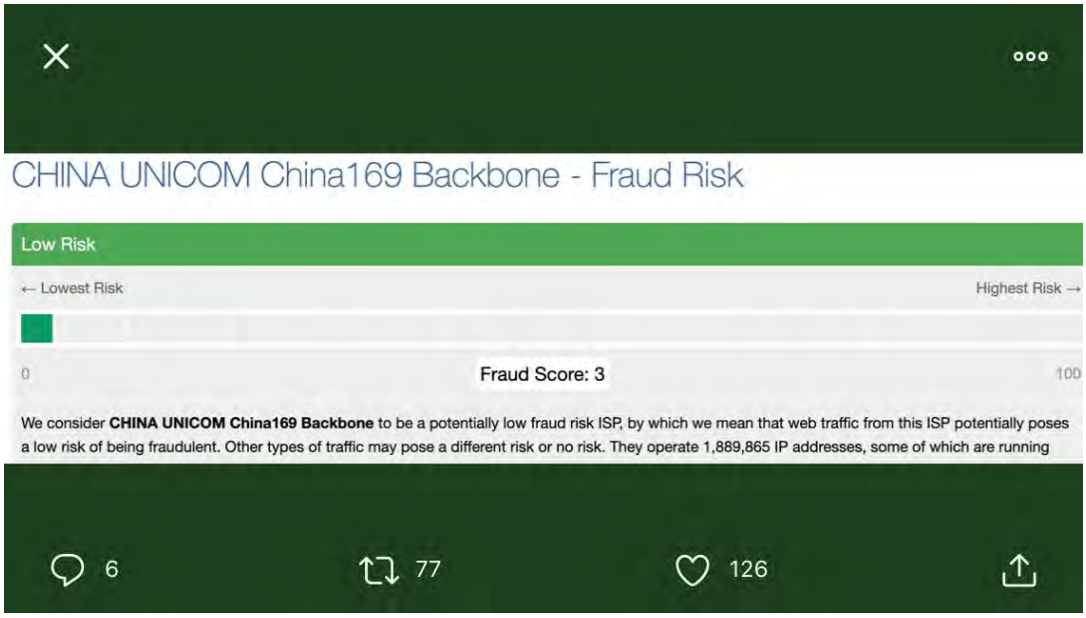




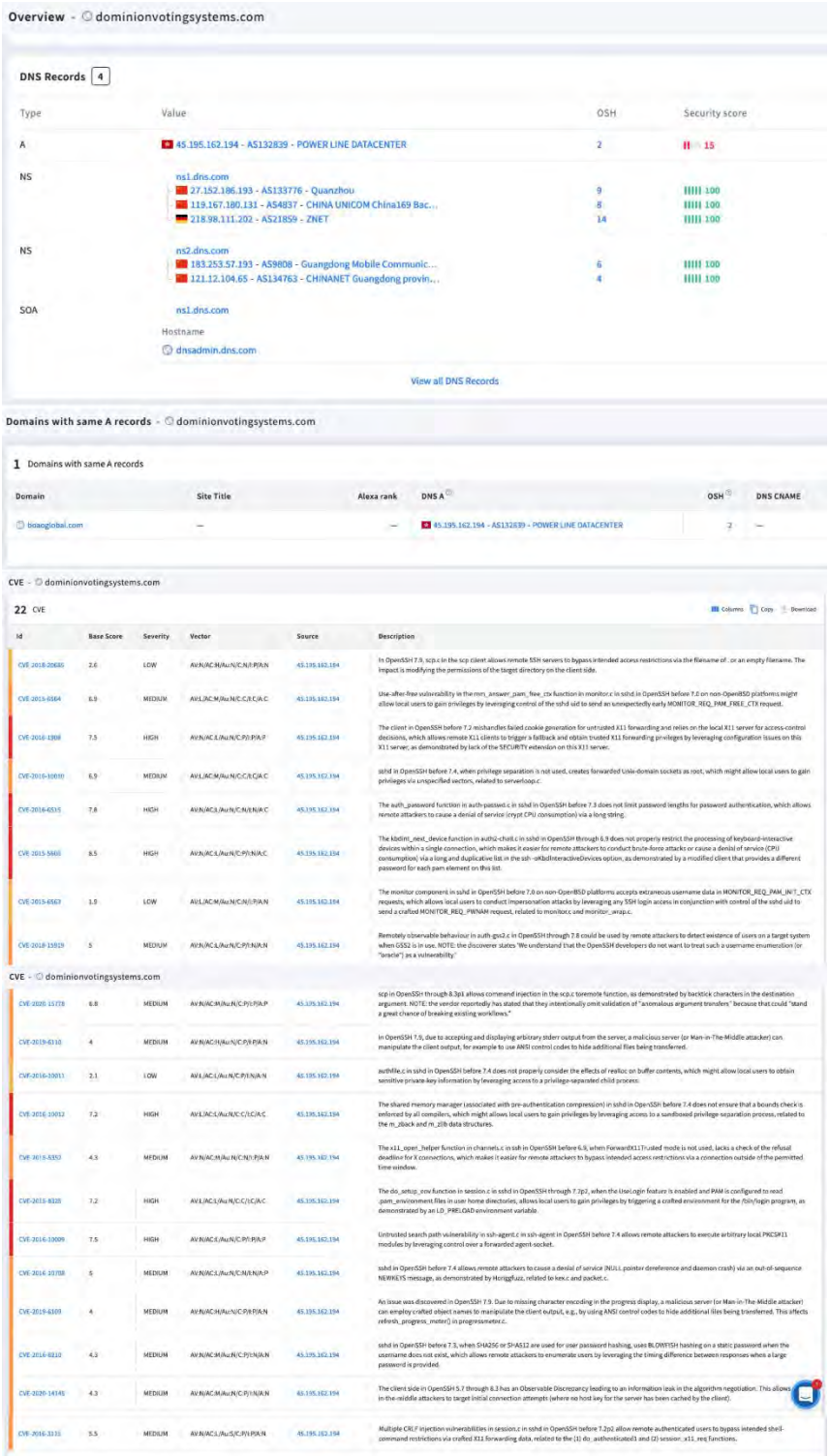
Dominionvoting is also dominionvotingsystems.com, of which there are also many more examples, including access of the network from China. The records of China accessing the server are reliable.



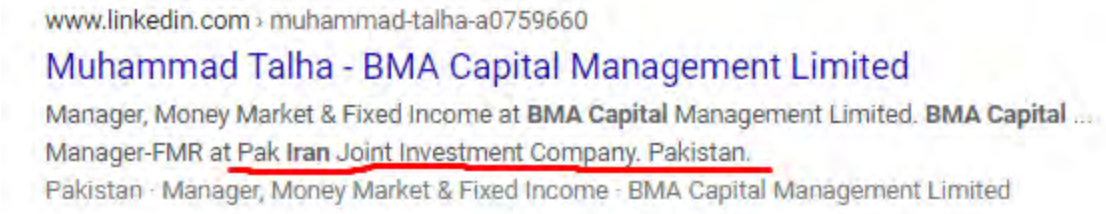




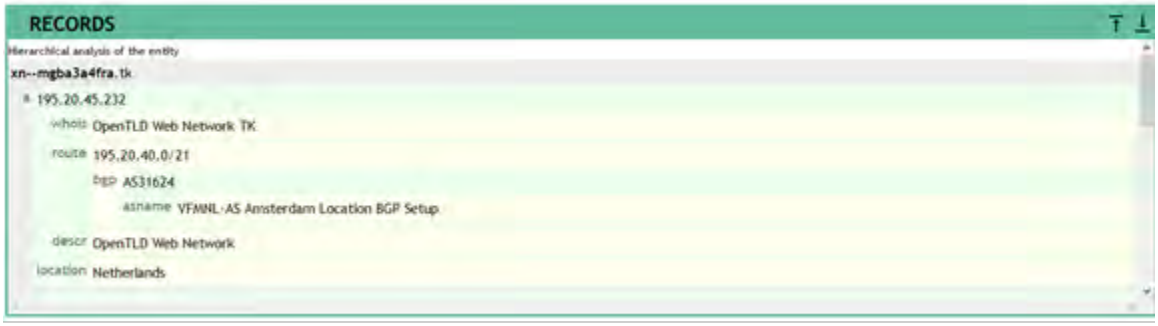
Domain Name: dominionvotingsystems.com
Registry Domain ID: 2530599738_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.godaddy.com
Registrar URL: http://www.godaddy.com
Updated Date: 2020-05-26T15:48:58Z
Creation Date: 2020-05-26T15:48:57Z
Registrar Registration Expiration Date: 2021-05-26T15:48:57Z
Registrar: GoDaddy.com, LLC
Registrar IANA ID: 146
Registrar Abuse Contact Email: abuse@godaddy.com
Registrar Abuse Contact Phone: +1.4806242505
Domain Status: clientTransferProhibited http://www.icann.org/epp#clientTransferProhibited
Domain Status: clientUpdateProhibited http://www.icann.org/epp#clientUpdateProhibited
Domain Status: clientRenewProhibited http://www.icann.org/epp#clientRenewProhibited
Domain Status: clientDeleteProhibited http://www.icann.org/epp#clientDeleteProhibited
Registrant Organization:
Registrant State/Province: Hunan
Registrant Country: CN
Registrant Email: Select Contact Domain Holder link at
https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com
Admin Email: Select Contact Domain Holder link at
https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com
Tech Email: Select Contact Domain Holder link at
https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com
Name Server: NS1.DNS.COM
Name Server: NS2.DNS.COM
DNSSEC: unsigned



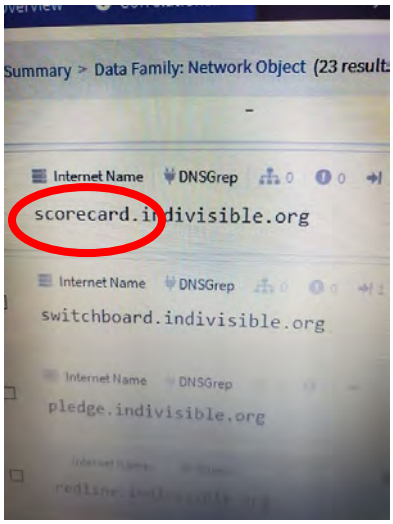
11. BMA Capital Management is known as a company that provides Iran access to capital markets with direct links publicly discoverable on LinkedIn (found via google on 11/19/2020):



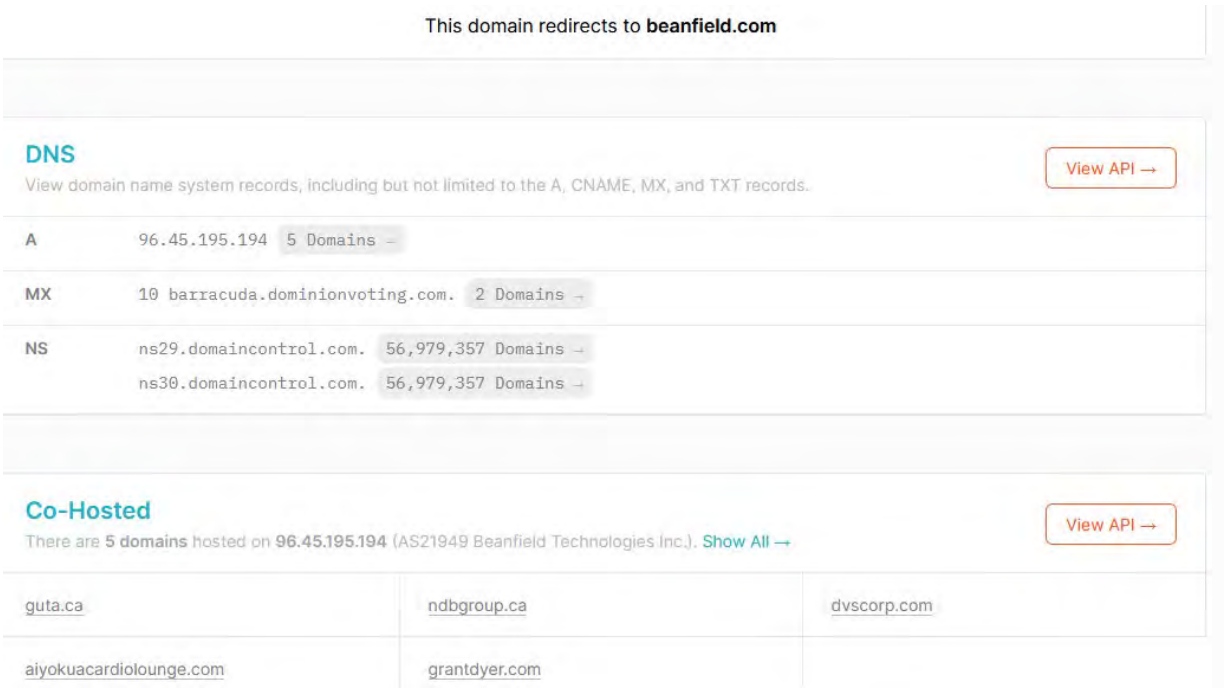
The same Robtex search confirms the Iranian address is tied to the server in the Netherlands, which correlates to known OSINT of Iranian use of the Netherlands as a remote server (See Advanced Persistent Threats: APT33 and APT34):



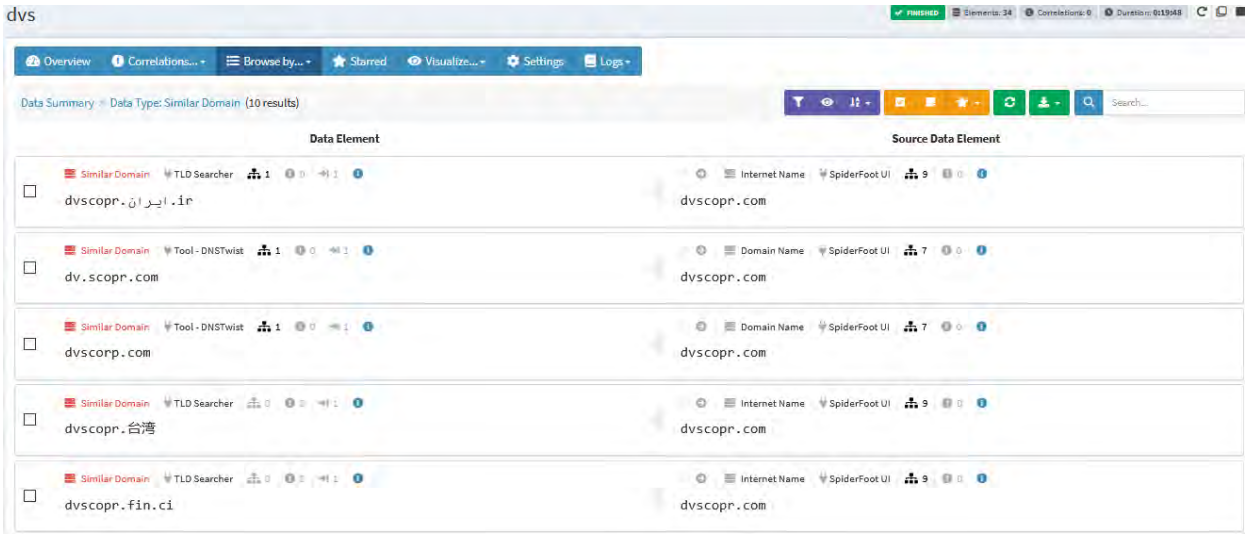
12. A search of the indivisible.org network showed a subdomain which evidences the existence of scorecard software in use as part of the Indivisible (formerly ACORN) political group for Obama:

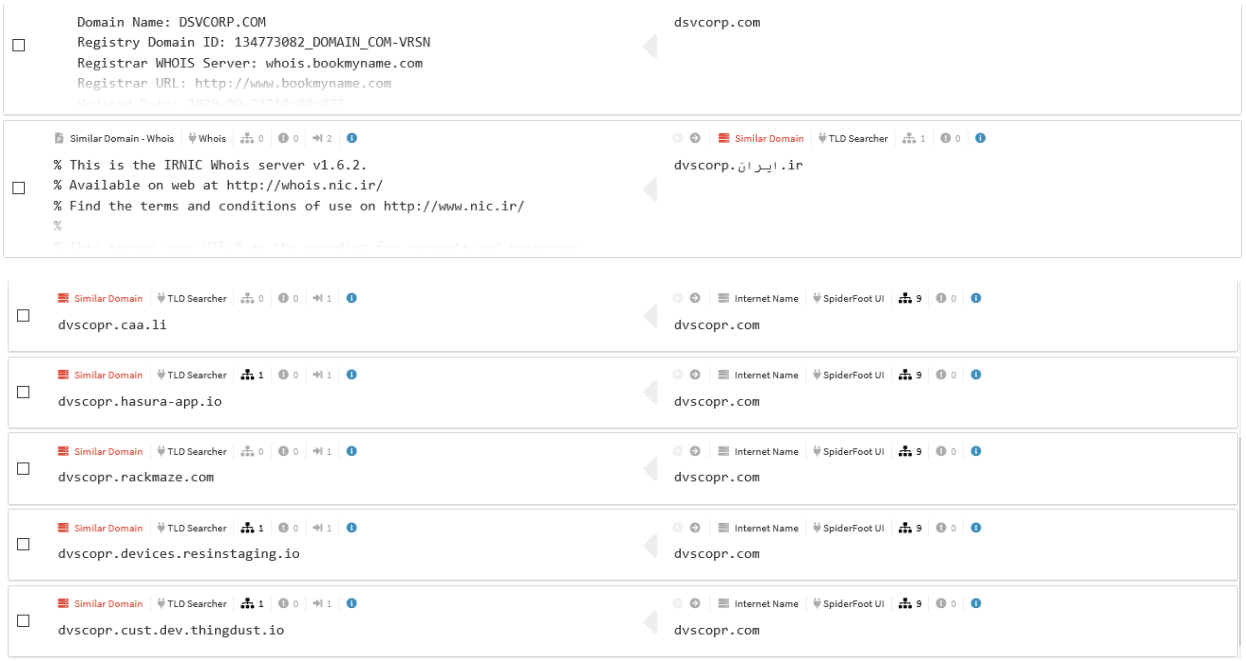


13. Each of the tabulation software companies have their own central reporting "affiliate". Edison Research is the affiliate for Dominion.
14. Beanfield.com out of Canada shows the connections via co-hosting related sites, including dvscorp.com:



This Dominion partner domain “dvscorp” also includes an auto discovery feature, where new in-network devices automatically connect to the system. The following diagram shows some of the related dvscopr.com mappings, which mimic the infrastructure for Dominion and are an obvious typo derivation of the name. Typo derivations are commonly purchased to catch redirect traffic and sometimes are used as honeypots. The diagram shows that infrastructure spans multiple different servers as a methodology.





The above diagram shows how these domains also show the connection to Iran and other places, including the following Chinese domain, highlighted below:



15. The auto discovery feature allows programmers to access any system while it is connected to the internet once it's a part of the constellation of devices (see original Spiderfoot graph).
16. Dominion Voting Systems Corporation in 2019 sold a number of their patents to China (via HSBC Bank in Canada):

Assignment details for assignee "HSBC BANK CANADA, AS COLLATERAL AGENT"

Assignments (1 total)

Assignment 1

Reel/frame	Execution date	Date recorded	Pages
050500/0236	Sep 25, 2019	Sep 26, 2019	7

Conveyance

SECURITY AGREEMENT

Assignors	Correspondent	Attorney docket
DOMINION VOTING SYSTEMS CORPORATION	CHAPMAN & CUTLER LLP 1270 AVENUE OF THE AMERICAS, 30TH FLOOR ATTN: SOREN SCHWARTZ NEW YORK, NY 10020	

Assignee

HSBC BANK CANADA, AS COLLATERAL AGENT

4TH FLOOR, 70 YORK STREET

TORONTO M5J 1S9

CANADA

Properties (18)

Patent	Publication	Application	PCT	International registration
8844813	20130306724	13476836		
8913787	20130301873	13470091		
9202113	20150071501	14539684		
8195505	20050247783	11121997		
9870666	20120232963	13463536		
9710988	20120259680	13525187		
9870667	20120259681	13525208		
7111782	20040238632	10811969		
7422151	20070012767	11526028		
D599131		29324281		

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Release 2.0.0 | Release Notes | Send Feedback | Legacy Patent Assignment Search | Legacy Trademark Assignment Search

Of particular interest is a section of the document showing aspects of the nature of the patents dealing with authentication:

Patent assignment 050500/0236

SECURITY AGREEMENT

Date recorded	Reel/frame	Pages
Sep 26, 2019	050500/0236	7

Assignors
DOMINION VOTING SYSTEMS CORPORATION

Execution date
Sep 25, 2019

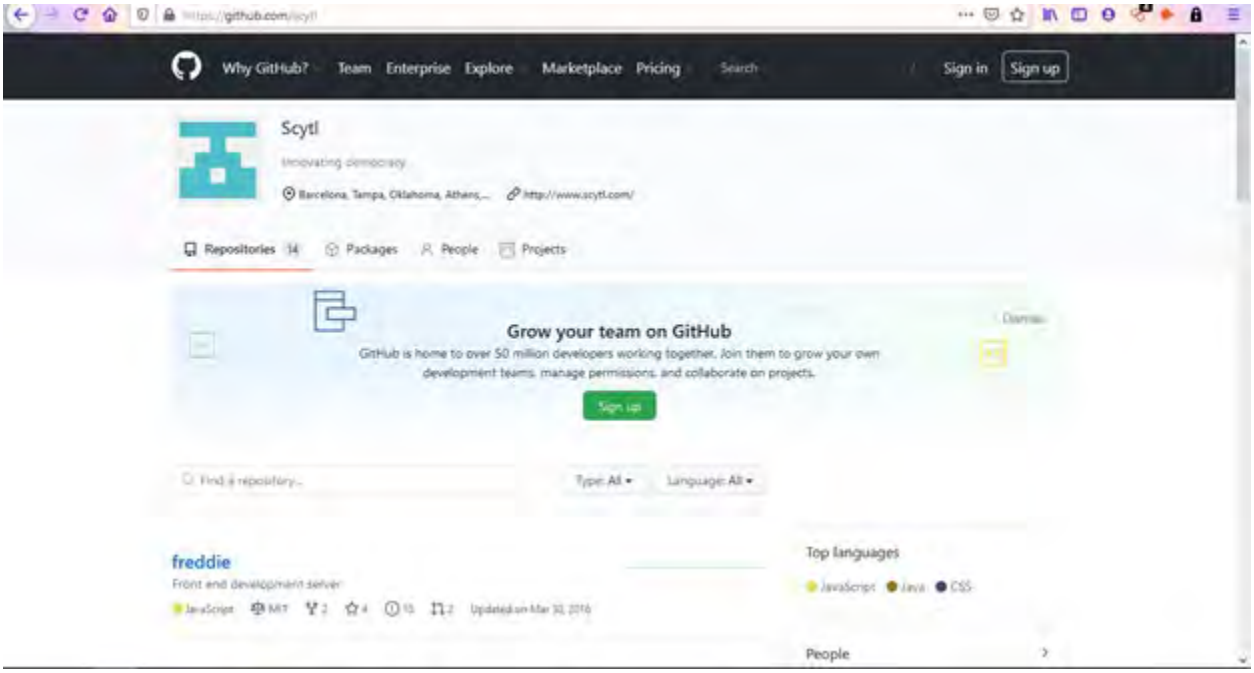
Assignee
HSBC BANK CANADA, AS COLLATERAL AGENT
4TH FLOOR, 70 YORK STREET
TORONTO M5J 1S9
CANADA

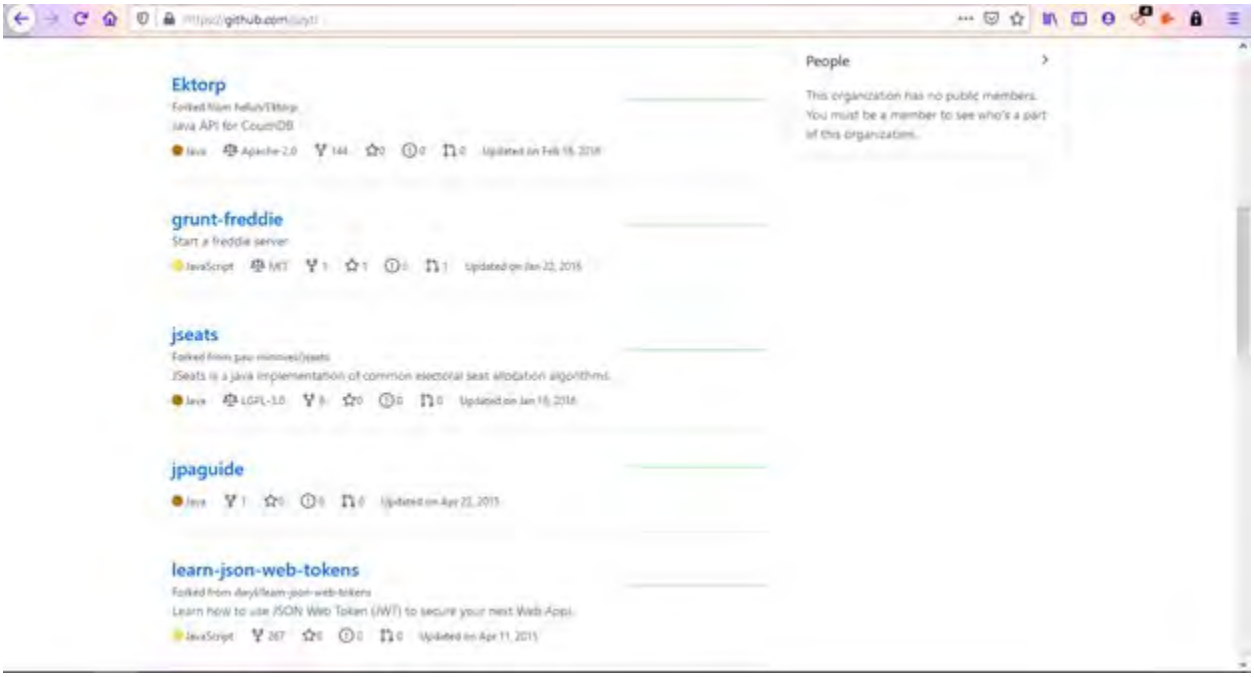
Correspondent
CHAPMAN & CUTLER LLP
1270 AVENUE OF THE AMERICAS, 30TH FLOOR
ATTN: SOREN SCHWARTZ
NEW YORK, NY 10020

Properties (18 total)

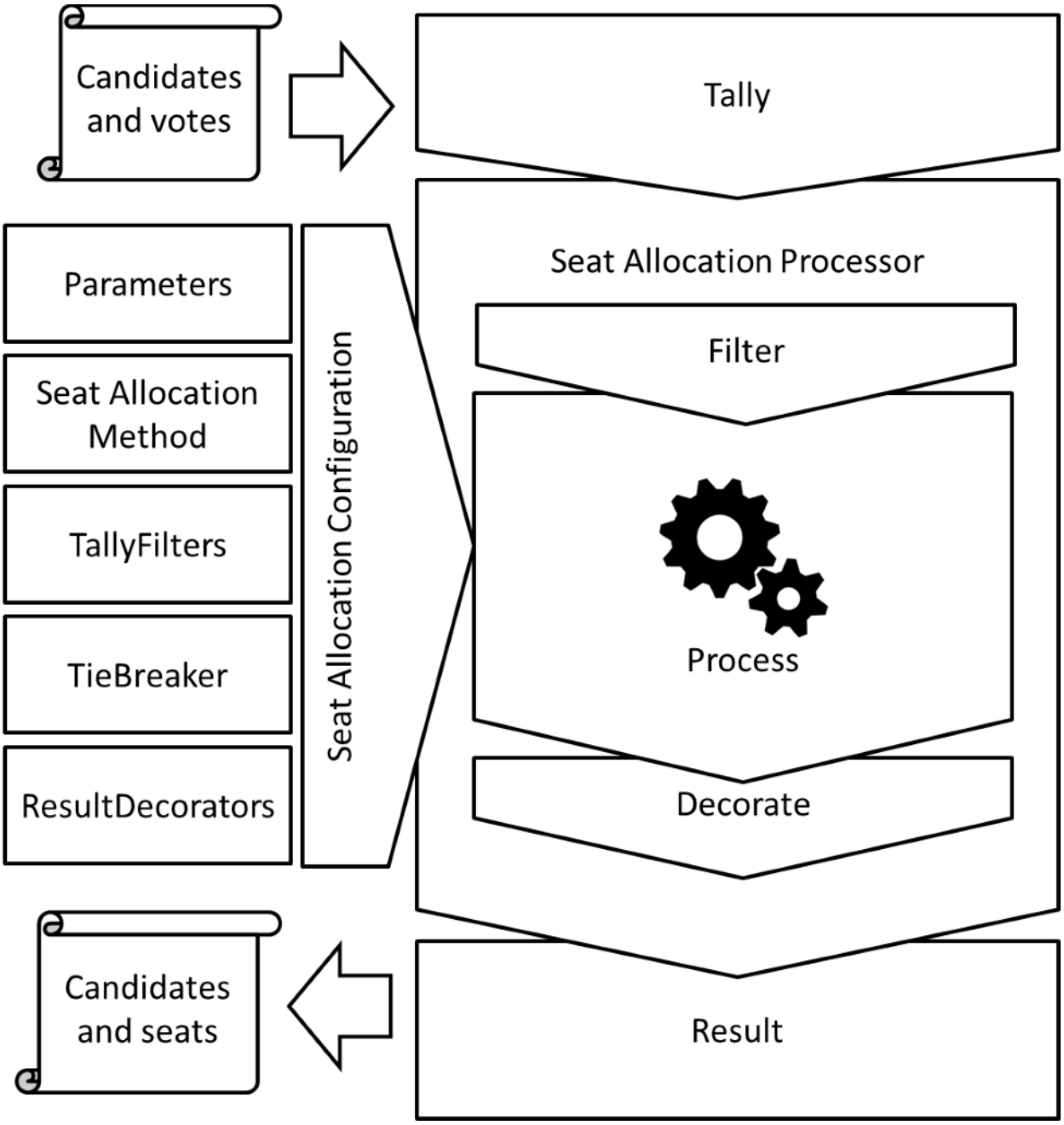
Patent	Publication	Application
1. SYSTEMS AND METHODS FOR PROVIDING SECURITY IN A VOTING MACHINE Inventors: JOHN PAUL HOMEWOOD, THOMAS E. KEELING, PAUL DAVID TERWILLIGER, MARC R. LATOUR		
7111782 Sep 26, 2006	20040238632 Dec 2, 2004	10811969 Mar 30, 2004
2. SYSTEM, METHOD AND COMPUTER PROGRAM FOR VOTE TABULATION WITH AN ELECTRONIC AUDIT TRAIL Inventors: JOHN POULOS, JAMES HOOVER, NICK IKONOMAKIS, GORAN OBRADOVIC		
8195505 Jun 5, 2012	20050247783 Nov 10, 2005	11121997 May 5, 2005
3. SYSTEMS AND METHODS FOR PROVIDING SECURITY IN A VOTING MACHINE Inventors: JOHN PAUL HOMEWOOD, THOMAS E. KEELING, PAUL DAVID TERWILLIGER, MARC R. LATOUR		
7422151 Sep 9, 2008	20070012767 Jan 18, 2007	11526028 Sep 25, 2006
4. BALLOT LEVEL SECURITY FEATURES FOR OPTICAL SCAN VOTING MACHINE CAPABLE OF BALLOT IMAGE PROCESSING, SECURE BALLOT PRINTING, AND BALLOT LAYOUT AUTHENTICATION AND VERIFICATION Inventors: ERIC COOMER, LARRY KORB, BRIAN GLENN LIERMAN		

17. Smartmatic creates the backbone (like the cloud). SCYTL is responsible for the security within the election system.

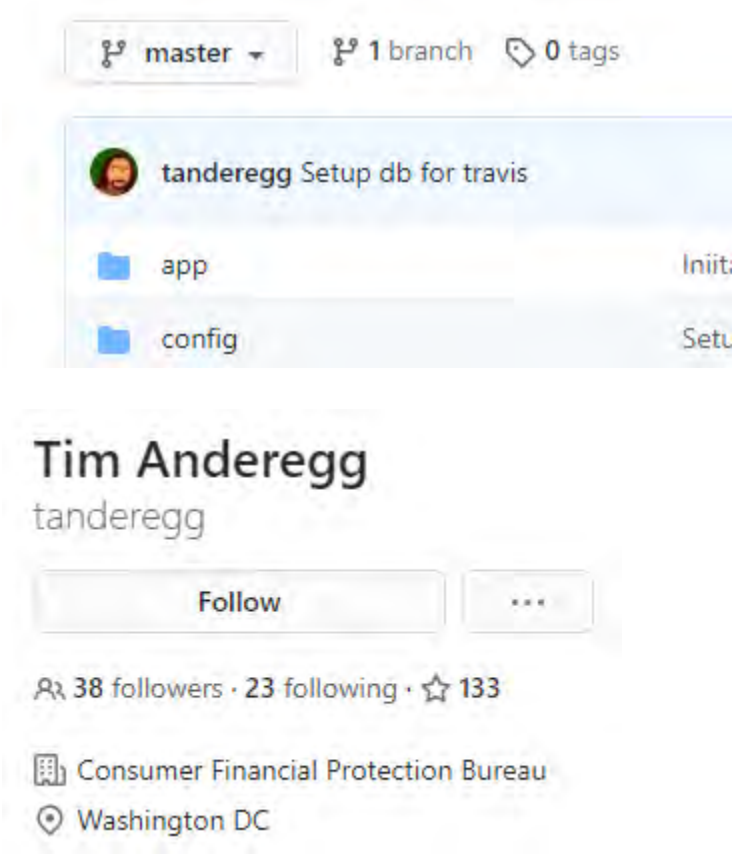




18. In the GitHub account for Scytl, Scytl Jseats has some of the programming necessary to support a much broader set of election types, including a decorator process where the data is smoothed, see the following diagram provided in their source code:



19. Unrelated, but also a point of interest is CTCL or Center for Tech and Civic Life funded by Mark Zuckerberg. Within their github page (https://github.com/ctcl), one of the programmers holds a government position. The Bipcoop repo shows tanderegg as one of the developers, and he works at the Consumer Financial Protection Bureau:



20. As seen in included document titled "AA20-304A-Iranian_Advanced_Persistent_Threat_Actor_Identified_Obtaining_Voter_Registration_Data " that was authored by the Cybersecurity & Infrastructure Security Agency (CISA) with a Product ID of AA20-304A on a specified date of October 30, 2020, CISA and the FBI reports that Iranian APT teams were seen using ACUTENIX, a website scanning software, to find vulnerabilities within Election company websites, confirmed to be used by the Iranian APT teams buy seized cloud storage that I had personally captured and reported to higher authorities. These scanning behaviors showed that foreign agents of aggressor nations had access to US voter lists, and had done so recently.
21. In my professional opinion, this affidavit presents unambiguous evidence that Dominion Voter Systems and Edison Research have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, these organizations neglectfully allowed foreign adversaries to access data

and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. This represents a complete failure of their duty to provide basic cyber security. This is not a technological issue, but rather a governance and basic security issue: if it is not corrected, future elections in the United States and beyond will not be secure and citizens will not have confidence in the results.

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge. Executed this November 23th, 2020.



Exh. 9

AFFIDAVIT OF RUSSELL JAMES RAMSLAND, JR

1. My name is Russell James Ramsland, Jr., and I am a resident of Dallas County, Texas. I hold an MBA from Harvard University, and a political science degree from Duke University. I have worked with the National Aeronautics and Space Administration (NASA) and the Massachusetts Institute of Technology (MIT), among other organizations, and have run businesses all over the world, many of which are highly technical in nature. I have served on technical government panels.

2. I am part of the management team of Allied Security Operations Group, LLC, (ASOG). ASOG is a group of globally engaged professionals who come from various disciplines to include Department of Defense, Secret Service, NSA, and the Central Intelligence Agency. We also contract with statisticians when needed. It provides a range of security services, but has a particular emphasis on cybersecurity, open source investigation and penetration testing of networks. We employ a wide variety of cyber and cyber forensic analysts as employees, consultants and contractors. We have patents pending in a variety of applications from novel network security applications to SCADA (Supervisory Control and Data Acquisition) protection and safe browsing solutions for the dark and deep web. For this report, I have relied on these experts and resources.

3. Our team has extensive experience as white hat hackers and employ many methodologies and tools to trace and certify connections between servers, network nodes and other digital properties and probe for network system vulnerabilities. In addition to Robtex and Spiderfoot, we also employ such tools as Whois, GeoIpLookup, nslookup, host, ipinfo.io, etc.

4. I have read the redacted declaration by Spider and can attest to it's credibility and accuracy from our own company's work that has found many of the same connections, relationships and vulnerabilities. Further, Clarity Elections and Scytl are integral to the network as well as Dominion and Edison Research and they too have multiple vulnerabilities and their vulnerabilities represent further vulnerabilities into Dominion and Edison Research.

5. For instance, inside the SCYTL System at a point called staging.scytl.us, malware called QSnatch is visible. QSnatch represents a deep vulnerability to any election system that touches it such as Dominion and Edison Research. QSnatch characteristics include:

- **CGI password logger** - This installs a fake version of the device admin login page, logging successful authentications and passing them to the legitimate login page.
- **Credential scraper** – This grabs the credentials of any administrator whose system loads any information into Scytl or Clarity Elections which includes Dominion and Edison Research. This means the credentials of every county of every state where Dominion manages elections in the U.S. are vulnerable. This includes all of Georgia.
- **SSH backdoor** – This allows the cyber actor to execute arbitrary code on a device.
- **Exfiltration** – When run, steals a predetermined list of files which includes system configuration & log files. Encrypted with hacker's public key and sent to their infrastructure over HTTPS.
- **Webshell functionality** – Allows an attacker remote access

- **Persistence & Mitigation** – The malware itself can make it impossible to run needed firmware updates. Once infected, a full factory reset must be done on the device prior to doing a firmware update to stop vulnerability.

Here is its location:



Here it can be seen embedded:


```
"iid": 14271845,
"type": "ip",
"indicator": "13.32.202.112",
"risk": "none",
"risk_recommended": "none",
"manualrisk": 0,
"retired": null,
"stamp_added": "2020-08-16 07:19:05",
"stamp_updated": "2020-09-21 18:57:23",
"stamp_seen": "2020-09-15 01:15:00",
"stamp_probed": "2020-09-21 18:57:23",
"stamp_retired": null,
```


6. Source code for Dominion can be easily obtained on the dark web so that an attacker knows all the vulnerable points and can plant any malicious code the attacker desires. Here is a small sample of what can be seen on Pirate Bay TORR:


```
"ProductCode","ProductName","ProductVersion","OpSystemCode'
Type"
11818,"OpenElect","1.0","189","1422","English","Voting"
15134,"Hart Voting System Software Files
(BallotNow)","3.3.12","189","2049","English","Voting"
15134,"Hart Voting System Software Files
(BallotNow)","3.3.12","366","2049","English","Voting"
15542,"Open Elect Release","1.2","51","1422","English","Vo
16786,"OpenElect","1.3","51","1422","English","Voting"
17345,"Installed files for D-Suite 4.14-D,WinEDS 3.1.012, \
4.0.175","2016-01-12","786","2530","English","Voting"
17429,"Democracy Suite Election Event Designer (EED) Insta
File","4.14.37","365","2530","English","Voting"
17430,"Democracy Suite ImageCast Central (ICC) Installed
File","4.14.17","365","2530","English","Voting"
17431,"Democracy Suite Adjudication (ADJ) Installed
File","2.4.1.3201","365","2530","English","Voting"
```


7. This situation is especially dangerous and egregious because the Dominion Election Management System's central accumulator does not include a protected real-time audit log that maintains the date and time stamps of all significant election events. Key components of the system

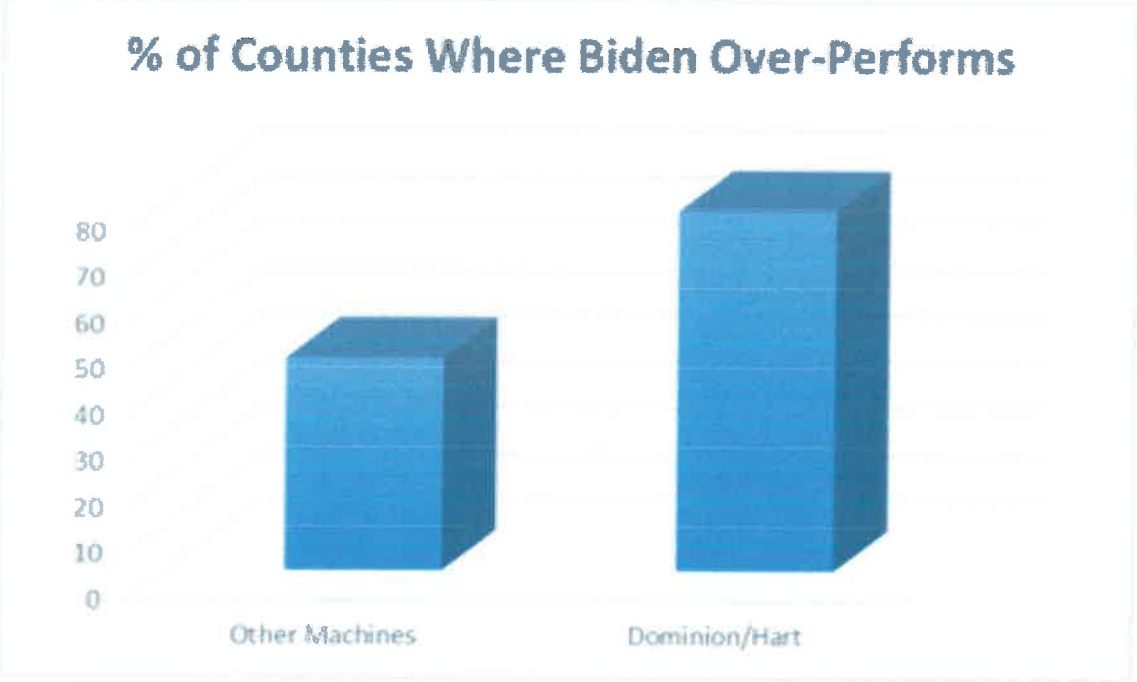
utilize unprotected logs. Essentially this allows the internal operator or an external attacker the opportunity to arbitrarily add, modify, or remove log entries, causing the machine to log election events. The system makes the creation and maintenance of various logs voluntary, so that the user has a choice to "not retain" or "conceal" their actions. Further, when logs are left unprotected and can be altered, they no longer serve the functional purpose of provided a transparent audit log to the public or election officials.

8. With the already observed level of vulnerabilities to malicious actors, internal or external, we decided to look at our data to determine if the election results were the same in counties that used Dominion machines compared to the rest of the counties as a method to determine whether solid evidence existed that Dominion was in fact acting strangely. Our data included votes for each county in the United States and U.S. Census variables from 2017. We conducted multiple regression analysis using U.S. Census data to develop a model/equation to predict in any county what percentage of the vote could reasonably be expected to go to candidate Biden. We tested the model and while naturally the percentage Biden actually achieved in each county fluctuates from the predicted value, we found for most counties the model does a good job in predicting what should be Biden's percentage of votes won. After we developed our predictive model, we obtained a data file from the U.S. Election Assistance Commission showing the voting machines used by each county in the United States.

9. Our first test looked at Biden performance by machine type. To aid in this research we calculated the number of percentage points Biden was over or under our predicted value in each county. Our initial analysis

then examined Biden's over/under performance against voting machine type. The results for any machine type should average around zero. The results for most machine types are as we would expect; Biden's over/under performance averages near zero for most counties/machines. **However, the election results from counties using Hart machines and the ImageCast X/ICX BMD from Dominion Voting Systems have an abnormally high average of over-achievement by candidate Biden.**

10. The following graph shows that in counties that used the Hart machine or the Dominion BMD device, Biden's performance was approximately five percentage points higher (Dominion BMD) or six percentage points higher (Hart) than it should have been. **In Georgia this translates into 123,725 votes that are statistically invalid.**



11. Next, we counted, for each machine type, the number of counties in which Biden over-performs expectations and the number of counties in

which he under-performs. In normal circumstances any candidate should perform above expectations roughly 50% of the time and under-perform roughly 50% of the time. We see this normal result in the "Other" machine counties, with candidate Biden performing "above" expected values 46% of the time. However, in the Dominion/Hart machine counties, Biden performs above expectations 78% of the time. **This is highly indicative (and 99.9% statistically significant) that something strange is occurring with the Dominion/Hart machines**.

12. We checked this finding by doing a CHAID analysis (Chi-Squared Automatic Interactions Detection) where the CHAID algorithm searched through the different types of voting machines used – and grouped the machines together that show similar results. **We saw that ultimately, in counties using the Dominion or Hart machines, Biden received 5.5 percentage points higher than he was expected to achieve** – or likely **would have achieved if the counties used any other type of machine. This represents 136,098 votes that are in serious question. This was very much in line with our previous findings of a 5% advantage when using Dominion equipment in paragraph 10 above.** The above findings are statistically significant at the 99.9% level or higher.

13. The next question to answer was whether this average of 5.5% was from relatively few counties having extraordinarily high results for Biden, or if several of the "Dominion" counties were showing unusually high results. The graph below clearly shows that the votes from counties using Dominion machine follows a distinct and unusual pattern, which is in fact a very predictable mathematical pattern. This is consistent with our findings in Michigan on Dominion machines where its clear the

RCV algorithm was used to allocate votes, instead of the winner being decided by the votes themselves (see paragraph 16). If the Dominion counties were acting as they should – like all the other counties – then the green dots (representing Biden's results in counties with Dominion/Hart machines) in the graph below would overlay the blue dots (Biden results in all other counties) in a similar, "mixed up"/random fashion. But we do not see this. Instead, we see the green dots centered higher than the center of the blue dots, meaning the Dominion counties were, on average, performing continuously above the predicted values for Biden had the counties using any other machines. **This indicates the fraud was widespread** and impacted vote counts in a systematic method **across many machines and counties.**

Graph: Dominion/Hart BMD Machines vs. Other Machines
(Green = Dominion/Hart, Blue = All Others)



14. Further research indicated many other red flags in Georgia itself providing evidence that the system's many vulnerabilities were indeed being exploited by actors internal or external in the 2020 election.

15. The first red flag comes from mail-in ballots dates. The voter records of the counties show that 96,600 mail-in ballots were voted, yet the county records show they were never received back. Further, 42 mail-in ballots were received back completed *before* they were mailed out to the voter by the county, 1,887 mail-in ballots were received back completed *the same day* they were mailed out to the voter by the county, 1,786 mail-in ballots were received back completed *one day after* they were mailed out to the voter by the county and 2,275 mail-in ballots were received back completed only *two day after* they were mailed out to the voter by the county. This impossible phenomenon occurred throughout the counties of Georgia and were not an isolated event. Following is a summary:.

GEORGIA MAIL-IN BALLOT ISSUES

Ballots received back completed BEFORE they were mailed out	42
Ballots received back completed THE SAME DAY they were mailed out	1,887
Ballots received back completed ONE day after they were mailed out	1,786
Ballots received back completed TWO days after they were mailed out	2,275
Total Ballots with impossible mail out and received back completed dates	**5,990**
Ballots with NO RETURN RECORD AT ALL	231,188
Ballots with NO RETURN RECORD & Cancelled	134,588
Ballots with NO RETURN RECORD & Voted	**96,600**
	231,188

Therefore, from this data I conclude to a reasonable degree of professional certainty that at least 96,600 votes were illegally counted in the Georgia general election.

16. The following data from Michigan strongly suggests that the additive algorithm (a feature enhancement referred to as "ranked choice voting algorithm" or "RCV") was activated in the code as shown in the Democracy Suite EMS Results Tally and Reporting User Guide, Chapter 11, Settings 11.2.2. It reads in part, "RCV METHOD: This will select the specific method of tabulating RCV votes to elect a winner". For instance, blank ballots can be entered into the system and treated as "write-ins." Numerous reports of write-in votes mysteriously appearing on poll closing tapes have been reported by poll workers, such as that of Keith Kaminski of Detroit, MI, attached. The operator can then enter an allocation of the write-ins among candidates as he or she wishes. The result then awards the winner based on "points" that the algorithm computes, not actual voter votes. The fact that we observed raw vote data in the Edison Research feed and data coming directly from the Dominion data feed that includes decimal places proves that the winner was selected by an algorithm, and not individual voter's choice. Otherwise, votes would be solely represented as whole numbers (votes cannot possibly be added up and have decimal places reported). Below is an excerpt from Dominion's direct feed to news outlets showing actual calculated votes with decimals. Use of the RCV algorithm is completely consistent with the mathematical advantage for Biden when using Dominion or Hart equipment as demonstrated in paragraphs 9, 10, 11 and 12 above.

state	timestamp	eevp	trump	biden	TV	BV
michigan	2020-11-04T06:54:48Z	64	0.534	0.448	1925865.66	1615707.52
michigan	2020-11-04T06:56:47Z	64	0.534	0.448	1930247.664	1619383.808

michigan	2020-11-04T06:58:47Z	64	0.534	0.448	1931413.386	1620361.792
michigan	2020-11-04T07:00:37Z	64	0.533	0.45	1941758.975	1639383.75
michigan	2020-11-04T07:01:46Z	64	0.533	0.45	1945297.562	1642371.3
michigan	2020-11-04T07:03:17Z	65	0.533	0.45	1948885.185	1645400.25

17. In my professional opinion, this presents unambiguous evidence that Dominion Voter Systems, Edison Research, Clarity Elections and Scytl have been accessible and were certainly compromised by rogue actors, such as Iran and China among others. Numerous easily discoverable leaked credentials combined with servers and employees connected with rogue actors and hostile foreign influences neglectfully allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections without a trace due to poor or changeable audit logs, including the most recent election in 2020. This represents a complete failure of their duty to provide basic cyber security. This is not a technological issue, but rather a governance and basic security issue. This 2020 election was not secure and citizens should not have confidence in the results.

18. Based on the foregoing, we believe this presents unambiguous evidence that using multiple statistical tools and techniques to examine if the use of voting machines manufactured by different companies affected 2020 US election results, we found the use of the Dominion X/ICX BMD (Ballot Marking Device) machine, manufactured by Dominion Voting Systems, and machines from HART InterCivic, appear to have abnormally influenced election results and **fraudulently and erroneously attributed from 123,725 to 136,098 votes to Biden in**

Georgia. Those votes must be disregarded when tabulating the election results.

Key Findings:

- In counties using Dominion BMD voting machines, candidate Biden appears to have consistently received 5% more votes than he should have received
- Biden over-performed predicted/expected values in 78 % of the counties that used Dominion or Hart machines. In counties with other machines, Biden over-performed only 46% of the time (anything close to 50% is normal/expected)

19. Based on the foregoing, I believe that these statistical anomalies and impossibilities compels the conclusion to a reasonable degree of professional certainty that the vote count in Georgia for candidates for President contain **at least 96,600, and as many as 136,098 illegal votes that must be disregarded.**

Further Affiant sayeth naught

Dated: 11/25/2020

Russell James Ramsland, Jr.

Sworn to before me 11/25/2020

Sarah Agee

SARAH AGEE
Notary Public, State of Texas
Comm. Expires 08-20-2022
Notary ID 131688896

Exh. 10

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION FILE NO. 1:20-cv-04651-SDG**
	)	
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	
_____	)	

AFFIDAVIT OF MAYRA ROMERA IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

I, Mayra Romera, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I am a Florida Bar licensed paralegal.

3. I am a registered Democrat.

4. I was interested in the election process in this country and wanted to be an observer in the Georgia recount process.

5. On Monday, November 16, 2020, I presented myself to Cobb County Poll Precinct located at 2245 Callaway Road SW, Marietta, GA. I was able to be on the floor observing the recount process in Room C. I observed the poll workers not calling out verbally the names on each ballot. They simply passed each ballot to each other in silence.

6. It was of particular interest to me that hundreds of these ballots seemed impeccable, with no folds or creases. The bubble selections were perfectly made (all within the circle), only observed selections in black ink, and all happened to be selections for Biden.

7. It was also of particular interest to me to see that signatures were not being verified and there were no corresponding envelopes seen in site.

8. At one point in time, while on the floor, I overheard a woman tell someone else that they should keep an eye on the guy with a blue blazer and a pocket square, that he was not allowed to come on the floor and observe past the yellow tape. They also kept an eye on him as he took photographs and video of some boxes being stored on a rack. Shortly thereafter, I observed a police officer standing at the door. I had not observed a police officer present up until that moment. They began to walk towards him to stop him as he was photographing those boxes, but at that point, he walked away from that area.

9. Based on my observations, I believe there was fraud was committed in the presidential election and question the validity of the Georgia recount process.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct.

Mayra L. Romera

STATE OF GEORGIA

COUNTY OF FULTON

Mayra L. Romera appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]



Notary Public

My Commission Expires 07-29-2024

Exh. 11

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	
Plaintiff,	**CIVIL ACTION FILE NO. 1:20-cv-04651-SDG**
v.	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	
Defendants.	

AFFIDAVIT OF AMANDA COLEMAN IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

I, Amanda Coleman, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I volunteered to be a monitor for the Donald J. Trump Presidential Campaign, Inc. (the "Trump Campaign") in connection with what was identified to me as the "hand count" of votes cast in the November 3, 2020 presidential election. I was assigned to monitor the hand count on November 15, 2020 by Alyssa Specht from the Trump Campaign, on behalf of the Georgia Republican Party (the "Republican Party").

3. Ms. Edmunds of the Republican Party told to arrive at 285 Andrew Young International Blvd. between 8:00 a.m. and 9:00 am on the morning of November 15. The address was for the Georgia World Congress Center, and there was no exterior activity at that address when I arrived. There were no instructional or directional signs.

4. After I made a series of phone calls ending with Matthew Honeycutt, he gave me directions to go to the bottom rear of the building to an "employee entrance." I arrived at 9:00 a.m.

5. As I arrived, a large crowd was leaving, saying that they had "just finished" the hand recount.

6. Another volunteer and I walked into the counting area to verify what had been said and to observe any activity, as we had been requested to do. Some counting activity appeared to still be going on.

7. We signed in, and then were told that there were "too many" volunteers on the floor and that we would not be permitted to walk the floor and observe.

8. I saw a few people here and there walking the floor. But there were no other observers at the tables where counting activity was happening. There were two people per table and they appeared to be sticking ballots into piles. We were not close enough to see much of anything else because we were not allowed.

9. I believed that we were there to watch actual "hand counting" as had been announced in the newspapers and by the Secretary of State when he requested a "hand count."

10. There was no way to tell if any counting was accurate or if the activity was proper.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct

Amanda Coleman

Amanda Coleman

STATE OF GEORGIA

COUNTY OF FULTON

Amanda Coleman, appeared before me, a Notary Public in and for the above jurisdiction, this 16th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]

CARLA DANIEL NOTARY PUBLIC COBB COUNTY GEORGIA EXPIRES 07-29-2024

Carla Daniel

Notary Public

My Commission Expires 07-29-2024

Exh. 12

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION**
	)	**FILE NO. _____**
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	
_____	)	

AFFIDAVIT OF MARIA DIEDRICH IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

I, Maria Diedrich, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein. I am a resident of Fulton County.

2. I volunteered to be a monitor for the Donald J. Trump Presidential Campaign, Inc. (the "Trump Campaign") in connection with what was identified to me as the "hand count" of votes cast in the November 3, 2020 presidential election. I was assigned to monitor the hand count on November 14 and 15, 2020 by Alyssa Specht from the Trump Campaign, on behalf of the Georgia Republican Party (the "Republican Party").
3. I believed that we were there to watch actual "hand counting" as had been announced in the newspapers and by the Secretary of State when he requested a "hand count."
4. On November 15, 2020, I arrived at the Georgia world Congress Center at 8:00 a.m. to monitor the hand counting. By 9:15 a.m., officials announced that voting was complete and sent everyone home. I spoke to a security guard who was shocked because he planned to be there until 10 p.m. He had been at that location until 10:00 p.m. on the previous night.
5. The officials announced that they had counted all the absentee on November 14 at night and they were already boxed up.
6. The only ballots left to count (for me to observe) were electronic ones, which were being counted in stacks or rows (not consistent).

7. There was no consistency on counting. Only a few tables (of the 170+) were verbally doing the pass count, so there was no way to see that the correct candidate was being put into the correct pile.

8. I observed (and told an election worker) that one counter seemed to be making piles of 9 (but counting them as 10). It took a while for me to get someone to help me, so by the time they came to observe him, the batch was counted and they did not make him recount the stack.

9. Counters were writing the number of ballots for each candidate on scrap paper (no one had the same paper, some was torn, some was colored) and then adding manually. This is where I noticed some manual entry errors, specifically when an elderly counter wrote down the number ballots, she couldn't remember the number, the person with her said a different number, they finally agreed on a number, she added numbers on a scratch paper before putting the number onto the official Audit Board Batch Sheet.

10. The batch sheets were taken to Arlo to input but there was no independent verification or monitoring of the numbers being input.

11. Five times between 8:00 a.m. and 9:00 a.m., I noticed tables with ballots on the table, but both workers had gone to get food. The ballots were left unattended. Drinks were on the tables with ballots. I noticed two tables of a

single person counting, the partner had gone to get food. After I mentioned this to the election official, they told both tables to wait.

12. At 9:00 a.m., county officials announced that there were too many party monitors and asked the Republican watchers to gather and decide which 17 would be on the floor. There were only 2 paid Republican campaign workers and they tried to organize 17 from about 30 total personnel who had volunteered. Within 10 minutes, we had completed the reorganization.

13. At that point, county officials told most of the counters to go home. There were probably 10 tables still counting.

14. There had been no meaningful way to review or audit any activity.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct.

Maria Diedrich

Maria Diedrich

STATE OF GEORGIA

COUNTY OF FULTON

Maria Diedrich , appeared before me, a Notary Public in and for the above jurisdiction, this 16th day of November 2020, and after being duly sworn, made this Declaration, under oath.

CARLA DANIEL NOTARY PUBLIC GEORGIA EXPIRES 07-29-2024 COBB COUNTY

[Affix Seal]

Carla Daniel

Notary Public

My Commission Expires 07-29-2024

Exh. 13

Fill out and mail to: *Every Legal Vote - Integrity Project 11816 Inwood Dr. Suite 231, Dallas, TX, 75244*
Scan the Executed Sworn Affidavit and email FraudReport@EveryLegalVote.com

AFFIDAVIT

STATE OF _____Georgia_____ §
§
COUNTY OF __Fulton_____ §

BEFORE ME, the undersigned, on this date personally appeared B. Trinh Ha, known to me to be the person whose name is subscribed to the following Affidavit and who, after being duly sworn by me, stated upon his or her oath as follows:

"My name is: _____Ursula V. Wolf_____.

___On October 13, 2020 I went to early vote at the Alpharetta Library located at 10 Park Plaza, Alpharetta, GA 30009. The lines were long. Clerk informed those in line that the computers were freezing and that only 2 poll pads were functional and thus the slow process. After a 3 hour wait, my turn to get my vote card came up. I presented my GA DL and it was scanned at the poll pad. At which time poll worker James Campbell told me that I had already voted. I told him I absolutely have not. He then asked if I had requested an absentee ballot and I replied no. He attempted to make an entry on the poll pad only to tell me that the poll pad was frozen. He gave me an affidavit to sign and told me he was adding me to the list of manual ballots in his computer and gave me a vote card from the table without being processed thru the poll pad. I asked who had voted for me and if there was an explanation for the error, he indicated he could not tell what the problem was__."

B. TRINH HA NOTARY PUBLIC GEORGIA FULTON COUNTY EXPIRES 2021

Signature: _____

Printed Name: Ursula V. Wolf

SUBSCRIBED AND SWORN to before me on the 20th day of November, 2020.

_____.
Notary Public in and for the
State of GA.

My Commission Expires:
05/04/2021

Exh. 14

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION FILE NO.**
	)	**1:20-cv-04651-SDG**
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	
_____	)	

AFFIDAVIT OF NICHOLAS J. ZEHER IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

I, Nicholas J. Zeher, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I am an attorney licensed to practice law in the state of Florida.

3. On Sunday November 15, 2020 Alyssa Specht appointed me to serve as a Monitor for the duration of the Risk Limiting Audit in DeKalb County (the "DeKalb Appointment Letter"). A true and accurate copy of the appointment letter is attached to this Affidavit as **Exhibit "A."**

4. On Sunday at around 12:30 p.m., I showed up to 2994 Turner Hill Road, Stonecrest, Georgia 30038 to begin observing as a Monitor. Prior to my arrival, I was sent a handout titled "Audit/Recount Monitor and Vote Review Panel Handout" which outlined the rules in place as well as provided guidelines for observation. A true and accurate copy of the Audit/Recount Monitor and Vote Review Panel Handout is attached to this Affidavit as **Exhibit "B."**

5. After signing in and providing the DeKalb appointment letter to the check-in desk, I was permitted to roam throughout the facility to conduct observations.

6. The first thing I noticed was signs taped to each table (the "Review Table" or "Review Tables") indicated a place for ballots for Trump, Biden, and Jorgenson and other signs for "Blanks" (no vote for President) or overvotes (multiple votes for President). At each Review Table were two people

manually reviewing each ballot (the "Recounter"). The first Recounter would pick up the ballot and orally announce which candidate the ballot was cast for. The first Recounter would then pass the ballot to the second Recounter who would again orally announce which candidate the ballot was cast for. The ballot was subsequently placed in the pile designated for that candidate as discussed above.

7. Due to the COVID restrictions, we were instructed to stay a minimum of six feet away from any Recounter sitting at one of the Review Tables.

8. The ballots would be brought to the Review Table in a cardboard box by another worker. I was never able to get close enough to read any writing on any of the cardboard boxes. After the carboard box was opened, stacks of ballots were removed and placed on the Review Table. There were notes on each stack but again, I was never able to get close enough to read what was written.

9. Once the stack of ballots was on the Review Table, the process of reviewing the ballot began in the manner outlined above in paragraph 6.

10. At no time did I witness any Recounter or any individual participating in the recount verifying signatures.

11. If one of the Recounters encountered a ballot that was questionable, he or she raised a piece of paper with a "?" and what seemed to be a supervisor would come to that Review Table. A short conversation was had and the supervisor would provide the Recounters with instructions. Again, I was never able to get close enough to hear what was said.

12. When a Review Table completed reviewing a cardboard box full of ballots, one of the Recounters would write some information (I assume it was the number of ballots for each candidate the box contained) on a piece of paper and place it on top of the cardboard box. Then one of the Recounters would hold a piece of paper with a "√" (check mark) on it in the air and someone would come pick up the box full of ballots.

13. There was no person verifying the number of votes that the Recounter would write on the paper.

14. At one point, I was able to get close enough to a Review Table to see the ballots and the markings on them. It was strange—there were many ballots where just Joseph Biden was filled in and no other candidate whatsoever.

15. At another table, I watched the Recounters pull out a stack of ballots that appeared to be strange too. The bubble filled out for Joseph Biden looked to be a perfect black mark.

16. I spoke to other Observers present that day and they had witnessed the same thing. Other Observes also informed me that fellow Observers were removed for getting too close to the Review Tables. That when they would get close enough to see what was actually filled in on the ballot, one of the Recounters would begin making a big scene and call over a supervisor. The supervisor would then remove the Monitor permanently.

17. While in DeKalb County, I saw a lot of hostility towards Republicans and none towards Democrats.

18. On the evening of November 15, 2020, Alyssa Specht appointed me as an Monitor in Henry County for the whole duration of the Risk Limiting Audit ("Henry County Appointment Letter"). A true and accurate copy of the Henry County Appointment Letter is attached to this Affidavit as **Exhibit "C."**

19. I arrived at 562 Industrial Boulevard, McDonough, Georgia 30253 at around 9:30 a.m.

20. When I entered the building, I was halted by a woman at the door who immediately informed me that I was not needed and that all the position had been filled. At this time, the woman neither asked who I was nor why I was present. I asked this woman to speak to the person in charge.

21. Within a few seconds, I was greeted by Ameika Pitts ("Ms. Pitts"), Henry Country's Elections Director. Ms. Pitts informed me that my assistance was not needed, and I was free to go. Again, this was told to me prior to her asked why I was there and who I was.

22. I then pulled the Henry County Appointment Letter up on my phone and presented it to her. Ms. Pitts immediately told me that I was not able to have my phone inside the building even though the recount was allegedly being "live streamed." After a brief conversation, I send Ms. Pitts a copy of the letter and was permitted to enter the building, but only in the public observation area.

23. Fortunately, after speaking to several Republican Party volunteers, Ms. Pitts was provided my name from the Henry County Republican Chairwoman and I was permitted to enter into the observation area.

24. Once inside the observation area, I saw that it was set up very similar to DeKalb County with the Review Tables having the same designations and each Review table having two Recounters as described in paragraph 6 above.

25. As I began walking around, I noticed several differences between DeKalb County and Henry County. In Henry County, the ballots were brought to each Review Table in a red, plastic box with security ties used to hold the

box closed. Those ties were cut, and the ballots were then removed and placed on top of the Review Table in stacks that were wrapped in a rubber bands and had a pink sticky note on each stack which displayed the number of ballots each stack contained. The Recounter would then remove the rubber band and sticky note and begin counting the same was described in paragraph 6 above.

26. At around 12:05 p.m. I was observing table "G" when the two recount workers sorted a pile of ballots that had a note which said "93" as the number of ballots. When the two workers finished sorting and counting the ballots, there were only 92. The director of the election committee, Ms. Pitts came to the two workers and simply signed a separate sheet of paper saying that there were only 92 ballots. Ms. Pitts never recounted to make sure. This happened several times and Ms. Pitts informed us that she has been directed to just sign off on the number of ballots the recount worker said was there.

27. While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table "A."

28. I interviewed a few Observers that same day who informed me that on multiple occasions, Recounters at tables "A," "B," "G," and "O" were seen

placing ballots cast for Donald Trump placed in the pile for Joseph Biden. When this was brought to Ms. Pitts attention, it was met with extreme hostility. At no time did I witness any ballot cast for Joseph Biden be placed in the pile for Donald Trump.

29. Based on my personal observations, I believe that additional absentee ballots were cast for Donald Trump but counted for Joseph Biden. I further believe that there was widespread fraud favoring Joseph Biden. This is my personal experience.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct

Nicholas J. Zeher

STATE OF FLORIDA

COUNTY OF PALM BEACH

Nicholas Zeher, appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]

Notary Public

My Commission Expires_____

ROBERT N. ALLEN, JR.
MY COMMISSION # GG 221322
EXPIRES: July 9, 2022
Bonded Thru Notary Public Underwriters

Exhibit A

GAGOP

November 15, 2020

Monitor Designee – Risk Limiting Audit

To Whom it May Concern:

This letter serves as proper notice, pursuant to O.C.G.A. § 21-2-408, § O.C.G.A. 21-2-483, State Election Board Rule 183-1- 13-.06, and/or State Election Board Rule 183-1-14-0.9-.15. The listed designees are to serve as a Monitor for the whole duration of the Risk Limiting Audit in DeKalb County:

- William McElligott
- Oleg Otten
- Kevin Peterford
- Nicholas Zeher
- Scott Strauss
- Michael Sasso

David J. Shafer
Chairman

Michael Welsh
Secretary

Exhibit B

Audit/Recount
Monitor and Vote Review Panel Handout

Audit Observer Handout

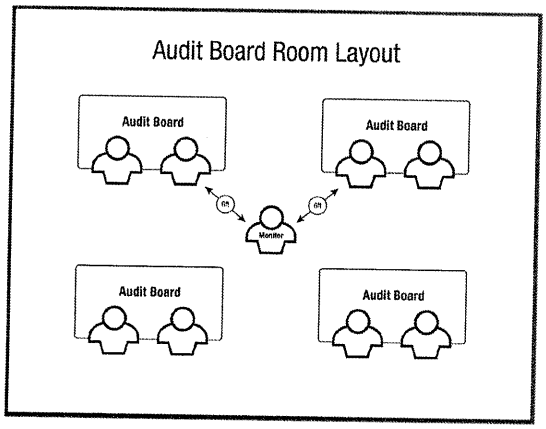
Arrival:

- Arrive 30 minutes prior to the start of your shift.
- The public is to watch the opening procedures before the audit begins and after the audit ends for the day.
- Be respectful and professional, not adversarial.

Audit Observers/Designated Monitors:

- Each political party may have one designated monitor per 10 Audit Teams or a minimum of two designated monitors per room.
- Designated monitors may roam the audit room and observe the audit process
- Observe the Check-in and Check-out process of the ballots
- Must wear badges that identify them by name.
- Are allowed to observe but may not obstruct orderly conduct of election.
- May not speak to or otherwise interact with election workers.
- Are not allowed to wear campaign buttons, shirts, hats or other campaign items.
- Do not touch any ballot or ballot container
- Observe and ensure the room is properly set-up, the Audit Teams are completing their tasks, and the Table is set up properly (see below).
- **Must pose questions regarding procedures to the clerk/election worker for resolution.**

Room Set up



Audit Teams Responsibilities

When reviewing a ballot and determining the voter's mark, audit boards must consider "if the elector has marked his or her ballot in such a manner that he or she has indicated clearly and without question the candidate for whom he or she desires to cast his or her vote." O.C.G.A. 21-2-438(c).

As a batch is delivered from the check-in/out station:

- Record the County Name, Batch Name, and Batch Type (Absentee, Advanced Voting, Provisional, Election Day), and verify the container was sealed on the Audit Board Batch Sheet.

- Unseal the container.
- Recount the Ballots using the "Sort and Stack" method:
    - Pull the ballots out of the container and stack neatly on the table.
        - If the container contains more than 1000 ballots, ballots should be removed from the container and sorted in manageable stacks (using an Audit Board Batch Sheet for each stack), leaving the rest of the ballots in the container until the previous stack is done.
        - For each ballot: audit board member (ABM) #1 picks up a single ballot from the stack and reads the vote for the Presidential contest aloud, then hands the ballot to ABM #2. ABM #2 verifies the vote that is on the ballot is indeed what ABM #1 read, then places the ballot in the "stack" that corresponds to the vote. ABM #1 should watch to make sure the ballot is placed in the right stack. There will be 8 stacks as follows:
            - Trump
            - Biden
            - Jorgensen
            - Overvoted ballots - one pile for any ballot where the voter made more than one selection for President.
            - Blank/Undervoted ballots - one pile for any ballot where the voter made no selection for President.
            - Write-In - one pile for any ballot containing a write-in vote for President. (The board does *NOT* need to determine whether the write-in is for a qualified candidate: the Vote Review Panel does that.)
            - Duplicated ballots - one pile for ballots marked as duplicated.
            - Undetermined - one pile for any ballot where the audit board cannot agree on the voter's intent.
        - Candidate Ballot Tallies – Count the ballots in each stack by having one member of the audit board verbally count the ballot while handing it to the other member for verification. Count the ballots in groups of 10, stacking the groups at right angles to each other, so you can easily count the complete groups when you are done. (For instance, if you have seven groups of 10 ballots each plus an extra 3 ballots, the total tally would be 73.) Record the total tally for each candidate on the Audit Board Batch Sheet.
        - Write-In, Duplicated, and Undetermined Ballots - count the ballots in the write-in duplicated, and undetermined ballot piles and record on the Audit Board Batch Sheet. Each type should go in a designated folder or envelope by batch.
    - Write-in, Duplicated, and Undetermined ballot folders must be set aside for delivery to the Vote Review Panel.
    - Return the other ballots to the original container and seal the container.
    - Sign the Audit Board Batch Sheet.
    - Raise your check mark sign for the check-in/out station to come retrieve your container, batch sheet, and any ballots for the Vote Review Panel.

Audit Board Batch Sheet

County _____

Batch Name _____

Batch Type: ☐ Absentee ☐ Advance ☐ Election Day ☐ Provisional ☐ Other

Was the container sealed when received by the audit board? ☐ Yes

Candidates	Enter Audit Totals
Donald J. Trump	
Joseph R. Biden	
Jo Jorgenson	
Overvote	
Blank/Undervote	

Ballots sent to the Vote Review Panel (if any)

Write-in	
Duplicated	
Undetermined	

When work is completed, return all ballots (except Vote Review Panel ballots) to the ballot container and seal container.

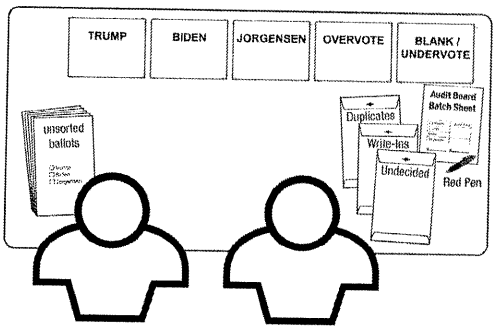
Was the container resealed by the audit board? ☐ Yes

X_____ X_____
(Audit Board Member) (Audit Board Member)

Check In/Out Station
☐ Recorded batch return on Ballot Container Inventory Sheet
☐ Delivered Vote Review Panel ballots (if any)
☐ Entered tallies into Arlo
_____ Initials of check in/out station member

Table Set up

Audit Board Table Top Organization



No Photography is allowed in the observation area.

Check-in/out Process

- Two election workers are required to observe the check in and check out process of ballots to ensure there is a secure chain of custody and inventory of ballots is kept proper.
  - One person is to be kept with the ballot containers
  - One person delivers the containers to and from the audit boards ("runner")
- There should be at least one "runner" for every 5 audit boards
- When a new container arrives, the election works must record:

- batch name
- audit board number

- Upon completion, the election worker must:
  - Verify proper completion of the *Audit Board Batch Sheet*
  - Ensure contain is resealed
  - Return the container and batch sheet to the check-in/out station
  - Note the return of the container of the Ballot Container Inventory Sheet
  - Deliver any necessary ballots/envelopes to the Vote Review Panel
    - Duplicates, write-ins, and undermined
  - Enter candidate totals for the batch in Arlo, mark as "entered"

Closing of Audit Room:

- **All eligible monitors are able to observe the closing and conclusion of the audit.**

Monitor Observes Issue…What to Do?

1. Respectfully raise issue with precinct clerk for resolution.
2. Do NOT speak to or interact with election workers.
3. Do NOT take pictures or videos.
4. If unresolved, leave polling room and call GOP GA Legal Hotline with your name, county, and location.

Be on the lookout for:

1. Lapses in procedure
2. Food or beverage on audit tables (it should be under the table)
3. Any ballots not being delivered from the runners in the regular course

Statewide Observer and VRP member Hotline: 470-410-8762

Incident Report Form (attached) and at: https://gagop.org/auditreport/

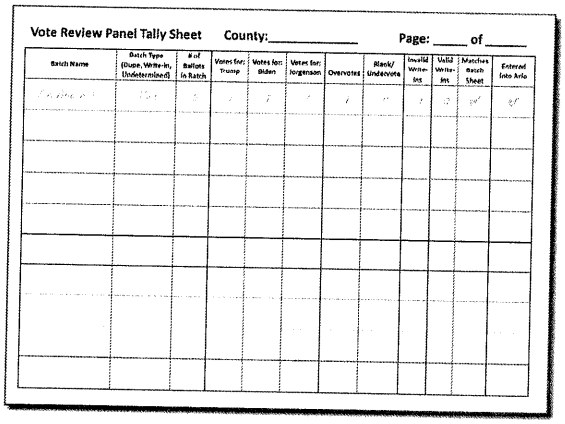
The Vote Review Panel

Vote Review Panel (VRP) Member:

- Each political party must have 1 member per VRP
- You must object when you cannot agree
    - If there is a disagreement between the two VRP members, the Superintendent or their designee breaks the tie.
- Manually log each ballot that should be adjudicated
- Must wear badges that identify them by name.
- May not speak to or otherwise interact with election workers.
- Are not allowed to wear campaign buttons, shirts, hats or other campaign items.
- **Must pose questions regarding procedures to the clerk/election worker for resolution.**

Three types of Ballots:

- Duplicated Ballots
    - Retrieve the original ballot and compare the duplicated ballot to ensure proper duplication. Using the original ballot, record the vote tally for the duplicated ballots using the Vote Review Panel Tally Sheet.
- Undetermined Ballots
    - Review the undetermined ballots where the audit board could not agree on the voter's intent to make a determination. Record the vote tally for the undetermined ballots using the Vote Review Panel Tally Sheet.
- Write-In Ballots
    - Review the write-in ballots to determine if a voter has voted for a qualified or invalid write-in candidate. Record the number of votes for each qualified write-in candidate on the Qualified Write-In Candidate Tally Sheet.



Vote Review Panel Tally Sheet County:_____ Page: ____ of _____

Batch Name	Batch Type (Dupe, Write-In, Undetermined)	# of Ballots in Batch	Votes for: Trump	Votes for: Biden	Votes for: Jorgensen	Overvotes	Blank/ Undervote	Invalid Write-Ins	Valid Write-Ins	Matches Result Sheet	Entered Into Arlo

Common Adjudication Scenarios

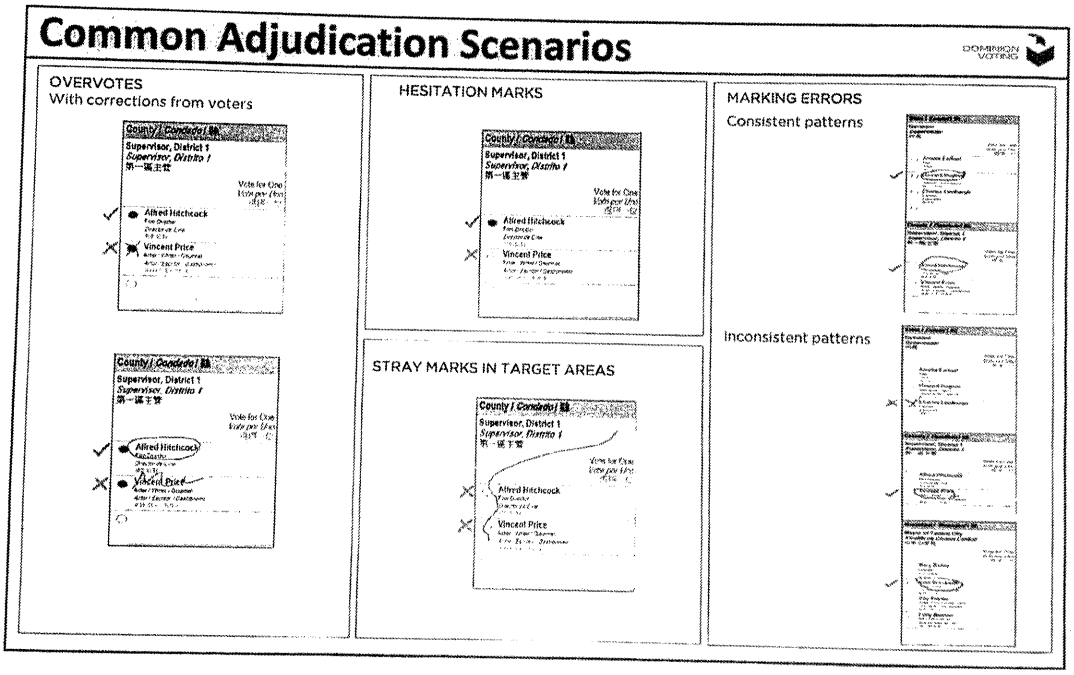


Exhibit C

GAGOP

November 15, 2020

Monitor Designee – Risk Limiting Audit

To Whom it May Concern:

This letter serves as proper notice, pursuant to O.C.G.A. § 21-2-408, § O.C.G.A. 21-2-483, State Election Board Rule 183-1- 13-.06, and/or State Election Board Rule 183-1-14-0.9-.15. The listed designees are to serve as a Monitor for the whole duration of the Risk Limiting Audit in Henry County:

- William McElligott
- Oleg Otten
- Kevin Peterford
- Nicholas Zeher
- Ibrahim Reyes-Gandara
- Juan Carlos Elso
- Carlos Silva
- Mayra Romera

David J. Shafer
Chairman

Michael Welsh
Secretary

Exh. 15

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION FILE NO. 1:20-cv-04651-SDG**
	)	
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	
	)	

AFFIDAVIT OF SUSAN VOYLES IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

I, Susan Voyles, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I am a poll manager at Precinct SS02 A and B (Sandy Springs). The Fulton County Board of Elections ("BOE") sent an email soliciting poll managers and assistant poll managers for the purpose of participating in the "hand count" audit of votes cast in the November 3, 2020 presidential election. I accepted the assignment.

3. My direct supervisor, Marie Wright, asked me if I could confirm that I could show up to participate as an auditor in the recount from Saturday, November 14 until Wednesday, November 18, 2020. I was told that it was a requirement of the accepting the assignment to be available from 7:00 a.m. until 5:00 p.m on each of those five days. I was to be paid $200 per day.

4. The BOE also solicited Fulton County employees generally, such as workers from the public libraries. Most had no election experience (other than perhaps voting themselves).

5. On Saturday at 7:00 a.m., I showed up to the Georgia World Congress Center at 285 Andrew Young International Blvd. in downtown Atlanta. We had to watch a very short training video (probably less than 5 minutes) -- there was no audio, but there were captions. I watched it three times to ensure I had captured all the information, but there were some things that were not

covered, like what an auditor should do if he or she saw matters of concern. I did not see any helpful written materials on that issue.

6. We were required to sign an oath saying that we would conduct an audit impartially and fairly to the best of our ability, and were told that if we did anything wrong we would have to go before the State Board of Elections.

7. The BOE did not appear to have standardized operating procedures for the conduct of the audit. Everything was in total disarray at the counting location. The organizers did not have sufficient tables for all the committed volunteers. (When I arrived at 7:00 a.m., 134 tables were set up and I was assigned to table 136; ultimately, I believe 170 tables were set up.)

8. Counting began shortly after 7:00 a.m., as best as I could tell, but we were held to the side. After 90 minutes of counting had passed, we were assigned a table from additional tables that had been brought into the counting area.

9. Signs taped to the table indicated a place for ballots for Trump, Biden, and Jorgenson and to make a separate pile for "Blanks" (no vote for President) or overvotes (multiple votes for President). One person was to pick up the ballot and state the vote out loud, and the other was to confirm that selection and place the ballot in the appropriate location.

10. After counting, we were instructed to pick up each individual "pile" and count the ballots in each pile and place them in alternating stacks of 10 each. After counting the final tally, we were instructed to compare the number with the original number from the opening tally sheet. (The tally sheet provided a road map to the number that was needed to reconcile with the original reported results.)

11. We began counting around 9:00 a.m. We were given a tally sheet to record our findings, and manila envelopes for write-in candidates and disputed ballots. Again, we were not given any information or standards on how to interpret spoiled ballots or other discrepancies.

12. We noticed that the supervisors seemed selective as to how to allocate the assignments. For our first assignment, we were given a cardboard box that contained only absentee ballots. It was taped shut with packing tape with the seal of the Secretary of State. But the seal was blank, signed by no one, and no information had been supplied. There were no markings indicating the provenance of the box. The box was marked as Box No. 5 – Absentee – Batch Numbers 28-36.

13. Inside the box were stacks of ballots of approximately 100 ballots each. Each stack contained an original tally sheet that said the location where the

ballots were picked up. I am assuming these ballots came from the pervasive ballot boxes that had been placed throughout Fulton County.

14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper – it was if they were intended for absentee use but had not been used for that purposes. There was a difference in the feel.

15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had come from, or where they had been processed. These stood out.

16. In my 20 years' of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joseph Biden. I only observed two of these ballots as votes for President Donald J. Trump.

17. We left at approximately 4:45 on Saturday. There will still much to be done. We were told to come back on Sunday. It was estimated at that time that the

ballot recount would not be completed until Monday evening at the earliest – that's how many ballots were left.

18. On our way out, we spoke to a GWCC officer and thanked him for being there and his service. We asked him if he would be leaving shortly, and he said he was not scheduled to leave until 11:00 p.m. At that point, other officers would come and guard the room from 11:00 p.m. to 7:00 a.m.

19. On Sunday morning we arrived at approximately 6:45 a.m. Initially, the fact that there were so few auditors in the room indicated that others were just late. However, by 7:15 a.m., we realized that because so few additional auditors had arrived, there would not be a lot of auditors present for the Sunday count.

20. Interestingly, we were told to go back to our original table. Even though the room was sparsely occupied, we were surrounded with two auditors immediately in front of us and two auditors immediately behind us. We began to notice a greater disparity in the distribution of workloads. Although the auditing tables surrounding us arrived later, they were assigned large boxes of ballots before we were given. When our box arrived – after a 45 minute wait – I opened the ballot box to find only 60 ballots from the Quality Living Center in South Atlanta, a men's housing facility for recovering

addicts. The other auditing tables received boxes with over 3,000 ballots each.

21. After we completed our first ballot box, we raised our "check card" for more ballots. After waiting for an extended period, we were told our assistance was no longer needed and thanked for our work. We were told to go home.

22. We offered to help on some larger piles that were still evident, and the officials present were adamant that they did not need any help. I sat at the table for a while longer and noticed how other auditors were treated. We were explicitly told we could not have drinks or food of any kind on the table -- that was understandable. The people behind us and in front of us however had open water bottles, breakfast burritos supplied by the BOE, and snacks on their table.

23. Also, those tables were not counting as a team, with a pass-off from one to the other. Each auditor was counting individually. The purpose of the pass-off was to make sure that each auditor agreed that the call for each ballot was accurate.

24. This recount process was consistent with the lack of preparation, contingency plans, and proper procedures that I experienced in this unusual election. For example, in the setup for Election Day, we typically receive

the machines – the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 a.m. in the morning on Election Day. The Milton precinct received its machines at 1:00 a.m. in the morning on Election Day. This is unacceptable and voting machines should not be out of custody immediately prior to an Election Day. It is possible that these ballot marking devices could have been used for other purposes during that period.

25. When I was asked to sign the chain of custody letter, I only signed the letter with the added language to state that I was accepting chain of custody for equipment, BMDs, and pole pads that had not been delivered.

26. My precinct should have received the poll pads on Sunday and should have been able to store them inside the ballot marking devices. We could not do that, since we did not receive the ballot marking devices in a timely manner.

27. When we did receive the machines, they were not sealed or locked, the serial numbers were not what were reflected on the related documentation, and the

green bar coded tags that are supposed to cover the door covering the memory card was broken. The supervisor told us to use the machines in that condition. As a poll manager of over 20 years, I knew this was not the standard operating procedure for the BMDs and therefore I did not put them into service.

28. I believe my honesty in this affidavit will lead to my arrangement as a poll worker in Fulton County being compromised. However, the BOE operations were sloppy and led me, in the case of at least one box I reviewed, to believe that additional absentee ballots had been added in a fraudulent manner. This is my personal experience.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct

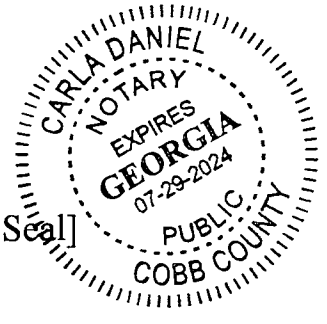
Susan Voyles

STATE OF GEORGIA

COUNTY OF FULTON

Susan Voyles, appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]



Notary Public

My Commission Expires 07-29-2024

Exh. 16

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION FILE NO. 1:20-cv-04651-SDG**
	)	
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	
	)	

AFFIDAVIT OF IBRAHIM REYES, ESQUIRE IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

I, Ibrahim Reyes, declare under penalty of perjury that the following is true and correct:

1. My name is Ibrahim Reyes. I am an attorney licensed to practice law in the State of Florida since 2002, my office address is 236 Valencia Avenue, Coral Gables, FL 33134, and my email address is ireyes@reyeslawyers.com.

2. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

3. I volunteered to assist in the manual recount in the State of Georgia and was assigned to work as a Monitor and as a member of the Vote Review Panel.

4. On November 16, 2020, I went to Clayton County from 8:00 A.M. to 6:00 P.M.

5. I identified myself as a Monitor and Vote Review Panel associated with the Republican Party, and the person in charge of the Clayton County precinct, Erica Johnston, said that I could not be present on the floor until I received a badge with my name, that it would be printed shortly, within thirty minutes, but could stand in the observers area, away from the counting tables.

6. I did not receive my identification badge until three hours, so I was prevented from acting as a Monitor all morning.

7. However, as an observer, I observed that the precinct had twelve (12) counting tables, but only one (1) monitor from the Republican Party. I brought it up to Erica Johnston since the recount rules provided for one (1) monitor from each Party per ten (10) tables or part thereof.

8. Erica Johnston said that I was wrong, that there were only ten tables counting and explained that because there were ten tables, not twenty, only one monitor was allowed. I explained to her that there were twelve tables counting, and

that the rules did not state what she said, and read to her the rule, which I had on my phone.

9. Erica Johnston proceeded to tell me that it did not matter, that she was in charge, and that unless there were twenty tables, one monitor for twelve tables was fine because of the limited space. I explained that I did not note an exception where due to limited space, she could individually determine how many Monitors to allow, and that she had created her own rules for the manual recount, which precluded Republican Monitors from monitoring the recount. Erica Johnston said that if I continued to insist on having one more Monitor for the Republican Party, she would call the Police.

10. We were inside the Clayton County Police Department. I pointed her where a Police officer was and asked her to call her over. I explained to the female police officer that the Clayton County precinct was not counting ballots following the rules for counting ballots, and I was requesting Erica Johnston to follow the rules. The police officer told me that she could not do anything about it.

11. A Clayton County journalist named Robin Kemp of @RKempNews, overheard the exchange, as a member of the media went in and photographed the twelve (12) counting tables, confirmed to me that she had seen twelve counting tables, and published it in Twitter.

12.Soon thereafter, before noon, we were notified that the location would close, and the recount would be moved to Jackson Elementary to allow for more space and more monitors.

13. The recount resumed at Jackson Elementary on or about 1:30 P.M., after boxes of ballots were brought in a Clayton County white van with tag GV57976 and taken into Jackson Elementary.

14.I had my identification badge by then, so I went in and noticed that one Republican Monitor was allowed, yet now there were twenty six (26) tables, and informed Erica Johnston that, again, if there were twenty six tables for recounting, three (3) monitors from each Party were to be permitted.

15.Erica Johnston told me that she was in charge, and that I should stop interfering with the process. I informed Erica Johnston that she was interfering with the process, since she was not following the recount rules, knowingly.

16.At that point in time, a young man named Trevin McKoy, associated with the Georgia Republican Party, told Erica Johnston that the Republicans were entitled to three, not one, Monitor, since there were twenty-six tables. Erica Johnston called over a Police officer, Officer Johnson, and Erica Johnston asked Officer Johnson to remove Mr. McKoy from the building.

17.I intervened and explained to Officer Johnson that Erica Johnston was not following the rules, and Officer Johnson replied that Erica Johnston was in charge, and that we were not in a Courtroom.

18.I walked outside with Trevin McKoy, and so did the journalist, Robin Kemp, who proceeded to publish the violation of rules on her Twitter account.

19.Within five minutes of the Twitter having been published, Erica Johnston approached me and told me that the Republicans could have two additional Monitors, and two additional Monitors went on the floor.

20.She also offered me to participate in the Voting Review Panel, which I did until 6:00 P.M.

21.As a Voting Review Panel member, I sat next to two counting tables, and monitored whether counters were following the rules.

22.For example, the procedure required that the two counters sitting next to each other would recite the name of the candidate for whom the vote was cast, one first, the second after, to confirm agreement, and then place the 'ballot' on the appropriate stack, Trump, Biden, etc.

23.The counters on the two tables next to my table were not doing that, and I served as a next to them for over three hours. One would give a 'ballot' to the next, and the next would place it on top of one of the stacks, without confirmation from counter 2 to counter 1.

24.I witnessed that Erica Johnston did not follow the rules until I complained, and journalist Robin Kemp published the violations on her Twitter account.

25.I also witnessed that Officer Johnson, of the Clayton County Police Department, removed Trevin McKoy from the Jackson Elementary precinct only because Erica Johnston told him to remove him, even though Trevin McKoy had not done or said anything improper.

26.I also observed that the precinct had Democratic Party monitors, Republican Party monitors, and Carter Center monitors, and only Republican Monitors were being mistreated by Erica Johnston and by Officer Johnson.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct

Ibrahim Reyes

STATE OF GEORGIA

COUNTY OF FULTON

Ibrahim Reyes appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

CARLA DANIEL NOTARY EXPIRES GEORGIA 07-29-2024 PUBLIC COBB COUNTY

[Affix Seal]

Notary Public

My Commission Expires 07-29-2024

Exh. 17

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	
Plaintiff,	**CIVIL ACTION FILE NO. 1:20-cv-04651-SDG**
v.	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	
Defendants.	

AFFIDAVIT OF CONSETTA S. JOHNSON IN SUPPORT OF PLAINTIFF'SMOTION FOR TEMPORARY RESTRAINING ORDER

I, Consetta S. Johnson, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I was a volunteer audit monitor at the Jim R. Miller Park for the recount process on November 16, 2020.
3. As a floor monitor, I could see by the markings that the ballots being audited were absentee ballots.
4. I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray.
5. I also witnessed the same two poll workers putting the already separated paper receipt ballots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray.
6. They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet. A copy of the video reflecting this is attached as **Exhibit A**.
7. Although I observed a supervisor provide guidance and instructions, the process was not uniform, and most poll workers were working in their own format and style.
8. I also observed the poll workers not calling out verbally the names of each ballot. They simply passed each ballot to each other in silence.
9. I believe the Board of Elections operations were sloppy, unorganized, and suspicious. As an observer I could not observe presidential vote preference

because the font size of the machine paper printed ballots were difficult to read from my distance. This is my personal experience.

I declare under penalty of perjury that the foregoing statements are true and correct

Consetta S. Johnson

STATE OF GEORGIA

COUNTY OF COBB

Consetta S. Johnson appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal] CARLA DANIEL NOTARY PUBLIC COBB COUNTY GEORGIA EXPIRES 07-29-2024

Notary Public

My Commission Expires 07-29-2024

Exh. 18

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION FILE NO. 1:20-cv-04651-SDG**
	)	
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	

AFFIDAVIT OF CARLOS E. SILVA IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

I, Carlos E. Silva, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I am and have been a Florida trial lawyer for over 26 years.

3. I am a registered Democrat.

4. Me and several people from my firm were very interested in the election process in this country and wanted to be observers in the Georgia recount process to see if we had a valid, secure and non-biased voting system.

5. On Sunday, November 15, 2020 I arrived to Dekalb County Poll Precinct located at 2998 Turner Hill Road, Stonecrest, GA 30038.

6. I was allowed to be an observer and walked over to a table of two women counting votes.

7. I watched them pull out a pile of what I observed to be absentee ballots and noticed two very distinct characteristics that these ballots had. One, I noticed that they all had a perfect black bubble and were all Biden select. I was able to observe the perfect bubble for a few minutes before they made me move away from the table. At no time did I speak to the poll workers or obstruct them in any way. I heard them go through the stack and call out Biden's name over 500 times in a row.

8. On the following day, on November 16, 2020, I presented myself to Cobb County Poll Precinct located at 2245 Callaway Road SW, Marietta, GA. At first, I was standing next to the panel reviewers in Room B, where I observed absentee ballots being reviewed with the same perfect bubble that I had seen the night before at Dekalb County. All of these ballots had the same two characteristics: they were all for Biden and had the same perfect black bubble.

9. After being there for over an hour, I walked over to Room C where the absentee ballots were being manually recounted (audited). While in this room, I did not hear a verbal callout as to each ballot as I had heard the day before in Dekalb County. It was instead, done in a silent manner between both poll workers.

10. I was able to visualize the perfect bubble with the name Biden on it for approximately ten minutes before a female middle aged (blonde hair with glasses) supervisor in a ski jacket asked me to move ten feet away and refused to give me her name. Later on, one of the people traveling with me from my office, heard her say to keep an eye on the guy with a blue blazer and a pocket square, he is not allowed to come on the floor and observe past the yellow tape. I was the only one wearing a blue blazer with a pocket square.

11. I also observed a dispute at one of the tables between an observer and a male supervisor (perhaps in his mid-thirties) who stated that a box had been certified incorrectly because the recount number was different than the original number. The observer was also upset because nothing was done about it.

12. I also saw absentee ballots for Trump inserted into Biden's stack and were counted as Biden votes. This occurred a few times.

13. I also observed throughout my three days in Atlanta, not once did anyone verify signatures on these ballots. In fact, there was no authentication process in place and no envelopes were observed or allowed to be observed.

14. I saw hostility towards Republican observers but never towards Democrat observers. Both were identified by badges.

15. Lastly, after my frustrating experience, I decided to try to speak one of the poll workers after hours. I identified myself as an observer that wanted to know more about the process and any pressure he may have been under. He advised that they, as poll workers, have been prohibited to speak to observers at any time, and that the pressure they have been under by their supervisors has been great. Not only in the speed of counting, but in reference to

irregularities that he was not at liberty to discuss with me. I asked him if he could find some time to speak with me after he was done counting and relieved of his duties and he said he was advised to never speak to anyone about the process.

16. Based on my observations, I have reached the conclusion that in the counties I have observed, there is widespread fraud favoring candidate Biden only. There were thousands of ballots that just had the perfect bubble marked for Biden and no other markings in the rest of the ballot.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct.

Carlos E. Silva

STATE OF GEORGIA

COUNTY OF FULTON

Carlos E. Silva appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]



Notary Public

My Commission Expires 07-29-2024

Exh. 19

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION FILE NO.**
	)	**1:20-cv-04651-SDG**
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	
_____	)	

AFFIDAVIT OF ANDREA O'NEAL IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

I, Andrea O'Neal, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I volunteered to be a monitor for the Donald J. Trump Presidential Campaign, Inc. (the "Trump Campaign") in connection with what was identified to me as the "hand count" of votes cast in the November 3, 2020 presidential election. I was assigned to monitor the hand count on November 14, 2020 at the Lithonia Voting Facility in Lithonia, Georgia.
3. I voted early on October 12 at the precinct at Lynwood Park in Brookhaven. Because of irregularities at the polling location, I called the voter fraud line to ask why persons were discussing my ballot and reviewing it to decide where to place it. When I called the state fraud line, I was redirected to a worker in the office of the Secretary of State.
4. I asked to speak with a person in charge of fraud. The worker said he didn't really have anyone to forward me to. He gave me the number to someone named Leigh at the State level, and then the DeKalb voting office. I left a message with Leigh, I never received a call back. I called DeKalb, again it was given an administrative worker, then a supervisor, but there was no dedicated resource against the fraud.
5. I became alarmed at what I was seeing and volunteered to watch in the hand recount. At the Lithonia location, I was originally scheduled to watch from 1:00 p.m. until 5:00 p.m. on November 16th. I initially saw counters who were

separated and not reading to each other, as was required by the instructions for the hand recount. A supervisor came over and told the workers to work together.

6. Around 3:00 p.m., I observed an auditor incorrectly collecting batches into odd numbers. I told a supervisor and she made the auditors at that table start over again.

7. We were too far away from the ballots to see who they were being voted for. If the auditors were not recording correctly, we would have no one of knowing whether the call out of any name was what was reflected on the ballot.

8. Around 4:00 pm. I saw another auditor incorrectly sort Biden votes without verification from another auditor. That auditor was collecting ballots that he said were voted for Biden and sorting them into 10 ballot stacks. But he did not show the ballots to anyone else. This violated the whole purpose of verifying the ballots as counted.

9. I was the only poll monitor near the table at the time. I went and told one of the supervisors who immediately went over to check and then went and spoke with "Gavin," the Republican supervisor/attorney. By the time I went back over the original Republican monitor was there with a different poll supervisor ("Twyla") and a group of 4 Democratic monitors had formed around the table.

10. The Republican poll monitor was recalling what she had seen, but confronted by the Audit Board members, who were refuting her comments vigorously. I stated that I had observed the exact same thing. The 4 Democratic monitors that were standing around the table accused us of ganging up on the table to watch them. They also stated that they were there watching and I was lying. None of them were there for the 5 minutes that I observed the improper actions, but they may have observed proper counting at a prior time, and I allowed this.

11. Nonetheless, Twyla stated that we were ganging up with "malice". I stated to Twyla that the table was not following proper procedure. She argued that a counted stack is a counted stack, no matter how they did it.

12. Two other Republican monitors firmly stated that all tables needed to be following proper procedure and this table was in clear violation. The workers were relieved from their shift and Twyla stated that the box they had been working on would get recounted.

13. I told Twyla that I had noticed each table counting its own way – some independently, some not, some out loud, some without discussion – and each table was sorting stacks by different counts. There was no uniform system. Written instructions state that stacks should be sorted in batches of 10. I

observed tables counting by 25, and one table that was counting stacks by 100s.

14. All of this may have been a problem with the limited training that the workers received, or the limitations of the mission – it is not clear what the "hand recount" is supposed to generate.

15. These problems may have been avoided with more training. I told Twyla that they needed to make sure everyone had proper training to follow the protocols as written. It was not easy to monitor where in the process of sorting and counting each table was at due to lack of consistency.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct

Andrea O'Neal

STATE OF GEORGIA

COUNTY OF FULTON

Andrea O'Neal, appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]

CARLA DANIEL NOTARY PUBLIC COBB COUNTY GEORGIA EXPIRES 07-29-2024

Notary Public

My Commission Expires 07-29-2024

Exh. 20

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION FILE NO.**
	)	**1:20-cv-04651-SDG**
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	
_____	)	

AFFIDAVIT OF DEBRA J. FISHER IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

I, Debra J. Fisher, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.
2. On November 16, 2020 I witnessed the various issues on military and overseas ballots.
3. All military and overseas ballots I reviewed were very clean. No bubbles were colored outside of the line. Not one ballot used an "x" or check mark. The ballots I observed were marked in black ink and were for Biden. Not one ballot had a selection crossed out to change the vote selection.
4. I noticed that almost all of the ballots I reviewed were for Biden. Many batches went 100% for Biden.
5. I also observed that the watermark on at least 3 ballots were solid gray instead of transparent, leading me to believe the ballot was counterfeit. I challenged this and the Elections Director said it was a legitimate ballot and was due to the use of different printers.
6. Many ballots had markings for Biden only, and no markings on the rest of the ballot. This did not occur on any of the Trump ballots I observed.
7. Ballots were rejected because people chose 2 or more candidates. I found it odd that none of this happened with the military ballots.

8. The military ballots did not have one specific precinct code on them. Instead, they had multiple precincts printed on it (a "combo"). I challenged this as when this is done, you do not know what precinct the voter is registered in.

9. Based on my observations above and the fact that signatures on the ballots were not being verified, I believe the military ballots are highly suspicious of fraud. I declare under penalty of perjury that the foregoing statements are true and correct.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct

Debra J. Fisher

STATE OF GEORGIA

COUNTY OF COBB

Debra J. Fisher appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]

CARLA DANIEL NOTARY PUBLIC COBB COUNTY GEORGIA EXPIRES 07-29-2024

Notary Public

My Commission Expires 07-29-2024

Exh. 22

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**CIVIL ACTION FILE NO.**
	)	**1:20-cv-04651-SDG**
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	)	
	)	
Defendants.	)	
_____	)	

AFFIDAVIT OF KEVIN P. PETERFORD IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

I, Kevin P. Peterford, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I am an attorney licensed to practice law in the state of Florida.

3. On Sunday November 15, 2020 Alyssa Specht appointed me to serve as a Monitor for the duration of the Risk Limiting Audit in DeKalb County (the "DeKalb Appointment Letter"). A true and accurate copy of the appointment letter is attached to this Affidavit as **Exhibit "A."**

4. On Sunday at around 12:30 p.m., I showed up to 2994 Turner Hill Road, Stonecrest, Georgia 30038 to begin observing as a Monitor. Prior to my arrival, I was sent a handout titled "Audit/Recount Monitor and Vote Review Panel Handout" which outlined the rules in place as well as provided guidelines for observation. A true and accurate copy of the Audit/Recount Monitor and Vote Review Panel Handout is attached to this Affidavit as **Exhibit "B."**

5. After signing in and providing the DeKalb appointment letter to the check-in desk, I was permitted to roam throughout the facility to conduct observations.

6. The first thing I noticed was signs taped to each table (the "Review Table" or "Review Tables") indicated a place for ballots for Trump, Biden, and Jorgenson and other signs for "Blanks" (no vote for President) or overvotes (multiple votes for President). At each Review Table were two people

manually reviewing each ballot (the "Recounter"). The first Recounter would pick up the ballot and orally announce which candidate the ballot was cast for. The first Recounter would then pass the ballot to the second Recounter who would again orally announce which candidate the ballot was cast for. The ballot was subsequently placed in the pile designated for that candidate as discussed above.

7. Due to the COVID restrictions, we were instructed to stay a minimum of six feet away from any Recounter sitting at one of the Review Tables.

8. The ballots would be brought to the Review Table in a cardboard box by another worker. I was never able to get close enough to read any writing on any of the cardboard boxes. After the carboard box was opened, stacks of ballots were removed and placed on the Review Table. There were notes on each stack but again, I was never able to get close enough to read what was written.

9. Once the stack of ballots was on the Review Table, the process of reviewing the ballot began in the manner outlined above in paragraph 6.

10. At no time did I witness any Recounter or any individual participating in the recount verifying signatures.

11. If one of the Recounters encountered a ballot that was questionable, he or she raised a piece of paper with a "?" and what seemed to be a supervisor would come to that Review Table. A short conversation was had and the supervisor would provide the Recounters with instructions. Again, I was never able to get close enough to hear what was said.

12. When a Review Table completed reviewing a cardboard box full of ballots, one of the Recounters would write some information (I assume it was the number of ballots for each candidate the box contained) on a piece of paper and place it on top of the cardboard box. Then one of the Recounters would hold a piece of paper with a "√" (check mark) on it in the air and someone would come pick up the box full of ballots.

13. There was no person verifying the number of votes that the Recounter would write on the paper.

14. At one point, I witnessed a fellow monitor chase after a ballot box that was supposedly finished being counted.

15. Once this monitor was towards the back of the room, with this ballot box, the supervisor in charge chased after him, directing him to go back to the main part of the room and to leave the ballot box.

16. It was later learned that this ballot box needed to be recounted because a 0 (zero) had been incorrectly added to the Biden count, making it approximately 10,000 plus votes for Biden, when it should only have been in the thousands.

17. I spoke to other Observers present that day and they had witnessed the same thing. Other Observes also informed me that fellow Observers were removed for getting too close to the Review Tables. That when they would get close enough to see what was actually filled in on the ballot, one of the Recounters would begin making a big scene and call over a supervisor. The supervisor would then remove the Monitor permanently.

18. While in DeKalb County, I saw a lot of hostility towards Republicans and none towards Democrats.

19. Further, I noticed a Democrat Monitor speaking to a Recounter, which was strictly against the rules of conduct during the recount.

20. On the evening of November 15, 2020, Alyssa Specht appointed me as an Monitor in Henry County for the whole duration of the Risk Limiting Audit ("Henry County Appointment Letter"). A true and accurate copy of the Henry County Appointment Letter is attached to this Affidavit as **Exhibit "C."**

21. I arrived at 562 Industrial Boulevard, McDonough, Georgia 30253 at around 9:30 a.m.

22. When I entered the building, I was halted by a woman at the door who immediately informed me that I was not needed and that all the position had been filled. At this time, the woman neither asked who I was nor why I was present. I asked this woman to speak to the person in charge.

23. Within a few seconds, I was greeted by Ameika Pitts ("Ms. Pitts"), Henry Country's Elections Director. Ms. Pitts informed me that my assistance was not needed, and I was free to go. Again, this was told to me prior to her asked why I was there and who I was.

24. I then pulled the Henry County Appointment Letter up on my phone and presented it to her. Ms. Pitts immediately told me that I was not able to have my phone inside the building even though the recount was allegedly being "live streamed." After a brief conversation, I send Ms. Pitts a copy of the letter and was permitted to enter the building, but only in the public observation area.

25. Fortunately, after speaking to several Republican Party volunteers, Ms. Pitts was provided my name from the Henry County Republican Chairwoman and I was permitted to enter into the observation area.

26. Once inside the observation area, I saw that it was set up very similar to DeKalb County with the Review Tables having the same designations and each Review table having two Recounters as described in paragraph 6 above.

27. As I began walking around, I noticed several differences between DeKalb County and Henry County. In Henry County, the ballots were brought to each Review Table in a red, plastic box with security ties used to hold the box closed. Those ties were cut, and the ballots were then removed and placed on top of the Review Table in stacks that were wrapped in a rubber bands and had a pink sticky note on each stack which displayed the number of ballots each stack contained. The Recounter would then remove the rubber band and sticky note and begin counting the same was described in paragraph 6 above.

28. At around 12:05 p.m. I was observing table "G" when the two recount workers sorted a pile of ballots that had a note which said "93" as the number of ballots. When the two workers finished sorting and counting the ballots, there were only 92. The director of the election committee, Ms. Pitts came to the two workers and simply signed a separate sheet of paper saying that there were only 92 ballots. Ms. Pitts never recounted to make sure. This

happened several times and Ms. Pitts informed us that she has been directed to just sign off on the number of ballots the recount worker said was there.

29. While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table "A."

30. I interviewed a few Observers that same day who informed me that on multiple occasions, Recounters at tables "A," "B," "G," and "O" were seen placing ballots cast for Donald Trump placed in the pile for Joseph Biden. When this was brought to Ms. Pitts attention, it was met with extreme hostility. At no time did I witness any ballot cast for Joseph Biden be placed in the pile for Donald Trump.

31. Based on my personal observations, I believe that additional absentee ballots were cast for Donald Trump but counted for Joseph Biden. I further believe that there was widespread fraud favoring Joseph Biden. This is my personal experience.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct

Kevin Peterford

STATE OF FLORIDA

COUNTY OF PALM BEACH

Kevin Peterford, appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]

Notary Public

My Commission Expires_____

NICHOLAS JOHN ZEHER
MY COMMISSION # GG 976387
EXPIRES: April 6, 2024
Bonded Thru Notary Public Underwriters

Exhibit A

GAGOP

November 15, 2020

Monitor Designee – Risk Limiting Audit

To Whom it May Concern:

This letter serves as proper notice, pursuant to O.C.G.A. § 21-2-408, § O.C.G.A. 21-2-483, State Election Board Rule 183-1- 13-.06, and/or State Election Board Rule 183-1-14-0.9-.15. The listed designees are to serve as a Monitor for the whole duration of the Risk Limiting Audit in DeKalb County:

- William McElligott
- Oleg Otten
- Kevin Peterford
- Nicholas Zeher
- Scott Strauss
- Michael Sasso

David J. Shafer
Chairman

Michael Welsh
Secretary

Exhibit B

Audit/Recount
Monitor and Vote Review Panel Handout

Audit Observer Handout

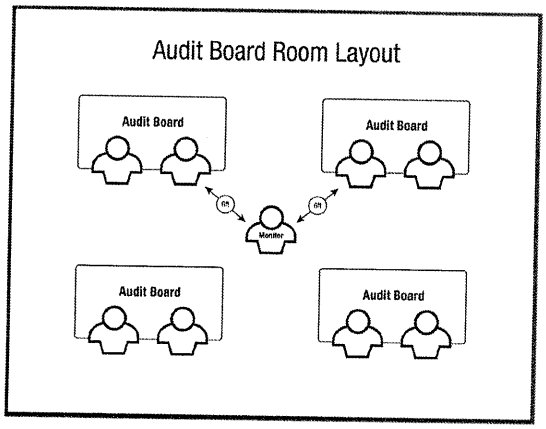
Arrival:

- Arrive 30 minutes prior to the start of your shift.
- The public is to watch the opening procedures before the audit begins and after the audit ends for the day.
- Be respectful and professional, not adversarial.

Audit Observers/Designated Monitors:

- Each political party may have one designated monitor per 10 Audit Teams or a minimum of two designated monitors per room.
- Designated monitors may roam the audit room and observe the audit process
- Observe the Check-in and Check-out process of the ballots
- Must wear badges that identify them by name.
- Are allowed to observe but may not obstruct orderly conduct of election.
- May not speak to or otherwise interact with election workers.
- Are not allowed to wear campaign buttons, shirts, hats or other campaign items.
- Do not touch any ballot or ballot container
- Observe and ensure the room is properly set-up, the Audit Teams are completing their tasks, and the Table is set up properly (see below).
- **Must pose questions regarding procedures to the clerk/election worker for resolution.**

Room Set up



Audit Teams Responsibilities

When reviewing a ballot and determining the voter's mark, audit boards must consider "if the elector has marked his or her ballot in such a manner that he or she has indicated clearly and without question the candidate for whom he or she desires to cast his or her vote." O.C.G.A. 21-2-438(c).

As a batch is delivered from the check-in/out station:

- Record the County Name, Batch Name, and Batch Type (Absentee, Advanced Voting, Provisional, Election Day), and verify the container was sealed on the Audit Board Batch Sheet.

- Unseal the container.
- Recount the Ballots using the "Sort and Stack" method:
    - Pull the ballots out of the container and stack neatly on the table.
        - If the container contains more than 1000 ballots, ballots should be removed from the container and sorted in manageable stacks (using an Audit Board Batch Sheet for each stack), leaving the rest of the ballots in the container until the previous stack is done.
        - For each ballot: audit board member (ABM) #1 picks up a single ballot from the stack and reads the vote for the Presidential contest aloud, then hands the ballot to ABM #2. ABM #2 verifies the vote that is on the ballot is indeed what ABM #1 read, then places the ballot in the "stack" that corresponds to the vote. ABM #1 should watch to make sure the ballot is placed in the right stack. There will be 8 stacks as follows:
            - Trump
            - Biden
            - Jorgensen
            - Overvoted ballots - one pile for any ballot where the voter made more than one selection for President.
            - Blank/Undervoted ballots - one pile for any ballot where the voter made no selection for President.
            - Write-In - one pile for any ballot containing a write-in vote for President. (The board does *NOT* need to determine whether the write-in is for a qualified candidate: the Vote Review Panel does that.)
            - Duplicated ballots - one pile for ballots marked as duplicated.
            - Undetermined - one pile for any ballot where the audit board cannot agree on the voter's intent.
        - Candidate Ballot Tallies – Count the ballots in each stack by having one member of the audit board verbally count the ballot while handing it to the other member for verification. Count the ballots in groups of 10, stacking the groups at right angles to each other, so you can easily count the complete groups when you are done. (For instance, if you have seven groups of 10 ballots each plus an extra 3 ballots, the total tally would be 73.) Record the total tally for each candidate on the Audit Board Batch Sheet.
        - Write-In, Duplicated, and Undetermined Ballots - count the ballots in the write-in duplicated, and undetermined ballot piles and record on the Audit Board Batch Sheet. Each type should go in a designated folder or envelope by batch.
    - Write-in, Duplicated, and Undetermined ballot folders must be set aside for delivery to the Vote Review Panel.
    - Return the other ballots to the original container and seal the container.
    - Sign the Audit Board Batch Sheet.
    - Raise your check mark sign for the check-in/out station to come retrieve your container, batch sheet, and any ballots for the Vote Review Panel.

Audit Board Batch Sheet

County _____

Batch Name _____

Batch Type: ☐ Absentee ☐ Advance ☐ Election Day ☐ Provisional ☐ Other

Was the container sealed when received by the audit board? ☐ Yes

Candidates	Enter Audit Totals
Donald J. Trump	
Joseph R. Biden	
Jo Jorgenson	
Overvote	
Blank/Undervote	

Ballots sent to the Vote Review Panel (if any)

Write-in	
Duplicated	
Undetermined	

When work is completed, return all ballots (except Vote Review Panel ballots) to the ballot container and seal container.

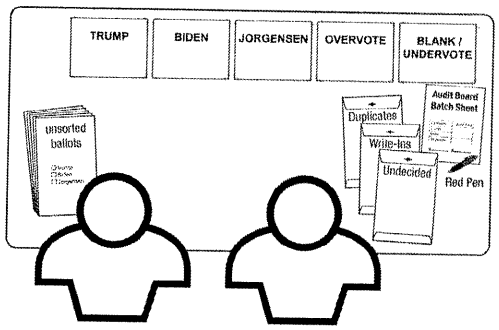
Was the container resealed by the audit board? ☐ Yes

X_____ X_____
(Audit Board Member) (Audit Board Member)

Check In/Out Station
☐ Recorded batch return on Ballot Container Inventory Sheet
☐ Delivered Vote Review Panel ballots (if any)
☐ Entered tallies into Arlo
_____ Initials of check in/out station member

Table Set up

Audit Board Table Top Organization



No Photography is allowed in the observation area.

Check-in/out Process

- Two election workers are required to observe the check in and check out process of ballots to ensure there is a secure chain of custody and inventory of ballots is kept proper.
  - One person is to be kept with the ballot containers
  - One person delivers the containers to and from the audit boards ("runner")
- There should be at least one "runner" for every 5 audit boards
- When a new container arrives, the election works must record:

  - batch name
  - audit board number
- Upon completion, the election worker must:
  - Verify proper completion of the *Audit Board Batch Sheet*
  - Ensure contain is resealed
  - Return the container and batch sheet to the check-in/out station
  - Note the return of the container of the Ballot Container Inventory Sheet
  - Deliver any necessary ballots/envelopes to the Vote Review Panel
    - Duplicates, write-ins, and undermined
  - Enter candidate totals for the batch in Arlo, mark as "entered"

Closing of Audit Room:

- **All eligible monitors are able to observe the closing and conclusion of the audit.**

Monitor Observes Issue...What to Do?

1. Respectfully raise issue with precinct clerk for resolution.
2. Do NOT speak to or interact with election workers.
3. Do NOT take pictures or videos.
4. If unresolved, leave polling room and call GOP GA Legal Hotline with your name, county, and location.

Be on the lookout for:

1. Lapses in procedure
2. Food or beverage on audit tables (it should be under the table)
3. Any ballots not being delivered from the runners in the regular course

Statewide Observer and VRP member Hotline: 470-410-8762

Incident Report Form (attached) and at: https://gagop.org/auditreport/

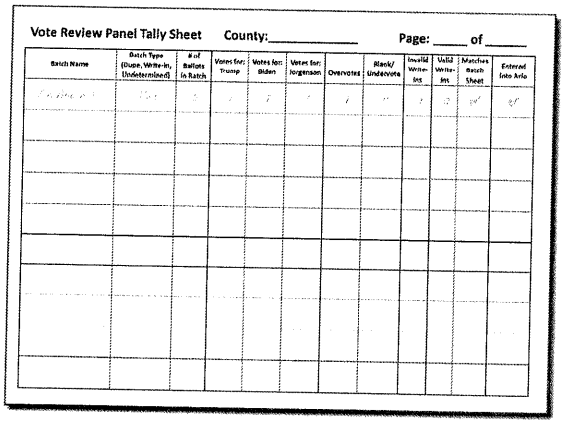
The Vote Review Panel

Vote Review Panel (VRP) Member:

- Each political party must have 1 member per VRP
- You must object when you cannot agree
    - If there is a disagreement between the two VRP members, the Superintendent or their designee breaks the tie.
- Manually log each ballot that should be adjudicated
- Must wear badges that identify them by name.
- May not speak to or otherwise interact with election workers.
- Are not allowed to wear campaign buttons, shirts, hats or other campaign items.
- **Must pose questions regarding procedures to the clerk/election worker for resolution.**

Three types of Ballots:

- Duplicated Ballots
    - Retrieve the original ballot and compare the duplicated ballot to ensure proper duplication. Using the original ballot, record the vote tally for the duplicated ballots using the Vote Review Panel Tally Sheet.
- Undetermined Ballots
    - Review the undetermined ballots where the audit board could not agree on the voter's intent to make a determination. Record the vote tally for the undetermined ballots using the Vote Review Panel Tally Sheet.
- Write-In Ballots
    - Review the write-in ballots to determine if a voter has voted for a qualified or invalid write-in candidate. Record the number of votes for each qualified write-in candidate on the Qualified Write-In Candidate Tally Sheet.



Vote Review Panel Tally Sheet County:_____ Page: ____ of _____

Batch Name	Batch Type (Dupe, Write-In, Undetermined)	# of Ballots in Batch	Votes for: Trump	Votes for: Biden	Votes for: Jorgensen	Overvotes	Blank/ Undervote	Invalid Write-Ins	Valid Write-Ins	Matches Result Sheet	Entered Into Arlo

Common Adjudication Scenarios

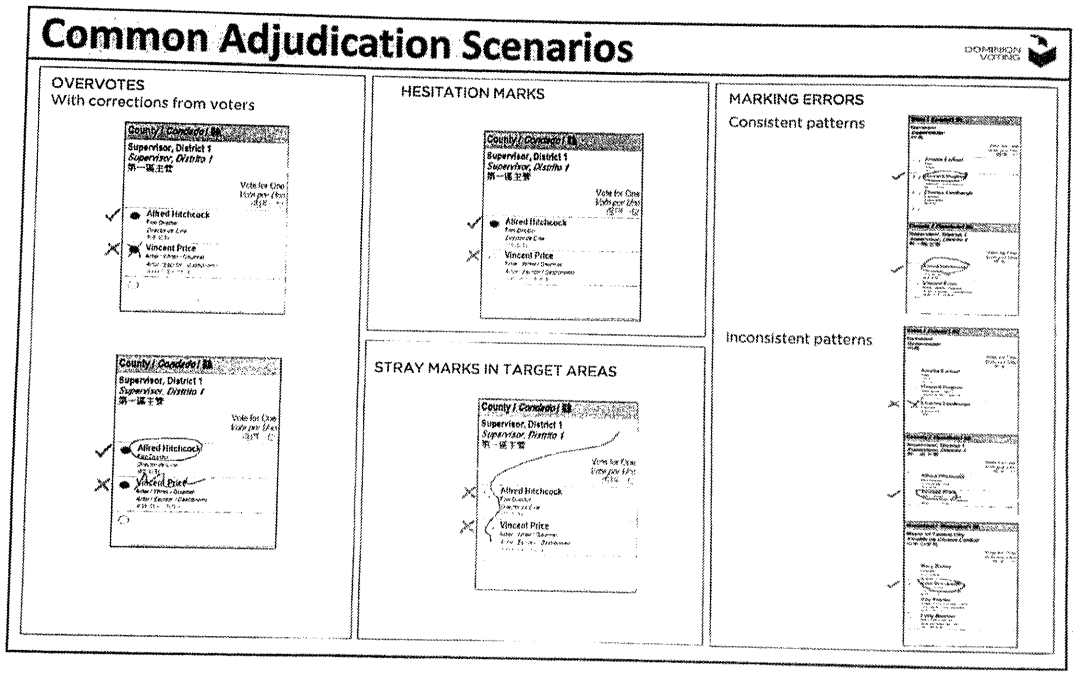


Exhibit C

GAGOP

November 15, 2020

Monitor Designee – Risk Limiting Audit

To Whom it May Concern:

This letter serves as proper notice, pursuant to O.C.G.A. § 21-2-408, § O.C.G.A. 21-2-483, State Election Board Rule 183-1- 13-.06, and/or State Election Board Rule 183-1-14-0.9-.15. The listed designees are to serve as a Monitor for the whole duration of the Risk Limiting Audit in Henry County:

- William McElligott
- Oleg Otten
- Kevin Peterford
- Nicholas Zeher
- Ibrahim Reyes-Gandara
- Juan Carlos Elso
- Carlos Silva
- Mayra Romera

David J. Shafer
Chairman

Michael Welsh
Secretary

Exh. 23

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF DOMINION VOTING SYSTEMS DEMOCRACY SUITE 5.5-A

PRELIMINARY STATEMENT

On October 2-3, 2019, Dominion Voting Systems ("Dominion" or the "Vendor") presented the Democracy Suite 5.5-A system for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On October 2, 2019, Mr. Pinney, Mr. Mechler, and Dr. Sneeringer witnessed the installation of the Democracy Suite 5.5-A software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. The next day, Mr. Pinney examined the accessibility components of the ImageCast X Ballot Marking Device.

On October 3, 2019, the Vendor demonstrated the Democracy Suite 5.5-A system and answered questions presented by the examiners. Test ballots were then processed on each voting device. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports regarding the Democracy Suite 5.5-A system are attached hereto and incorporated herein by this reference.

On December 27, 2019, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing for interested persons to express views for or against the certification of the Democracy Suite 5.5-A system.

BRIEF DESCRIPTION OF DEMOCRACY SUITE 5.5-A

The Democracy Suite 5.5-A system is an updated version of the Democracy Suite 5.5 system, which was denied certification by the Office on June 20, 2019. The Democracy Suite 5.5-A system includes certain software and hardware updates to the Suite 5.5 version.

Democracy Suite 5.5-A has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Democracy Suite 5.5-A was certified by the Election Assistance Commission (EAC) on January 30, 2019.

The components of Democracy Suite 5.5-A are as follows:

Component	Version	Description
EMS – Election Management System	5.5.12.1	Election Management System
ADJ – Adjudication	5.5.8.1	
ICC – ImageCast Central	5.5.3.0002	Central scanner
ICX – ImageCast X BMD	5.5.10.30	Ballot marking device
ICP – ImageCast Precinct	5.5.3-0002	Precinct scanner

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the findings of the voting system examiners as set out in their written reports.

The examiner reports identified multiple hardware and software issues that preclude the Office of the Texas Secretary of State from determining that the Democracy Suite 5.5-A system satisfies each of the voting-system requirements set forth in the Texas Election Code. Specifically, the examiner reports raise concerns about whether the Democracy Suite 5.5-A system is suitable for its intended purpose; operates efficiently and accurately; and is safe from fraudulent or unauthorized manipulation. Therefore, the Democracy Suite 5.5-A system and corresponding hardware devices do not meet the standards for certification prescribed by Section 122.001 of the Texas Election Code.

CONCLUSION

Accordingly, based upon the foregoing, I hereby deny certification of Dominion Voting Systems' Democracy Suite 5.5-A system for use in Texas elections.

Signed under my hand and seal of office, this 24th day of January 2020.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

Exh. 24

Congress of the United States

Washington, DC 20515

October 6, 2006

Henry M. Paulson, Jr.
Secretary
Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

Dear Mr. Secretary:

I am writing to follow up on my letter of May 4, 2006, to Secretary Snow, seeking review by the Committee on Foreign Investment in the United States of the acquisition of Sequoia Voting Systems by Smartmatic, a foreign-owned company. I believe this transaction raises exactly the sort of foreign ownership issues that CFIUS is best positioned to examine for national security concerns. As discussed below, publicly reported information about Smartmatic's ownership and about the vulnerability of electronic voting machines to tampering raises serious concerns. I strongly urge CFIUS to independently verify the information provided to American officials and the public by Sequoia/Smartmatic, and to take all appropriate measures to safeguard our national security.

It is undisputed that Smartmatic is foreign-owned and it has acquired Sequoia, one of the three major voting machine companies doing business in the U.S. According to a Sequoia press release in May 2006 (copy attached) Sequoia voting machines were used to record over 125 million votes during the 2004 Presidential election in the United States. As we confront another election, Americans deserve to know that the Administration has made sure that any foreign ownership of voting machines poses no national security threat.

Although many press reports have tried, it appears that it is not possible to discern the true owners of Smartmatic from information available to the public. Smartmatic now acknowledges that Antonio Mugica, a Venezuelan businessman, has a controlling interest in Smartmatic, but the company has not revealed who all the other Smartmatic owners are. According to the press, Smartmatic's owners are hidden through a web of off-shore private entities. (See attached articles.)

The opaque nature of Smartmatic's ownership is particularly troubling since Smartmatic has been associated by the press with the Venezuelan government led by Hugo Chavez, which is openly hostile to the United States. According to press reports, Smartmatic shared a founder, officers, directors and a principal place of business with Bizta, a company in which, according to Smartmatic, the Venezuelan government previously held a 28% stake. Mugica is also a director of Bizta.

PRINTED ON RECYCLED PAPER

According to Smartmatic press releases, (copies attached) Smartmatic and Bizta were part of the consortium that received the government contract to provide the voting machines for the 2004 referendum election to recall Chavez as Venezuela's president, and have since been awarded other contracts by the Venezuelan government.

Smartmatic's possible connection to the Venezuelan government poses a potential national security concern in the context of its acquisition of Sequoia because electronic voting machines are susceptible to tampering and insiders are in the best position to engage in such tampering. The 2005 Government Accountability Office Report on electronic voting, GAO-05-956, and other private sector studies consistently support this conclusion. Thus, the reports that Sequoia brought Venezuelan nationals to the United States to work on the Chicago 2006 primary election raises questions about whether these individuals are subject to direction from a foreign interest that might pose a threat to the integrity of the election. Similarly, the use of Smartmatic software and machines developed in Venezuela, such as the HAAT software that was at issue in Chicago, raises questions as to whether this software is susceptible to manipulation by its unknown creators. Reportedly, Smartmatic may soon be introducing into the United States the type of electronic voting machines that were used (with Bizta software) in the controversial 2004 Venezuelan recall election, under the label AVC Edge II Plus.

In reviewing the Smartmatic acquisition of Sequoia, it is important that CFIUS understand the products and services that are of Venezuelan origin and evaluate Smartmatic's ownership to determine who could have influence and control over these and other Sequoia products and services that are in use or intended for use in U.S. elections. In light of Smartmatic's failure fully to answer these questions to date, this issue demands the most thorough independent investigation by CFIUS.

Thank you for your consideration of this letter.

Sincerely,

Carolyn B. Maloney

Carolyn B. Maloney
Member of Congress

Attachments

Exh. 25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

L. LIN WOOD, JR.,	
Plaintiff,	**CIVIL ACTION FILE NO. 1:20-cv-04651-SDG**
v.	
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, and ANH LE, in her official capacity as a Member of the Georgia State Election Board,	
Defendants.	

AFFIDAVIT OF JUAN CARLOS COBUCCI IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

I, JUAN CARLOS COBUCCI, declare under the penalty of perjury that the following is true and correct:

1. My name is Juan Carlos Cobucci. I am over the age of 18 and competent to testify. I have personal knowledge of the matters stated herein.

2. I was born in Carracas Venezuela in 1967 and migrated to the United States in 2015 on a business visa.
3. In 1979 my family started a company called Panavideo Installaciones y Servicios C.A. The company sold safety systems for banks. The systems included CCTV cameras, electronic access points, and other machinery to assist with verifying authenticity of checks and cash. The company focused on providing security for not only employees, customers, but also currency.
4. In 1974, my cousin, Antonio Jose Mugica, was born. He is the son of my uncle Antonio Mugica. Antonio Jose was always a strong student, he graduated with honors from Emil Friedman High School and continued his education in Germany and Spain. Antonio Jose also studied at Simon Bolivar School in Venezuela where he focused on electronic engineering, graduating first in his class.
5. In 1994, my father retired from Panavideo Installaciones y Servicios C.A. citing irreconcilable differences with other family members.
6. In 1997, Antonio Jose graduated from Simon Bolivar University and began to work with his father, Antonio Mugica at Panavideo Installaciones y Servicios C.A.
7. In 2000, after the State of Florida elections, Antonio Jose incorporated Smartmatic in Delaware. Antonio told me that he maintained a majority control over the company but allowed his father, Antonio Mugica, along with other cousins to have an ownership interest. In addition to the family members, Antonio Jose allowed several Venezuelan citizens to obtain an ownership interest.

8. In approximately 2000, Antonio Jose was introduced to Jorge Rodriguez through Alejandro Caribas. Alejandro Caribas was the president of FOGADE, Fondo de Proteccion Social de los Depositos Bancarios. Antonio Jose explained to me that this fund was created to steal and centralize all Venezuelan financial interests.

9. Shortly after the introduction, Antonio Jose and Jorge Rodriguez traveled to Italy in order to test and observe additional voting software.

10. In approximately 2002, Smartmatic contracted with the Venezuelan government to provide the software necessary to conduct the elections that took place in August of 2004, the "Venezuelan Recall Referendum." Prior to the elections, I saw Antonio Jose in person and on television numerous times promoting the veracity, transparency, and security of the Smartmatic voting software. Antonio Jose became known as el "Nino Barbudo." He told me that he grew his beard to appear older and fit the profile in order to gain credibility with the Venezuelan government and other future clients of Smartmatic.

11. In January of 2004, I went to Clinica el Avila in Caracas, Venezuela for the birth of my niece. While at the hospital I saw my uncle, Antonio Mugica, and we engaged into a lengthy conversation about my cousin, Antonio Jose's, recent success with Smartmatic. During the conversation, my uncle's demeanor changed. He was clearly saddened and distraught when discussing Antonio Jose and Smartmatic. When I pressed him on the issue, my uncle confided in me that Antonio Jose had converted to communism as a result of his connections with the Venezuelan government. In addition, my uncle told me with a heavy heart that Antonio Jose manipulated the Smartmatic system utilized during the election to ensure that President Chavez was successful during the 2004 elections.

12. He further explained that Antonio Jose was able to manipulate the approximately 31,000 voting machines utilized throughout Venezuela by limiting the number of votes against President Chavez to either 232 or 236. All of the remain votes were counted in favor of retain President Chavez. During what should have been a time of joy, my uncle, Antonio Mugica, was exhibiting signs of remorse, sadness, and shame over the actions taken by his son, Antonio Jose.

13. Following this encounter with my uncle, Antonio Mugica, I confronted Antonio Jose on the issues regarding the 2004 elections and he confirmed that he had converted to communism and as a result worked with the Venezuelan government to manipulate the Smartmatic systems in order to prevail during the 2004 elections in Venezuela and make sure that the communist party never lost another election in Venezuela. Antonio Jose told me that his ability to manipulate the Smartmatic systems would allow him to dominate the world.

14. Antonio Jose admitted to me that he was paid tens of millions of dollars by the Venezuelan government from 2003 through 2015 for the use of his Smartmatic systems. He also explained that his goal was to have Smartmatic implemented in every country, including the United States.

15. Over the next ten years, Antonio Jose traveled the world over selling his Smartmatic systems to various countries. He told me that the Venezuelan government provided him with numerous contacts and he ultimately sold Smartmatic systems to the Philippines, Nigeria, and other African countries.

16. In approximately 2006, Antonio Jose came to the United States and established a headquarters for Smartmatic in Boca Raton, Florida. In addition, he told me that he purchased Sequoia Systems in the United States and his goal was to one his voting systems to determine the outcome of the United States elections.

17. In 2013, my cousin Antonio Jose recruited and employed our cousin, Javier Fernandez. Javier assisted Antonio Jose with preparing the elections, allocating voting machines, and overall logistics.

18. Shortly after learning that Antonio Jose had hired Javier, I confronted Javier with the information Antonio Jose had provided about his ability to manipulate the Smartmatic systems and Javier confirmed that Antonio Jose was able to control the outcome of the voting.

19. A copy of my passport is attached hereto as Exhibit A.

I declare under penalty of perjury that the foregoing statements are true and correct

JUAN CARLOS COBUCCI

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

JUAN CARLOS COBUCCI, appeared before me, a Notary Public in and for the above jurisdiction, this 24 day of November 2020, and after being duly sworn, made this Declaration, under oath.

PL DL C120-423-67-194-0

VERONICA RAMOS
Notary Public - State of Florida
Commission # GG 943602
My Comm. Expires Apr 14, 2024
Bonded through National Notary Assn.

Notary Public

My Commission Expires 4/14/2024

Exh. 26

Congress of the United States

Washington, DC 20510

December 6, 2019

Sami Mnaymneh
Founder and Co-Chief Executive Officer
H.I.G. Capital, LLC
[redacted]

Tony Tamer
Founder and Co-Chief Executive Officer
H.I.G. Capital, LLC
[redacted]

Dear Messrs. Mnaymneh and Tamer:

We are writing to request information regarding H.I.G. Capital's (H.I.G.) investment in Hart InterCivic Inc. (Hart InterCivic) one of three election technology vendors responsible for developing, manufacturing and maintaining the vast majority of voting machines and software in the United States, and to request information about your firm's structure and finances as it relates to this company.

Some private equity funds operate under a model where they purchase controlling interests in companies and implement drastic cost-cutting measures at the expense of consumers, workers, communities, and taxpayers. Recent examples include Toys "R" Us and Shopko.[1] For that reason, we have concerns about the spread and effect of private equity investment in many sectors of the economy, including the election technology industry—an integral part of our nation's democratic process. We are particularly concerned that secretive and "trouble-plagued companies,"[2] owned by private equity firms and responsible for manufacturing and maintaining voting machines and other election administration equipment, "have long skimped on security in favor of convenience," leaving voting systems across the country "prone to security problems."[3] In light of these concerns, we request that you provide information about your firm, the portfolio

[1] Atlantic, "The Demise of Toys 'R' Us Is a Warning," Bryce Covert, July/August 2018 issue, https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/; Axios, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," Dan Primack, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," June 11, 2019, https://www.axios.com/shopko-bankruptcy-sun-capital-547b97ba-901c-4201-92cc-6d3168357fa3.html.

[2] ProPublica, "The Market for Voting Machines Is Broken. This Company Has Thrived in It.," Jessica Huseman, October 28, 2019, https://www.propublica.org/article/the-market-for-voting-machines-is-broken-this-company-has-thrived-in-it.

[3] Associated Press News, "US Election Integrity Depends on Security-Challenged Firms," Frank Bajak, October 28, 2019, https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c.

companies in which it has invested, the performance of those investments, and the ownership and financial structure of your funds.

Over the last two decades, the election technology industry has become highly concentrated, with a handful of consolidated vendors controlling the vast majority of the market. In the early 2000s, almost twenty vendors competed in the election technology market.[4] Today, three large vendors—Election Systems & Software, Dominion Voting Systems, and Hart InterCivic—collectively provide voting machines and software that facilitate voting for over 90% of all eligible voters in the United States.[5] Private equity firms reportedly own or control each of these vendors, with very limited "information available in the public domain about their operations and financial performance."[6] While experts estimate that the total revenue for election technology vendors is about $300 million, there is no publicly available information on how much those vendors dedicate to research and development, maintenance of voting systems, or profits and executive compensation.[7]

Concentration in the election technology market and the fact that vendors are often "more seasoned in voting machine and technical services contract negotiations" than local election officials, give these companies incredible power in their negotiations with local and state governments. As a result, jurisdictions are often caught in expensive agreements in which the same vendor both sells or leases, and repairs and maintains voting systems–leaving local officials dependent on the vendor, and the vendor with little incentive to substantially overhaul and improve its products.[8] In fact, the Election Assistance Commission (EAC), the primary federal body responsible for developing voluntary guidance on voting technology standards, advises state and local officials to consider "the cost to purchase or lease, operate, and maintain a voting system over its life span … [and to] know how the vendor(s) plan to be profitable" when signing contracts, because vendors typically make their profits by ensuring "that they will be around to maintain it after the sale." The EAC has warned election officials that "[i]f you do not manage the vendors, they will manage you."[9]

Election security experts have noted for years that our nation's election systems and infrastructure are under serious threat. In January 2017, the U.S. Department of Homeland Security designated the United States' election infrastructure as "critical infrastructure" in order to prioritize the protection of our elections and to more effectively assist state and local election

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[4] Bloomberg, "Private Equity Controls the Gatekeepers of American Democracy," Anders Melin and Reade Pickert, November 3, 2018, https://www.bloomberg.com/news/articles/2018-11-03/private-equity-controls-the-gatekeepers-of-american-democracy.

[5] Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.

[6] Id.

[7] Id.

[8] Brennan Center for Justice, "America's Voting Machines at Risk," Lawrence Norden and Christopher Famighetti, 2015, https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf; Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.

[9] U.S. Election Assistance Commission, "Ten Things to Know About Selecting a Voting System," October 14, 2017, https://www.eac.gov/documents/2017/10/14/ten-things-to-know-about-selecting-a-voting-system-cybersecurity-voting-systems-voting-technology/.

officials in addressing these risks.[10] However, voting machines are reportedly falling apart across the country, as vendors neglect to innovate and improve important voting systems, putting our elections at avoidable and increased risk.[11] In 2015, election officials in at least 31 states, representing approximately 40 million registered voters, reported that their voting machines needed to be updated, with almost every state "using some machines that are no longer manufactured."[12] Moreover, even when state and local officials work on replacing antiquated machines, many continue to "run on old software that will soon be outdated and more vulnerable to hackers."[13]

In 2018 alone "voters in South Carolina [were] reporting machines that switched their votes after they'd inputted them, scanners [were] rejecting paper ballots in Missouri, and busted machines [were] causing long lines in Indiana."[14] In addition, researchers recently uncovered previously undisclosed vulnerabilities in "nearly three dozen backend election systems in 10 states."[15] And, just this year, after the Democratic candidate's electronic tally showed he received an improbable 164 votes out of 55,000 cast in a Pennsylvania state judicial election in 2019, the county's Republican Chairwoman said, "[n]othing went right on Election Day. Everything went wrong. That's a problem."[16] These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.

H.I.G. reportedly owns or has had investments in Hart InterCivic, a major election technology vendor. In order to help us understand your firm's role in this sector, we ask that you provide answers to the following questions no later than December 20, 2019.

1. Please provide the disclosure documents and information enumerated in Sections 501 and 503 of the *Stop Wall Street Looting Act*.[17]

2. Which election technology companies, including all affiliates or related entities, does H.I.G. have a stake in or own? Please provide the name of and a brief description of the services each company provides.

---

[10] Department of Homeland Security, "Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector," January 6, 2017, https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical.
[11] AP News, "US election integrity depends on security-challenged firms," Frank Bajak, October 29, 2018, https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c; Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.
[12] Brennan Center for Justice, "America's Voting Machines at Risk," Lawrence Norden and Christopher Famighetti, 2015, https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf.
[13] Associated Press, "AP Exclusive: New election systems use vulnerable software," Tami Abdollah, July 13, 2019, https://apnews.com/e5e070c31f3c497fa9e6875f426ccde1.
[14] Vice, "Here's Why All the Voting Machines Are Broken and the Lines Are Extremely Long," Jason Koebler and Matthew Gault, November 6, 2018, https://www.vice.com/en_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long.
[15] Vice, "Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials," Kim Zetter, August 8, 2019, https://www.vice.com/en_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials.
[16] New York Times, "A Pennsylvania Country's Election Day Nightmare Underscores Voting Machine Concerns," Nick Corasaniti, November 30, 2019, https://www.nytimes.com/2019/11/30/us/politics/pennsylvania-voting-machines.html.
[17] Stop Wall Street Looting Act, S.2155, https://www.congress.gov/bill/116th-congress/senate-bill/2155.

a. Which election technology companies, including all affiliates or related entities, has H.I.G. had a stake in or owned in the past twenty years? Please provide the name of and a brief description of the services each company provides or provided.

b. For each election technology company H.I.G. had a stake in or owned in the past twenty years, including all affiliates or related entities, please provide the following information for each year that the firm has had a stake in or owned this company and the five years preceding the firm's investment.
   i. The name of the company
   ii. Ownership stake
   iii. Total revenue
   iv. Net income
   v. Percentage of revenue dedicated to research and development
   vi. Total number of employees
   vii. A list of all state and local jurisdictions with which the company has a contract to provide election related products or services
   viii. Other private-equity firms that own a stake in the company

3. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with the EAC's Voluntary Voting System Guidelines? If so, please provide a copy of each EAC noncompliance notice received by the company and a description of what steps the company took to resolve each issue.

4. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with any state or local voting system guidelines or practices? If so, please provide a list of all such instances and a description of what steps the company took to resolve each issue.

5. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, been found to have violated any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such violations.

6. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the last twenty years, reached a settlement with any federal or state law enforcement entity related to a potential violation of any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such settlements.

7. Has any election technology company, including all affiliates or related entities, in which H.I.G. has an ownership stake or has had an ownership stake in the past twenty years, reached a settlement with any state or local jurisdiction related to a potential violation of or breach of contract? If so, please provide a complete list, including the date and description, of all such settlements.

Thank you for your attention to this matter.

Sincerely,

Elizabeth Warren
United States Senator

Amy Klobuchar
United States Senator

Ron Wyden
United States Senator

Mark Pocan
Member of Congress

Congress of the United States

Washington, DC 20510

December 6, 2019

Michael McCarthy
Chairman
McCarthy Group, LLC
[redacted]

Dear Mr. McCarthy:

We are writing to request information regarding McCarthy Group, LLC's (McCarthy Group) investment in Election Systems & Software (ES&S), one of three election technology vendors responsible for developing, manufacturing and maintaining the vast majority of voting machines and software in the United States, and to request information about your firm's structure and finances as it relates to this company.

Some private equity funds operate under a model where they purchase controlling interests in companies and implement drastic cost-cutting measures at the expense of consumers, workers, communities, and taxpayers. Recent examples include Toys "R" Us and Shopko.[1] For that reason, we have concerns about the spread and effect of private equity investment in many sectors of the economy, including the election technology industry—an integral part of our nation's democratic process. We are particularly concerned that secretive and "trouble-plagued companies,"[2] owned by private equity firms and responsible for manufacturing and maintaining voting machines and other election administration equipment, "have long skimped on security in favor of convenience," leaving voting systems across the country "prone to security problems."[3] In light of these concerns, we request that you provide information about your firm, the portfolio companies in which it has invested, the performance of those investments, and the ownership and financial structure of your funds.

Over the last two decades, the election technology industry has become highly concentrated, with a handful of consolidated vendors controlling the vast majority of the market. In the early

[1] Atlantic, "The Demise of Toys 'R' Us Is a Warning," Bryce Covert, July/August 2018 issue, https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/; Axios, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," Dan Primack, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," June 11, 2019, https://www.axios.com/shopko-bankruptcy-sun-capital-547b97ba-901c-4201-92cc-6d3168357fa3.html.

[2] ProPublica, "The Market for Voting Machines Is Broken. This Company Has Thrived in It.," Jessica Huseman, October 28, 2019, https://www.propublica.org/article/the-market-for-voting-machines-is-broken-this-company-has-thrived-in-it.

[3] Associated Press News, "US Election Integrity Depends on Security-Challenged Firms," Frank Bajak, October 28, 2019, https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c.

2000s, almost twenty vendors competed in the election technology market.[4] Today, three large vendors—ES&S, Dominion Voting Systems, and Hart InterCivic—collectively provide voting machines and software that facilitate voting for over 90% of all eligible voters in the United States.[5] Private equity firms reportedly own or control each of these vendors, with very limited "information available in the public domain about their operations and financial performance."[6] While experts estimate that the total revenue for election technology vendors is about $300 million, there is no publicly available information on how much those vendors dedicate to research and development, maintenance of voting systems, or profits and executive compensation.[7]

Concentration in the election technology market and the fact that vendors are often "more seasoned in voting machine and technical services contract negotiations" than local election officials, give these companies incredible power in their negotiations with local and state governments. As a result, jurisdictions are often caught in expensive agreements in which the same vendor both sells or leases, and repairs and maintains voting systems–leaving local officials dependent on the vendor, and the vendor with little incentive to substantially overhaul and improve its products.[8] In fact, the Election Assistance Commission (EAC), the primary federal body responsible for developing voluntary guidance on voting technology standards, advises state and local officials to consider "the cost to purchase or lease, operate, and maintain a voting system over its life span … [and to] know how the vendor(s) plan to be profitable" when signing contracts, because vendors typically make their profits by ensuring "that they will be around to maintain it after the sale." The EAC has warned election officials that "[i]f you do not manage the vendors, they will manage you."[9]

Election security experts have noted for years that our nation's election systems and infrastructure are under serious threat. In January 2017, the U.S. Department of Homeland Security designated the United States' election infrastructure as "critical infrastructure" in order to prioritize the protection of our elections and to more effectively assist state and local election officials in addressing these risks.[10] However, voting machines are reportedly falling apart across the country, as vendors neglect to innovate and improve important voting systems, putting our

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[4] Bloomberg, "Private Equity Controls the Gatekeepers of American Democracy," Anders Melin and Reade Pickert, November 3, 2018, https://www.bloomberg.com/news/articles/2018-11-03/private-equity-controls-the-gatekeepers-of-american-democracy.

[5] Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.

[6] Id.

[7] Id.

[8] Brennan Center for Justice, "America's Voting Machines at Risk," Lawrence Norden and Christopher Famighetti, 2015, https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf; Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.

[9] U.S. Election Assistance Commission, "Ten Things to Know About Selecting a Voting System," October 14, 2017, https://www.eac.gov/documents/2017/10/14/ten-things-to-know-about-selecting-a-voting-system-cybersecurity-voting-systems-voting-technology/.

[10] Department of Homeland Security, "Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector," January 6, 2017, https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical.

elections at avoidable and increased risk.[11] In 2015, election officials in at least 31 states, representing approximately 40 million registered voters, reported that their voting machines needed to be updated, with almost every state "using some machines that are no longer manufactured."[12] Moreover, even when state and local officials work on replacing antiquated machines, many continue to "run on old software that will soon be outdated and more vulnerable to hackers."[13]

In 2018 alone "voters in South Carolina [were] reporting machines that switched their votes after they'd inputted them, scanners [were] rejecting paper ballots in Missouri, and busted machines [were] causing long lines in Indiana."[14] In addition, researchers recently uncovered previously undisclosed vulnerabilities in "nearly three dozen backend election systems in 10 states."[15] And, just this year, after the Democratic candidate's electronic tally showed he received an improbable 164 votes out of 55,000 cast in a Pennsylvania state judicial election in 2019, the county's Republican Chairwoman said, "[n]othing went right on Election Day. Everything went wrong. That's a problem."[16] These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.

McCarthy Group reportedly owns or has had investments in ES&S, a major election technology vendor. In order to help us understand your firm's role in this sector, we ask that you provide answers to the following questions no later than December 20, 2019.

1. Please provide the disclosure documents and information enumerated in Sections 501 and 503 of the *Stop Wall Street Looting Act*.[17]

2. Which election technology companies, including all affiliates or related entities, does McCarthy Group have a stake in or own? Please provide the name of and a brief description of the services each company provides.

    a. Which election technology companies, including all affiliates or related entities, has McCarthy Group had a stake in or owned in the past twenty

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[11] AP News, "US election integrity depends on security-challenged firms," Frank Bajak, October 29, 2018, https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c; Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.

[12] Brennan Center for Justice, "America's Voting Machines at Risk," Lawrence Norden and Christopher Famighetti, 2015, https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf.

[13] Associated Press, "AP Exclusive: New election systems use vulnerable software," Tami Abdollah, July 13, 2019, https://apnews.com/e5e070c31f3c497fa9e6875f426ccde1.

[14] Vice, "Here's Why All the Voting Machines Are Broken and the Lines Are Extremely Long," Jason Koebler and Matthew Gault, November 6, 2018, https://www.vice.com/en_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long.

[15] Vice, "Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials," Kim Zetter, August 8, 2019, https://www.vice.com/en_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials.

[16] New York Times, "A Pennsylvania Country's Election Day Nightmare Underscores Voting Machine Concerns," Nick Corasaniti, November 30, 2019, https://www.nytimes.com/2019/11/30/us/politics/pennsylvania-voting-machines.html.

[17] Stop Wall Street Looting Act, S.2155, https://www.congress.gov/bill/116th-congress/senate-bill/2155.

years? Please provide the name of and a brief description of the services each company provides or provided.

b. For each election technology company McCarthy Group had a stake in or owned in the past twenty years, including all affiliates or related entities, please provide the following information for each year that the firm has had a stake in or owned this company and the five years preceding the firm's investment.
   i. The name of the company
   ii. Ownership stake
   iii. Total revenue
   iv. Net income
   v. Percentage of revenue dedicated to research and development
   vi. Total number of employees
   vii. A list of all state and local jurisdictions with which the company has a contract to provide election related products or services
   viii. Other private-equity firms that own a stake in the company

3. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with the EAC's Voluntary Voting System Guidelines? If so, please provide a copy of each EAC noncompliance notice received by the company and a description of what steps the company took to resolve each issue.

4. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with any state or local voting system guidelines or practices? If so, please provide a list of all such instances and a description of what steps the company took to resolve each issue.

5. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the last twenty years, been found to have violated any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such violations.

6. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the last twenty years, reached a settlement with any federal or state law enforcement entity related to a potential violation of any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such settlements.

7. Has any election technology company, including all affiliates or related entities, in which McCarthy Group has an ownership stake or has had an ownership stake in the

past twenty years, reached a settlement with any state or local jurisdiction related to a potential violation of or breach of contract? If so, please provide a complete list, including the date and description, of all such settlements.

Thank you for your attention to this matter.

Sincerely,

Elizabeth Warren
United States Senator

Amy Klobuchar
United States Senator

Ron Wyden
United States Senator

Mark Pocan
Member of Congress

Congress of the United States
Washington, DC 20510

December 6, 2019

Stephen D. Owens
Managing Director
Staple Street Capital Group, LLC
[redacted]

Hootan Yaghoobzadeh
Managing Director
Staple Street Capital Group, LLC
[redacted]

Dear Messrs. Owens and Yaghoobzadeh:

We are writing to request information regarding Staple Street Capital Group, LLC's (Staple Street) investment in Dominion Voting System (Dominion) one of three election technology vendors responsible for developing, manufacturing and maintaining the vast majority of voting machines and software in the United States, and to request information about your firm's structure and finances as it relates to this company.

Some private equity funds operate under a model where they purchase controlling interests in companies and implement drastic cost-cutting measures at the expense of consumers, workers, communities, and taxpayers. Recent examples include Toys "R" Us and Shopko.[1] For that reason, we have concerns about the spread and effect of private equity investment in many sectors of the economy, including the election technology industry—an integral part of our nation's democratic process. We are particularly concerned that secretive and "trouble-plagued companies,"[2] owned by private equity firms and responsible for manufacturing and maintaining voting machines and other election administration equipment, "have long skimped on security in favor of convenience," leaving voting systems across the country "prone to security problems."[3] In light of these concerns, we request that you provide information about your firm, the portfolio

[1] Atlantic, "The Demise of Toys 'R' Us Is a Warning," Bryce Covert, July/August 2018 issue, https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/; Axios, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," Dan Primack, "How workers suffered from Shopko's bankruptcy while Sun Capital made money," June 11, 2019, https://www.axios.com/shopko-bankruptcy-sun-capital-547b97ba-901c-4201-92cc-6d3168357fa3.html.

[2] ProPublica, "The Market for Voting Machines Is Broken. This Company Has Thrived in It.," Jessica Huseman, October 28, 2019, https://www.propublica.org/article/the-market-for-voting-machines-is-broken-this-company-has-thrived-in-it.

[3] Associated Press News, "US Election Integrity Depends on Security-Challenged Firms," Frank Bajak, October 28, 2019, https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c.

companies in which it has invested, the performance of those investments, and the ownership and financial structure of your funds.

Over the last two decades, the election technology industry has become highly concentrated, with a handful of consolidated vendors controlling the vast majority of the market. In the early 2000s, almost twenty vendors competed in the election technology market.[4] Today, three large vendors—Election Systems & Software, Dominion, and Hart InterCivic—collectively provide voting machines and software that facilitate voting for over 90% of all eligible voters in the United States.[5] Private equity firms reportedly own or control each of these vendors, with very limited "information available in the public domain about their operations and financial performance."[6] While experts estimate that the total revenue for election technology vendors is about $300 million, there is no publicly available information on how much those vendors dedicate to research and development, maintenance of voting systems, or profits and executive compensation.[7]

Concentration in the election technology market and the fact that vendors are often "more seasoned in voting machine and technical services contract negotiations" than local election officials, give these companies incredible power in their negotiations with local and state governments. As a result, jurisdictions are often caught in expensive agreements in which the same vendor both sells or leases, and repairs and maintains voting systems–leaving local officials dependent on the vendor, and the vendor with little incentive to substantially overhaul and improve its products.[8] In fact, the Election Assistance Commission (EAC), the primary federal body responsible for developing voluntary guidance on voting technology standards, advises state and local officials to consider "the cost to purchase or lease, operate, and maintain a voting system over its life span … [and to] know how the vendor(s) plan to be profitable" when signing contracts, because vendors typically make their profits by ensuring "that they will be around to maintain it after the sale." The EAC has warned election officials that "[i]f you do not manage the vendors, they will manage you."[9]

Election security experts have noted for years that our nation's election systems and infrastructure are under serious threat. In January 2017, the U.S. Department of Homeland Security designated the United States' election infrastructure as "critical infrastructure" in order to prioritize the protection of our elections and to more effectively assist state and local election

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[4] Bloomberg, "Private Equity Controls the Gatekeepers of American Democracy," Anders Melin and Reade Pickert, November 3, 2018, https://www.bloomberg.com/news/articles/2018-11-03/private-equity-controls-the-gatekeepers-of-american-democracy.

[5] Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.

[6] Id.

[7] Id.

[8] Brennan Center for Justice, "America's Voting Machines at Risk," Lawrence Norden and Christopher Famighetti, 2015, https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf; Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.

[9] U.S. Election Assistance Commission, "Ten Things to Know About Selecting a Voting System," October 14, 2017, https://www.eac.gov/documents/2017/10/14/ten-things-to-know-about-selecting-a-voting-system-cybersecurity-voting-systems-voting-technology/.

officials in addressing these risks.[10] However, voting machines are reportedly falling apart across the country, as vendors neglect to innovate and improve important voting systems, putting our elections at avoidable and increased risk.[11] In 2015, election officials in at least 31 states, representing approximately 40 million registered voters, reported that their voting machines needed to be updated, with almost every state "using some machines that are no longer manufactured."[12] Moreover, even when state and local officials work on replacing antiquated machines, many continue to "run on old software that will soon be outdated and more vulnerable to hackers."[13]

In 2018 alone "voters in South Carolina [were] reporting machines that switched their votes after they'd inputted them, scanners [were] rejecting paper ballots in Missouri, and busted machines [were] causing long lines in Indiana."[14] In addition, researchers recently uncovered previously undisclosed vulnerabilities in "nearly three dozen backend election systems in 10 states."[15] And, just this year, after the Democratic candidate's electronic tally showed he received an improbable 164 votes out of 55,000 cast in a Pennsylvania state judicial election in 2019, the county's Republican Chairwoman said, "[n]othing went right on Election Day. Everything went wrong. That's a problem."[16] These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.

Staple Street reportedly owns or has had investments in Dominion, a major election technology vendor. In order to help us understand your firm's role in this sector, we ask that you provide answers to the following questions no later than December 20, 2019.

1. Please provide the disclosure documents and information enumerated in Sections 501 and 503 of the *Stop Wall Street Looting Act*.[17]

2. Which election technology companies, including all affiliates or related entities, does Staple Street have a stake in or own? Please provide the name of and a brief description of the services each company provides.

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[10] Department of Homeland Security, "Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector," January 6, 2017, https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical.

[11] AP News, "US election integrity depends on security-challenged firms," Frank Bajak, October 29, 2018, https://apnews.com/f6876669cb6b4e4c9850844f8e015b4c; Penn Wharton Public Policy Initiative, "The Business of Voting," July 2018, https://publicpolicy.wharton.upenn.edu/live/files/270-the-business-of-voting.

[12] Brennan Center for Justice, "America's Voting Machines at Risk," Lawrence Norden and Christopher Famighetti, 2015, https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf.

[13] Associated Press, "AP Exclusive: New election systems use vulnerable software," Tami Abdollah, July 13, 2019, https://apnews.com/e5e070c31f3c497fa9e6875f426ccde1.

[14] Vice, "Here's Why All the Voting Machines Are Broken and the Lines Are Extremely Long," Jason Koebler and Matthew Gault, November 6, 2018, https://www.vice.com/en_us/article/59vzgn/heres-why-all-the-voting-machines-are-broken-and-the-lines-are-extremely-long.

[15] Vice, "Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials," Kim Zetter, August 8, 2019, https://www.vice.com/en_us/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials.

[16] New York Times, "A Pennsylvania Country's Election Day Nightmare Underscores Voting Machine Concerns," Nick Corasaniti, November 30, 2019, https://www.nytimes.com/2019/11/30/us/politics/pennsylvania-voting-machines.html.

[17] Stop Wall Street Looting Act, S.2155, https://www.congress.gov/bill/116th-congress/senate-bill/2155.

a. Which election technology companies, including all affiliates or related entities, has Staple Street had a stake in or owned in the past twenty years? Please provide the name of and a brief description of the services each company provides or provided.

b. For each election technology company Staple Street had a stake in or owned in the past twenty years, including all affiliates or related entities, please provide the following information for each year that the firm has had a stake in or owned this company and the five years preceding the firm's investment.
   i. The name of the company
   ii. Ownership stake
   iii. Total revenue
   iv. Net income
   v. Percentage of revenue dedicated to research and development
   vi. Total number of employees
   vii. A list of all state and local jurisdictions with which the company has a contract to provide election related products or services
   viii. Other private-equity firms that own a stake in the company

3. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with the EAC's Voluntary Voting System Guidelines? If so, please provide a copy of each EAC noncompliance notice received by the company and a description of what steps the company took to resolve each issue.

4. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the last twenty years, been found to have been in noncompliance with any state or local voting system guidelines or practices? If so, please provide a list of all such instances and a description of what steps the company took to resolve each issue.

5. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the last twenty years, been found to have violated any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such violations.

6. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the last twenty years, reached a settlement with any federal or state law enforcement entity related to a potential violation of any federal or state laws or regulations? If so, please provide a complete list, including the date and description, of all such settlements.

7. Has any election technology company, including all affiliates or related entities, in which Staple Street has an ownership stake or has had an ownership stake in the past twenty years, reached a settlement with any state or local jurisdiction related to a potential violation of or breach of contract? If so, please provide a complete list, including the date and description, of all such settlements.

Thank you for your attention to this matter.

Sincerely,

Elizabeth Warren
United States Senator

Amy Klobuchar
United States Senator

Ron Wyden
United States Senator

Mark Pocan
Member of Congress

Exh. 27 – Declaration of Eric Quinnell

Declaration of Eric Quinnell

1. My name is Dr. Eric Quinnell. I am over 18 years of age, and I am competent to testify in this action. All of the facts stated herein are true and based on my personal knowledge. All scientific conclusions herein are made to a reasonable degree of scientific certainty in my fields of expertise.

2. I received a Bachelor of Science Degree in Engineering in May of 2004, a Master of Science in Circuit Design in May of 2006, and a Doctorate in Computer Arithmetic in May of 2007, all from The University of Texas at Austin.

3. I have extensive professional experience as an engineer designing and leading teams engaged in various aspects of circuit architecture and processing. In this capacity, I frequently engage in complex and sophisticated predictive mathematical modeling and statistical analysis. I am required to prepare reports and analysis on the same for presentations to executives and other decision makers. I make this declaration in my personal capacity.

Executive Summary

4. I was asked to analyze the results of the 2020 General Election in Fulton County, Georgia to determine if there were any statistical anomalies in voting, and if so, to perform a predictive modeling analysis to analyze those anomalies.

5. When compared to the 2016 General Election Democrat to Republican voting ratio, the voting distribution gains for 2020 are well outside the 2016 ratio of a multiple of 2.52. Specifically, for every one additional voter for President Donald J. Trump ("Trump") over the full total from the 2016 General Election in Fulton County, former Vice-President Joseph R. Biden ("Biden") gained 4.2 additional voters over the full total from 2016 in Fulton County.

6. The Biden distribution kurtosis or "4th moment" shows a value classifying it as "platykurtic", which indicates as compared to the standard normal, the distribution lacks a "tail". This fact is irregular as we often expect our data to be close to a normal distribution. Significant deviations from the normalized distribution can indicate an event that is statistically unlikely. With the number of data points we have, it is reasonable to expect normal-like behavior.

7. At a county or district level of analysis, statistical anomalies appear in even greater ratios. For example, CountyJC, which was a majority Republican county in the 2106 General Election, showed Biden gained 4.6 new voters to every 1 new Trump voter. Biden also achieved >100% of all additional new votes above 2016 General Election total vote sum in some of CountyJC's districts—meaning Biden not only captured all votes in the district above the total from 2016, but took extra votes lost by the Libertarian column. In one specific district, Biden's new voter gains exceed 150% of the total new registrations over 2016 registrations in the same district.

8. Such local mathematical anomalies are not seen in all counties of Fulton County, but rather only a select few.[1]

9. I constructed a mathematical model that subtracted out local statistical anomalies and renormalized them according to their 2016 ratios, all while keeping pace with the additional turnout for Trump as a control. This allowed me to quantize a predicted number of anomalous votes per county, which are listed at the end of the Declaration. In all, I identified some 32,347 votes as statistically anomalous.

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[1] Fulton is split into "counties" with each county having a letter/number prefix and letter/number suffix, representing what is classically considered elsewhere a "precinct". Several precincts share prefixes as a super-group. Hereafter, I shall refer to the super-groups with common letter/number prefixes as "counties" and their sub-divisions unique by letter/number suffix as "districts".

Data Set Selection

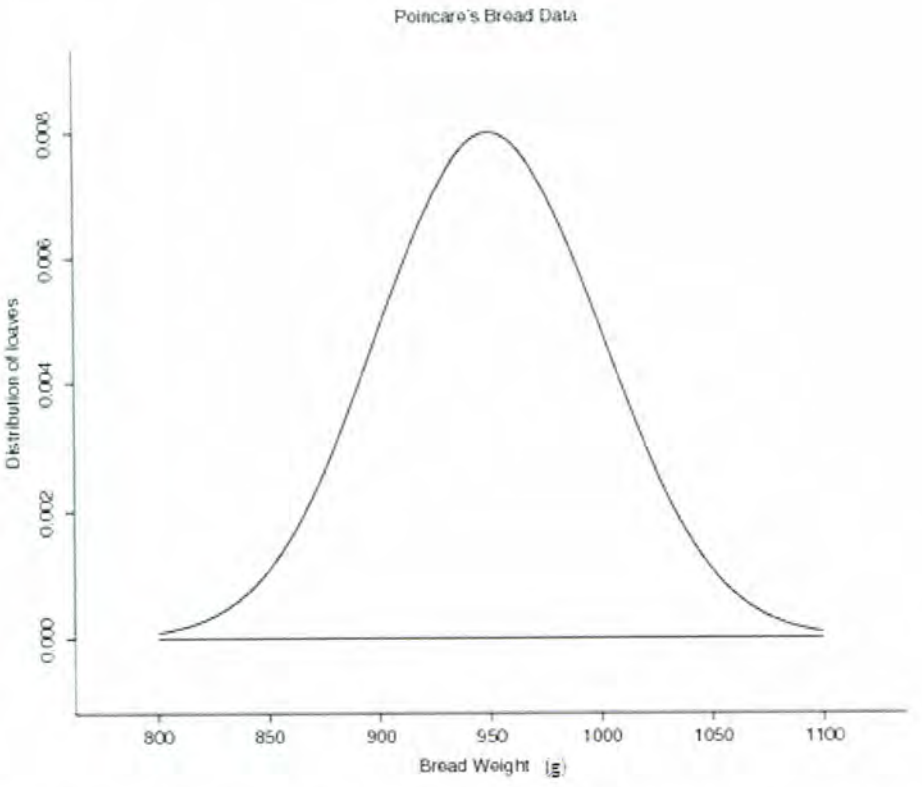
10. I retrieved publicly available data from the https://data.fultoncountyga.gov/Elections/Election-Results-General-Election-November-8-2016/eiwi-wrhe website containing the official Fulton County 2016 General Election Results. I also retrieved the publicly available unofficial Fulton County 2020 General Election Results from https://results.enr.clarityelections.com/GA/Fulton/105430/web.264614/#/detail/1 website as of November 11, 2020.

Basic Methodology

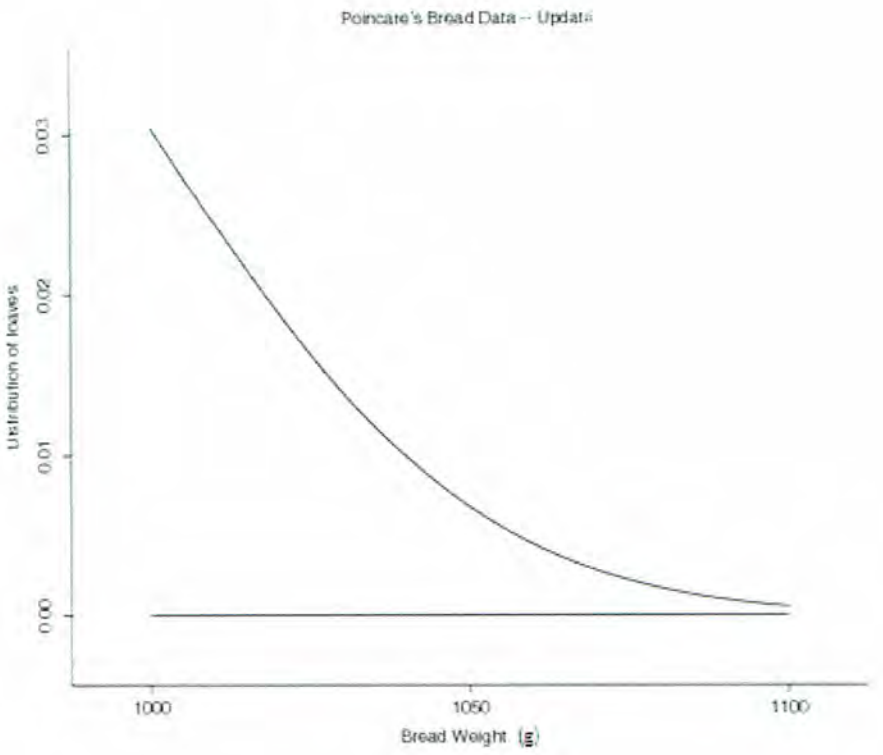
11. The anecdote of the 19th century French mathematician Henri Poincaré and a bread baker under his employ illustrate how one can use statistical inference to detect when agents are adjusting the data of the events under consideration. In particular, even if we only see part of behavior, we can often infer the rest.

12. Henri wished for a bakery he owned in Paris to produce bread that averaged 1kg in weight and provided capital accordingly to his baker. Every morning, the baker would bring bread to Henri, who, being a mathematician, would weigh the bread and record the weight in a log. After a year, Henri sued the baker for making bread consistently lighter than 1kg.

13. Henri's accusation was backed by the normal distribution of data (more commonly known as the "bell curve" or sometimes "Gaussian") of natural variation across a year of different bread. Henri said that the average (or "mean") of the weight of the bread was centered around 950g, and only weighing 1kg at a lower frequency. This means primitively that the weight of the bread he received was under the specified 1kg more than half the time.



14. The baker admitted his scheme, paid a fine, and was given a second chance to start being honest while working for Henri's bakery. The following year, the pattern repeated—the baker would bring bread to Henri, who would chart the weight. At the end of the year, Henri fired the baker for his continued scheme by showing him the plot of his newly logged bread-weight data.



15. The baker, caught again, asked how Henri managed to root out the scheme with this new graph, as it clearly says the bread was always at least 1kg. What Henri noticed is that when he plotted the frequencies of weights of the loaves, he did not see a distribution, but instead just a tail. This plot is indicative of the baker throwing away all data points less than 1kg. Henri told the baker that he inferred he didn't change his behavior, but merely always brought him the heaviest piece of bread in the day's batch.

16. Henri's correct observation of the statistical anomaly in this particular anecdote is an abuse of the "tail of the curve". In natural phenomena, nearly all repeated behaviors in nature have a universal variance—or a bell curve, albeit of different variants of shapes. History continues to show examples of such observable mathematical anomalies to the tail of a variance curve.

17. Most recently the 2008 sub-prime mortgage risk management featured an "abuse of the tail" when risk management bankers stuffed sub-prime risk into the tail of that very curve—allowing for immediate positive returns. However, when one stacks the tail over

and over with bad risk, eventually the tail becomes the center of the curve (called "platykurtic") and the bad risk finally materializes.

18. In addition to the mean[2] and the standard deviation[3], one can look at other statistics to get a sense of the shape of the distribution. The next two are the skewness[4] and the kurtosis[5]. These statistics are normalized by dividing by the standard deviation, so they are all of a comparable scale; the standard normal has a skewness of 0 and a kurtosis of 3. As we often expect our data to be close to a normal distribution, significant deviations from these values can indicate an event that is statistically anomalous.

Mathematical Signature of Differential Vote Gain Anomaly

19. To set a baseline of the variability of Atlanta's vote pattern changes from the 2016 General Election, I plot the natural distribution of gain/lost votes per specific district in a histogram plot for both Trump in Figure 1 and Biden in Figure 2 vote gains vs the 2016 General Election in the same areas:

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[2] "Mean" is the average value of a dataset.
[3] "Standard Deviation" is the scale of fluctuations about the mean.
[4] "Skew" or the "3rd moment" is the expected value of the cube of the fluctuations about the mean divided by the standard deviation. This tells us which side of the distribution has more mass.
[5] "Kurtosis" or the "4th moment" is the expected value of the fourth power of the fluctuations about the mean divided by the standard deviation, which informs us on how much of the tail is outside the main distribution.

	Trump Distribution
MEAN	59.70
STDEV	169.05
3-sigma	507.16
Skew	0.82
Kurtosis	20.10

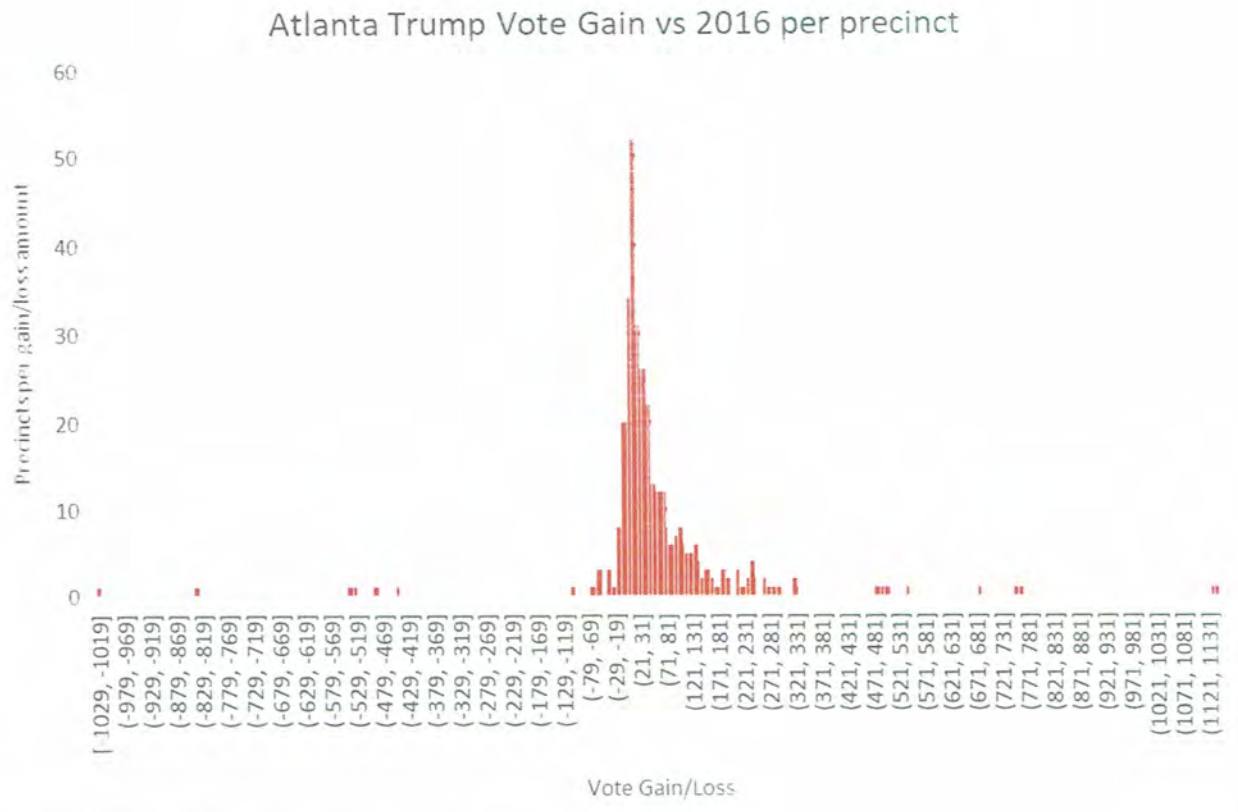

Figure 1. Trump Vote Gain Distribution

	Biden Distribution
MEAN	250.89
STDEV	340.59
3-sigma	1021.77
Skew	0.92
Kurtosis	2.74

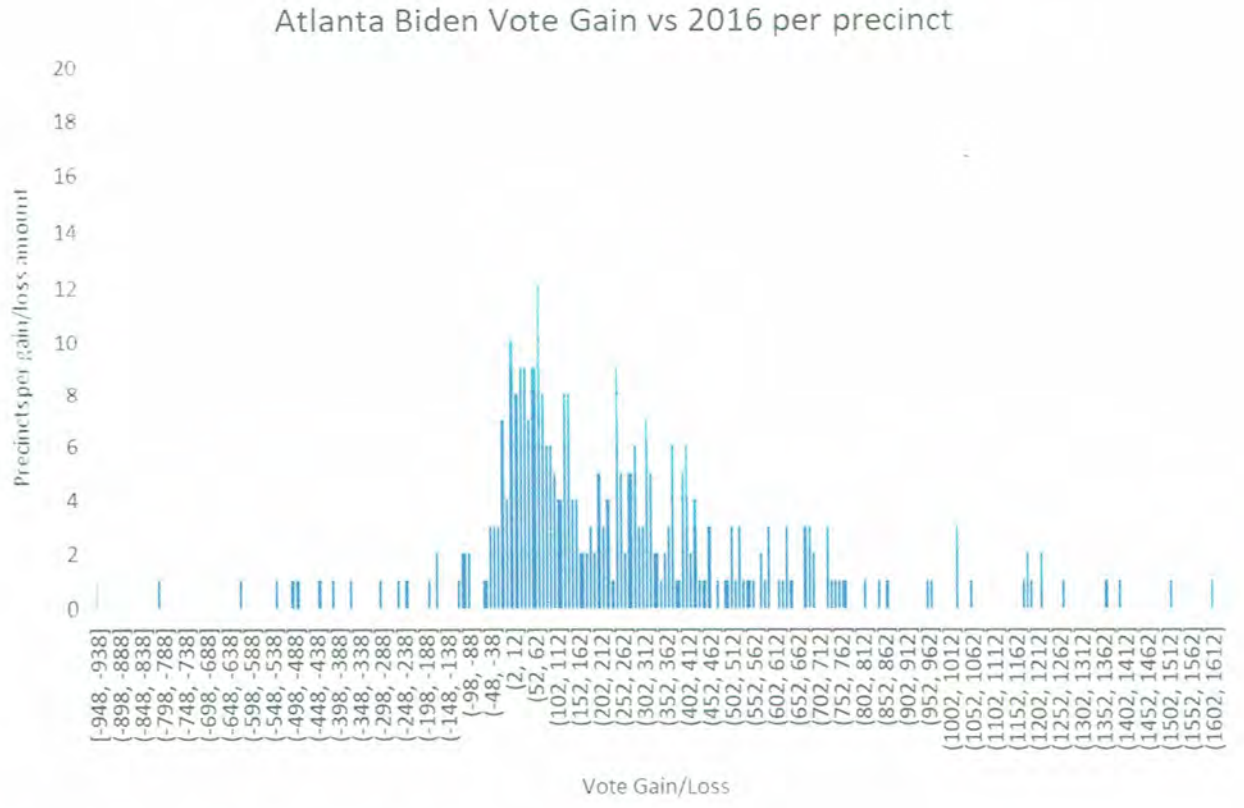

Figure 2. Biden Vote Gain Distribution

20. The "tail of the curve" in Biden's vote gain visually seems most unusual. To quantify, what's even more surprising are the values of the kurtosis of the distribution.

21. The kurtosis, or the measure of how much of the distribution is considered "the tail" is the real oddity here. Any numbers less than 3 in kurtosis make it platykurtic, with 3 being the kurtosis of a standard normal distribution as a baseline.

22. A distribution that is platykurtic roughly states that the tail of the distribution is not a tail, but rather part of the mean itself. To pull from the same example already cited, the 2008 mortgage collapse occurred when the sub-prime risk became platykurtic—meaning the high-risk sub-prime mortgages became the main risk curve and the bad bets were finally part of the mean.

23. Further, by calculating the gain in votes for both Trump and Biden over the respective 2016 total from the same districts, the Democratic/Republican ratio (D/R ratio or DEM/GOP ratio) of added votes gained for Biden over Trump was a high 4.2x.

	Gained Votes Avg. per District
Trump	59.7
Biden	250.89
Diff	191.19
2020 DEM/GOP New Vote Gain Ratio	4.2
%	81D / 19R
2016 DEM/GOP Ratio	2.52
%	69D / 27R

24. While this gain is quite anomalous, especially considering the historical voting ratio of the city—technically both the abnormal tail of Biden's curve and gained ratio fall under the standard deviation of the 200,000 new registered voters presumed from the new Georgia "motor-voter" law. Registrations from this law netted an average of 652 new registrations with a standard deviation of 699 new registrations vs 2016. In context, this mean and standard deviation infers that some counties lost voters, while others more than doubled their mean.

25. At the Fulton County level, the new influx of overwhelmingly Democratic new votes technically fits registration deviations. However, in select counties, when the new vote distribution is broken down into per county and per district changes, the ratios appear well outside the normal.

26. What's truly anomalous is that the ratios well outside the normal occurred commonly in districts roughly 50D/50R, or even in districts from the 2016 General Election which were leaning Republican. Some districts in this county show that Biden picked up over >100% of the new votes in excess to 2016 General Election totals—despite the fact that Trump also picked up votes in most of the same districts. Note yet another oddity in JC13B, where votes in excess of 2016 exceeds the registrations in excess of 2016.

** means redistricted

2016 Results							2020 Gain/Loss in Votes over 2016					
County	Trump	Clinton	Votes	Ratio Dem/Rep	Turnout	Dem % of Voters	Trump Gain	Biden Gain	New Votes	Gain Dem/Rep	New Vote % of Additional Registrations over 2016	Dem % of New Voters
JC01**	1322	1870	3312	1.41	78.3%	44.2%	251	1032	1194	4.1	72.9%	86.4%
JC02	697	722	1454	1.04	79.2%	39.3%	200	584	766	2.9	65.8%	76.2%
JC03A	199	196	412	0.98	87.1%	41.4%	-1	87	74	-87	61.2%	117.6%
JC03B	373	549	960	1.47	78.4%	44.9%	72	228	283	3.2	72.2%	80.6%
JC04**	1455	1501	3116	1.03	80.3%	38.7%	56	766	704	13.7	79.7%	108.8%
JC05	651	736	1468	1.13	78.8%	39.5%	49	318	315	6.5	64.8%	101.0%
JC06	1025	713	1793	0.70	76.3%	30.3%	-58	381	291	-6.6	59.4%	130.9%
JC07	1207	1390	2704	1.15	78.1%	40.1%	196	755	882	3.9	73.1%	85.6%
JC08	964	872	1946	0.90	81.3%	36.4%	49	395	362	8.1	67.5%	109.1%
JC09	806	1059	1954	1.31	78.1%	42.3%	141	367	450	2.6	60.2%	81.6%
JC10	619	800	1488	1.29	77.5%	41.6%	106	446	510	4.2	70.8%	87.5%
JC11	1224	897	2198	0.73	78.7%	32.1%	140	417	513	3.0	73.0%	81.3%
JC12	1177	579	1797	0.49	81.8%	26.4%	151	328	464	2.2	73.1%	70.7%
JC13A	1011	449	1521	0.44	80.1%	23.7%	56	319	327	5.7	78.0%	97.6%
JC13B	153	38	200	0.25	77.2%	14.7%	3	38	35	12.7	152.2%	108.6%
JC14	1000	708	1768	0.71	80.5%	32.2%	40	334	335	8.4	81.5%	99.7%
JC15	202	294	525	1.46	77.7%	43.5%	64	136	181	2.1	64.0%	75.1%
JC16	907	802	1811	0.88	82.5%	36.5%	69	306	300	4.4	58.6%	102.0%
JC18	1100	791	1991	0.72	81.1%	32.2%	51	355	340	7.0	84.6%	104.4%
JC19	1239	1251	2633	1.01	81.7%	38.8%	123	543	582	4.4	61.1%	93.3%

TOTAL	Trump	Clinton	Votes	2016 Dem/Rep	Turnout	Dem % of Voters	Trump Gain	Biden Gain	New Votes	Gain Dem/Rep	New Vote % of Additional Registrations over 2016	Dem % of New Voters
JC	17331	16217	35051	0.9	79.6%	49.4%	1758	8135	8908	4.6	70.0%	91.3%
		2016 D/R JC		~48D / 52 R				2020 D/R JC Gain		~82D / 18R		

Predictive Model to Identify Mathematically Anomalous Vote Totals

27. I constructed a reverse engineered predictive model to try and identify where such anomalies existed at a district level by using the 2016 General Election D/R total ratio per district and comparing

them to the same ratio in the same district in 2020. The Trump 2020 General Election vote gains are used as a control for the increase in turnout (generally) in Georgia as applied to both campaigns. The model is not presuming a standard normal distribution, but rather one with a mean that increases according to the 2016 General Election D/R ratio within a reasonable variance. The model is also constrained to attempt a result with a positive kurtosis above 3 (or with "excess kurtosis").

28. To achieve this, I did not create a distribution model from scratch. Rather, I began with the actual Biden 2020 General Election vote distribution and corrected anomalies from the original, district by district, until the distribution targets were achieved.

29. The predictive mathematical model creates a Biden vote gain distribution seen in Figure 3. The predictive vote gain distribution lacks a visually unusual tail. The model's mean is equal to the multiple of D/R ratios seen in the 2016 General Election and brings the Biden new vote skew to a 2x multiple of mass in the curve over Trump's skew. Finally, and likely most importantly, the prediction pulls the kurtosis back outside a platykurtic distribution.

	Predicted Biden Distribution
MEAN	150.63
STDEV	274.30
3-sigma	822.90
Skew	1.67
Kurtosis	6.03

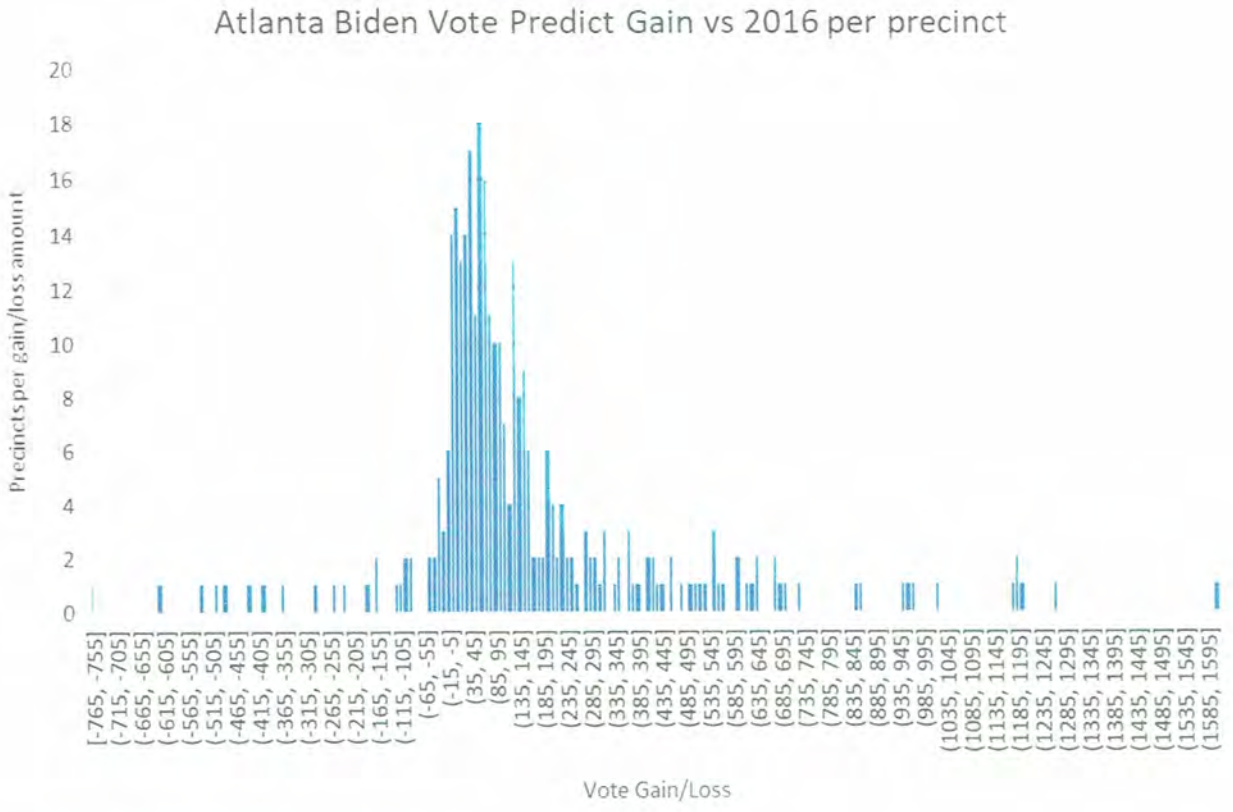

Figure 3. Biden Distribution Predicted Correction

30. The difference between the raw 2020 General Election data and the reverse-engineered predictive model follows.

The 2020 General Election raw data results are below:

2020	**Register**	**Voted**	**Biden**	**Trump**	**D/R**
Total	799612	520760	377586	136946	2.76
Turnout - underinflated b/c motor-votor	65.13%	share	72.51%	26.30%	

The predicted model, holding turnout and 2016 General Election ratios consistent and correlated to the Trump baseline in the 2020 General Election, are below:

Predicted 2020	Registered	Voted	Biden	Trump	D/R	Biden Vote Diff
Total	799612	488576	345402	136946	2.52	32347
Turnout	61.10%	Share	70.70%	28.00%	2016 ratio	

The difference between the 2020 General Election raw data and the predicted correction show exceedingly large vote block gains to only specific counties.

31. An observation of the actual election results in select counties identifies several thousands of anomalous votes distributed within their districts. The picture in Figure 4 communicates the necessary effect to reconstruct the actual election data from the predicted model.

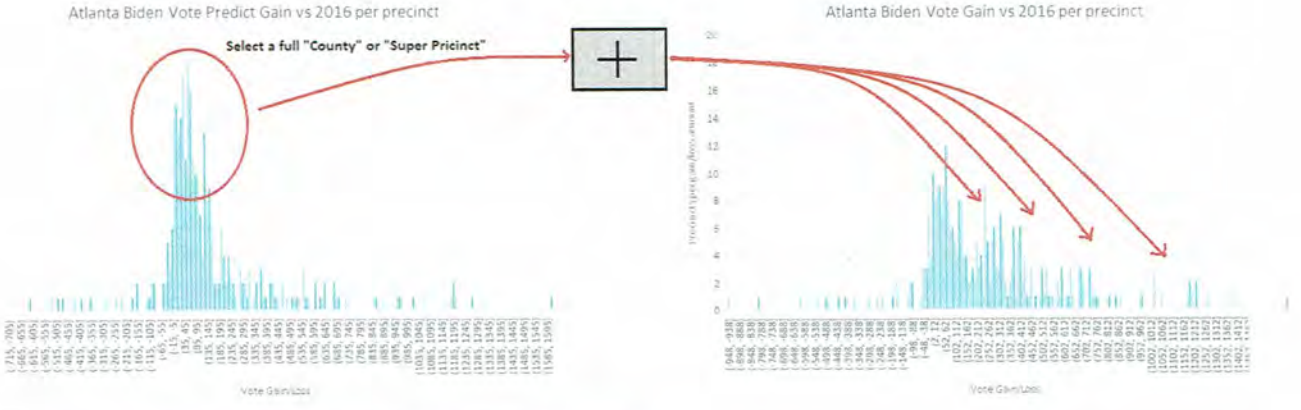

Figure 4. Reconstructing actual election data from predicted model

Full Predictive List of Biden Vote Gains Outside the Predicted Distribution in Fulton County

32. While some counties hold their 2016 ratio gains well within the historical variance and match the model perfectly, other counties or super districts stand out. Specifically, 139 districts of ~320 districts have a sum of ~32,347 votes exceeding the predicted model. These votes are statistically anomalous.

	County Totals
County	**Total Biden Votes Above Prediction**
County RW	6135
County JC	5822
County SS	4388
County 07	3239
County 08	2713
County ML	1704
County 06	1576
County AP	1142
County 09	1295
County 02	1139
County SC	541
County HP	269
County PA	258
County 03	182
County 01	169
County UC	148
County CP	139
County 04	81
County 05	67
County CH	34
County 12	7

33. As an example, a particular county well exceeding the model looks like this:

** means redistricted from 2016

County	District	Total Biden Votes above Prediction
County RW	**TOTAL**	**6135**
	RW01	526
	RW02	443
	RW03	401
	RW04	32
	RW05	190
	RW06	386
	RW07A	59
	RW07B	0
	RW08	270
	RW09**	591
	RW10	248
	RW11A	242
	RW12**	749
	RW13	487
	RW16	162
	RW17	224
	RW19	171
	RW20	245
	RW21	310
	RW22A	401

34. The entire list, sorted by total votes exceeding expected per district, is as follows. The ** indicates some form of re-districting versus 2016, which lowers the confidence of prediction in that specific district slightly due to unknown specifics of the partition.

** means redistricted from 2016

District	Total Biden Votes above Prediction
07A	881
*FA01***	813
*06D***	792
*RW12***	749
*JC04***	708
*JC01***	677
AP09A	621
SC211	600
*RW09***	591
JC07	529
RW01	526
07C	509
RW13	487
*SC07***	466
08J	458
07D	446
RW02	443
09M	425
JC19	419
RW03	401
RW22A	401
08B	400
RW06	386
JC02	377
ML05	373
SS11A	369
JC08	351
*ML01***	339
09F	336
02L2	332
*02A***	323
*ML03***	319
07F	318
JC18	318
JC11	314

RW21	310
JC10	309
ML06B	306
JC14	306
SS09B	305
SS17	304
CP011	302
JC13A	294
SS12	294
AP01C	285
SS29A	282
06J	278
RW08	270
HP01	269
ML04	263
JC05	263
PA01	258
08L	256
JC12	254
08A	251
RW10	248
08P	245
JC16	245
RW20	245
08G	244
RW11A	242
SS08D	240
07M	237
07J	233
09G	232
08F1	225
RW17	224
SS06	220
02E	217
*SC05***	216
07H	208
SS09A	201
SS03	200
SS31	199
08N2	194

SS08A	192
RW05	190
CP012	186
JC09	182
SS07A	181
SS05	177
09A	174
RW19	171
RW16	162
02B	161
07B	153
UC031	148
SS19A	147
08E	145
SS11B	142
06F	142
SS07B	139
AP07A	136
08C	133
SS02A	130
01B	130
09H	129
07E	127
07N	127
*SS2***	125
JC03B	122
JC06	116
03M	114
02W	106
ML06A	104
08N1	102
SS15A	102
CP02	98
06I	97
SS08C	82
04I	81
06B	80
SS15B	77
06L1	73
06Q	69

03P1A	67
05J	65
AP10	61
08K	60
RW07A	59
SC04	58
SS11D	57
SS08B	56
SC08F	56
SS16	54
SS02B	52
06E	44
CP05B	40
01D	39
AP03	38
JC13B	37
CH05	34
RW04	32
SS11C	32
SS18B	21
12G	7
SS18A	6
05D	3
SS07C	3
JC03A	1

I declare under the penalty of perjury that the foregoing is true and correct.

November 19, 2020



Eric Quinnell, Ph.D.

Exh. 28 – Affidavit of Mitchell Harrison

AFFIDAVIT

STATE OF GEORGIA

COUNTY OF CHEROKEE

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths in said State and County, Mitchell Harrison, who after being duly sworn, deposes and says upon oath:

1. My name is Mitchell Harrison, and I am a resident of Cherokee County Georgia. I am a college student, but also work for the Georgia Republican party as a Field Organizer. I am over the age of 18 and make these statements based on my personal knowledge of the facts, matters and events described herein.

2. As part of my assignment with the Georgia Republican party, I was to monitor ballot counting and processing in Fulton County. On the evening of election night, November 3, 2020 I reported to the Fulton elections office located at 1365 English Street in Atlanta. There I met with Brandon Moye, the Regional Field Director. Brandon assigned Michelle Branton and I to go observe the counting of absentee and military ballots at the State Farm arena location in downtown Atlanta. I understood that Michelle and I were to be involved in closely monitoring the ballot counting process.

3. After arrival at State Farm Arena, Michelle and I were taken to an observation area located on Level 5. Besides Michelle and myself, there was also a news crew from Fox News and I believe 11 Alive. For Fox News this included their broadcaster, photographer, and producer. The observation area itself was roped off, leaving us very far away from the ballot counting activity we were assigned to monitor. Also, there were certain areas of the large counting room that we could not see at all due to angles, doors, and walls. We were specifically instructed by Fulton officials that we could not leave that area to observe from any other location or vantage point.

4. The room where the ballot processing took place is a very large room and there were at least 25 employees working there. I am not sure of the exact number. Michelle and I noted that Robb Pitts, the Chairman of the Fulton County [illegible] in the counting room and stayed there

for much of the night. Also, Joe Cain, another Fulton Commission member was in the counting room area, and he actually spoke with us briefly.

5. It was frustrating during the time Michelle and I were there because we were kept so isolated from where the ballot processing and counting activity was actually taking place. The location and layout of the observation area, ironically, made it difficult to observe much that was going on in the ballot counting area.

6. For example, the machine that copied the UOCAVA electronically received ballots (sometimes called military ballots) onto paper copies could only be viewed from the side and the doors to that area were positioned in a way that prevented us from any viewing of this process. Additionally, the scanners that scanned the absentee ballots were not visible to us at all.

7. The only way we knew that the scanners were located across this large room and was that Regina Waller, Public Affairs Manager for Elections spoke to us at one point and she described the process to Michelle and to me. There were several different news crews that came and went that evening from this same observation area.

8. Sometime after 10 o'clock p.m., the counting activity slowed. Shortly afterward, a younger lady with long braided but blond hair yelled out to all of them they should stop working and come back tomorrow (the next day, Wednesday November 4th) at 8:30 A.M.. Thereafter, all but 4 election employees left State Farm, leaving just the blond haired lady (who Michelle and I assumed was the supervisor), two older ladies and Regina Waller at the location. This lady had appeared through the night and Michelle and I believed her to be the supervisor.

9. Another task we had been given by Brandon was to inquire how many ballots had been processed and how many were still left to go. We posed these questions to Regina Waller, the Public Affairs Manager for Elections. She seemed uncomfortable at times answering us, and she called someone which we interpreted as asking for help on how to respond to us. Ultimately, she refused to answer our questions and told us we had to "look it up on the website". In all, we asked Regina Waller for this information at least three separate times and she would not give us an answer.

10. After concluding that Regina Waller would not give us this information on the number processed versus the ones still left to be processed, we along with the Fox News crew left the

State Farm Arena shortly after 10:30 p.m. When we left, Regina, the "supervisor" and only two other people remained in the area of the scanners.

11. We were then told to return to the Fulton County Board of Elections Warehouse on English Street. Shortly after we arrived at the Warehouse Facility, Regina Waller entered the facility within 15-20 minutes of when we arrived. The English Street facility is a huge warehouse storing election machines, scanners and other election equipment.

12. Sometime thereafter while still at English Street, we heard from news crews that ballot counting was still going on at State Farm Arena, even though we were told it had ceased for the night and would not resume until Wednesday morning. So, Brandon Moye asked Trevin McKoy and I to go back to State Farm arena. This was just before 1:00 A.M. on Wednesday morning.

13. When Trevin McKoy and I arrived at State Farm, we were told that counting had been going on, but had just ended in the last few minutes. We asked the security representative to take us to the ballot counting area, initially he was hesitant and called his supervisor for instruction. That second person arrived and he agreed to take us in. He told us his name was Phillip. When we arrived at the same observation area, there was no one counting ballots. Again we were told that those counting the ballots had "just finished" and that there had been about 5 people there. Trevin and I thought that was odd because at 10:30 P.M., Regina Waller and the supervisor lady had said they were done counting for the night, and would not resume until 8:30 A.M. the next morning.

FURTHER THE AFFIANT SAYETH NOT.

Mitchell Harrison

Sworn to and subscribed before me

this _____ day of November, 2020.

_____

Notary Public

618

Exh. 29 – Affidavit of Michelle Branton

AFFIDAVIT

STATE OF GEORGIA

COUNTY OF COBB

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths in said State and County, Michelle Branton, who after being duly sworn, deposes and says upon oath:

1. My name is Michelle Branton, and I am a resident of Cobb County Georgia. I am employed by Georgia Republican party as a Field Organizer. I am over the age of 18 and make these statements based on my personal knowledge of the facts, matters and events described herein.

2. As I stated, I am employed by the Georgia Republican Party and so for the November 3, 2020 General Election, I was to be involved in monitoring the ballot counting process. On the night of the November 3rd election, I was assigned by Regional Field Director Brandon Moye to be a Poll Watcher and to report to the Fulton County Board of Elections Warehouse, located at 1365 English Street NW, Atlanta, Georgia, at 6:30 p.m..

3. After arrival, I was then reassigned to the State Farm Arena in downtown Atlanta to watch the processing of Absentee Ballots and arrived at around 8:15 p.m. At State Farm arena, I joined Mitchell Harrison, Field Organizer for the GAGOP. Mitchell and I entered the State Farm Arena at the same time as the news crew from Fox News which included their broadcaster, photographer, and producer.

4. Upon arrival in the processing room located on Level S of State Farm Arena, we were supposed to watch the processing of the Absentee Ballots from the observation area which was delineated by a fenced area of roping secured by posts. This observation area we were put in was very distant from the staff actually processing the ballots. The room where the ballot processing took place is a very large room, and this distance effectively prevented our actual observation of the process. In addition, other areas of this -- again very large -- room were not visible at all from our observation area.

5. For example, the machine that copied the UOCAVA electronically received ballots (sometimes called military ballots) onto a paper copy of same could only be viewed from the side and the

doors to that area were positioned in a way that prevented us from any viewing of this process. Additionally, the scanners that scanned the absentee ballots were not visible to us at all.

6. The only way we knew that the scanners were located across this large room and was that Regina Waller, Public Affairs Manager for Elections was onsite and she described the process to Mitchell and me. There were several different news crews that came and went that evening from this same observation area. The Chairman of the Fulton County Commission, Robb Pitts, was there most of the night along with his personal assistant, another lady, and his security guard. At the time, I thought it was unusual that the Commission Chairman would be personally involved in the processing of ballots. Chairman Pitts left before the processing stopped later that evening. Additionally, Joe Carn, another Fulton County Commissioner was also onsite. Mr. Carn stayed until right before the processing stopped and spoke with Mitchell and me. Regina Waller, Public Affairs Manager for Elections for Fulton County was also onsite for the entire time and was still onsite when we departed.

7. As the night progressed, most of the staff processing the removal of the inner envelopes and ballots from the outer envelope of the Absentee Ballots stopped working; however, there was one employee that continued working when the others had stopped. That last employee to finish was a younger woman. After that last employee completed her stack at approximately 10:30 p.m., a woman across the room where the scanners were allegedly located yelled to everyone to stop working and to return the next day at 8:30 a.m. This lady had appeared through the night and Mitchell and I believed her to be the supervisor. The supervisor was an approximately 35-35 year old female, with hair that was blonde and braided which came at least to the middle of her back in length.

8. After the "supervisor" gave her instruction, nearly all of the staff workers left, except the supervisor described above, another much older lady that had a shirt on that said "Ruby" on it, and one other lady that I cannot recall her appearance, and Regina Waller, the Public Affairs Manager for Elections. so, at the time that work stopped at about 10:30 I recall those four employees remaining.

9. At this same time,, we along with the Fox News crew were the only other persons as I recall left in the room. We had been instructed by Brandon Moye to obtain the number of ballots processed and the number that were still remaining to be processed We attempted to obtain

this information three separate times from Regina Waller and she would not give an answer and she also appeared to be calling someone asking them for advice on how to respond to our request. Afterwards, Regina Waller would only say "it could be obtained on the website".

10. After concluding that Regina Waller would not give us this information on the number processed versus the ones still left to be processed,, we along with the Fox News crew left the State Farm Arena shortly after 10:30 p.m. When we left, Regina, the "supervisor" and only two other people remained in the area of the scanners, the lady with the "Ruby" on her shirt was sanitizing the tables and tablecloths, and the third lady was further across the room and I could not tell what she was doing. Regina Waller was sending an email, as she relayed to us, when we left.

11. We were then told to return to the Fulton County Board of Elections Warehouse on English Avenue. Shortly after we arrived at the Warehouse Facility, Regina Waller entered the facility within 15-20 minutes of when we arrived. The English Avenue facility is a huge warehouse storing election machines, scanners and other election equipment.

12. Sometime thereafter while still at English Avenue, Mitchell Harrison and Brandon Moye advised they heard counting was still going on at State Farm Arena and Mitchell Harrison and Trevin McKoy, field organizers, were sent to confirm the ballots were again being counted at the State Farm Arena. I did not go with them on the return to State Farm.

FURTHER THE AFFIANT SAYETH NOT.

Michelle Branton

Sworn to and subscribed before me
this 8th day of November, 2020.

Heidi Atrian
Notary Public

HEIDI ATRIAN NOTARY PUBLIC COBB COUNTY GEORGIA EXPIRES October 19, 2024 W-00473072

JS44 (Rev. 10/2020 NDGA)

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, BJ VAN GUNDY, Assistant Secretary of the Georgia Republican Party, JASON M SHEPHERD, on behalf of the COBB COUNTY REPUBLICAN PARTY, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Richmond
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANT(S)

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N.SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Fulton
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 hmacdougald@cpdlawyers.com

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. GOVERNMENT PLAINTIFF
- ☑ 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- ☐ 2 U.S. GOVERNMENT DEFENDANT
- ☐ 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

PLF	DEF		PLF	DEF	
☑ 1	☑ 1	CITIZEN OF THIS STATE	☐ 4	☐ 4	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
☐ 2	☐ 2	CITIZEN OF ANOTHER STATE	☐ 5	☐ 5	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
☐ 3	☐ 3	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	☐ 6	☐ 6	FOREIGN NATION

IV. ORIGIN (PLACE AN "X "IN ONE BOX ONLY)

- ☑ 1 ORIGINAL PROCEEDING
- ☐ 2 REMOVED FROM STATE COURT
- ☐ 3 REMANDED FROM APPELLATE COURT
- ☐ 4 REINSTATED OR REOPENED
- ☐ 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
- ☐ 6 MULTIDISTRICT LITIGATION - TRANSFER
- ☐ 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- ☐ 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

42 U.S.C. Sec. 1983 & 1988; U.S. Const. Art. 1, Sec. 4; Amdts. 5, 14; 3 U.S.C. Sec. 5. Plaintiffs seek immediate injunctive relief arising from election fraud and illegality in the November 3, 2020 Presidential election.

(IF COMPLEX, CHECK REASON BELOW)

- ☐ 1. Unusually large number of parties.
- ☐ 2. Unusually large number of claims or defenses.
- ☑ 3. Factual issues are exceptionally complex
- ☐ 4. Greater than normal volume of evidence.
- ☐ 5. Extended discovery period is needed.
- ☐ 6. Problems locating or preserving evidence
- ☐ 7. Pending parallel investigations or actions by government.
- ☐ 8. Multiple use of experts.
- ☐ 9. Need for discovery outside United States boundaries.
- ☐ 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT $_____ APPLYING IFP _____ MAG. JUDGE (IFP) _____

JUDGE _____ MAG. JUDGE _____ NATURE OF SUIT _____ CAUSE OF ACTION _____
(Referral)

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK
- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK
- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 151 MEDICARE ACT
- ☐ 160 STOCKHOLDERS' SUITS
- ☐ 190 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK
- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK
- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY
- ☐ 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- ☐ 365 PERSONAL INJURY - PRODUCT LIABILITY
- ☐ 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK
- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING
- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK
- ☐ 422 APPEAL 28 USC 158
- ☐ 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK
- ☐ 440 OTHER CIVIL RIGHTS
- ☑ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ ACCOMMODATIONS
- ☐ 445 AMERICANS with DISABILITIES - Employment
- ☐ 446 AMERICANS with DISABILITIES - Other
- ☐ 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK
- ☐ 462 NATURALIZATION APPLICATION
- ☐ 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK
- ☐ 463 HABEAS CORPUS- Alien Detainee
- ☐ 510 MOTIONS TO VACATE SENTENCE
- ☐ 530 HABEAS CORPUS
- ☐ 535 HABEAS CORPUS DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER
- ☐ 550 CIVIL RIGHTS - Filed Pro se
- ☐ 555 PRISON CONDITION(S) - Filed Pro se
- ☐ 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK
- ☐ 550 CIVIL RIGHTS - Filed by Counsel
- ☐ 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK
- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- ☐ 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK
- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT. RELATIONS
- ☐ 740 RAILWAY LABOR ACT
- ☐ 751 FAMILY and MEDICAL LEAVE ACT
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK
- ☐ 820 COPYRIGHTS
- ☐ 840 TRADEMARK
- ☐ 880 DEFEND TRADE SECRETS ACT OF 2016 (DTSA)

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK
- ☐ 830 PATENT
- ☐ 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK
- ☐ 861 HIA (1395ff)
- ☐ 862 BLACK LUNG (923)
- ☐ 863 DIWC (405(g))
- ☐ 863 DIWW (405(g))
- ☐ 864 SSID TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK
- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK
- ☐ 375 FALSE CLAIMS ACT
- ☐ 376 Qui Tam 31 USC 3729(a)
- ☐ 400 STATE REAPPORTIONMENT
- ☐ 430 BANKS AND BANKING
- ☐ 450 COMMERCE/ICC RATES/ETC.
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- ☐ 480 CONSUMER CREDIT
- ☐ 485 TELEPHONE CONSUMER PROTECTION ACT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 895 FREEDOM OF INFORMATION ACT 899
- ☐ 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK
- ☐ 410 ANTITRUST
- ☐ 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK
- ☐ 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

☐ **CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23** **DEMAND $**_____

JURY DEMAND ☐ **YES** ☑ **NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)**

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE Amy Totenberg **DOCKET NO.** 1:17-cv-2989-AT

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- ☐ **1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.**
- ☑ **2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.**
- ☐ **3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.**
- ☐ **4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.**
- ☐ **5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.**
- ☐ **6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):**

- ☐ **7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. , WHICH WAS DISMISSED. This case ☐ IS ☐ IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.**

SIGNATURE OF ATTORNEY OF RECORD **DATE**

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Georgia

CORECO JA'QAN PEARSON, et al

Plaintiff(s)

v.

Brian Kemp, Brad Faffensperger, David J. Worley, Rebecca N. Sullivan, Matthew Mashburn, and Anh Le, in their official capacities

Defendant(s)

Civil Action No. 1:20-cv-4809

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Anh Le
Harley, Rowe & Fowler, P.C.
2700 Cumberland Parkway
Suite 525
Atlanta, Georgia 30339

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956
hmacdougald@cpdlawyers.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No. 1:20-cv-4809

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, JASON M. SHEPHERD on behalf of the COBB COUNTY REPUBLICAN PARTY, and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N.SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809**

REQUEST FOR ISSUANCE OF SUMMONSES

Come Now the Plaintiffs and respectfully request the issuance of summonses to the Defendants in this case

Respectfully submitted, this 27th day of November 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300

Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 14-point Times New Roman font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Request for Issuance of Summonses with the Clerk of Court using the CM/ECF system, and that I have delivered the filing to the Defendants by email and FedEx at the following addresses:

This 27th day of November, 2020.

Governor Brian Kemp
206 Washington Street
111 State Capitol
Atlanta, GA 30334

Secretary of State Brad Raffensperger
214 State Capitol
Atlanta, Georgia 30334
brad@sos.ga.gov
soscontact@sos.ga.gov

Rebecca N. Sullivan
Georgia Department of Administrative Services
200 Piedmont A venue SE
Suite 1804, West Tower
Atlanta, Georgia 30334-9010
rebecca.sullivan@doas.ga.gov

David J. Worley
Evangelista Worley LLC
500 Sugar Mill Road
Suite 245A
Atlanta, Georgia 30350
david@ewlawllc.com

Matthew Mashburn

Aldridge Pite, LLP
3575 Piedmont Road, N.E.
Suite 500
Atlanta, Georgia 30305
mmashburn@aldridgepite.com

Anh Le
Harley, Rowe & Fowler, P.C.
2700 Cumberland Parkway
Suite 525
Atlanta, Georgia 30339
ale@hrflegal.com

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, JASON M SHEPHERD, on behalf of the COBB COUNTY REPUBLICAN PARTY, and BRIAN JAY VAN GUNDY, **Plaintiffs** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809**

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

(1) The undersigned counsel of record for a party to this action certifies that the following is a full and complete list of all parties in this action,

including any parent corporation and any publicly held corporation that owns 10% or more of the stock of a party:

Plaintiffs:

Coreco Ja'qan Pearson,

Vikki Townsend Consiglio,

Brian Jay Van Gundy, Assistant Secretary of the Georgia Republican Party

Jason M Shepherd, on behalf of the Cobb County Republican Party

Gloria Kay Godwin,

James Kenneth Carroll

Carolyn Hall Fisher

Cathleen Alston Latham

Jason M Shepherd, on behalf of the Cobb County Republican Party

Defendants:

The Honorable Brian Kemp, in his official capacity as the Governor of Georgia;

The Honorable Brad Raffensperger, in his official capacity as Secretary of State of the State of Georgia;

Rebecca N. Sullivan, in her official capacity as Vice Chair of the Georgia State Election Board;

David J. Worley, in his official capacity as a Member of the Georgia State Election Board;

Matthew Mashburn, in his official capacity as a Member of the Georgia State Election Board; and

Anh Le, in her official capacity as a Member of the Georgia State Election Board.

(2) The undersigned further certifies that the following is a full and complete list of all other persons, associations, firms, partnerships, or corporations having either a financial interest in or other interest which could be substantially affected by the outcome of this particular case:

DefendTheRepublic.org.

Cobb County, Georgia Republican Party

(3) The undersigned further certifies that the following is a full and complete list of all persons serving as attorneys for the parties in this proceeding:

Plaintiffs:

Harry W. MacDougald
Georgia Bar No. 463076
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
sidney@federalappeals.com
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775

Julia Z. Haller *
District of Columbia Bar No. 466921
hallerjulia@outlook.com
Of counsel to Sidney Powell, office address to be updated.

Emily P. Newman*
Virginia Bar License No. 84265
enewman@protonmail.com
Of counsel to Sidney Powell, office address to be updated.

L. Lin Wood
GA Bar No. 774588
L. LIN WOOD, P.C.
P.O. Box 52584
Atlanta, GA 30305-0584
Telephone: (404) 891-1402
lwood@linwoodlaw.com

Howard Kleinhendler*
NEW YORK BAR NO. 2657120
Howard Kleinhendler Esquire
369 Lexington Avenue, 12th Floor
New York, New York 10017
Office (917) 793-1188
Mobile (347) 840-2188
howard@kleinhendler.com
www.kleinhendler.com

*Applications for admission pro hac vice forthcoming

Defendants

No appearance yet.

Respectfully submitted, this 27th day of November, 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219

*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

This is to certify that I have on this day e-filed the foregoing Plaintiffs' Certificate of Interested Persons with the Clerk of Court using the CM/ECF system, and that I have delivered the filing to the Defendants by email and FedEx at the following addresses:

This 27th day of November, 2020.

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David J. Worley
Evangelista Worley LLC
500 Sugar Mill Road
Suite 245A
Atlanta, Georgia 30350
david@ewlawllc.com

Matthew Mashburn
Aldridge Pite, LLP
3575 Piedmont Road, N.E.
Suite 500

Atlanta, Georgia 30305
mmashburn@aldridgepite.com

Anh Le
Harley, Rowe & Fowler, P.C.
2700 Cumberland Parkway
Suite 525
Atlanta, Georgia 30339
ale@hrflegal.com

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

Exh. 2

DECLARATION OF [redacted]

I, [redacted], hereby state the following:

1. [redacted]

2. I am an adult of sound mine. All statements in this declaration are based on my personal knowledge and are true and correct.

3. I am making this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive, anything in exchange for my testimony and giving this statement. I have no expectation of any profit or reward and understand that there are those who may seek to harm me for what I say in this statement. I have not participated in any political process in the United States, have not supported any candidate for office in the United States, am not legally permitted to vote in the United States, and have never attempted to vote in the United States.

4. I want to alert the public and let the world know the truth about the corruption, manipulation, and lies being committed by a conspiracy of people and companies intent upon betraying the honest people of the United States and their legally constituted institutions and fundamental rights as citizens. This conspiracy began more than a decade ago in Venezuela and has spread to countries all over the world. It is a conspiracy to wrongfully gain and keep power and wealth. It involves political leaders, powerful companies, and other persons whose purpose is to gain and keep power by changing the free will of the people and subverting the proper course of governing.

5. [redacted] Over the course of my career, I specialized in the marines [redacted]

6. Due to my training in special operations and my extensive military and academic formations, I was selected for the national security guard detail of the President of Venezuela. [redacted]

[redacted]

[redacted]

7. [redacted] Señor Cabello was a long-time confederate of President Chavez and instrumental in his gaining power. In 2002, Señor Cabello had very briefly taken over the duties of the presidency while Hugo Chavez was imprisoned. Within hours of Señor Cabello taking over the presidency, Hugo Chavez was released from prison and regained the office of President. On December 11, 2011, Cabello was installed as the Vice-President of the United Socialist Party – the party of President Chávez and became the second most powerful figure in the party after Hugo Chávez. Cabello was appointed president of the National Assembly in early 2012 and was re-elected to that post in January 2013. After Hugo Chávez's death, Cabello was next in line for the presidency of the country, but he remained president of the National Assembly and yielded to Nicolás Maduro holding the position of President of Venezuela.

8. [redacted] President Chavez was very precise and exacting in his instructions in the details about meetings he wanted, where the meeting was to occur, who was to attend, what was to be done. [redacted]

9. [redacted] I was witness to the creation and operation of a

sophisticated electronic voting system that permitted the leaders of the Venezuelan government to manipulate the tabulation of votes for national and local elections and select the winner of those elections in order to gain and maintain their power.

10. Importantly, I was a direct witness to the creation and operation of an electronic voting system in a conspiracy between a company known as Smartmatic and the leaders of conspiracy with the Venezuelan government. This conspiracy specifically involved President Hugo Chavez Frias, the person in charge of the National Electoral Council named Jorge Rodriguez, and principals, representatives, and personnel from Smartmatic which included [redacted]. The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes *against* persons running the Venezuelan government to votes *in their favor* in order to maintain control of the government.

11. In mid-February of 2009, there was a national referendum to change the Constitution of Venezuela to end term limits for elected officials, including the President of Venezuela. The referendum passed. This permitted Hugo Chavez to be re-elected an unlimited number of times.

12. After passage of the referendum, President Chavez instructed me to make arrangements for him to meet with Jorge Rodriguez, then President of the National Electoral Council, and three executives from Smartmatic. Among the three Smartmatic representatives were [redacted] President Chavez had multiple meetings with Rodriguez and the Smartmatic team at which I was present. In the first of four meetings, Jorge Rodriguez promoted the idea to create software that would manipulate elections. Chavez was very excited and made it clear that he would provide whatever Smartmatic needed. He wanted them immediately to create a voting system which would ensure that any time anything was going to be voted on the voting system would guarantee results that Chavez wanted. Chavez offered Smartmatic many inducements, including large sums of money, for Smartmatic to create or modify the voting system so that it would guarantee Chavez would win every election cycle. Smartmatic's team agreed to create such a system and did so.

13. I arranged and attended three more meetings between President Chavez and the representatives from Smartmatic at which details of the new

[redacted]

voting system were discussed and agreed upon. For each of these meetings, I communicated directly with [redacted] on details of where and when to meet, where the participants would be picked up and delivered to the meetings, and what was to be accomplished. At these meetings, the participants called their project the "Chavez revolution." From that point on, Chavez never lost any election. In fact, he was able to ensure wins for himself, his party, Congress persons and mayors from townships.

14. Smartmatic's electoral technology was called "Sistema de Gestión Electoral" (the "Electoral Management System"). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter's ballot. The voter's thumbprint was linked to a computerized record of that voter's identity. Smartmatic created and operated the entire system.

15. Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted, but that voter would not tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that accomplished that result for President Chavez.

16. After the Smartmatic Electoral Management System was put in place, I closely observed several elections where the results were manipulated using Smartmatic software. One such election was in December 2006 when Chavez was running against Rosales. Chavez won with a landslide over Manuel Rosales - a margin of nearly 6 million votes for Chavez versus 3.7 million for Rosales.

17. On April 14, 2013, I witnessed another Venezuelan national election in which the Smartmatic Electoral Management System was used to manipulate and change the results for the person to succeed Hugo Chávez

[redacted]

as President. In that election, Nicolás Maduro ran against Capriles Radonsky. [redacted] Inside that location was a control room in which there were multiple digital display screens – TV screens – for results of voting in each state in Venezuela. The actual voting results were fed into that room and onto the displays over an internet feed, which was connected to a sophisticated computer system created by Smartmatic. People in that room were able to see in "real time" whether the vote that came through the electronic voting system was in their favor or against them. If one looked at any particular screen, they could determine that the vote from any specific area or as a national total was going against either candidate. Persons controlling the vote tabulation computer had the ability to change the reporting of votes by moving votes from one candidate to another by using the Smartmatic software.

18. By two o'clock in the afternoon on that election day Capriles Radonsky was ahead of Nicolás Maduro by two million votes. When Maduro and his supporters realized the size of Radonsky's lead they were worried that they were in a crisis mode and would lose the election. The Smartmatic machines used for voting in each state were connected to the internet and reported their information over the internet to the Caracas control center in real-time. So, the decision was made to reset the entire system. Maduro's and his supporters ordered the network controllers to take the internet itself offline in practically all parts in Venezuela and to change the results.

19. It took the voting system operators approximately two hours to make the adjustments in the vote from Radonsky to Maduro. Then, when they turned the internet back on and the on-line reporting was up and running again, they checked each screen state by state to be certain where they could see that each vote was changed in favor of Nicholas Maduro. At that moment the Smartmatic system changed votes that were for Capriles Radonsky to Maduro. By the time the system operators finish, they had achieved a convincing, but narrow victory of 200,000 votes for Maduro.

20. After Smartmatic created the voting system President Chavez wanted, he exported the software and system all over Latin America. It was sent to Bolivia, Nicaragua, Argentina, Ecuador, and Chile – countries that were in alliance with President Chavez. This was a group of leaders who wanted to be able to guarantee they maintained power in their countries. When Chavez died, Smartmatic was in a position of being the only

[redacted]

company that could guarantee results in Venezuelan elections for the party in power.

21. I want to point out that the software and fundamental design of the electronic electoral system and software of Dominion and other election tabulating companies relies upon software that is a descendant of the Smartmatic Electoral Management System. In short, the Smartmatic software is in the DNA of every vote tabulating company's software and system.

22. Dominion is one of three major companies that tabulates votes in the United States. Dominion uses the same methods and fundamentally same software design for the storage, transfer and computation of voter identification data and voting data. Dominion and Smartmatic did business together. The software, hardware and system have the same fundamental flaws which allow multiple opportunities to corrupt the data and mask the process in a way that the average person cannot detect any fraud or manipulation. The fact that the voting machine displays a voting result that the voter intends and then prints out a paper ballot which reflects that change does not matter. It is the software that counts the digitized vote and reports the results. The software itself is the one that changes the information electronically to the result that the operator of the software and vote counting system intends to produce that counts. That's how it is done. So the software, the software itself configures the vote and voting result -- changing the selection made by the voter. The software decides the result regardless of what the voter votes.

23. All of the computer controlled voting tabulation is done in a closed environment so that the voter and any observer cannot detect what is taking place unless there is a malfunction or other event which causes the observer to question the process. I saw first-hand that the manipulation and changing of votes can be done in real-time at the secret counting center which existed in Caracas, Venezuela. For me it was something very surprising and disturbing. I was in awe because I had never been present to actually see it occur and I saw it happen. So, I learned first-hand that it doesn't matter what the voter decides or what the paper ballot says. It's the software operator and the software that decides what counts – not the voter.

24. If one questions the reliability of my observations, they only have to read the words of [redacted] a time period in [redacted]

which Smartmatic had possession of all the votes and the voting, the votes themselves and the voting information at their disposition in Venezuela. [redacted] he was assuring that the voting system implemented or used by Smartmatic was completely secure, that it could not be compromised, was not able to be altered.

25. But later, in 2017 when there were elections where Maduro was running and elections for legislators in Venezuela, [redacted] and Smartmatic broke their secrecy pact with the government of Venezuela. He made a public announcement through the media in which he stated that all the Smartmatic voting machines used during those elections were totally manipulated and they were manipulated by the electoral council of Venezuela back then. [redacted] stated that all of the votes for Nicholas Maduro and the other persons running for the legislature were manipulated and they actually had lost. So I think that's the greatest proof that the fraud can be carried out and will be denied by the software company that [redacted] admitted publicly that Smartmatic had created, used and still uses vote counting software that can be manipulated or altered.

26. I am alarmed because of what is occurring in plain sight during this 2020 election for President of the United States. The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela. What happened in the United States was that the vote counting was abruptly stopped in five states using Dominion software. At the time that vote counting was stopped, Donald Trump was significantly ahead in the votes. Then during the wee hours of the morning, when there was no voting occurring and the vote count reporting was off-line, something significantly changed. When the vote reporting resumed the very next morning there was a very pronounced change in voting in favor of the opposing candidate, Joe Biden.

27. [redacted] I have worked in gathering information, researching, and working with information technology. That's what I know how to do and the special knowledge that I have. Due to these recent election events, I contacted a number of reliable and intelligent ex-co-workers of mine that are still informants and work with the intelligence community. I asked for them to give me information that was up-to-date information in as far as how all these businesses are acting, what actions they are taking.

[redacted]

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was prepared in Dallas County, State of Texas, and executed on November 15, 2020.

[redacted]

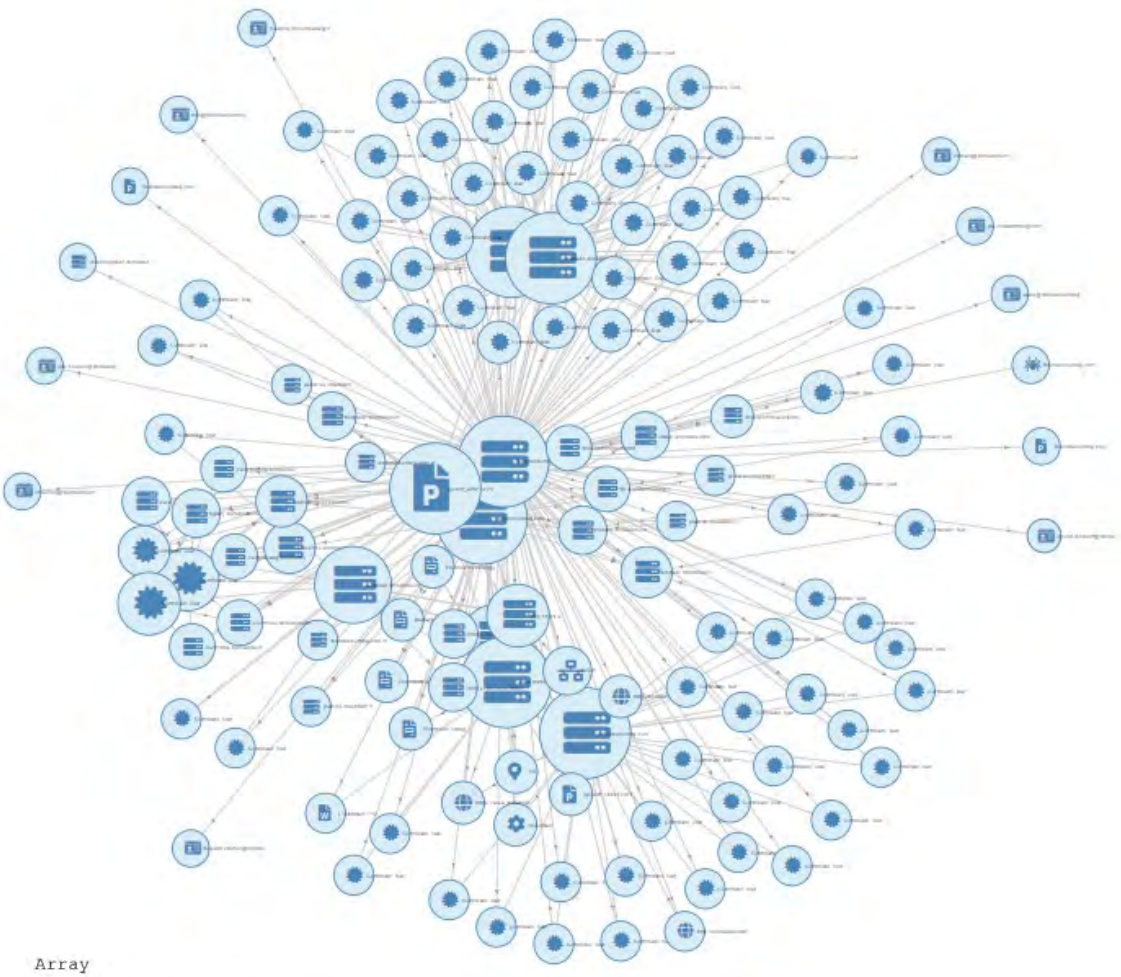
Exh. A

Joint Cybersecurity Advisory
Iranian Advanced Persistent Threat Actor
Identified Obtaining Voter Registration Data

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, [redacted] make the following declaration.

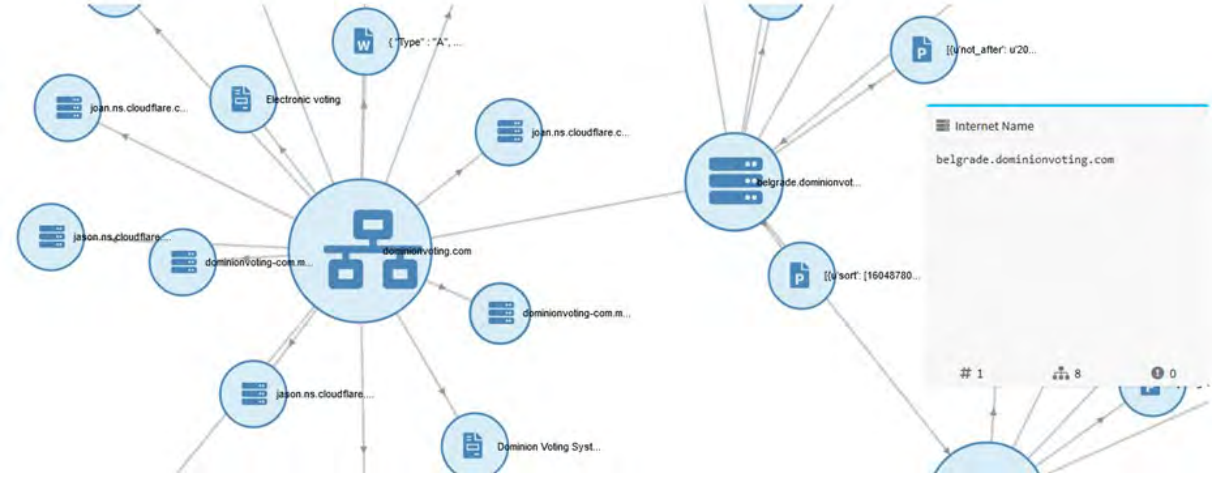
1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I was an electronic intelligence analyst under 305th Military Intelligence with experience gathering SAM missile system electronic intelligence. I have extensive experience as a white hat hacker used by some of the top election specialists in the world. The methodologies I have employed represent industry standard cyber operation toolkits for digital forensics and OSINT, which are commonly used to certify connections between servers, network nodes and other digital properties and probe to network system vulnerabilities.
3. I am a US citizen and I reside [redacted] location in the United States of America.
4. Whereas the Dominion and Edison Research systems exist in the internet of things, and whereas this makes the network connections between the Dominion, Edison Research and related network nodes available for scanning,
5. And whereas Edison Research's primary job is to report the tabulation of the count of the ballot information as received from the tabulation software, to provide to Decision HQ for election results,
6. And whereas Spiderfoot and Robtex are industry standard digital forensic tools for evaluation network security and infrastructure, these tools were used to conduct public security scans of the aforementioned Dominion and Edison Research systems,
7. A public network scan of Dominionvoting.com on 2020-11-08 revealed the following inter-relationships and revealed 13 unencrypted passwords for dominion employees, and 75 hashed passwords available in TOR nodes:

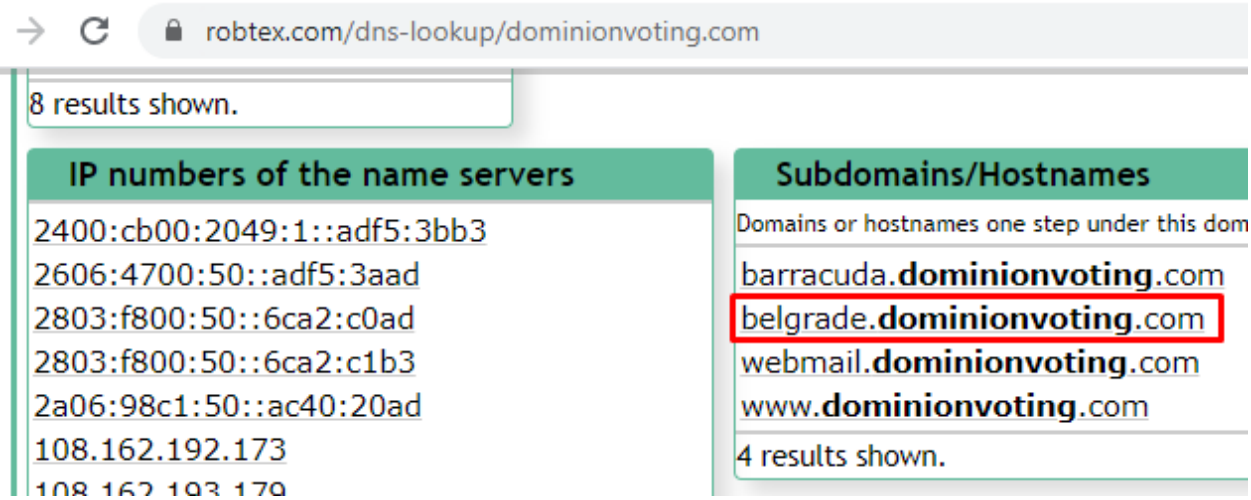


```
Array
(
    [id] => 544167324
    [luser] => ian.macvicar
    [domain] => dominionvoting.com
    [password] => jamley
)

7
Array
(
    [id] => 599400504
    [luser] => jelena.tanaskovic
    [domain] => dominionvoting.com
```

8. The same public scan also showed a direct connection to the group in Belgrade as highlighted below:





9. A cursory search on LinkedIn of "dominion voting" on 11/19/2020 confirms the numerous employees in Serbia:



10. An additional search of Edison Research on 2020-11-08 showed that Edison Research has an Iranian server seen here:



Inputting the Iranian IP into Robtex confirms the direct connection into the "edisonresearch" host from the perspective of the Iranian domain also. This means that it is not possible that the connection was a unidirectional reference.



A deeper search of the ownership of Edison Research "edisonresearch.com" shows a connection to BMA Capital Management, where shareofear.com and bmacapital.com are both connected to edisonresearch.com via a VPS or Virtual Private Server, as denoted by the "vps" at the start of the internet name:

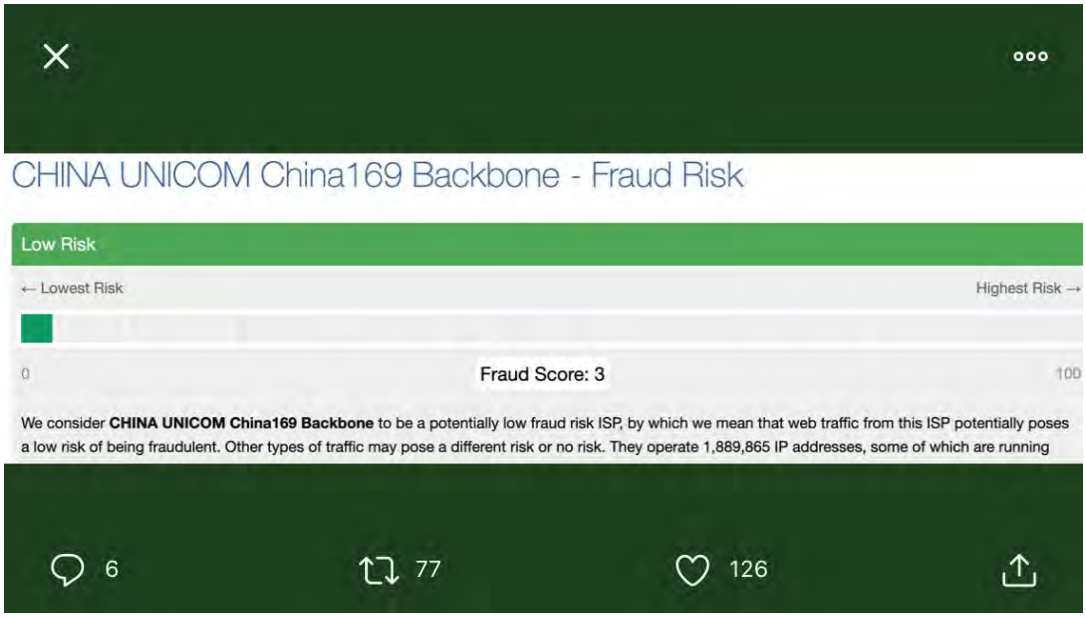




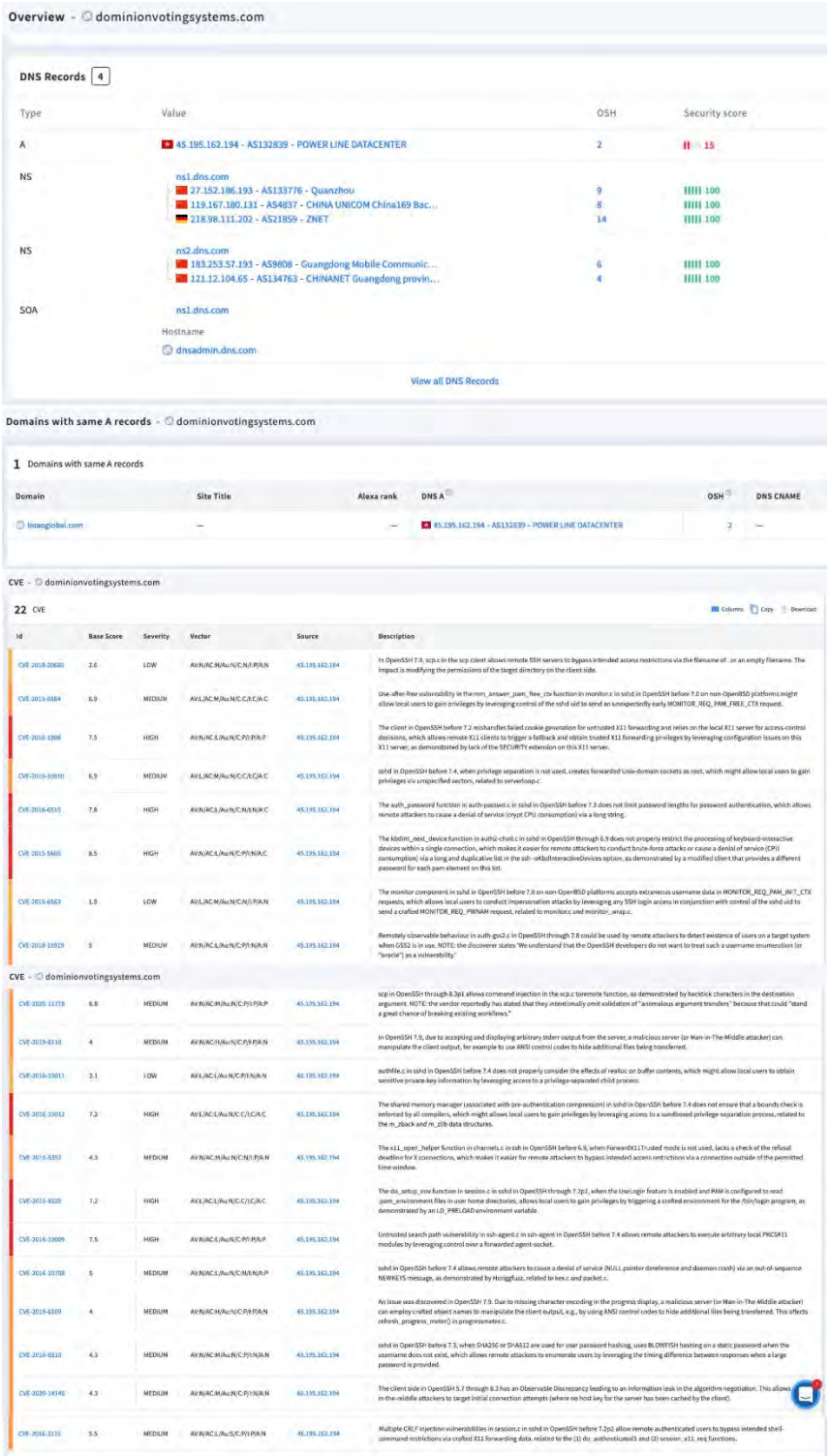
Dominionvoting is also dominionvotingsystems.com, of which there are also many more examples, including access of the network from China. The records of China accessing the server are reliable.







Domain Name: dominionvotingsystems.com
Registry Domain ID: 2530599738_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.godaddy.com
Registrar URL: http://www.godaddy.com
Updated Date: 2020-05-26T15:48:58Z
Creation Date: 2020-05-26T15:48:57Z
Registrar Registration Expiration Date: 2021-05-26T15:48:57Z
Registrar: GoDaddy.com, LLC
Registrar IANA ID: 146
Registrar Abuse Contact Email: abuse@godaddy.com
Registrar Abuse Contact Phone: +1.4806242505
Domain Status: clientTransferProhibited http://www.icann.org/epp#clientTransferProhibited
Domain Status: clientUpdateProhibited http://www.icann.org/epp#clientUpdateProhibited
Domain Status: clientRenewProhibited http://www.icann.org/epp#clientRenewProhibited
Domain Status: clientDeleteProhibited http://www.icann.org/epp#clientDeleteProhibited
Registrant Organization:
Registrant State/Province: Hunan
Registrant Country: CN
Registrant Email: Select Contact Domain Holder link at
https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com
Admin Email: Select Contact Domain Holder link at
https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com
Tech Email: Select Contact Domain Holder link at
https://www.godaddy.com/whois/results.aspx?domain=dominionvotingsystems.com
Name Server: NS1.DNS.COM
Name Server: NS2.DNS.COM
DNSSEC: unsigned



Overview - dominionvotingsystems.com

DNS Records 4

Type	Value	OSH	Security score
A	45.195.162.194 - AS132839 - POWER LINE DATACENTER	2	15
NS	ns1.dns.com		
	27.152.186.193 - AS133776 - Quanzhou	9	100
	119.167.180.131 - AS4837 - CHINA UNICOM China169 Bac...	8	100
	218.98.111.202 - AS21859 - ZNET	14	100
NS	ns2.dns.com		
	183.253.57.193 - AS9808 - Guangdong Mobile Communic...	6	100
	121.12.104.65 - AS134763 - CHINANET Guangdong provin...	4	100
SOA	ns1.dns.com		
	Hostname		
	dnsadmin.dns.com		

View all DNS Records

Domains with same A records - dominionvotingsystems.com

1 Domains with same A records

Domain	Site Title	Alexa rank	DNS A	OSH	DNS CNAME
boaoglobal.com	–	–	45.195.162.194 - AS132839 - POWER LINE DATACENTER	2	–

CVE - dominionvotingsystems.com

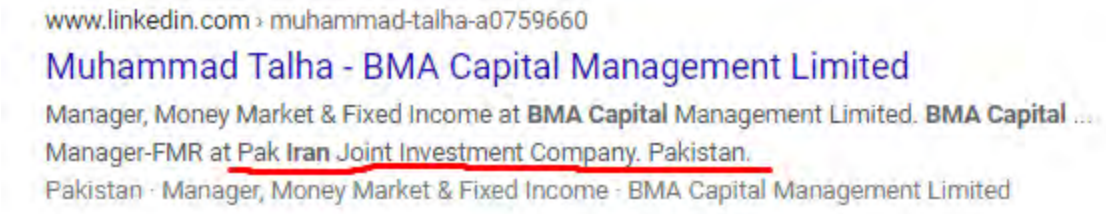
22 CVE

Id	Base Score	Severity	Vector	Source	Description
CVE-2018-20685	2.6	LOW	AV:N/AC:H/Au:N/C:N/I:P/A:N	45.195.162.194	In OpenSSH 7.9, scp.c in the scp client allows remote SSH servers to bypass intended access restrictions via the filename of . or an empty filename. The impact is modifying the permissions of the target directory on the client side.
CVE-2015-6564	6.9	MEDIUM	AV:L/AC:M/Au:N/C:C/I:C/A:C	45.195.162.194	Use-after-free vulnerability in the mm_answer_pam_free_ctx function in monitor.c in sshd in OpenSSH before 7.0 on non-OpenBSD platforms might allow local users to gain privileges by leveraging control of the sshd uid to send an unexpectedly early MONITOR_REQ_PAM_FREE_CTX request.
CVE-2016-1908	7.5	HIGH	AV:N/AC:L/Au:N/C:P/I:P/A:P	45.195.162.194	The client in OpenSSH before 7.2 mishandles failed cookie generation for untrusted X11 forwarding and relies on the local X11 server for access-control decisions, which allows remote X11 clients to trigger a fallback and obtain trusted X11 forwarding privileges by leveraging configuration issues on this X11 server, as demonstrated by lack of the SECURITY extension on this X11 server.
CVE-2016-10010	6.9	MEDIUM	AV:L/AC:M/Au:N/C:C/I:C/A:C	45.195.162.194	sshd in OpenSSH before 7.4, when privilege separation is not used, creates forwarded Unix-domain sockets as root, which might allow local users to gain privileges via unspecified vectors, related to serverloop.c.
CVE-2016-6515	7.8	HIGH	AV:N/AC:L/Au:N/C:N/I:N/A:C	45.195.162.194	The auth_password function in auth-passwd.c in sshd in OpenSSH before 7.3 does not limit password lengths for password authentication, which allows remote attackers to cause a denial of service (crypt CPU consumption) via a long string.
CVE-2015-5600	8.5	HIGH	AV:N/AC:L/Au:N/C:P/I:P/A:C	45.195.162.194	The kbdint_next_device function in auth2-chall.c in sshd in OpenSSH through 6.9 does not properly restrict the processing of keyboard-interactive devices within a single connection, which makes it easier for remote attackers to conduct brute-force attacks or cause a denial of service (CPU consumption) via a long and duplicative list in the ssh -oKbdInteractiveDevices option, as demonstrated by a modified client that provides a different password for each pam element on this list.
CVE-2015-6563	1.9	LOW	AV:L/AC:M/Au:N/C:N/I:P/A:N	45.195.162.194	The monitor component in sshd in OpenSSH before 7.0 on non-OpenBSD platforms accepts extraneous username data in MONITOR_REQ_PAM_INIT_CTX requests, which allows local users to conduct impersonation attacks by leveraging any SSH login access in conjunction with control of the sshd uid to send a crafted MONITOR_REQ_PWNAM request, related to monitor.c and monitor_wrap.c.
CVE-2018-15919	5	MEDIUM	AV:N/AC:L/Au:N/C:P/I:N/A:N	45.195.162.194	Remotely observable behaviour in auth-gss2.c in OpenSSH through 7.8 could be used by remote attackers to detect existence of users on a target system when GSS2 is in use. NOTE: the discoverer states 'We understand that the OpenSSH developers do not want to treat such a username enumeration (or "oracle") as a vulnerability.'

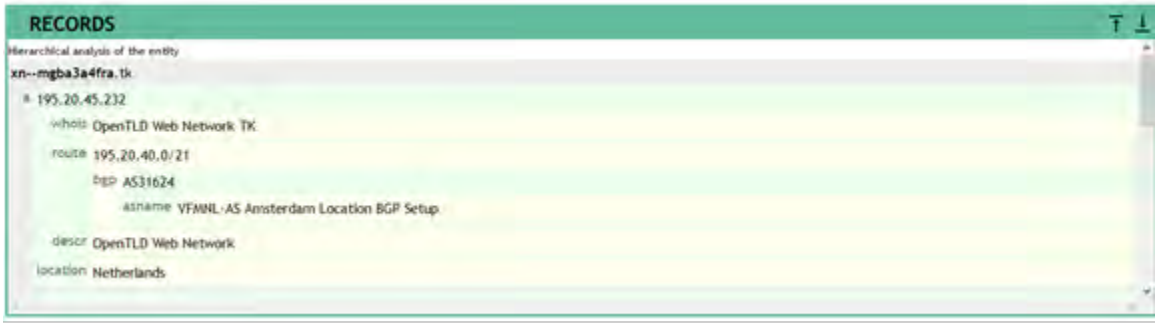
CVE - dominionvotingsystems.com

Id	Base Score	Severity	Vector	Source	Description
CVE-2020-15778	6.8	MEDIUM	AV:N/AC:M/Au:N/C:P/I:P/A:P	45.195.162.194	scp in OpenSSH through 8.3p1 allows command injection in the scp.c toremote function, as demonstrated by backtick characters in the destination argument. NOTE: the vendor reportedly has stated that they intentionally omit validation of "anomalous argument transfers" because that could "stand a great chance of breaking existing workflows."
CVE-2019-6110	4	MEDIUM	AV:N/AC:H/Au:N/C:P/I:P/A:N	45.195.162.194	In OpenSSH 7.9, due to accepting and displaying arbitrary stderr output from the server, a malicious server (or Man-in-The-Middle attacker) can manipulate the client output, for example to use ANSI control codes to hide additional files being transferred.
CVE-2016-10011	2.1	LOW	AV:L/AC:L/Au:N/C:P/I:N/A:N	45.195.162.194	authfile.c in sshd in OpenSSH before 7.4 does not properly consider the effects of realloc on buffer contents, which might allow local users to obtain sensitive private-key information by leveraging access to a privilege-separated child process.
CVE-2016-10012	7.2	HIGH	AV:L/AC:L/Au:N/C:C/I:C/A:C	45.195.162.194	The shared memory manager (associated with pre-authentication compression) in sshd in OpenSSH before 7.4 does not ensure that a bounds check is enforced by all compilers, which might allow local users to gain privileges by leveraging access to a sandboxed privilege-separation process, related to the m_zback and m_zlib data structures.
CVE-2015-5352	4.3	MEDIUM	AV:N/AC:M/Au:N/C:N/I:P/A:N	45.195.162.194	The x11_open_helper function in channels.c in ssh in OpenSSH before 6.9, when ForwardX11Trusted mode is not used, lacks a check of the refusal deadline for X connections, which makes it easier for remote attackers to bypass intended access restrictions via a connection outside of the permitted time window.
CVE-2015-8325	7.2	HIGH	AV:L/AC:L/Au:N/C:C/I:C/A:C	45.195.162.194	The do_setup_env function in session.c in sshd in OpenSSH through 7.2p2, when the UseLogin feature is enabled and PAM is configured to read .pam_environment files in user home directories, allows local users to gain privileges by triggering a crafted environment for the /bin/login program, as demonstrated by an LD_PRELOAD environment variable.
CVE-2016-10009	7.5	HIGH	AV:N/AC:L/Au:N/C:P/I:P/A:P	45.195.162.194	Untrusted search path vulnerability in ssh-agent.c in ssh-agent in OpenSSH before 7.4 allows remote attackers to execute arbitrary local PKCS#11 modules by leveraging control over a forwarded agent-socket.
CVE-2014-10708	5	MEDIUM	AV:N/AC:L/Au:N/C:N/I:N/A:P	45.195.162.194	sshd in OpenSSH before 7.4 allows remote attackers to cause a denial of service (NULL pointer dereference and daemon crash) via an out-of-sequence NEWKEYS message, as demonstrated by Honggfuzz, related to kex.c and packet.c.
CVE-2019-6109	4	MEDIUM	AV:N/AC:H/Au:N/C:P/I:P/A:N	45.195.162.194	An issue was discovered in OpenSSH 7.9. Due to missing character encoding in the progress display, a malicious server (or Man-in-The-Middle attacker) can employ crafted object names to manipulate the client output, e.g., by using ANSI control codes to hide additional files being transferred. This affects refresh_progress_meter() in progressmeter.c.
CVE-2016-0210	4.3	MEDIUM	AV:N/AC:M/Au:N/C:P/I:N/A:N	45.195.162.194	sshd in OpenSSH before 7.3, when SHA256 or SHA512 are used for user password hashing, uses BLOWFISH hashing on a static password when the username does not exist, which allows remote attackers to enumerate users by leveraging the timing difference between responses when a large password is provided.
CVE-2020-14145	4.3	MEDIUM	AV:N/AC:M/Au:N/C:P/I:N/A:N	45.195.162.194	The client side in OpenSSH 5.7 through 8.3 has an Observable Discrepancy leading to an information leak in the algorithm negotiation. This allows in-the-middle attackers to target initial connection attempts (where no host key for the server has been cached by the client).
CVE-2016-3115	5.5	MEDIUM	AV:N/AC:L/Au:S/C:P/I:P/A:N	45.195.162.194	Multiple CRLF injection vulnerabilities in session.c in sshd in OpenSSH before 7.2p2 allow remote authenticated users to bypass intended shell-command restrictions via crafted X11 forwarding data, related to the (1) do_authenticated1 and (2) session_x11_req functions.

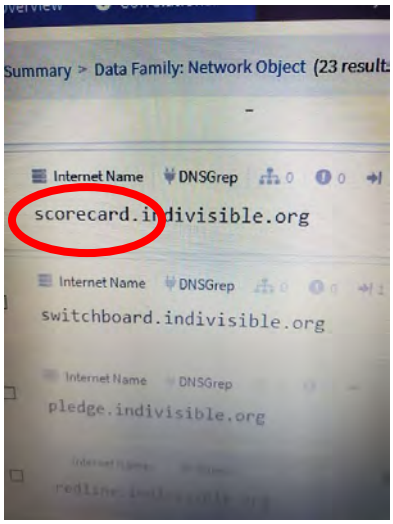
11. BMA Capital Management is known as a company that provides Iran access to capital markets with direct links publicly discoverable on LinkedIn (found via google on 11/19/2020):



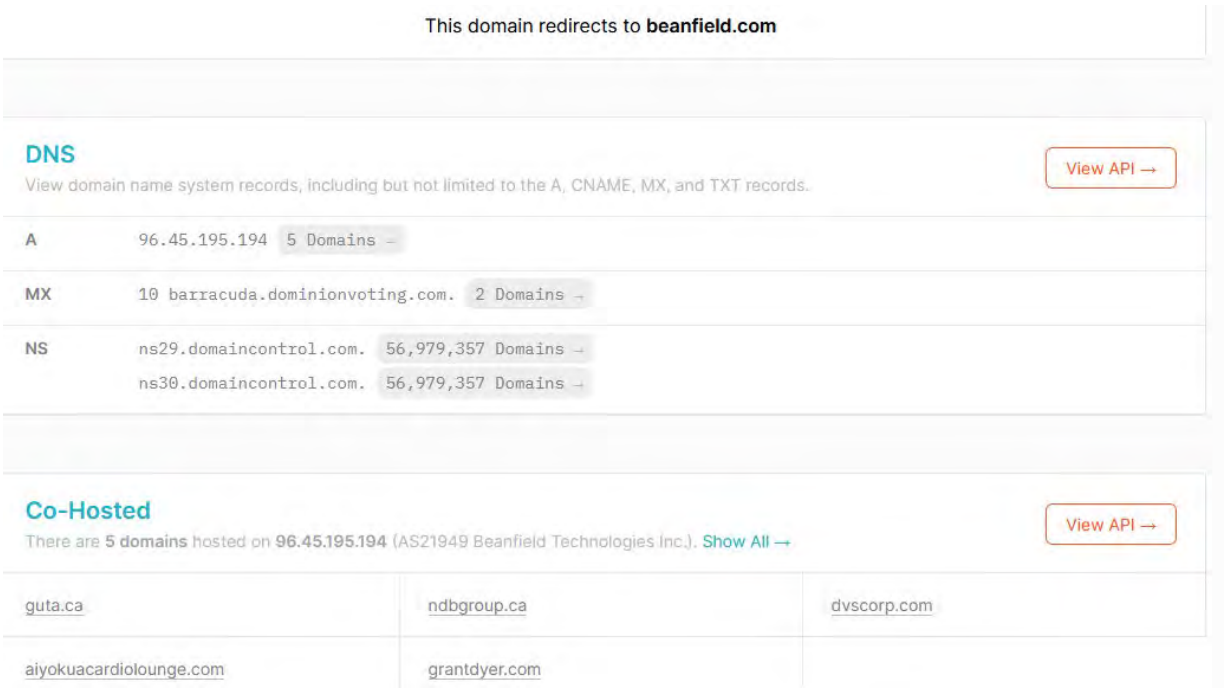
The same Robtex search confirms the Iranian address is tied to the server in the Netherlands, which correlates to known OSINT of Iranian use of the Netherlands as a remote server (See Advanced Persistent Threats: APT33 and APT34):



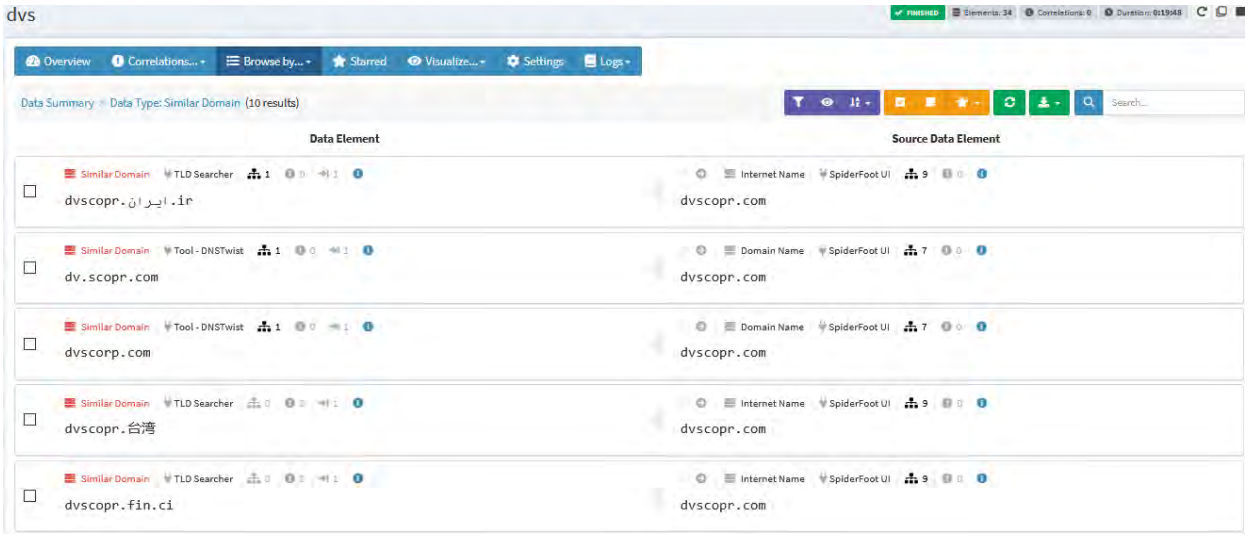
12. A search of the indivisible.org network showed a subdomain which evidences the existence of scorecard software in use as part of the Indivisible (formerly ACORN) political group for Obama:

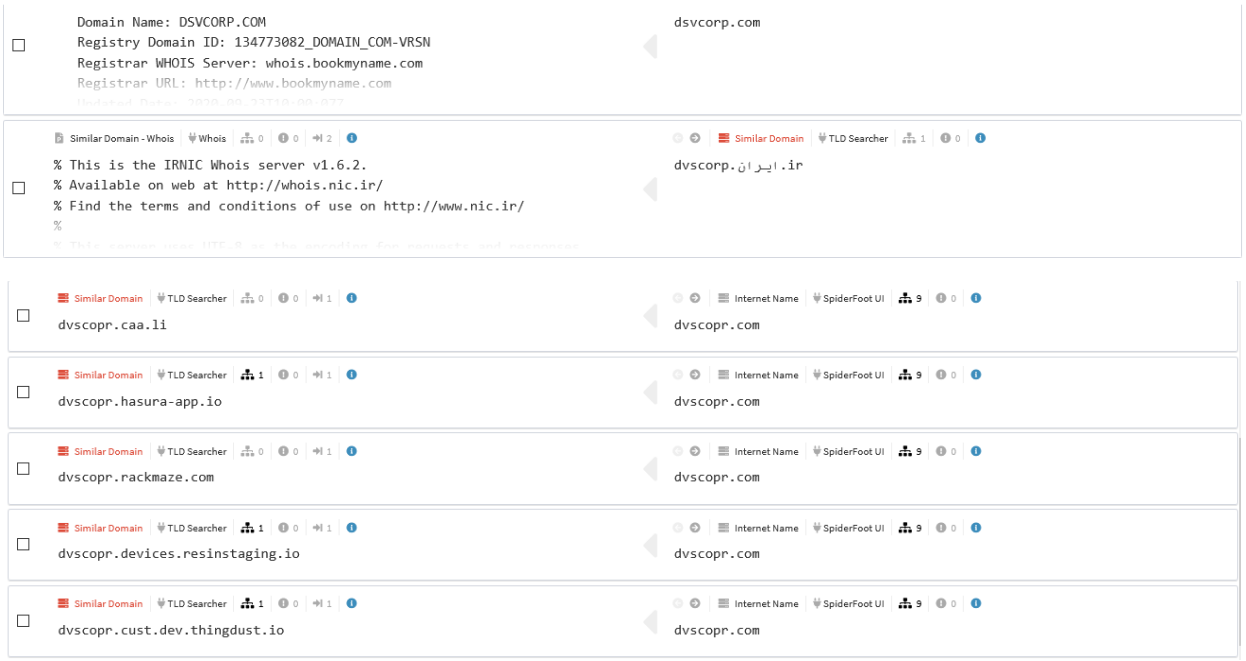


13. Each of the tabulation software companies have their own central reporting "affiliate". Edison Research is the affiliate for Dominion.
14. Beanfield.com out of Canada shows the connections via co-hosting related sites, including dvscorp.com:



This Dominion partner domain “dvscorp” also includes an auto discovery feature, where new in-network devices automatically connect to the system. The following diagram shows some of the related dvscopr.com mappings, which mimic the infrastructure for Dominion and are an obvious typo derivation of the name. Typo derivations are commonly purchased to catch redirect traffic and sometimes are used as honeypots. The diagram shows that infrastructure spans multiple different servers as a methodology.





The above diagram shows how these domains also show the connection to Iran and other places, including the following Chinese domain, highlighted below:



15. The auto discovery feature allows programmers to access any system while it is connected to the internet once it's a part of the constellation of devices (see original Spiderfoot graph).
16. Dominion Voting Systems Corporation in 2019 sold a number of their patents to China (via HSBC Bank in Canada):

Assignment details for assignee "HSBC BANK CANADA, AS COLLATERAL AGENT"

Assignments (1 total)

Assignment 1

Reel/frame	Execution date	Date recorded	Pages
050500/0236	Sep 25, 2019	Sep 26, 2019	7

Conveyance

SECURITY AGREEMENT

Assignors	Correspondent	Attorney docket
DOMINION VOTING SYSTEMS CORPORATION	CHAPMAN & CUTLER LLP 1270 AVENUE OF THE AMERICAS, 30TH FLOOR ATTN: SOREN SCHWARTZ NEW YORK, NY 10020	

Assignee

HSBC BANK CANADA, AS COLLATERAL AGENT

4TH FLOOR, 70 YORK STREET

TORONTO M5J 1S9

CANADA

Properties (18)

Patent	Publication	Application	PCT	International registration
8844813	20130306724	13476836		
8913787	20130301873	13470091		
9202113	20150071501	14539684		
8195505	20050247783	11121997		
9870666	20120232963	13463536		
9710988	20120259680	13525187		
9870667	20120259681	13525208		
7111782	20040238632	10811969		
7422151	20070012767	11526028		
D599131		29324281		

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When the USPTO receives relevant information for its assignment database, the USPTO puts the information in the public record and does not verify the validity of the information. Recordation is a ministerial function–the USPTO neither makes a determination of the legality of the transaction nor the right of the submitting party to take the action.

Release 2.0.0 | Release Notes | Send Feedback | Legacy Patent Assignment Search | Legacy Trademark Assignment Search

Of particular interest is a section of the document showing aspects of the nature of the patents dealing with authentication:

Patent assignment 050500/0236

SECURITY AGREEMENT

Date recorded	Reel/frame	Pages
Sep 26, 2019	050500/0236	7

Assignors
DOMINION VOTING SYSTEMS CORPORATION

Execution date
Sep 25, 2019

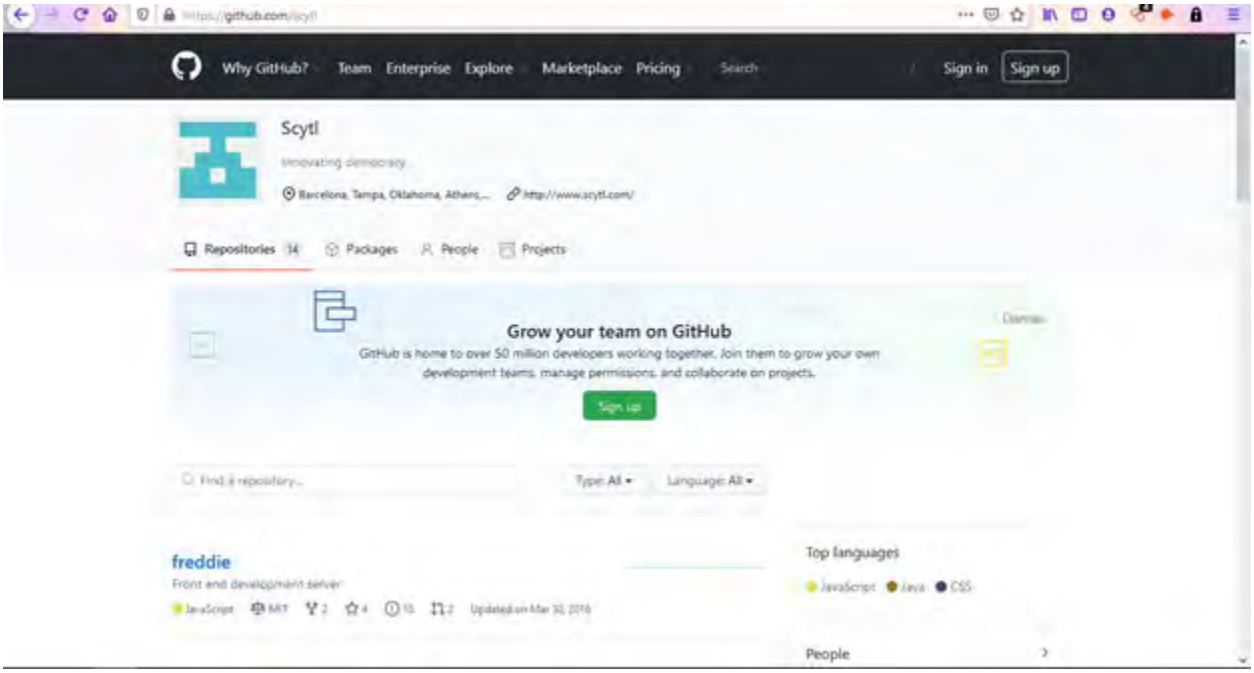
Assignee
HSBC BANK CANADA, AS COLLATERAL AGENT
4TH FLOOR, 70 YORK STREET
TORONTO M5J 1S9
CANADA

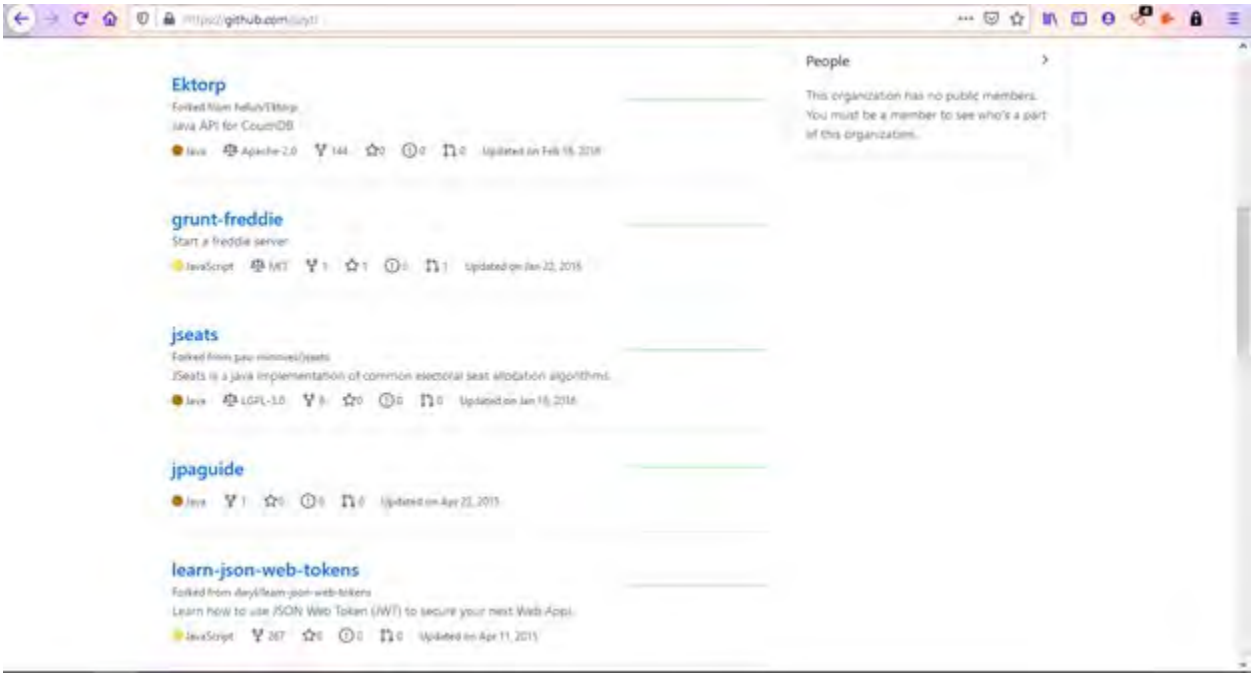
Correspondent
CHAPMAN & CUTLER LLP
1270 AVENUE OF THE AMERICAS, 30TH FLOOR
ATTN: SOREN SCHWARTZ
NEW YORK, NY 10020

Properties (18 total)

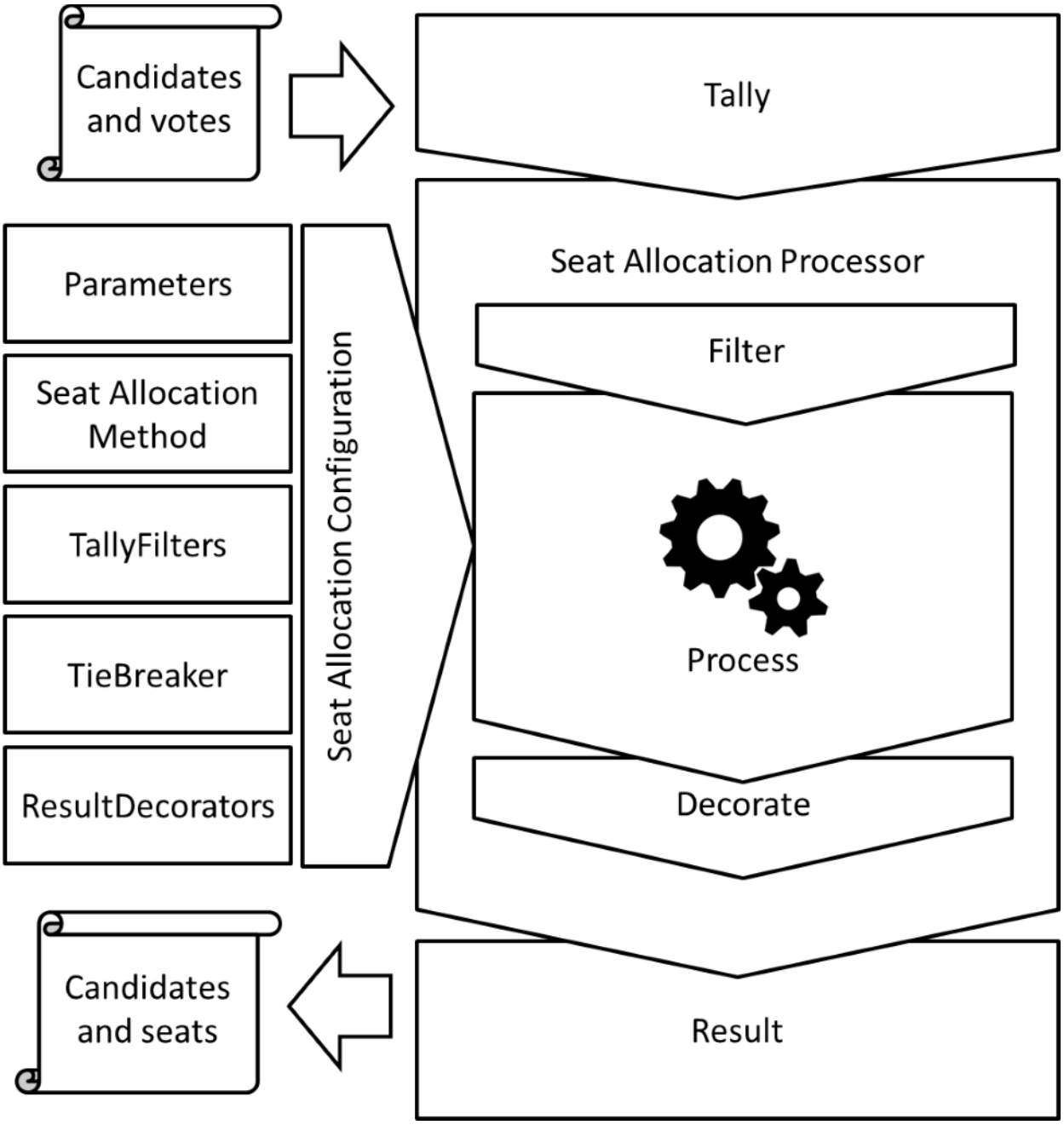
Patent	Publication	Application
1. SYSTEMS AND METHODS FOR PROVIDING SECURITY IN A VOTING MACHINE Inventors: JOHN PAUL HOMEWOOD, THOMAS E. KEELING, PAUL DAVID TERWILLIGER, MARC R. LATOUR		
7111782 Sep 26, 2006	20040238632 Dec 2, 2004	10811969 Mar 30, 2004
2. SYSTEM, METHOD AND COMPUTER PROGRAM FOR VOTE TABULATION WITH AN ELECTRONIC AUDIT TRAIL Inventors: JOHN POULOS, JAMES HOOVER, NICK IKONOMAKIS, GORAN OBRADOVIC		
8195505 Jun 5, 2012	20050247783 Nov 10, 2005	11121997 May 5, 2005
3. SYSTEMS AND METHODS FOR PROVIDING SECURITY IN A VOTING MACHINE Inventors: JOHN PAUL HOMEWOOD, THOMAS E. KEELING, PAUL DAVID TERWILLIGER, MARC R. LATOUR		
7422151 Sep 9, 2008	20070012767 Jan 18, 2007	11526028 Sep 25, 2006
4. BALLOT LEVEL SECURITY FEATURES FOR OPTICAL SCAN VOTING MACHINE CAPABLE OF BALLOT IMAGE PROCESSING, SECURE BALLOT PRINTING, AND BALLOT LAYOUT AUTHENTICATION AND VERIFICATION Inventors: ERIC COOMER, LARRY KORB, BRIAN GLENN LIERMAN		

17. Smartmatic creates the backbone (like the cloud). SCYTL is responsible for the security within the election system.

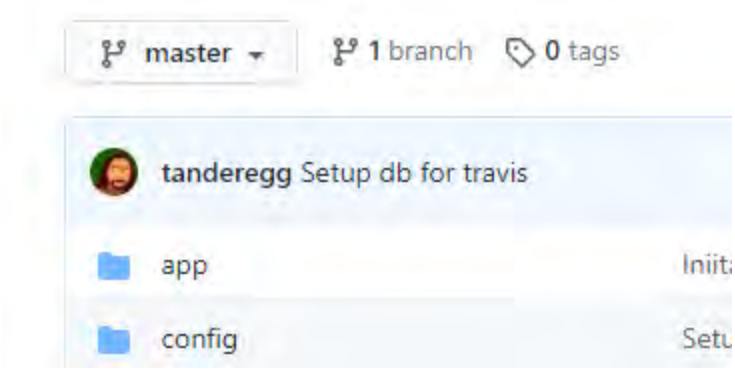




18. In the GitHub account for Scytl, Scytl Jseats has some of the programming necessary to support a much broader set of election types, including a decorator process where the data is smoothed, see the following diagram provided in their source code:



19. Unrelated, but also a point of interest is CTCL or Center for Tech and Civic Life funded by Mark Zuckerberg. Within their github page (https://github.com/ctcl), one of the programmers holds a government position. The Bipcoop repo shows tanderegg as one of the developers, and he works at the Consumer Financial Protection Bureau:





20. As seen in included document titled "AA20-304A-Iranian_Advanced_Persistent_Threat_Actor_Identified_Obtaining_Voter_Registration_Data " that was authored by the Cybersecurity & Infrastructure Security Agency (CISA) with a Product ID of AA20-304A on a specified date of October 30, 2020, CISA and the FBI reports that Iranian APT teams were seen using ACUTENIX, a website scanning software, to find vulnerabilities within Election company websites, confirmed to be used by the Iranian APT teams buy seized cloud storage that I had personally captured and reported to higher authorities. These scanning behaviors showed that foreign agents of aggressor nations had access to US voter lists, and had done so recently.
21. In my professional opinion, this affidavit presents unambiguous evidence that Dominion Voter Systems and Edison Research have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, these organizations neglectfully allowed foreign adversaries to access data

and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. This represents a complete failure of their duty to provide basic cyber security. This is not a technological issue, but rather a governance and basic security issue: if it is not corrected, future elections in the United States and beyond will not be secure and citizens will not have confidence in the results.

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge. Executed this November 23th, 2020.



Exh. A

Joint Cybersecurity Advisory
Iranian Advanced Persistent Threat Actor
Identified Obtaining Voter Registration Data

JOINT CYBERSECURITY ADVISORY

[redacted]

Product ID: AA20-304A

October 30, 2020

Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data

SUMMARY

This advisory uses the MITRE Adversarial Tactics, Techniques, and Common Knowledge (ATT&CK®) framework. See the ATT&CK for Enterprise framework for all referenced threat actor techniques.

This joint cybersecurity advisory was coauthored by the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI). CISA and the FBI are aware of an Iranian advanced persistent threat (APT) actor targeting U.S. state websites—to include election websites. CISA and the FBI assess this actor is responsible for the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related disinformation in mid-October 2020.[1] (Reference FBI FLASH message ME-000138-TT, disseminated October 29, 2020). Further evaluation by CISA and the FBI has identified the targeting of U.S. state election websites was an intentional effort to influence and interfere with the 2020 U.S. presidential election.

TECHNICAL DETAILS

Analysis by CISA and the FBI indicates this actor scanned state websites, to include state election websites, between September 20 and September 28, 2020, with the Acunetix vulnerability scanner (*Active Scanning: Vulnerability Scanning* [T1595.002]). Acunetix is a widely used and legitimate web scanner, which has been used by threat actors for nefarious purposes. Organizations that do not regularly use Acunetix should monitor their logs for any activity from the program that originates from IP addresses provided in this advisory and consider it malicious reconnaissance behavior.

Additionally, CISA and the FBI observed this actor attempting to exploit websites to obtain copies of voter registration data between September 29 and October 17, 2020 (*Exploit Public-Facing*

[1] See FBI FLASH, ME-000138-TT, disseminated 10/29/20, https://www.ic3.gov/Media/News/2020/201030.pdf. This disinformation (hereinafter, "the propaganda video") was in the form of a video purporting to misattribute the activity to a U.S. domestic actor and implies that individuals could cast fraudulent ballots, even from overseas. https://www.odni.gov/index.php/newsroom/press-releases/item/2162-dni-john-ratcliffe-s-remarks-at-press-conference-on-election-security.

To report suspicious or criminal activity related to information found in this Joint Cybersecurity Advisory, contact your local FBI field office at www.fbi.gov/contact-us/field, or the FBI's 24/7 Cyber Watch (CyWatch) at (855) 292-3937 or by e-mail at CyWatch@fbi.gov. When available, please include the following information regarding the incident: date, time, and location of the incident; type of activity; number of people affected; type of equipment used for the activity; the name of the submitting company or organization; and a designated point of contact. To request incident response resources or technical assistance related to these threats, contact CISA at Central@cisa.dhs.gov.

This document is marked TLP:WHITE. Disclosure is not limited. Sources may use TLP:WHITE when information carries minimal or no foreseeable risk of misuse, in accordance with applicable rules and procedures for public release. Subject to standard copyright rules, TLP:WHITE information may be distributed without restriction. For more information on the Traffic Light Protocol, see https://us-cert.cisa.gov/tlp.

Application [T1190]). This includes attempted exploitation of known vulnerabilities, directory traversal, Structured Query Language (SQL) injection, web shell uploads, and leveraging unique flaws in websites.

CISA and the FBI can confirm that the actor successfully obtained voter registration data in at least one state. The access of voter registration data appeared to involve the abuse of website misconfigurations and a scripted process using the cURL tool to iterate through voter records. A review of the records that were copied and obtained reveals the information was used in the propaganda video.

CISA and FBI analysis of identified activity against state websites, including state election websites, referenced in this product cannot all be fully attributed to this Iranian APT actor. FBI analysis of the Iranian APT actor's activity has identified targeting of U.S. elections' infrastructure (*Compromise Infrastructure* [T1584]) within a similar timeframe, use of IP addresses and IP ranges – including numerous virtual private network (VPN) service exit nodes – which correlate to this Iran APT actor (*Gather Victim Host Information* [T1592])), and other investigative information.

Reconnaissance

The FBI has information indicating this Iran-based actor attempted to access PDF documents from state voter sites using advanced open-source queries (*Search Open Websites and Domains* [T1539]). The actor demonstrated interest in PDFs hosted on URLs with the words "vote" or "voter" and "registration." The FBI identified queries of URLs for election-related sites.

The FBI also has information indicating the actor researched the following information in a suspected attempt to further their efforts to survey and exploit state election websites.

- YOURLS exploit
- Bypassing ModSecurity Web Application Firewall
- Detecting Web Application Firewalls
- SQLmap tool

Acunetix Scanning

CISA's analysis identified the scanning of multiple entities by the Acunetix Web Vulnerability scanning platform between September 20 and September 28, 2020 (*Active Scanning: Vulnerability Scanning* [T1595.002]).

The actor used the scanner to attempt SQL injection into various fields in `/registration/registration/details` with status codes 404 or 500:

```
/registration/registration/details?addresscity=-1 or 3*2<(0+5+513-513) --
&addressstreet1=xxxxx&btnbeginregistration=begin voter
registration&btnnextelectionworkerinfo=next&btnnextpersonalinfo=next&btnnextresde
tails=next&btnnextvoterinformation=next&btnsubmit=submit&chkageverno=on&chkagever
yes=on&chkcitizenno=on&chkcitizenyes=on&chkdisabledvoter=on&chkelectionworker=on&
chkresprivate=1&chkstatecancel=on&dlnumber=1&dob=xxxx/x/x&email=sample@email.tst&
```

```
firstname=xxxxx&gender=radio&hdnaddresscity=&hdngender=&last4ssn=xxxxx&lastname=xxxxxinjjeuee&mailaddresscountry=sample@xxx.xxx&mailaddressline1=sample@email.tst&mailaddressline2=sample@xxx.xxx&mailaddressline3=sample@xxx.xxx&mailaddressstate=aa&mailaddresszip=sample@xxxx.xxx&mailaddresszipex=sample@xxx.xxx&middlename=xxxxx&overseas=1&partycode=a&phoneno1=xxx-xxx-xxxx&phoneno2=xxx-xxx-xxxx&radio=consent&statecancelcity=xxxxxxx&statecancelcountry=usa&statecancelstate=XXaa&statecancelzip=xxxxx&statecancelzipext=xxxxx&suffixname=esq&txtmailaddresscity=sample@xxx.xxx
```

Requests

The actor used the following requests associated with this scanning activity.

```
2020-09-26 13:12:56 x.x.x.x GET /x/x v[$acunetix]=1 443 - x.x.x.x Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome/41.0.2228.0+Safari/537.21 - 200 0 0 0
```

```
2020-09-26 13:13:19 X.X.x.x GET /x/x voterid[$acunetix]=1 443 - x.x.x.x Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome/41.0.2228.0+Safari/537.21 - 200 0 0 1375
```

```
2020-09-26 13:13:18 .X.x.x GET /x/x voterid=;print(md5(acunetix_wvs_security_test));
443 - X.X.x.x
```

User Agents Observed

CISA and FBI have observed the following user agents associated with this scanning activity.

```
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome/41.0.2228.0+Safari/537.21 - 500 0 0 0
```

```
Mozilla/5.0+(X11;+U;+Linux+x86_64;+en-US;+rv:1.9b4)+Gecko/2008031318+Firefox/3.0b4
```

```
Mozilla/5.0+(X11;+U;+Linux+i686;+en-US;+rv:1.8.1.17)+Gecko/20080922+Ubuntu/7.10+(gutsy)+Firefox/2.0.0.17
```

Exfiltration

Obtaining Voter Registration Data

Following the review of web server access logs, CISA analysts, in coordination with the FBI, found instances of the cURL and FDM User Agents sending GET requests to a web resource associated with voter registration data. The activity occurred between September 29 and October 17, 2020. Suspected scripted activity submitted several hundred thousand queries iterating through voter

identification values, and retrieving results with varying levels of success [*Gather Victim Identity Information* (T1589)]. A sample of the records identified by the FBI reveals they match information in the aforementioned propaganda video.

Requests

The actor used the following requests.

```
2020-10-17 13:07:51 x.x.x.x GET /x/x voterid=XXXX1 443 - x.x.x.x curl/7.55.1 -
200 0 0 1406
```

```
2020-10-17 13:07:55 x.x.x.x GET /x/x voterid=XXXX2 443 - x.x.x.x curl/7.55.1 - 200 0
0 1390
```

```
2020-10-17 13:07:58 x.x.x.x GET /x/x voterid=XXXX3 443 - x.x.x.x curl/7.55.1 - 200 0
0 1625
```

```
2020-10-17 13:08:00 x.x.x.x GET /x/x voterid=XXXX4 443 - x.x.x.x curl/7.55.1 - 200 0
0 1390
```

: incrementing `voterid` values in `cs_uri_query field`

User Agents

CISA and FBI have observed the following user agents.

```
FDM+3.x
```

```
curl/7.55.1
```

```
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome
/41.0.2228.0+Safari/537.21 - 500 0 0 0
Mozilla/5.0+(X11;+U;+Linux+x86_64;+en-US;+rv:1.9b4)+Gecko/2008031318+Firefox/3.0b4
```

See figure 1 below for a timeline of the actor's malicious activity.

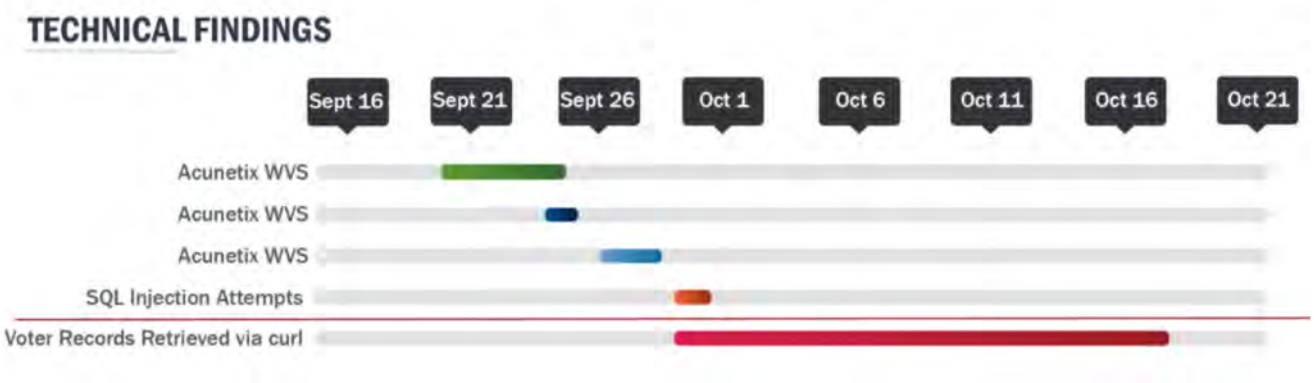


Figure 1: Overview of malicious activity

MITIGATIONS

Detection

Acunetix Scanning

Organizations can identify Acunetix scanning activity by using the following keywords while performing log analysis.

- `$acunetix`
- `acunetix_wvs_security_test`

Indicators of Compromise

For a downloadable copy of IOCs, see AA20-304A.stix.

D r: *Many of the IP addresses included below likely correspond to publicly available VPN services, which can be used by individuals all over the world. Although this creates the potential for false positives, any activity listed should warrant further investigation. The actor likely uses various IP addresses and VPN services.*

The following IPs have been associated with this activity.

- 102.129.239[.]185 (Acunetix Scanning)
- 143.244.38[.]60 (Acunetix Scanning and cURL requests)
- 45.139.49[.]228 (Acunetix Scanning)
- 156.146.54[.]90 (Acunetix Scanning)
- 109.202.111[.]236 (cURL requests)
- 185.77.248[.]17 (cURL requests)
- 217.138.211[.]249 (cURL requests)
- 217.146.82[.]207 (cURL requests)
- 37.235.103[.]85 (cURL requests)
- 37.235.98[.]64 (cURL requests)
- 70.32.5[.]96 (cURL requests)

- 70.32.6[.]20 (cURL requests)
- 70.32.6[.]8 (cURL requests)
- 70.32.6[.]97 (cURL requests)
- 70.32.6[.]98 (cURL requests)
- 77.243.191[.]21 (cURL requests and FDM+3.x (Free Download Manager v3) enumeration/iteration)
- 92.223.89[.]73 (cURL requests)

CISA and the FBI are aware the following IOCs have been used by this Iran-based actor. These IP addresses facilitated the mass dissemination of voter intimidation email messages on October 20, 2020.

- 195.181.170[.]244 (Observed September 30 and October 20, 2020)
- 102.129.239[.]185 (Observed September 30, 2020)
- 104.206.13[.]27 (Observed September 30, 2020)
- 154.16.93[.]125 (Observed September 30, 2020)
- 185.191.207[.]169 (Observed September 30, 2020)
- 185.191.207[.]52 (Observed September 30, 2020)
- 194.127.172[.]98 (Observed September 30, 2020)
- 194.35.233[.]83 (Observed September 30, 2020)
- 198.147.23[.]147 (Observed September 30, 2020)
- 198.16.66[.]139(Observed September 30, 2020)
- 212.102.45[.]3 (Observed September 30, 2020)
- 212.102.45[.]58 (Observed September 30, 2020)
- 31.168.98[.]73 (Observed September 30, 2020)
- 37.120.204[.]156 (Observed September 30, 2020)
- 5.160.253[.]50 (Observed September 30, 2020)
- 5.253.204[.]74 (Observed September 30, 2020)
- 64.44.81[.]68 (Observed September 30, 2020)
- 84.17.45[.]218 (Observed September 30, 2020)
- 89.187.182[.]106 (Observed September 30, 2020)
- 89.187.182[.]111 (Observed September 30, 2020)
- 89.34.98[.]114 (Observed September 30, 2020)
- 89.44.201[.]211 (Observed September 30, 2020)

Recommendations

The following list provides recommended self-protection mitigation strategies against cyber techniques used by advanced persistent threat actors:

- Validate input as a method of sanitizing untrusted input submitted by web application users. Validating input can significantly reduce the probability of successful exploitation by providing

protection against security flaws in web applications. The types of attacks possibly prevented include SQL injection, Cross Site Scripting (XSS), and command injection.

- Audit your network for systems using Remote Desktop Protocol (RDP) and other internet-facing services. Disable unnecessary services and install available patches for the services in use. Users may need to work with their technology vendors to confirm that patches will not affect system processes.
- Verify all cloud-based virtual machine instances with a public IP, and avoid using open RDP ports, unless there is a valid need. Place any system with an open RDP port behind a firewall and require users to use a VPN to access it through the firewall.
- Enable strong password requirements and account lockout policies to defend against brute-force attacks.
- Apply multi-factor authentication, when possible.
- Maintain a good information back-up strategy by routinely backing up all critical data and system configuration information on a separate device. Store the backups offline, verify their integrity, and verify the restoration process.
- Enable logging and ensure logging mechanisms capture RDP logins. Keep logs for a minimum of 90 days and review them regularly to detect intrusion attempts.
- When creating cloud-based virtual machines, adhere to the cloud provider's best practices for remote access.
- Ensure third parties that require RDP access follow internal remote access policies.
- Minimize network exposure for all control system devices. Where possible, critical devices should not have RDP enabled.
- Regulate and limit external to internal RDP connections. When external access to internal resources is required, use secure methods, such as a VPNs. However, recognize the security of VPNs matches the security of the connected devices.
- Use security features provided by social media platforms; use strong passwords, change passwords frequently, and use a different password for each social media account.
- See CISA's Tip on Best Practices for Securing Election Systems for more information.

General Mitigations

Keep applications and systems updated and patched

Apply all available software updates and patches and automate this process to the greatest extent possible (e.g., by using an update service provided directly from the vendor). Automating updates and patches is critical because of the speed of threat actors to create new exploits following the release of a patch. These "N-day" exploits can be as damaging as zero-day exploits. Ensure the authenticity and integrity of vendor updates by using signed updates delivered over protected links. Without the rapid and thorough application of patches, threat actors can operate inside a defender's patch cycle.[2]

[2] NSA "NSA'S Top Ten Cybersecurity Mitigation Strategies" https://www.nsa.gov/Portals/70/documents/what-we-do/cybersecurity/professional-resources/csi-nsas-top10-cybersecurity-mitigation-strategies.pdf

Additionally, use tools (e.g., the OWASP Dependency-Check Project tool[3]) to identify the publicly known vulnerabilities in third-party libraries depended upon by the application.

Scan web applications for SQL injection and other common web vulnerabilities

Implement a plan to scan public-facing web servers for common web vulnerabilities (e.g., SQL injection, cross-site scripting) by using a commercial web application vulnerability scanner in combination with a source code scanner.[4] Fixing or patching vulnerabilities after they are identified is especially crucial for networks hosting older web applications. As sites get older, more vulnerabilities are discovered and exposed.

Deploy a web application firewall

Deploy a web application firewall (WAF) to prevent invalid input attacks and other attacks destined for the web application. WAFs are intrusion/detection/prevention devices that inspect each web request made to and from the web application to determine if the request is malicious. Some WAFs install on the host system and others are dedicated devices that sit in front of the web application. WAFs also weaken the effectiveness of automated web vulnerability scanning tools.

Deploy techniques to protect against web shells

Patch web application vulnerabilities or fix configuration weaknesses that allow web shell attacks, and follow guidance on detecting and preventing web shell malware.[5] Malicious cyber actors often deploy web shells—software that can enable remote administration—on a victim's web server. Malicious cyber actors can use web shells to execute arbitrary system commands commonly sent over HTTP or HTTPS. Attackers often create web shells by adding or modifying a file in an existing web application. Web shells provide attackers with persistent access to a compromised network using communications channels disguised to blend in with legitimate traffic. Web shell malware is a long-standing, pervasive threat that continues to evade many security tools.

Use multi-factor authentication for administrator accounts

Prioritize protection for accounts with elevated privileges, remote access, or used on high-value assets.[6] Use physical token-based authentication systems to supplement knowledge-based factors such as passwords and personal identification numbers (PINs).[7] Organizations should migrate away from single-factor authentication, such as password-based systems, which are subject to poor user

[3] https://owasp.org/www-project-dependency-check/
[4] NSA "Defending Against the Exploitation of SQL Vulnerabilities to Compromise a Network" https://apps.nsa.gov/iaarchive/library/ia-guidance/tech-briefs/defending-against-the-exploitation-of-sql-vulnerabilities-to.cfm
[5] NSA & ASD "CyberSecurity Information: Detect and Prevent Web Shell Malware" https://media.defense.gov/2020/Jun/09/2002313081/-1/-1/0/CSI-DETECT-AND-PREVENT-WEB-SHELL-MALWARE-20200422.PDF
[6] https://us-cert.cisa.gov/cdm/event/Identifying-and-Protecting-High-Value-Assets-Closer-Look-Governance-Needs-HVAs
[7] NSA "NSA'S Top Ten Cybersecurity Mitigation Strategies" https://www.nsa.gov/Portals/70/documents/what-we-do/cybersecurity/professional-resources/csi-nsas-top10-cybersecurity-mitigation-strategies.pdf

choices and more susceptible to credential theft, forgery, and password reuse across multiple systems.

Remediate critical web application security risks

First, identify and remediate critical web application security risks. Next, move on to other less critical vulnerabilities. Follow available guidance on securing web applications.[8,9,10]

How do I respond to unauthorized access to election-related systems?

Implement your security incident response and business continuity plan

It may take time for your organization's IT professionals to isolate and remove threats to your systems and restore normal operations. In the meantime, take steps to maintain your organization's essential functions according to your business continuity plan. Organizations should maintain and regularly test backup plans, disaster recovery plans, and business continuity procedures.

Contact CISA or law enforcement immediately

To report an intrusion and to request incident response resources or technical assistance, contact CISA (Central@cisa.gov or 888-282-0870) or the FBI through a local field office or the FBI's Cyber Division (CyWatch@ic.fbi.gov or 855-292-3937).

RESOURCES

- CISA Tip: Best Practices for Securing Election Systems
- CISA Tip: Securing Voter Registration Data
- CISA Tip: Website Security
- CISA Tip: Avoiding Social Engineering and Phishing Attacks
- CISA Tip: Securing Network Infrastructure Devices
- Joint Advisory: Technical Approaches to Uncovering and Remediating Malicious Activity
- CISA Insights: Actions to Counter Email-Based Attacks on Election-related Entities
- FBI and CISA Public Service Announcement (PSA): Spoofed Internet Domains and Email Accounts Pose Cyber and Disinformation Risks to Voters
- FBI and CISA PSA: Foreign Actors Likely to Use Online Journals to Spread Disinformation Regarding 2020 Elections
- FBI and CISA PSA: Distributed Denial of Service Attacks Could Hinder Access to Voting Information, Would Not Prevent Voting
- FBI and CISA PSA: False Claims of Hacked Voter Information Likely Intended to Cast Doubt on Legitimacy of U.S. Elections FBI and CISA PSA: Cyber Threats to Voting Processes Could Slow But Not Prevent Voting

[8] NSA "Building Web Applications – Security for Developers" https://apps.nsa.gov/iaarchive/library/ia-guidance/security-tips/building-web-applications-security-recommendations-for.cfm
[9] https://owasp.org/www-project-top-ten/
[10] https://cwe.mitre.org/top25/archive/2020/2020_cwe_top25.html

- FBI and CISA PSA: Foreign Actors and Cybercriminals Likely to Spread Disinformation Regarding 2020 Election Results

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, JASON M SHEPHERD, on behalf of the COBB COUNTY REPUBLICAN PARTY and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809**

This matter comes before the Court on Plaintiffs' Motion to File Affidavits Under Seal And For In Camera Review pursuant to LR 7.5 and 65.1, and Section II(J) of Appendix H to the Local Rules, and having shown that the requested relief that certain affidavits be sealed with specific identification of the portions for which sealing is necessary, the likelihood of

injury to the interests of the affiants if public disclosure were made, and the lack of less onerous alternatives to the sealing of the affidavits to protect the personal safety and harm to the interests of the affiants, and for good cause appearing;

IT IS HEREBY ORDERED that Plaintiffs' Motion is GRANTED, and the affidavits to be filed under seal until further order of the Court, and Plaintiffs are permitted to file these affidavits with the identifying information redacted in the public docket.

Dated: November ____, 2020.

_____
The Honorable Timothy C. Batten
U.S. District Court Judge

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, JASON M SHEPHERD, on behalf of the COBB COUNTY REPUBLICAN PARTY and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809**

PLAINTIFFS' MOTION TO FILE AFFIDAVITS UNDER SEAL AND FOR IN CAMERA REVIEW

Come now the Plaintiffs, and pursuant to LR 7.5 and 65.1, and Section II(J), of Appendix H to the Local Rules, respectfully request leave of Court to file under seal certain identifying information in two affidavits and declarations submitted as Exhibits to the Complaint.

1.

This case brings a challenge to the November 3, 2020 Presidential election. Plaintiffs' evidence shows ballot fraud and illegality, i.e. fraud or illegality in the ballots that were counted in the election, and counting fraud and illegality in the Dominion Voting Systems machines and software, and in the hand audit/recount ordered by the Secretary of State, Brad Raffensperger.

2.

Two of Plaintiffs' witnesses are in reasonable fear of harassment and threats to their physical safety and their livelihoods in retaliation for their coming forward with their testimony. As described with more particularity in the brief in support of this motion, as election controversies have unfolded around the country, there have been multiple incidents of harassment and threats to destroy the careers of or physically harm witnesses who come

forward with evidence of election fraud and illegality. There was an organized campaign by The Lincoln Project to destroy the business relationships of major law firms with their clients for having the temerity to represent the President of the United States in these controversies. One Pennsylvania law firm withdrew from representing the President only days after filing a lawsuit on his behalf because of such harassment, abuse, threats, pressure and economic coercion. Other lawyers for the President have been physically threatened and verbally abused and forced to obtain personal security to protect them. Therefore, the apprehensions of Plaintiffs' witnesses are serious and well-founded.

3.

Moreover, the testimony of these witnesses is consequential to the matter before this court, namely a legal challenge to the outcome of the Presidential election in Georgia.

4.

The Affiant at Exhibit 2, is a Venezuelan Whistleblower, who is not an American citizen, and swears under oath that "I was selected for the national security guard detail of the President of Venezuela." At great risk to himself, he reveals that,

> Importantly, I was a direct witness to the creation and operation of an electronic voting system in a conspiracy between a company known as Smartmatic and the leaders of conspiracy with the

> Venezuelan government. This conspiracy specifically involved President Hugo Chavez Frias, the person in charge of the National Electoral Council named Jorge Rodriguez, and principals, representatives, and personnel from Smartmatic which included … The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes against persons running the Venezuelan government to votes in their favor in order to maintain control of the government.

See Exh. 2 to the Complaint, para 10, also attached hereto.

5.

And secondly, the Affidavit "Spyder,"[1] sets forth evidence in his sworn affidavit, and his background:

> I was an electronic intelligence analyst under 305th Military Intelligence with experience gathering SAM missile system electronic intelligence. I have extensive experience as a white hat hacker used by some of the top election specialists in the world. The methodologies I have employed represent industry standard cyber operation toolkits for digital forensics and OSINT, which are commonly used to certify connections between servers, network nodes and other digital properties and probe to network system vulnerabilities.
>
> …
>
> In my professional opinion, this affidavit presents unambiguous evidence that Dominion Voter Systems and Edison Research have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, these organizations neglectfully allowed foreign adversaries to access

[1] This slip sheet for this exhibit as filed with the complaint erroneously labeled it as Exhibit 7. In fact, it should be Exhibit 8. It is attached to this document with a corrected slip sheet.

> data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. This represents a complete failure of their duty to provide basic cyber security. This is not a technological issue, but rather a governance and basic security issue: if it is not corrected, future elections in the United States and beyond will not be secure and citizens will not have confidence in the results.

See Exh. 8 at pars. 1 and 21.[2] His sworn testimony further appears consistent with a recent October 2020 federal government advisory, which states:

> This joint cybersecurity advisory was coauthored by the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI). CISA and the FBI are aware of an Iranian advanced persistent threat (APT) actor targeting U.S. state websites to include election websites. CISA and the FBI assess this actor is responsible for the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related disinformation in mid-October 2020.1 (Reference FBI FLASH message ME-000138-TT, disseminated October 29, 2020). Further evaluation by CISA and the FBI has identified the targeting of U.S. state election websites was an intentional effort to influence and interfere with the 2020 U.S. presidential election.

A copy of this "Joint Cybersecurity Advisory Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data" is Attached hereto as Exhibit "A," following the two affidavits in question on this motion.

The Advisory further states, "[f]ollowing the review of web server access logs, CISA analysts, in coordination with the FBI, found instances of the cURL and FDM User Agents sending GET requests to a web resource

[2] See note 1, above regarding the Exhibit number for this Exhibit.

associated with voter registration data. The activity occurred between September 29 and October 17, 2020. Suspected scripted activity submitted several hundred thousand queries iterating through voter identification values and retrieving results with varying levels of success [Gather Victim Identity Information (T1589)]. A sample of the records identified by the FBI reveals they match information in the aforementioned propaganda video.

6.

This testimony has been given at great risk of the Affiant who holds training and the current knowledge required to obtain such information related to foreign interference in the 2020 election.

7.

The established pattern of witness and attorney harassment and coercion, along with the importance of their testimony, increases the likelihood of the feared harassments, threats and coercion should the identities of these witnesses become public knowledge. One of the witnesses, who is testifying about his analysis of hostile foreign power cyber penetration of Dominion Voting Systems servers and networks, is already subject to serious threats of harm because of the highly sensitive nature of his regular professional work and is in particular need of protection.

8.

These witnesses, whom Plaintiffs ask the Court to protect, have shown great courage in coming forward at a critical moment to deliver the truth to the Court about matters of great importance to our country. They are in need of the Court's protection from the readily foreseeable harms that would accrue to them if their identities were made public. Thus, good cause exists for the relief requested.

9.

Due to the concerns described above, these witnesses' affidavits and declarations at Exhibits 2 and 8[3] have been filed with the Complaint with their identifying information redacted, as reflected in the attached copies thereof

10.

The privacy and personal and financial security interests of the witnesses are at grave risk of harm if their identities were disclosed. Their interests, as well as those of the parties and the Court vastly outweigh the interests of the public in having access to the Affiants' personally identifying information, and no less drastic alternatives other than sealing their unredacted affidavits to conceal their identities will provide adequate

[3] As noted, this slip sheet for this Exhibit said it was Exhibit 7 when it should have been Exhibit 8. The filename for the document begins "Exh. 8 …"

protection to the them and the proper functioning of this Court. The common law right of public access to Court filings must yield to countervailing interests of the parties, the Court and the Affiants in keeping their identities undisclosed beyond the parties and the Court in these proceedings to protect them from readily foreseeable threats. Moreover, the redacted affidavits conceal only the Affiants' personally identifying information – all of their other testimony is public and unredacted.

11.

For the Court's ease of reference, the affidavits and declarations as to which this protection is sought are also attached to this motion in redacted form.

12.

Wherefore, the Plaintiffs respectfully request leave of Court to submit the unredacted affidavits to the Court under seal for in camera review, and for an Order of the court that in all public filings their names or personally identifying information not be revealed to the public.

Respectfully submitted, this 27th day of November, 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775

*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com
Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Plaintiffs' Motion To File Affidavits Under Seal and For In Camera Review with the Clerk of Court using the CM/ECF system, and that I have delivered the filing to the Defendants by email and FedEx at the following addresses:

This 25th day of November, 2020.

Governor Brian Kemp
206 Washington Street
111 State Capitol
Atlanta, GA 30334

Secretary of State Brad Raffensperger
214 State Capitol
Atlanta, Georgia 30334
brad@sos.ga.gov
soscontact@sos.ga.gov

Rebecca N. Sullivan
Georgia Department of Administrative Services
200 Piedmont A venue SE
Suite 1804, West Tower
Atlanta, Georgia 30334-9010
rebecca.sullivan@doas.ga.gov

David J. Worley
Evangelista Worley LLC
500 Sugar Mill Road
Suite 245A
Atlanta, Georgia 30350
david@ewlawllc.com

Matthew Mashburn

Aldridge Pite, LLP
3575 Piedmont Road, N.E.
Suite 500
Atlanta, Georgia 30305
mmashburn@aldridgepite.com

Anh Le
Harley, Rowe & Fowler, P.C.
2700 Cumberland Parkway
Suite 525
Atlanta, Georgia 30339
ale@hrflegal.com

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

Exh. A

Declaration of Dr. Shiva Ayyadurai

DECLARATON OF SHIVA AYYADURAI, PHD

I, Dr. Shiva Ayyadurai, hereby submit this Declaration, under the penalty and pains of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein.
2. I am an engineer with vast experience in engineering systems, pattern recognition, mathematical and computational modeling and analysis. My Curriculum Vitae (CV) is attached to this Declaration.
3. Recently I had cause to analyze the flow of electronic votes between the candidates in the 2020 Presidential election held in the States of Arizona, Michigan, and Georgia.
4. Paper ballots are marked by voters to document selection. Voters, based on a precinct, may use touch-screen equipment, which records their vote digitally without any paper involved.
5. Digital scanners scan paper ballots and create an electronic image of the paper ballot. This raw image file is called ***the ballot image*** and is an electronic file with an assigned file name. This raw file is held within the scanning machine and is used to tabulate the vote count.
6. During tabulation, ballot images are analyzed to generate the Cast Vote Record (CVR) that contains the counts of the ballots cast.
7. When the machine exports the ballot images, it may be exported as raw files or converted into a different file format as determined by the Election Management System used. Formats such as PDF, TIF, PNG, and PBM are examples of popular image formats.

8. Crucially, the file names could be changed making it difficult to ascertain the link between and the CVR. This makes examination of the original file names mandatory to confirm the link with the actual voters.
9. These ballot image files are imported into the higher jurisdiction's Election Management System from any and all voting system scanners or imaging components (for example: poll-site based, absentee count board-based, central-based) used at the local precinct level, including polling place scanners, and high-speed or other centrally-based scanners used for absentee vote counting.
10. The Cast Vote Record is usually maintained in XLSX, CSV, XML, or JSON formats. This makes it easy to import them into spreadsheets.
11. The List of Vote Records (LVR), also called the Vote Cast Log, Cast Ballot Log, or other designation, is a record or set of records that consists of a spreadsheet, with each row displaying contents of one ballot, or contents of one Cast Vote Record (CVR). This record may consist of more than one file. (For clarity, here is a sample page of this record obtained from Hillsborough County, Florida, which may be viewed at this link: https://tinyurl.com/y2yl3hbp).
12. When votes are tabulated, it is the electronic ballot image that is evaluated by the tabulation software. This makes the electronic ballot image ***the actual ballot used*** to count the vote. The paper ballot is merely stored physically by elections officials to serve as the audit trail backup record. Thus, no conclusions about the accuracy of the electronic vote count may be made without access to the actual raw ballot images used to tabulate the vote. Naturally, the electronically tabulated vote count must be identical to the paper ballot hand count in order for election integrity to be established. It is thus mandatory to

gain access to the raw ballot images and tabulate a vote count using those very images when the final tally is in dispute.

13. When votes are tabulated, it is the electronic ballot image that is evaluated by the tabulation software. This makes the electronic ballot image ***the actual ballot used*** to count the vote. The paper ballot is merely stored physically by elections officials to serve as the audit trail backup record. Thus, no conclusions about the accuracy of the electronic vote count may be made without access to the actual raw ballot images used to tabulate the vote. Naturally, the electronically tabulated vote count must be identical to the paper ballot hand count in order for election integrity to be established. It is thus mandatory to gain access to the raw ballot images and tabulate a vote count using those very images when the final tally is in dispute.

MATHEMATICAL ANALYSES OF ELECTRONIC DATA FROM GEORGIA REVEALS MASSIVE ANOMALIES IN REPUBLICAN VOTING PATTERNS AND ETHNIC DISTRIBUTION OF VOTES

14. I had cause to perform mathematical analyses of actual voting data from six counties in the State of Georgia. Screenshots follow documenting the results. I shall explain each graph as we proceed.

15. Analysis of Chatham County – Republican Voting Pattern and Ethnic Demographics

    a. The Party Demographics of the County is as follows:

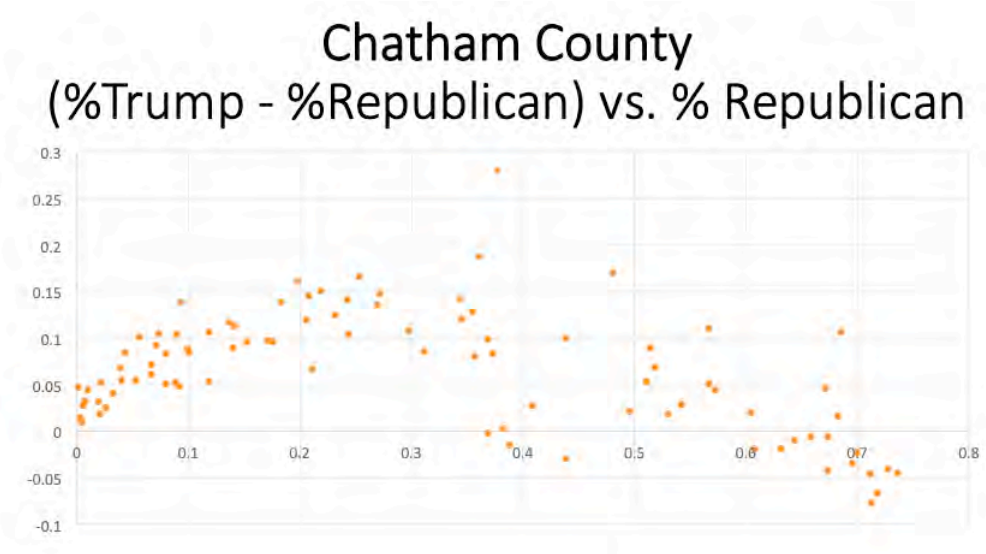
    - Republican: 39.9%
    - Democrat: 58.7%

- Independent: 1.4%

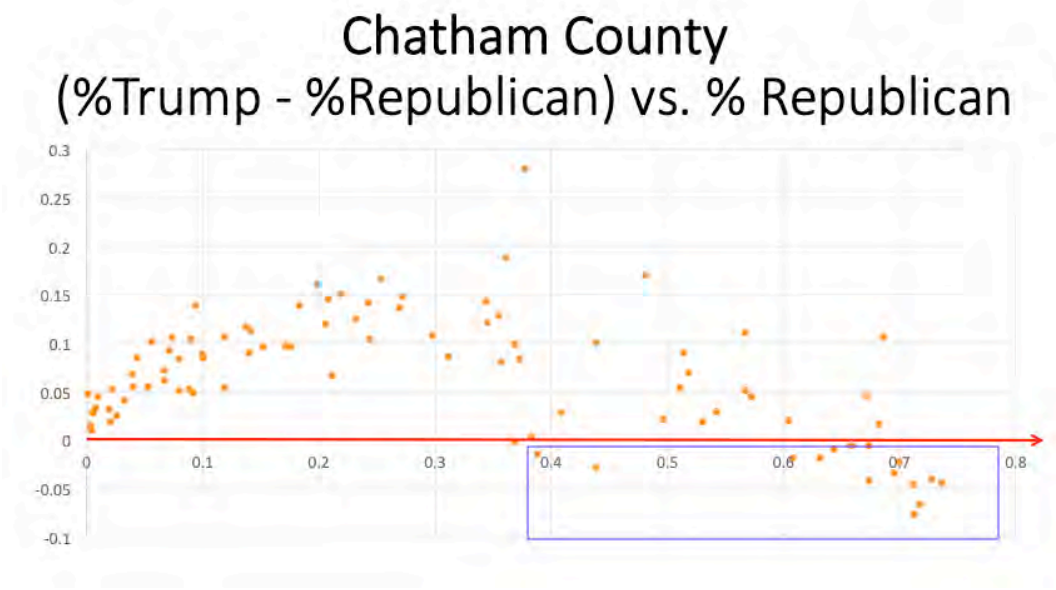
b. The Ethnic Demographics of the County is as follows:

- 49% White
- 37% Black
- 2.5 % Hispanic
- 1.5% Asian
- 8% Unspecified
- 2% Other

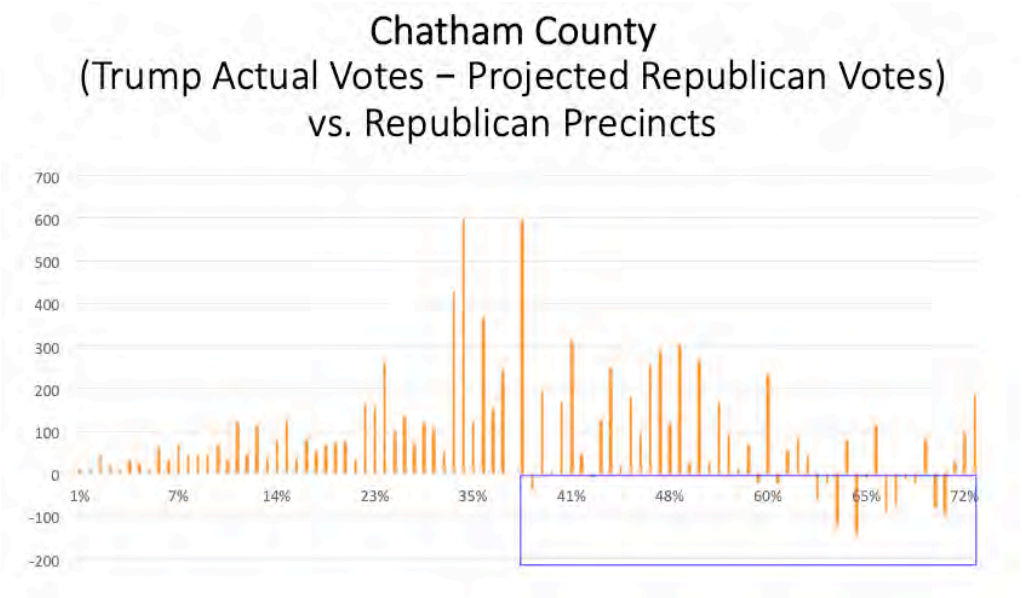
c. Now follows a graph that shows that as the percentage of Republicans in precincts increases, President Trump gets fewer votes. Each dot on the graph represents a single precinct with the County. The x-axis is the percentage of Republicans in a precinct represented in decimal numbers. The y-axis is a measure of the difference in the percentage of voters who voted for President Trump in that precinct and the percentage of Republicans in that precinct.



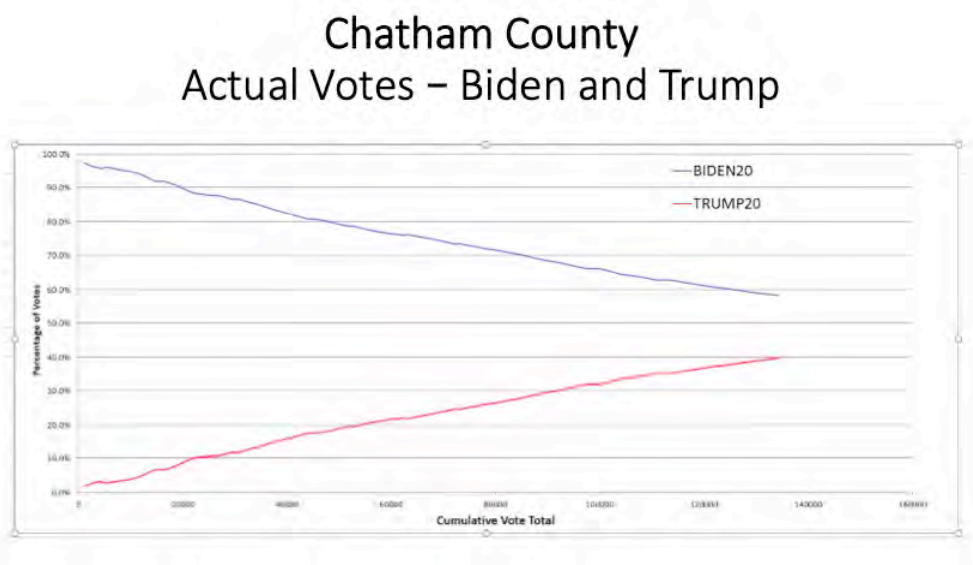
d. The graph below with the red arrow at the zero line serves to highlight the precincts, indicated within the blue box that apparently is "High Republican, But Low Trump."



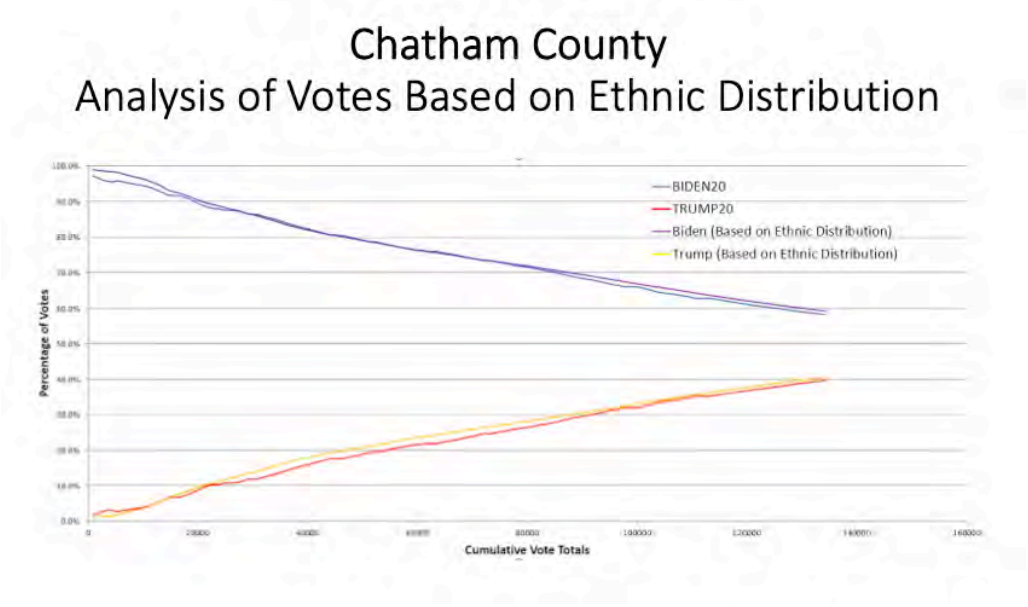
e. The graph below plots on the x-axis the percentage of Republicans in a precinct, and on the y-axis the difference in the actual number of votes between what President Trump received and the number of votes he would have received had Republicans in that precinct voted for him. This graph again shows that President Trump apparently lost votes in the same pattern as above - "High Republican, But Low Trump."



f. The graph below plots the actual number of votes, reported by the Secretary of State of Georgia for the County, as received by Mr. Biden (in blue) and President Trump (in red) as the number of votes accumulates from small to large on the x-axis. The end points on the right are the final number of votes received by Mr. Biden and President Trump as reported by the Secretary of State.



g. The graph below contains two new lines: one in purple, and one in yellow. The line in purple plots the number of votes for Mr. Biden based on the ethnic demographic distribution that matches the pattern of actual votes reported by the Secretary of State reported for Mr. Biden (in blue). The line in yellow plots the number of votes for President Trump based on the same ethnic demographic distribution to match the pattern of actual votes reported by the Secretary of State reported for President Trump (in red).



h. The above analysis reveals that although the percentage of Whites and Blacks in the County are 49% and 37%, respectively, the only plausible way to explain the results, reported by the Secretary of State, is if President Trump did not receive one single Black vote, and the demographic distribution of votes between Mr. Biden and President Trump was as follows:

- Demographic distribution analysis of Actual Vote Results

	White	Black
Biden	30%	100%
Trump	70%	0%

16. Analysis of Fulton County - Republican Voting Pattern and Ethnic Demographics

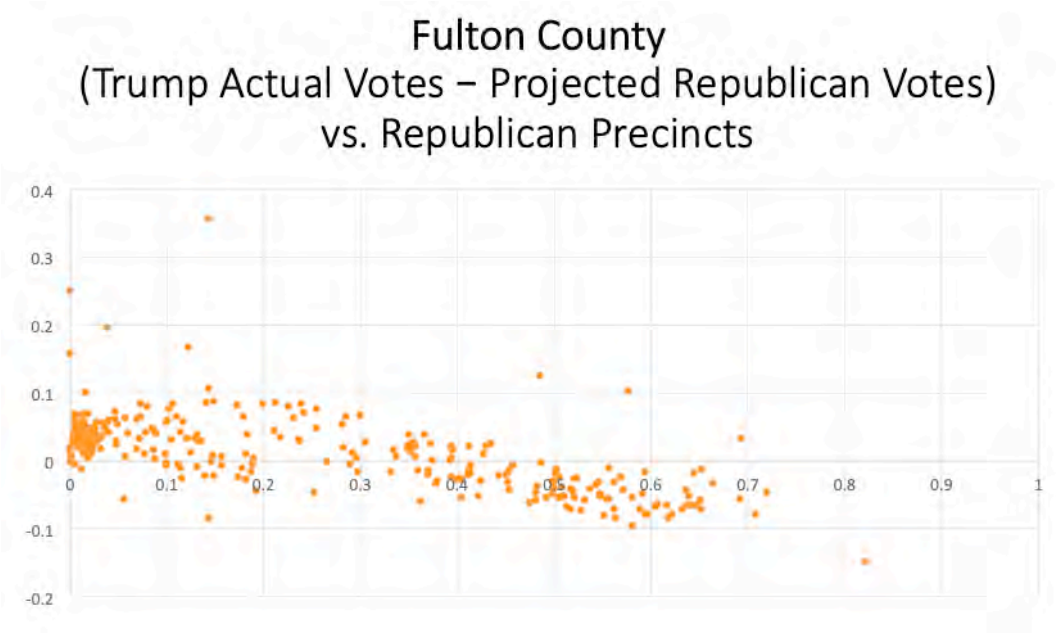
a. The Party Demographics of the County is as follows:

- Republican: 26.3%
- Democrat: 72.5%
- Independent: 1.2%

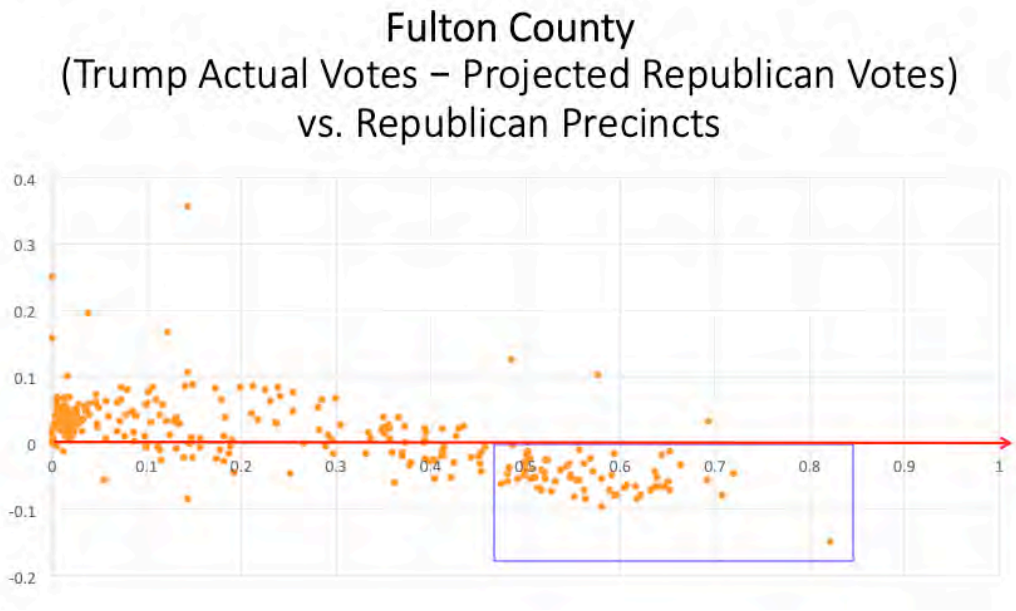
b. The Ethnic Demographics of the County is as follows:

- White: 38%
- Black: 42%
- Hispanic: 3%
- Asian: 3%
- Unspecified: 12%
- Other: 2%

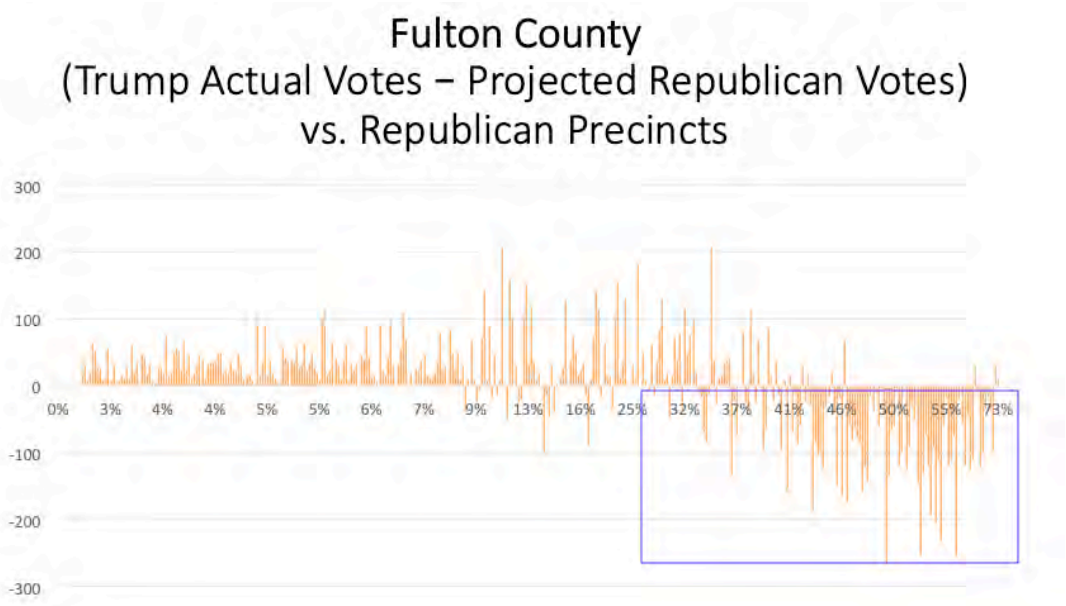
c. Now follows a graph that shows that as the percentage of Republicans in precincts increases, President Trump gets fewer votes. Each dot on the graph represents a single precinct with the County. The x-axis is the percentage of Republicans in a precinct represented in decimal numbers. The y-axis is a measure of the difference in the percentage of voters who voted for President Trump in that precinct and the percentage of Republicans in that precinct.



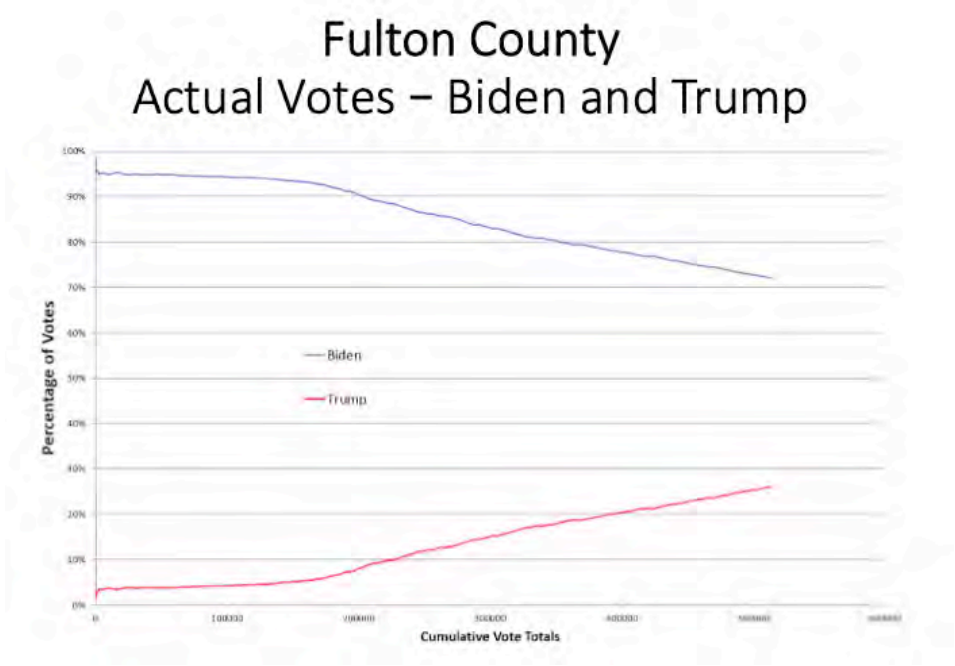
d. The graph below with the red arrow at the zero line serves to highlight the precincts, indicated within the blue box that apparently is "High Republican, But Low Trump."



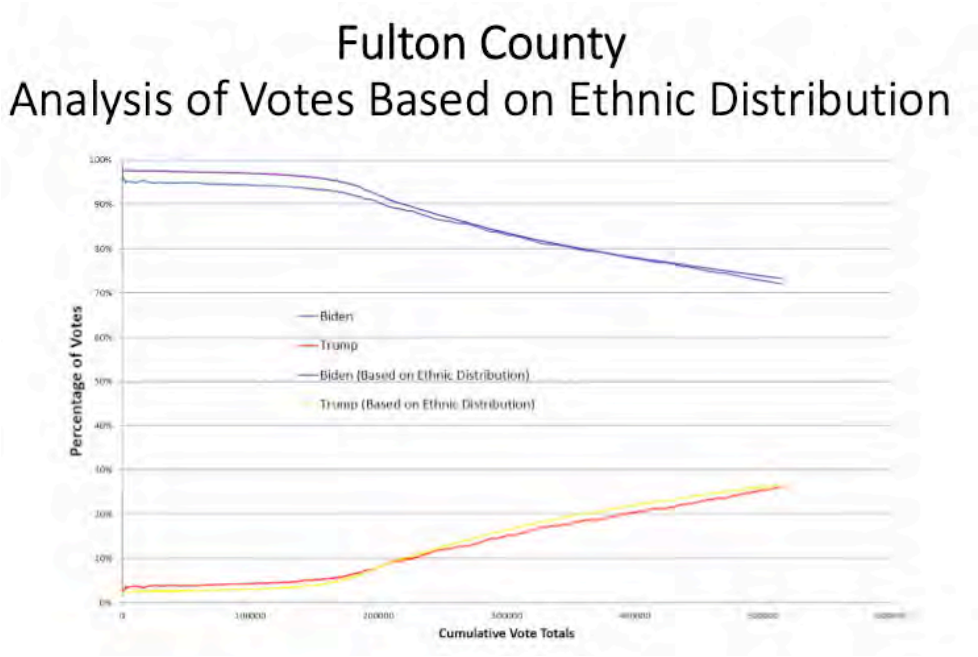
e. The graph below plots on the x-axis the percentage of Republicans in a precinct, and on the y-axis the difference in the actual number of votes between what President Trump received and the number of votes he would have received had Republicans in that precinct voted for him. This graph again shows that President Trump apparently lost votes in the same pattern as above - "High Republican, But Low Trump."



f. The graph below plots the actual number of votes, reported by the Secretary of State of Georgia for the County, as received by Mr. Biden (in blue) and President Trump (in red) as the number of votes accumulates from small to large on the x-axis. The end points on the right are the final number of votes received by Mr. Biden and President Trump as reported by the Secretary of State.



g. The graph below contains two new lines: one in purple, and one in yellow. The line in purple plots the number of votes for Mr. Biden based on the ethnic demographic distribution that matches the pattern of actual votes reported by the Secretary of State reported for Mr. Biden (in blue). The line in yellow plots the number of votes for President Trump based on the same ethnic demographic distribution to match the pattern of actual votes reported by the Secretary of State reported for President Trump (in red).



h. The above analysis reveals that although the percentage of Whites and Blacks in the County are 38% and 42%, respectively, the only plausible way to explain the results, reported by the Secretary of State, is if President Trump received only 2% of the Black vote, and the demographic distribution of votes between Mr. Biden and President Trump was as follows:

- Demographic distribution analysis of Actual Vote Results

	White	Black
Biden	46%	98%
Trump	54%	2%

17. Analysis of Cobb County - Republican Voting Pattern and Ethnic Demographics

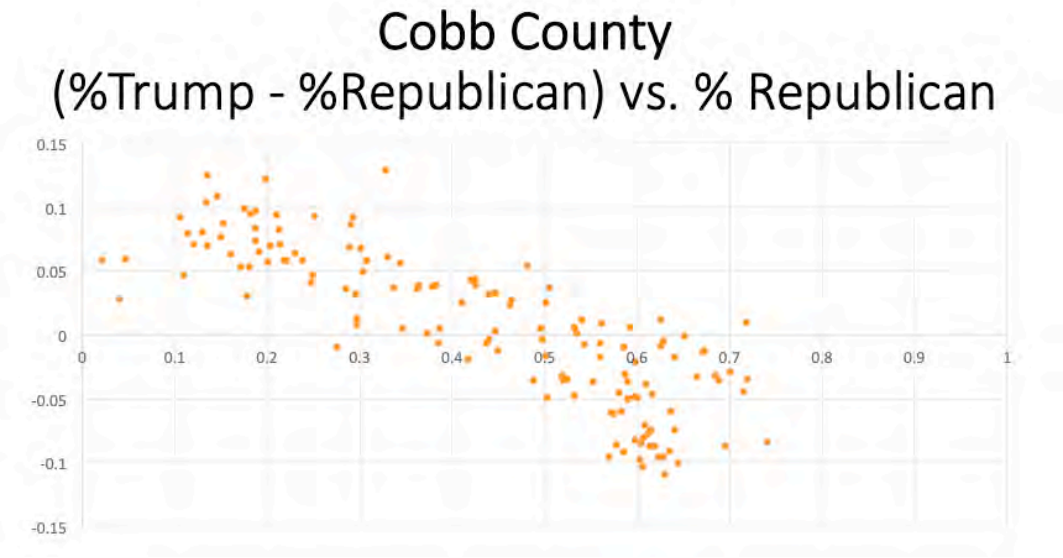
a. The Party Demographics of the County is as follows:

- Republican: 56.3%
- Democrat: 42.1%
- Independent: 1.6%

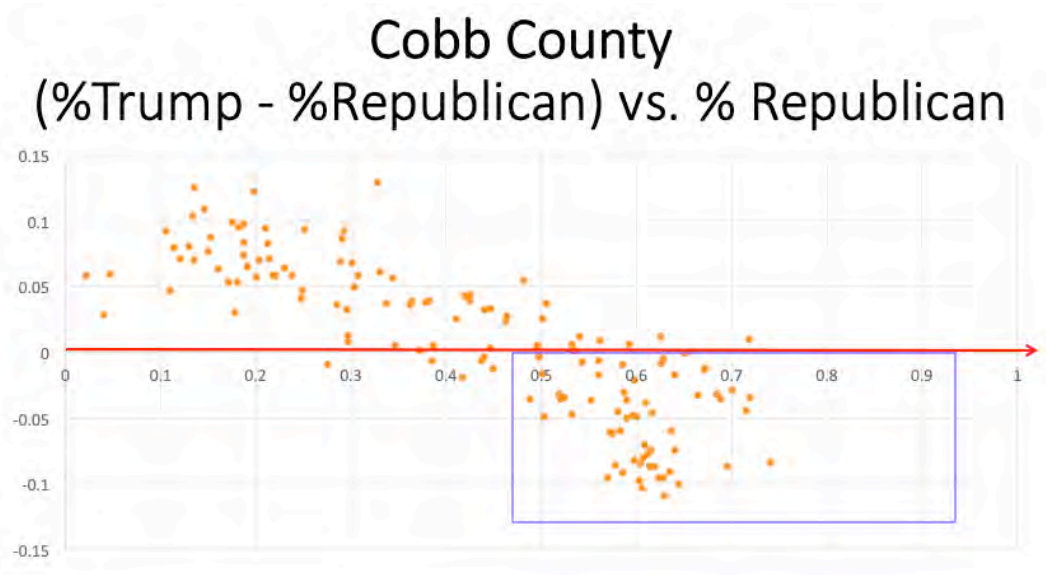
b. The Ethnic Demographics of the County is as follows:

- White: 54%
- Black: 26%
- Hispanic: 6%
- Asian: 3%
- Unspecified: 7%
- Other: 3%

c. Now follows a graph that shows that as the percentage of Republicans in precincts increases, President Trump gets fewer votes. Each dot on the graph represents a single precinct with the County. The x-axis is the percentage of Republicans in a precinct represented in decimal numbers. The y-axis is a measure of the difference in the percentage of voters who voted for President Trump in that precinct and the percentage of Republicans in that precinct.

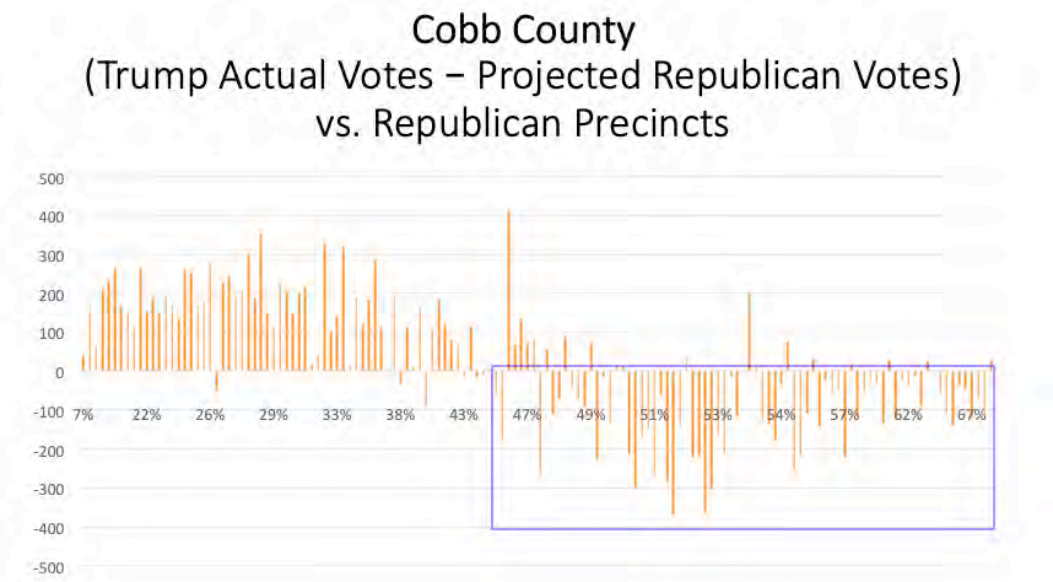


d. The graph below with the red arrow at the zero line serves to highlight the precincts, indicated within the blue box that apparently is "High Republican, But Low Trump."

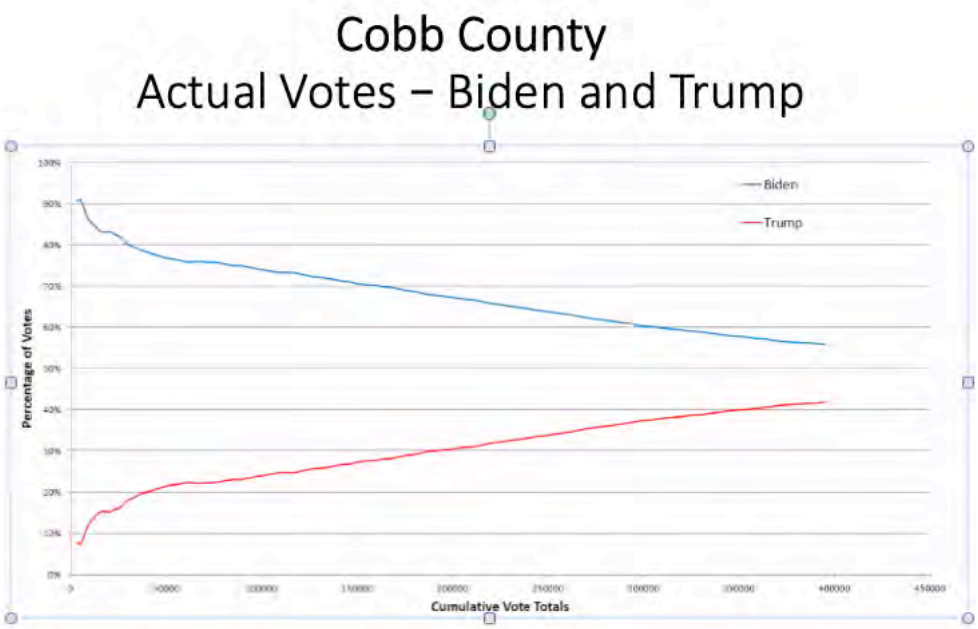


e. The graph below plots on the x-axis the percentage of Republicans in a precinct, and on the y-axis the difference in the actual number of votes between what

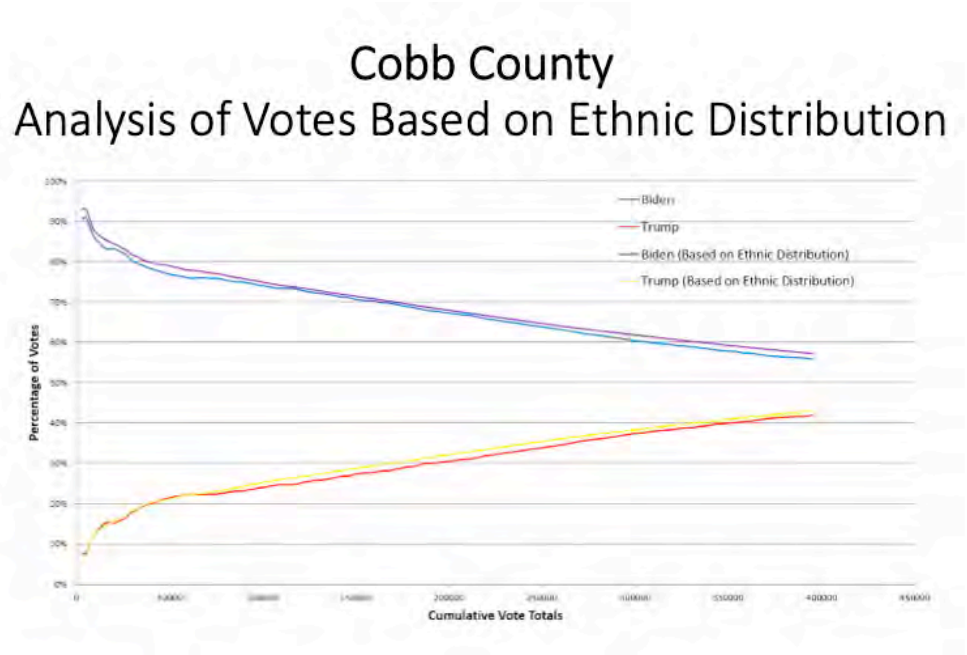
President Trump received and the number of votes he would have received had Republicans in that precinct voted for him. This graph again shows that President Trump apparently lost votes in the same pattern as above - "High Republican, But Low Trump."



f. The graph below plots the actual number of votes, reported by the Secretary of State of Georgia for the County, as received by Mr. Biden (in blue) and President Trump (in red) as the number of votes accumulates from small to large on the x-axis. The end points on the right are the final number of votes received by Mr. Biden and President Trump as reported by the Secretary of State.



g. The graph below contains two new lines: one in purple, and one in yellow. The line in purple plots the number of votes for Mr. Biden based on the ethnic demographic distribution that matches the pattern of actual votes reported by the Secretary of State reported for Mr. Biden (in blue). The line in yellow plots the number of votes for President Trump based on the same ethnic demographic distribution to match the pattern of actual votes reported by the Secretary of State reported for President Trump (in red).



h. The above analysis reveals that although the percentage of Whites and Blacks in the County are 54% and 26%, respectively, the only plausible way to explain the results, reported by the Secretary of State, is if President Trump received not one single Black vote, and the demographic distribution of votes between Mr. Biden and President Trump was as follows:

- Demographic distribution analysis of Actual Vote Results

	White	Black
Biden	29%	100%
Trump	71%	0%

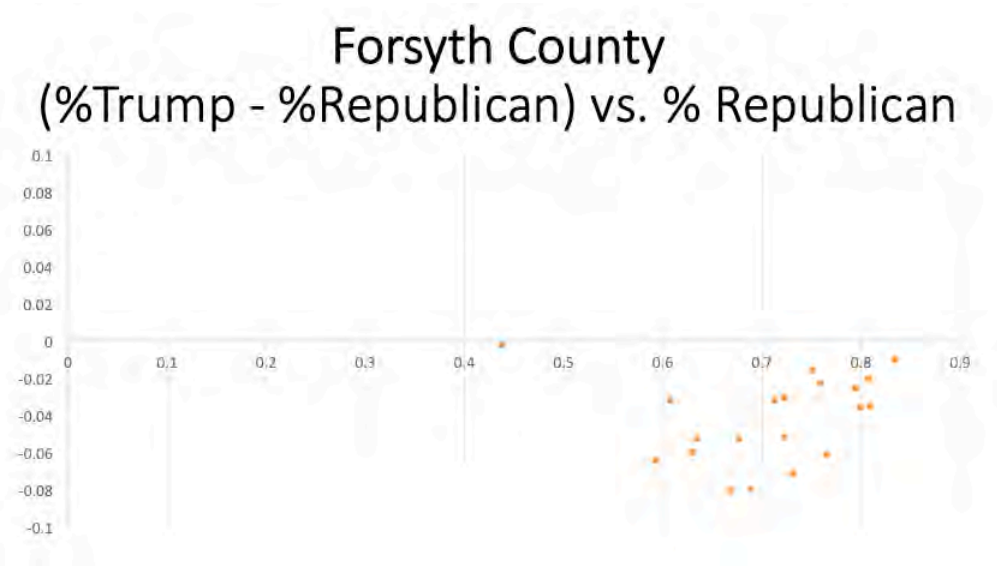
18. Analysis of Forsyth County - Republican Voting Pattern

a. The Party Demographics of the County is as follows:

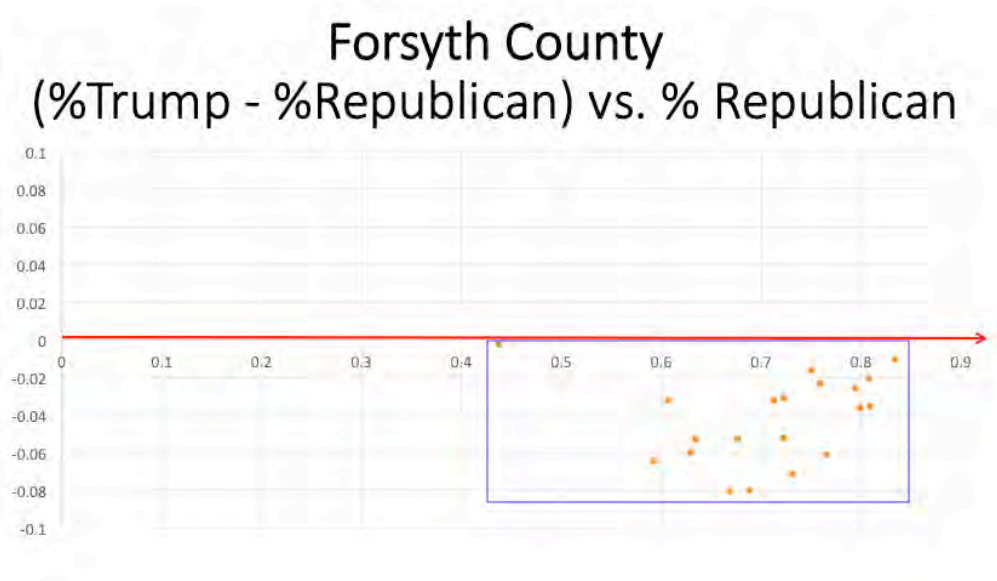
- Republican: 65.8%

- Democrat: 32.6%
- Independent: 1.6%

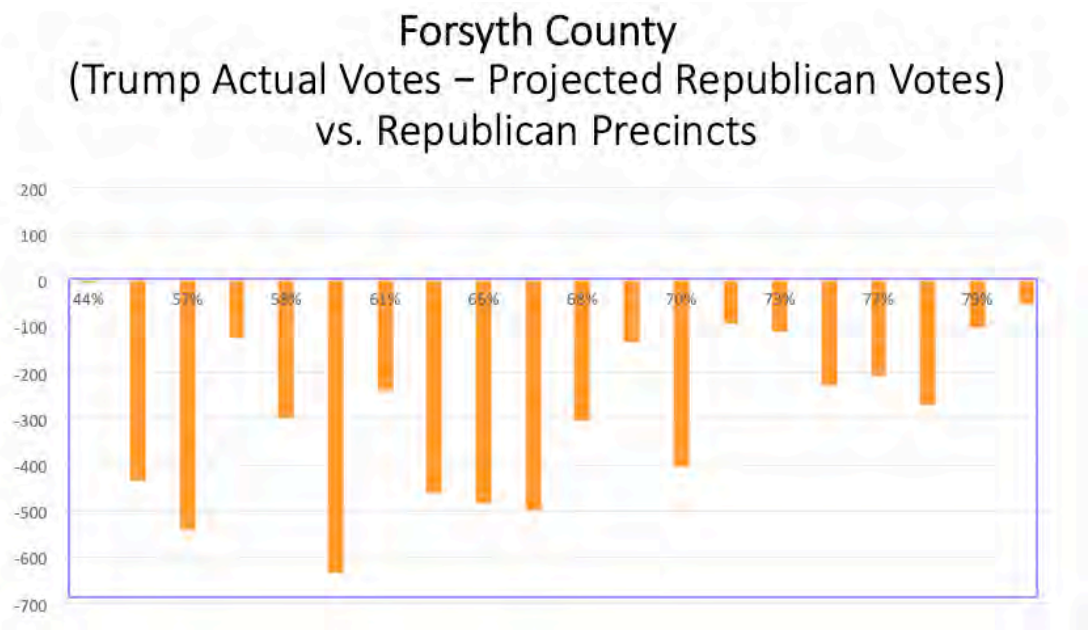
b. Now follows a graph that shows that as the percentage of Republicans in precincts increases, President Trump gets fewer votes. Each dot on the graph represents a single precinct with the County. The x-axis is the percentage of Republicans in a precinct represented in decimal numbers. The y-axis is a measure of the difference in the percentage of voters who voted for President Trump in that precinct and the percentage of Republicans in that precinct.



c. The graph below with the red arrow at the zero line serves to highlight the precincts, indicated within the blue box that apparently is "High Republican, But Low Trump."



d. The graph below plots on the x-axis the percentage of Republicans in a precinct, and on the y-axis the difference in the actual number of votes between what President Trump received and the number of votes he would have received had Republicans in that precinct voted for him. This graph again shows that President Trump apparently lost votes in the same pattern as above - "High Republican, But Low Trump."



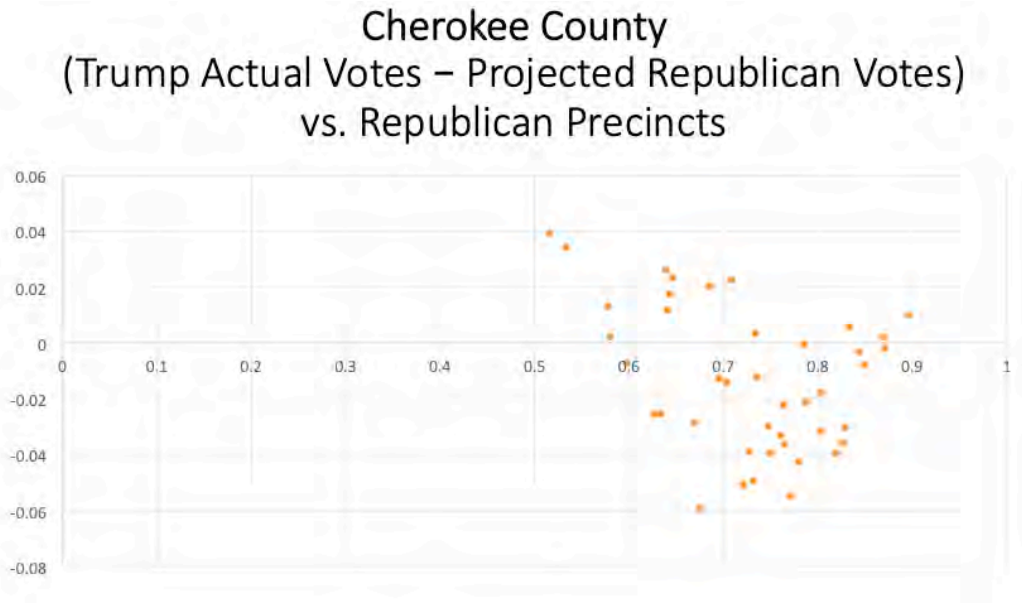
19. Analysis of Cherokee County - Republican Voting Pattern

a. The Party Demographics of the County is as follows:

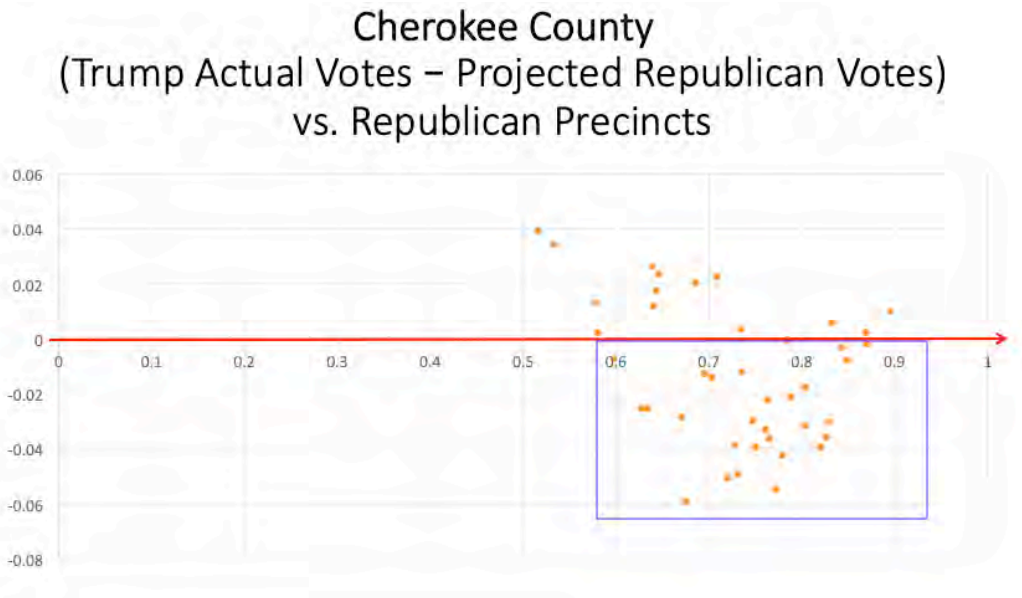
- Republican: 68.8%
- Democrat: 29.5%
- Independent: 1.7%

b. Now follows a graph that shows that as the percentage of Republicans in precincts increases, President Trump gets fewer votes. Each dot on the graph represents a single precinct with the County. The x-axis is the percentage of Republicans in a precinct represented in decimal numbers. The y-axis is a measure of the

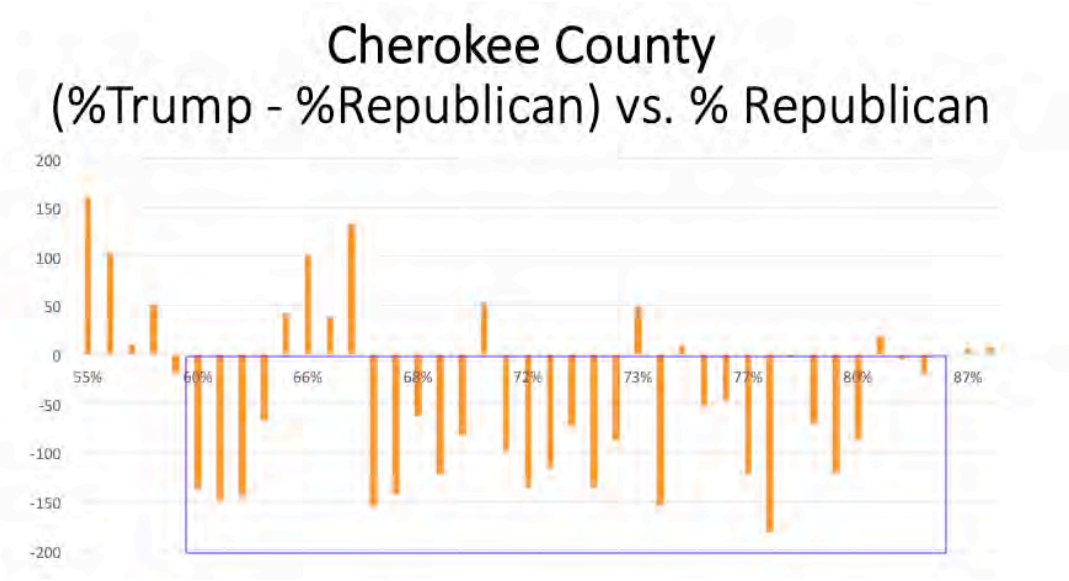
difference in the percentage of voters who voted for President Trump in that precinct and the percentage of Republicans in that precinct.



c. The graph below with the red arrow at the zero line serves to highlight the precincts, indicated within the blue box that apparently is "High Republican, But Low Trump."



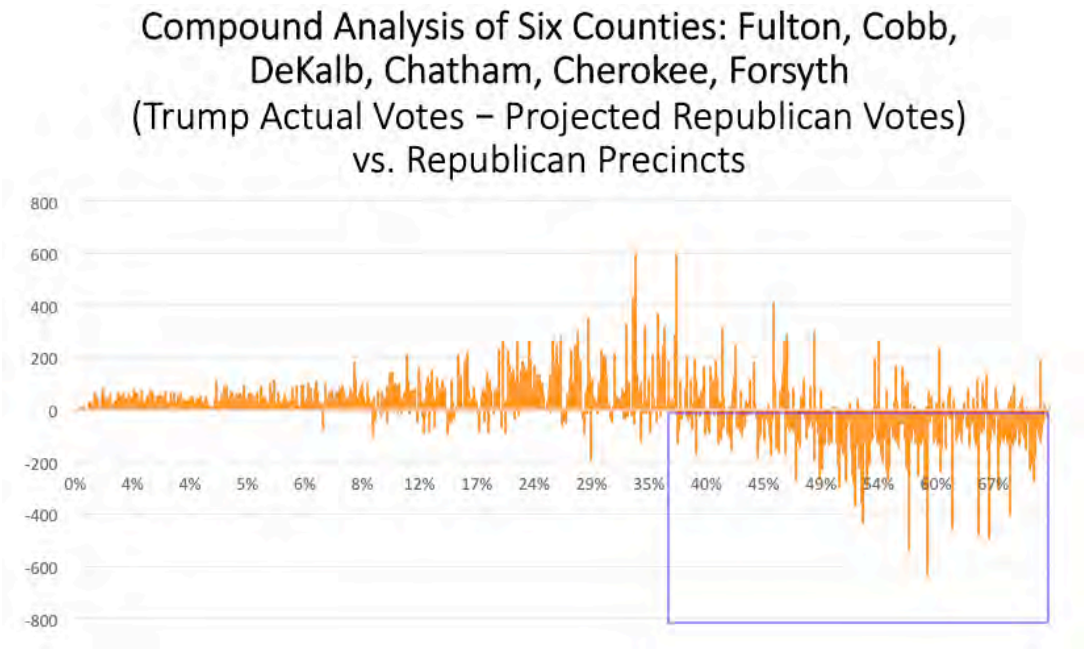
d. The graph below plots on the x-axis the percentage of Republicans in a precinct, and on the y-axis the difference in the actual number of votes between what President Trump received and the number of votes he would have received had Republicans in that precinct voted for him. This graph again shows that President Trump apparently lost votes in the same pattern as above - "High Republican, But Low Trump."



20. Compound Analysis of Six Counties - Republican Voting Pattern

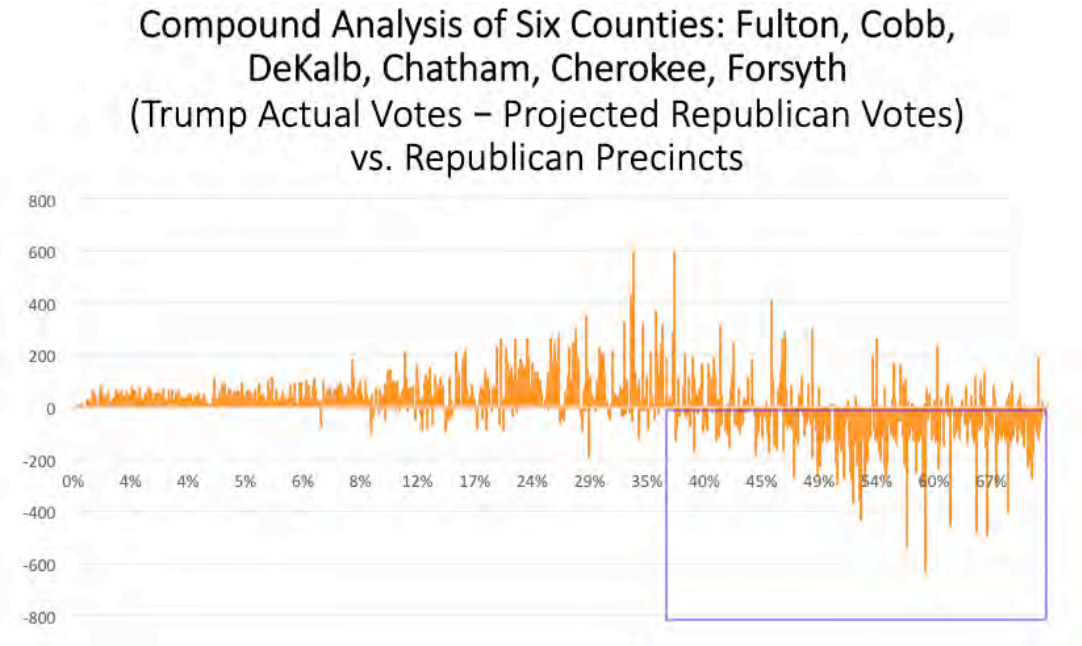
a. **"High Republican, But Low Trump"** - The graph below is compound analysis of the Republican voting pattern in six counties: Fulton, Cobb, DeKalb, Cherokee, Chatham, Forsyth. The graph plots on the x-axis the percentage of Republicans in a precinct, and on the y-axis the difference in the actual number of votes between what President Trump received and the number of votes he would have received had Republicans in that precinct voted for him. This graph again

shows that President Trump apparently lost votes in the same pattern as above - "High Republican, But Low Trump."



21. Compound Analysis of Six Counties - Republican Voting Pattern

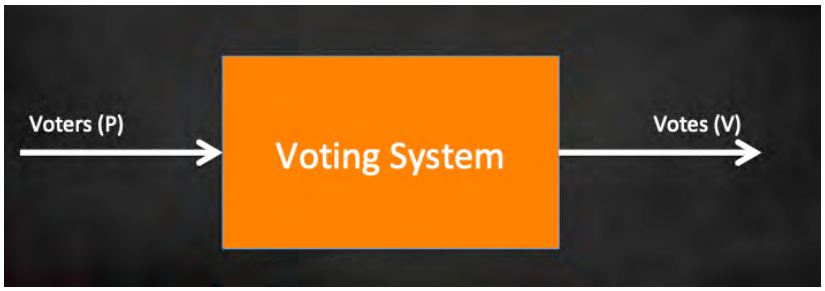
a. **"High Republican, But Low Trump"** - The graph below is compound analysis of the Republican voting pattern in six counties: Fulton, Cobb, DeKalb, Cherokee, Chatham, Forsyth. The graph plots on the x-axis the percentage of Republicans in a precinct, and on the y-axis the difference in the actual number of votes between what President Trump received and the number of votes he would have received had Republicans in that precinct voted for him. This graph again shows that President Trump apparently lost votes in the same pattern as above - "High Republican, But Low Trump."



DISCOVERY OF ALGORITHM USED TO ALLOCATE VOTES FROM PRESIDENT TRUMP TO MR. BIDEN – I.E. ELECTION FRAUD

22. It is assumed in the United States of America, we have "One Person, One Vote." However, with the use of electronic voting systems, this is not guaranteed.

23. Consider the diagram below, if P number of voters, vote, we expect V number of votes.



24. In the above diagram, P is equal to the number of registered Republicans PLUS the number registered Democrats PLUS the number of those unregistered in either party –

"Independents" – PLUS the number of those in other parties (i.e. Libertarian, Green, etc.).

25. In the above diagram, V is equal to the number of votes cast for the Republican candidate i.e. President Trump PLUS the number of votes cast for the Democrat candidate i.e. Mr. Biden PLUS the number of votes cast for the other party candidates i.e. Jo Jorgensen PLUS the number of write-in votes PLUS the number of undervotes (blank votes) PLUS the number of overvotes (voting for both candidates).

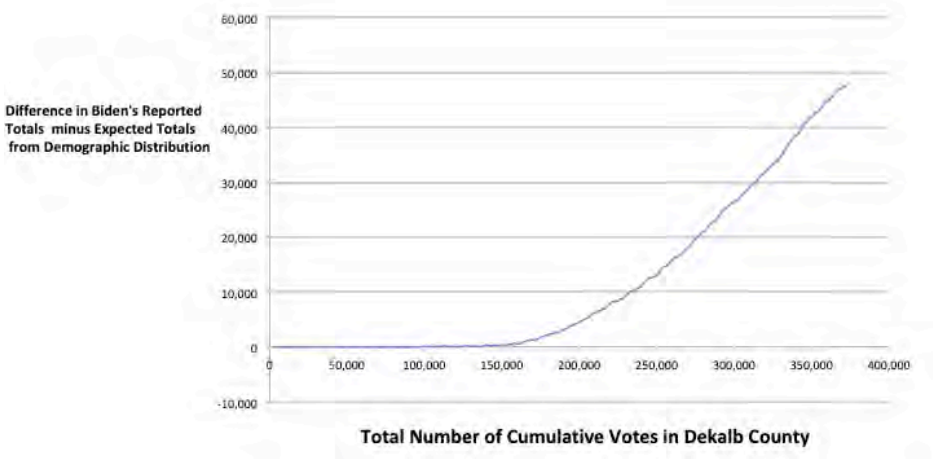
26. Most of us believe that P will equal V assuming that what goes into the Voting System, as illustrated in the above diagram, will not be manipulated in any manner; however, it is documented in the technical manuals of electronic voting machine software that a "weighted race" feature exists to multiply a voter's vote by a "weight" – a decimal value - that can be less than 1 or greater than 1. Moreover, documentation exists to show that the vote counts are stored as decimal values, not as integers.

27. The existence of the "weighted race" feature provides a mechanism to employ an algorithm so, "One Person, DOES NOT Equal One Vote." This means P will equal V if and only if the weights equal 1 ("one"); otherwise, the assumption P equals V is false.

28. In the analysis of DeKalb County, using data provided by the Secretary of State of Georgia, there is unequivocal evidence of an algorithm that has been put in place such that when a precinct nears approximately ten-percent ("10%") in White voters, a linearly increasing percentage of total votes is transferred from President Trump to Mr. Biden.

29. DeKalb County has approximately 31% White voters, and 52% Black voters.

30. The graph below plots on the x-axis the number of cumulative votes as reported by the Secretary of State of Georgia. As we move from left to right on the x-axis, the percentage of white voters in each precinct increases. The y-axis plots the difference between Mr. Biden's votes as reported by the Secretary of State of Georgia and what he should have received based on the ethnic distribution of DeKalb County.



31. The above graph indicates as the percentage of white voters increases beyond approximately ten-percent (10%), at a total vote count of approximately 150,000 votes, a mathematical algorithm comes into play, to transfer a weighted factor of total votes from President Trump to Mr. Biden in a very specific – un-natural, machine-like manner. Based on the current data, that weight factor appears to be approximately 1.22.

32. Using the weight factor of 1.22, approximately 48,000 votes were transferred to Mr. Biden to DeKalb County alone.

CONCLUSION

This Declaration has presented, in multiple counties in Georgia, a consistent pattern of "High Republican, Low Trump" vote pattern anomalies that are improbable. In addition, it was

discovered that when ethnic distributions were applied to three (3) counties, the only plausible explanation for the vote distribution was that President Trump received near zero Black votes, which is also highly improbable.

Analysis of DeKalb County enabled the discovery of a "weighted race" algorithm that transferred, using a "weight" of 1.22, approximately 48,000 votes from President Trump to Mr. Biden. In DeKalb County, 373,000 votes were cast. The approximate 48,000 votes transferred to Mr. Biden represents approximately 13% of the total votes cast in DeKalb County.

When one considers the entire State of Georgia, the number of votes cast in DeKalb county represents a mere 7.5% of the total number of votes cast in the entire State of Georgia, which was reported by the Secretary of State of Georgia to be 4,998,482 votes.

The analysis herein reveals the number of voters may likely not equal of the number of votes given algorithms were in place to manipulate the tabulation of votes. This result demands that ballot images, log files, CVR, and electronic data files from each precinct be reviewed to validate the integrity of the election in Georgia. Until that time, the election results are unverifiable.

Respectfully submitted under the pains and penalties of perjury,

November 25, 2020

Dr. Shiva Ayyadurai
701 Concord Ave,
Cambridge, MA 02138
Phone: 617-631-6874
Email: vashiva@vashiva.com

CURRICULUM VITAE
Shiva Ayyadurai, Ph.D.

Education
INSTITUTION AND LOCATION DEGREE YEAR FIELD OF STUDY
MIT, Department of Biological Engineering Ph.D. 2007 Systems Biology
MIT, Department of Mechanical Engineering S.M.M.E. 1990 Applied Mechanics
MIT Media Laboratory, Department of Architecture S.M.V.S. 1989 Scientific Visualization
MIT, Department of Electrical Engineering and Computer Science S.B.E.E. 1986 Operating Systems
Industry & Entrepreneurial Experience
2010-Present Founder, Chairman & CEO, Chief Scientist, CytoSolve, Inc.
2009 Additional-Secretary, Indian Government & CEO, CSIR-Tech, India
2004-Present Board Member, EchoMail, Inc., Enterprise Email Management
2004-Present Founder and Managing Director, General Interactive, LLC, Venture Incubator
1998-2004 Founder, President & CEO, EchoMail, Inc., Enterprise Email Management
1994-1998 Founder, President & CEO, Millennium Productions, Inc., Software & Media Production
1990-1994 Director of Advanced Products, Dataware Technologies, Inc., CD-ROM Search Software,
1986-1990 Senior Engineer, Graphics Software, IBM/Lotus Development Corporation
1984-1986 Senior Engineer, Information Resources, Inc., Marketing Analytics
1983-1984 Consulting Software Engineer, Chase, Inc., Hydrodynamics Software,
1982-1984 Research Engineer, HP Medical Systems, Operating System for Cardiologist Workstation,
1982-1983 Consulting Software Engineer, MIT Civil Engineering, Intelligent Signal Processing,
1981-1982 Consulting Software Engineer, Number Nine, Inc., Advanced Graphics Hardware,
Academic Teaching Experience
2010–Present Lecturer, Systems Thinking Workshops, Systems Health, LLC
2010-2013 Lecturer, Systems Visualization, MIT Comparative Media Studies
2007-2012 Lecturer, MIT Biological Engineering Department
2007 Lecturer, Biological Pathway Design and Implementation, SMA 2007 Boot Camp
2006 Lecturer, Biological Pathway Design and Implementation, SMA 2006 Boot Camp
2006 Teaching Assistant, Control Systems and Dynamics, 2.14, MIT Mechanical Engineering
1994-2004 Industry Expert, "Dr. E-Mail", Lectures Worldwide, Global 2000 Companies
1992-1994 Lecturer, Information Technology I, MIT Sloan School of Management
1990 Teaching Assistant, Dynamics, 2.03, MIT Department of Mechanical Engineering.
1988 Lecturer, Physics, MITES Program,
1987 Teaching Assistant, Computer Graphics, 4.971, MIT Media Laboratory
1986 Teaching Assistant, Measurements Laboratory, 2.671, MIT Mechanical Engineering
1985 Teaching Assistant, Being There, MIT Humanities Department
1984 Tutor, Circuits and Electronics, 6.002, MIT Electrical Engineering and Computer Science
1983 Tutor, Structures & Programming, 6.001, MIT Electrical Engineering & Computer Science
1982 Lecturer, IAP Course on Indian Art History, MIT Humanities Department
Academic Research Experience

2009-Present Director, International Center for Integrative Systems, Educational & Research Foundation
2013-2014 Visiting Scientist, Sociotechnical Systems Rsrch Ctr., Engineering Systems Division, MIT
2010-2011 Director, MIT Media & Organizational Biomimetics, Comparative Media Studies, MIT
2009 Scientist Level H, Council of Scientific and Industrial Research, New Delhi, India
2007-2009 Fulbright Scholar, Systems Biology-Traditional Medicines, US-India Fulbright Program
2004-2007 Research Associate, MIT Biological Engineering, Computational Systems Biology
1996-2004 Chief Scientist, EchoMail, Inc., Large Scale Architectures for Message Analysis
1992-1996 Chief Technology Officer, Information Cybernetics, Inc., Document Analysis & Modeling
1990-1992 Research Team Leader, Sloan School of Mgmt, Offline Handwriting Recognition, MIT
1988-1990 Graduate Research Assistant, MIT NDE Lab, Wave Propagation Analysis and Modeling
1986-1988 Graduate Research Fellow, MIT Media Laboratory, Automated Graphic Design System
1984-1986 UROP Research, Particle Analysis in Fluidized Bed Reactors, Langer Laboratory, MIT
1983-1984 UROP Research, Cryogenic Embryo Preservation, Health Sciences and Tech., MIT
1982 UROP Research, History of India's Caste System, Prof. Noam Chomsky, MIT
1981-1983 UROP Research, Tadoma and Speech Recognition, Research Lab for Electronics, MIT
1978-1983 Research Associate, Sleep Pattern Analysis, Biomedical Engineering, UMDNJ
1978-1984 Research Fellow, Email System, Laboratory for Computer Science, UMDNJ

Political & Activism Experience

Republican Candidate for U.S. Senate 2020 from Massachusetts

Running for U.S. Senate to represent MA in 2020

Independent Candidate for U.S. Senate 2018 from Massachusetts

Garnered a historic ~100,000 votes running aggressive ground campaign in MA. Number of votes was
five times greater than any other Independent candidate in MA history.

Industry Publications

Dr. Shiva Ayyadurai is the author of over 200 hundred confidential industry publications, white papers
and studies performed in the fields of email technologies and systems biology for global 2000 companies.
The titles of those publications are available upon request. 1992 – Present.

Selected Academic Publications

S. Ayyadurai, P. Deonikar, Modulation of Neural Signaling by Tetrahydrocannabinol (THC), Food
Chemistry, Submitted for Publication, June 2019.
S. Ayyadurai, M. Hansen, J. Fagan, P. Deonikar, *In-Silico* Analysis & *In*-Vivo Results Concur on

Glutathione Depletion in Glyphosate Resistant GMO Soy: Advancing a Systems Biology Framework for
Safety Assessment of GMOs, American Journal of Plant Sciences, Vol. 7, No. 12, August 19, 2016.
M. Sweeney, S. Ayyadurai, B.V. Zlokovic, Pericytes of the neurovascular unit: key functions and
signaling pathways, Nature Neuroscience, Vol. 19, No. 6, 771-83, May, 2016.
S. Ayyadurai, P. Deonikar, Do GMOs Accumulate Formaldehyde and Disrupt Molecular Systems
Equilibria? Systems Biology May Provide Answers, Agricultural Sciences, Vol. 6, No. 7, July 10, 2015.
S. Kothandaram, P. Deonikar, M. Mohan, V. Venugopal, S. Ayyadurai, *In-Silico* Modeling of C1 Metabolism, American Journal of Plant Sciences, Vol. 6, No. 9, June 17, 2015.
S. Ayyadurai, The Control Systems Engineering Foundation of Traditional Indian Medicine: the Rosetta
Stone for Siddha and Ayurveda, Systems of Systems Engineering, Vol. 5, No. 2, 125-149, June, 2014.
A. Koo, S. Ayyadurai, D. Nordsletten, R. Umeton, B. Yankama, S. Ayyadurai, G. García-Cardeña, C.
Forbes Dewey Jr., *In Silico* Modeling of Shear-stress-induced Nitric Oxide Production in Endothelial Cells
through Systems Biology, Cell Biophysical Journal, Volume 104, Issue 10, 2295-2306, May 21, 2013.
S. Ayyadurai, S. Abraham, T. Zawacki, International Small Business Commerce (ISBC): Potential Source
of New Revenue for the United States Postal Service, U.S. Postal Service Office of Inspector General,
February 15, 2013.
S. Ayyadurai, D. Sparks, L.P. Michelson, S. Abraham, Email Management & Potential Opportunities for
United States Postal Service, U.S. Postal Service Office of Inspector General, August 24, 2012.
S. Ayyadurai, D. A. Nordsletten, B. Yankama, R. Umeton, C. F. Dewey Jr., Multi-scale Mathematical
Modeling to Support Drug Development, Proceedings of Biomedical Engineering Society (BMES),
Hartford, CT, October 12-15, 2011.
S. Ayyadurai, C.F. Dewey, Jr., CytoSolve: A Scalable Computational Method for Dynamic Integration of
Multiple Molecular Pathway Models, Biological Engineering Division, MIT, Cambridge, MA, June
28, 2011.
S. Ayyadurai, Biomimetics of Communication and Media, 12th International Research Symposium on
Service Excellence in Management, Ithaca, NY, June 2-5, 2011.
S. Ayyadurai, C.F. Dewey, Jr., A Distributed Computational Architecture for Integrating Multiple

Biomolecular Pathways, Biological Engineering Division, MIT, Cambridge, MA, March 9, 2011.
S. Ayyadurai, Services-Based Systems Architecture for Modeling the Whole Cell: A Distributed Collaborative Engineering Systems Approach, Communications in Medical and Care Compunetics,
Springer Publications, 16 November 2010.
S. Ayyadurai, B. Yankama, R. Umeton, C. F. Dewey Jr., Editing and Aligning Complex Molecular
Pathways Using 3D Models, Proceedings of Biomedical Engineering Society (BMES), Austin, TX, October
6-9, 2010.
S. Ayyadurai, Commentary: Innovation Demands Freedom, Nature India, December, 2009.
S. Ayyadurai, Modeling the Cell, Proceedings of BIO-IT Conference, In Silicon Modeling Section, Boston.
MA, April 2009.
S. Ayyadurai, Integration of Siddha with Systems Biology, Proceedings of Fullbright Conference 2009,
Kolkata, India, March 2009.
S. Ayyadurai, Eva Sciacca, C. Forbes Dewey, Jr., A Web Based Tool for Integration of Molecular Pathway
Models, Proceedings of BioInformatics and BioEngineering, 8th IEEE International Conference, 8-10 Oct.
2008.
S. Ayyadurai, Mission of Systems Biology, Bio-IT Beyond Genome Conference Proceedings, June
2008.
S. Ayyadurai, C.F. Dewey, Jr., Scaleable methods for large molecular pathway calculations: application to
EGFR, In Biomedical Engineering Society Annual Fall Meeting, Los Angeles, September 2007.
K. R. Stiehl, K. Dang, S. Ayyadurai, B.-S Seah, S. S. Bhowmick, C. Forbes Dewey, Jr., A New Approach to
Database Creation Using Ontologies: OWLdb. K. Dang, K. R. Stiehl , S. Ayyadurai, B.-S Seah, S. S.
Bhowmick, C. F. Dewey, Jr., An Information Architecture to Support Molecular Pathway
S. Ayyadurai, C.F. Dewey, Jr., Integrating an Ensemble of Biochemical Network Models, In International Society of Computational Biology (ISCB 2007), Vienna, July 2007.
S. Ayyadurai, Cytosolve, In proceedings of the Singapore MIT Symposium for Computational and
Systems Biology, January 2007.
S. Ayyadurai, Integrating Biological Pathway Models, In MIT CSBi Oktoberfest Proceedings, Cambridge, October, 2006
S. Ayyadurai, C. Forbes Dewey, Jr., C. Tan, Distributed Computing of Complex Collections of Biological Pathways, In World Congress on Medical Physics and Biomedical Engineering (WC 2006), Seoul, August-September 2006.
S. Ayyadurai, C. F. Dewey, Jr., J. Bassingthwaighte, J. Butterworth, P. Villiger, P. Hunter, Normalization

of Biological Pathways, In World Congress on Medical Physics and Biomedical Engineering (WC
2006), Seoul, August-September 2006.
S. Ayyadurai, C.F. Dewey, Jr., Cytosolve: A Distributed Computational Architecture for the Integration of
Biomolecular Pathways, In Biomedical Engineering Society Annual Meeting, Chicago, September
2006.
C. F. Dewey, Jr., S. Ayyadurai, V. Rouilly, C. L. Poh, S. S. Bhowmick, J. Evans, R. I. Kitney, Footprints in
the Sand: Supporting External Analysis of Medical and Biological Databases, In World Congress on
Medical Physics and Biomecal Engineering (WC 2006), Seoul, August-Sept 2006.
S. Ayyadurai, Modeling Actin Polymerization as a System of Integrated Biomolecular Pathways, In
Proceedings of the Annual MIT CSBi Oktoberfest, October 2005.
S. Ayyadurai, C.F. Dewey, Jr., Computing unsteady phenomenon across multiple molecular pathways,
In Biomedical Engineering Society Annual Meeting, Washington, D.C., September 2005.
S. Ayyadurai, S. A. Cimaszewski, J. H. Williams, Jr.: Unsupervised Classification of Fiber Composite
Interphases, In Proceedings of the Second International Conference on Acusto-Electronics, The American
Society of Nondestructive Testing, June 24-25, 1993.
A. Gupta, M. V. Nagendraprasad, A. Liu, Patrick Shen-Pei Wang, S. Ayyadurai: An Integrated
Architecture for Recognition of Totally Unconstrained Handwritten Numerals, In International Journal of
Pattern Recognition and Artificial Intelligence, Vol. 7, No. 4, pp. 757-773, 1993.
G. V. Novakovic, L. E. Freed, S. Ayyadurai, H. Bernstein, Robert S. Langer and C. L. Cooney, Fluid-
Dynamic Study of the Enzymatic Fluidized Bed Reactor for Blood Dehparinization, Fluidization VI, In
Proceedings of the International Fluidization Conference, Banff, Canada, May 1989.
S. Laxminarayan, O. Mills, L. Rajaram, S. Ayyadurai, L.P. Michelson, Sleep Stage and Apnea Pattern
Analysis, In Proceedings of the International Conference on Medical and Biological Engineering, Espoo,
Finland, August 1985.

Books

The Climate of Science

August 2019

The Future of Email: What We Must Do to Protect Ourselves

A review of email's origin and where email is going including opportunities and dangers.
Publisher: General Interactive, Cambridge, 2016

Systems Health

A three-volume set that is the text book for the Systems Health® course.

Publisher: General Interactive, Cambridge, 2016
The Science of Everything
An integration of eastern medicine & western systems theory to reveal the "science of everything."
Publisher: General Interactive, Cambridge, 2016
Your Body, Your System
How to achieve health and well-being by treating the body as a complex system of systems.
Publisher: General Interactive, Cambridge, 2016
The System and Revolution
Provides an accessible guide to power of systems thinking and how it can revolutionize everything.
Publisher: General Interactive, Cambridge, 2015
The EMAIL Revolution: Unleashing the Power to Connect
Provides the history of email and how modern AI is advancing email across major organizations: small
and large.
Publisher: Skyhorse & Penguin, New York, 2013
The Internet Publicity Guide: How to Maximize your Marketing and Promotion in Cyberspace
Educational guide for online retailers on how to build sales through the emerging online medium.
Publisher: Allworth Press, New York, 1997
Arts and The Internet: A Guide to the Revolution
A guide to educate artists on the power of the Internet for new forms of art and distribution.
Publisher: Allworth Press, New York, 1996
Honors and Awards
"Star" Scientist in Feature Documentary *Poisoning Paradise*
Poisoning Paradise winner of multiple film awards, 2019
Inventor of Email Honor by Government of Argentina
Invited by the Government of Argentina, Tucuman Province and the University of Technology National to give lectures on innovation, June, 2019
Clinical Research Summit 2019
Distinguished Lecture Award, March, 2019
State of the Art Lecture Award
American Society for Clinical Pharmacology and Therapeutics, 2017
MIT Presidential Fellows Distinguished Lecture
Selected to give annual MIT Presidential Fellows Lecture, September 2017
#1 Reviewer's Choice for The Future of Email Book
Midwest Book Review: Small Press Bookwatch, 2017
Email @33: Inventor of Email Honoring
Digital India Foundation, September 2015
Serial Entrepreneur of the Year
Entrepreneur Magazine, 2015
Nominated National Medal of Technology and Innovation (NMTI)
US Patent and Trademark Office, September 2014
Livingston Hall of Fame

Livingston Educational Foundation (LEF), June 2014
ASSIST World Records Research Foundation Honorary Award
ASSIST World Records Research Foundation, Puducherry, India July 2013
Honorary Doctorate
Vinayaka Missions University, Salem, India July 2013
SKP Lifetime Achievement Award for Science and Technology
SKP Engineering College, Tiruvannamallai, India July 2013
Sri Sakthi Institute of Technology Lifetime Achievement Award
Sri Sakthi Institute of Technology, Coimbatore, **India July 2013**
The Smithsonian's National Museum of American History Acceptance of EMAIL papers, artifacts
National Museum of American History, The Smithsonian Institution, Washington D.C, February 16, 2012
The Man Who Invented Email
Time Magazine, November, 2011
First Outstanding Scientist and Technologist of Indian Origin (STIO/H)
Council of Scientific and Industrial Research (CSIR), India, 2009
Fulbright Scholar
US Fulbright, Washington, DC, 2008-2009
Travel Fellowship Award
ISMB 2007, Vienna, Austria, 2007
Fulbright Scholar
US Fulbright, Washington, DC, 2007
Graduate Research Fellowship
SMA Graduate Research Fellowship, 2004-2007
Communications Solutions ™ Product of the Year Award
EchoMail RMOS Product Suite, November, 2003
Customer Interactive Solutions, TMC Labs Innovation Award
EchoMail Customer Care, September, 2002
Massachusetts Interactive Media Council Award (MIMC)
Customer Support Applications, EchoMail CC/BI (Finalist) 2002
Silver Pencil Award, Integrated Branding
Wieden & Kennedy/EchoMail, cK one E-Mail Campaign, 2001
Lotus Beacon Award
EchoMail RMOS Product Suite, 2000
Best of Class Internet Commerce Expo
Customer Service & Fulfillment, EchoMail CC, 1999
Massachusetts Interactive Media Council Award (MIMC)
Groupware/Collaborative Website (Finalist) World Music , 1998
Massachusetts Interactive Media Council Award (MIMC)
Non-Profit/Public Service Online, AccessExpressed.org Online Community (Finalist), 1998
Who's Who in America
Since 1997
IBM/Lotus Beacon Award
Best Messaging Solution, EchoMail Suite, 1997
Massachusetts Interactive Media Council Award

Best E-Mail/ Fax Application, EchoMail suite, 1997
Discover Magazine Award for Technical Innovation
XIVATM Core Technology, 1996
Lemelson-MIT Award for Innovation
XIVATM Core Technology (Finalist), 1996
Verizon (formerly GTE/BBN) Technologies Award
ProVision Award, Interactive Marketing Creative Direction, 1996
PCWeek's Web Site of the Week
Harvard-Square.com Online Community, 1996
Best of Europe Online
Arts-Online.com Online Community, 1996
Yahoo! #1 What's Cool
Harvard-Square.com Online Community, 1996
IBM Best Online Community
Harvard-Square.com Online Community, 1996
DISNEY EPCOT Center Award for Exhibit
Selected to be in Innoventions Exhibit, 1996
First Place, Competition for Automatic Categorization of Electronic Mail
Office of the President, White House, Washington, DC, November, 1994.
Winner, Automatic Categorization of SGML Tagged Documents
Information Handling Services (IHS), Boulder, CO, 1993.
International Fellowship Research Grant, Research in the Cross-Language Translators
Sloan School of Management and Industrial Liaison Program and the Italian Trade Commission, MIT,
Cambridge, MA, 1992.
Elected Session Chairman, Session on Scientific Visualization
International IEEE EMBS Conference, Institute of Electrical and Electronics Engineers (IEEE), Philadelphia, PA, 1991
Founder and Organizer, Session on Scientific Visualization
International IEEE EMBS Conference, Institute of Electrical and Electronics Engineers (IEEE), Seattle,
WA, 1990.
Full Member, SIGMA XI
Since 1989
SIGMA XI UROP Award for Outstanding Undergraduate Research
1985
MIT Mennen Scholar
1982-1986
Tau Beta Pi
1984.
ETA KAPPA NU
1984
VI-A Hewlett-Packard COOP Assignment
Biomedical Division, Andover, MA 1983
MIT Varsity Soccer
1982

Awarded Westinghouse Science Talent Search Award
1981
Thomas Alva Edison/Max McGraw Finalist
1981
Accepted to American Legion Jersey Boys State Program
1981
Outstanding Statesman Award, American Legion Jersey Boys State
1981
All-County Soccer Champions
Essex County, New Jersey, 1981
Individual First Place in Advanced Mathematics at New Jersey State Mathematics Competition
1981
Accepted to Gifted Students Program
New York University Program in Computer Science at Courant Institute of Mathematical Sciences for
gifted students in Eighth Grade of Junior High School, 1977
Patents
Patent No. 6,668,281, V.A. Shiva Ayyadurai, "Relationship management system and method using
asynchronous electronic messaging", April 6, 2004.
Patent No. 6,718,368, V.A. Shiva Ayyadurai, "System and method for content-sensitive automatic reply
message generation for text-based asynchronous communications", April 6, 2004.
Patent No. 6,718,367, V.A. Shiva Ayyadurai, "Filter for modeling system and method for handling and
routing of text-based asynchronous communications", April 6, 2004.
Research and Thesis Supervision
Ceryen Tan, **MIT UROP Project,** Biological Engineering, **Title:** SBML API Programming for Biological
Systems Integration, 2005.
Steven A. Cimaszewksi, **MIT Masters Thesis**, Mechanical Engineering, **Title**: Statistical Analysis of Fiber
Composite Interphase Inverse Problem, 1994.
Peter L. Sparks, **MIT Bachelors Thesis**, Electrical Engineering, **Title**: A Hybrid Method for Segmenting
Numeric Character Strings, 1991.
Matthew J. Labrador, **MIT Bachelors Thesis**, Electrical Engineering, **Title**: The Generalized Mass-Spring
Lattice Model with Damping : A Lagrangian Dynamics Approach, 1990.
Professional Societies
TIE, Charter Member
Tau Beta Pi, Lifetime Member
Sigma Xi, Full Member
Eta Kappa Nu, Member
Oxford-Cambridge Society, Member

The Indus Enrepreneur (TIE), Charter Member
Biomedical Engineering Society (BMES), Student Member

Skills

Programming Languages

C++, C, Java, HTML, ASP

Foreign Languages

Spanish, Italian, Tamil, Hindi

General Skills

Problem Solving, Writing, Teaching and Lecturing, Fundraising, Research, Proposal Development,
Software Architecture, Design and Development, User Interface Design, Mathematical Modeling,
Organizational and Business Development, Crisis Management, Mentoring and Career Development,
Negotiations

Invited Lectures (selected ones)

Associatoin of Systems Pharmacologists
Karunya University, National Level Symposium
Address: Inventions and Innovations for Sustainable Development
Coimbatore, India March 2014
Hindustan Educational Institutions
Address: Innovate to Lead
Coimbatore, India March 2014
Indian Institute of Technology, Mumbai
Address: Innovation Anytime, Anyplace by Anybody
Mumbai, India March 2014
Indian Institute of Technology, Delhi
Address: Innovation Anytime, Anyplace by Anybody
New Delhi, India March 2014
Penguin Publication Book Tour
Address: The EMAIL Revolution
India, March 12 to March 25, 2014
Chopra Center: Journey to Healing
Address: Systems Health
San Diego, CA March 2014
Sages and Scientists
Address: Systems and Revolution
San Diego, CA August 2013
MIT Conversations on Sociotechnical Systems
Address: Rethinking Narrative and Systems of Innovation: Innovation Anytime, Anyplace by Anybody
MIT, Cambridge, MA October 2013
Chopra Center: Journey to Health
Address: Systems Health
San Diego, CA August 2013
Hindustan University

Address: Innovation Anytime, Anyplace by Anybody
Chennai, India July 2013
Velammal Vidyalaya
Address: Innovation Anytime, Anyplace by Anybody
Chennai, India July 2013
SCAD Engineering College
Address: Innovation Anytime, Anyplace by Anybody
Tirunelveli District, India July 2013
PSR Engineering College
Address: Innovation Anytime, Anyplace by Anybody
Sivakasi, India July 2013
Kalasalingam University
Address: Innovation Anytime, Anyplace by Anybody
Virudhunagar, India July 2013
Kalaignar Institute of Technology
Address: Innovation Anytime, Anyplace by Anybody
Coimbatore, India July 2013
Sri Sakthi Institute of Technology
Address: Innovation Anytime, Anyplace by Anybody
Coimbatore, India July 2013
SCAD Engineering College
Address: Innovation Anytime, Anyplace by Anybody
Coimbatore, India July 2013
Akshara Vidyaashram
Address: Innovation Anytime, Anyplace by Anybody
Cuddalore, India July 2013
CK College of Engineering & Technology
Address: Innovation Anytime, Anyplace by Anybody
Cuddalore, India July 2013
Sathyabama University
Address: Overcoming Hurdles and Believing in Oneself to Fulfill One's Destiny
Chennai, India July 2013
Infosys
Address: How Innovation can Happen: Innovation Anytime, Anyplace by Anybody
Chennai, India July 2013
GT Aloha Vidyamandir
Address: Integrate and Innovate
Chennai, India July 2013
Vellore Institute of Technology
Address: Siddha: The First Systems Biology
Vellore, India July 2013
Sri Sairam Engineering college & Sri Sairam Homoeopathy Medical College
Address: Innovation and the Invention of Email / Integration of Ancient and Alternative Medicine
Systems
Chennai, India July 2013

Sona University
Address: Innovation Anytime, Anyplace by Anybody
Salem, India July 2013
Vinayaka Missions University
Address: Innovation Can Happen Anywhere
Salem, India July 2013
Sastha Tamil Foundation
Address: Innovation and Systems
Plano, TX April 2013
The Consortium of Health and Military Performance
Address: A Revolution in Medical Education
Uniformed Universities of Health Sciences, April 2013
MIT Traditional Medicines Society
Address: EAST MEETS WEST: Traditional Medicines + Modern Systems Biology
MIT, Cambridge, MA February 5, 2013 to April 21, 2013
MIT Biological Engineering Department Lecture Series
Address: EAST MEETS WEST: Traditional Medicines + Modern Systems Biology
MIT, Cambridge, MA September 9, 2011 to December 5, 2011
MIT Lecture Series
Address: EAST MEETS WEST: Traditional Medicines + Modern Systems Biology
MIT, Cambridge, MA September 9, 2010 to December 9, 2010
Customer Response Summit
Address: PREDICTING THE FUTURE: Are You REALLY Ready to Listen?
Westin Kierland Resort & Spa, Scottsdale, AZ November 3rd & 4th, 2010
Visual Interpretations Conference
Address: Collaborative Cave Drawings of Social Interactions: Simple Visualizations of Complex Phenomena humanities + digital Visual Interpretations Conference @ MIT, Cambridge, MA
May 2010
BIO-IT Conference In Silico Biology
Address: Modeling the Cell
BIO-IT Conference, Boston, MA April 2009
Sri Ramachandra University
Address: Integration of Yogic Science and Systems Biology
Sri Ramachandra University, Chennai, IN, March 2009
SIAM Conference on Multi-Scale Systems
Address: Scalable Architecture for Integrating Multiple Biological Pathway Models
Montreal, CANADA August 2008
Genome Biology Conference - KEYNOTE SPEAKER
Address: The Mission of Systems Biology
Genome Biology Conference, San Francisco, CA June 2007
MIT UROP Panel
Address: Opportunities for Research at MIT
MIT UROP, Cambridge, MA February 2007
MIT Singapore Symposium
Address: Cytosolve
SMA Alliance Symposium, Singapore, January 2007

MIT GAME Seminar
Address: Modeling the Cell
Graduate Mechanical Engineering Students Seminar, Cambridge, MA 2005
Effective E-Mail Marketing Campaigns
Address: Measure your Success: New Metrics for E-Mail Marketing
The Institute for International Research, San Francisco, CA, February 2002
Excellence in E-CRM Conference
Address: The Big Lie of CRM
Allstate Corporation Conference Center, Northbrook, Ill. November 2001
E-Marketing / E-Service Seminar Series
Address: E-Mail Project Solutions
Cambridge Education Center, Cambridge, MA December 2001
EU Conference: Artificial Intelligence
How to Increase Banking Business and Open New Dialogue with On-line Customers
Address: E-Business Strategies for CRM
Realvision Vicenza e NTI UK Italia, *Vicenza, Italy, June 2001*
Pre-Conference Lecture, E-Mail2001 @ MIT Conference
Keynote Address: The Pulse of the Industry
Becton, Dickinson and Company, Franklin Lakes, New Jersey, May 2001
Nothing But New Forum at Fidelity Center for Applied Technology
Keynote Address: E-Mail Marketing Strategies
Fidelity Center for Applied Technologies, *Boston, MA, April 2001*
E-Mail2001@MIT Conference: Intelligent Life
Keynote Address: The Corporate Nervous System
MIT University Park Hotel, *Cambridge, MA, January 2001*
Southern India E-Commerce Conference 2000
Keynote Address: E-Mail = E-Commerce
Advertising Club of Madras, *Chennai, India, December 2000*
Le Potenzialita del Marketing On-line in Italy
Keynote Address: Marketing On-line in Italy: How It Can Be Done
Brodeur Image Time, *Milan, Italy, December 2000*
2000 General Motors Dealer Summit
Keynote Address: eCRM - How E-Mail Helps Your Business
Maritz Performance Improvement Company, *Scottsdale, AZ, October 2000*
Producing Sales in Call Centers
Keynote Address: Implementing Interactive Web
Institute of International Research, *Washington, D.C., June 2000*
Measuring and Managing the Quality of E-Mail Response
Keynote Address: Using Automated Systems to Improve E-Mail Response
InfoCast, *San Francisco, CA, May 2000*
JCPenney Internet Day
Keynote Address: E-Mail - The Ultimate Relationship Builder
JCPenney, *Huston, TX, May 2000*
Annual Investment Conference for Private Companies
Keynote Address: Electronic Customer Relationship Management
Massachusetts Software and Internet Council, World Trade Center, *Boston, MA, April 2000*

Innovators Breakfast Series
Open Discussion: The eCRM Problem
Massachusetts Institute of Technology, New York Academy of Sciences, *New York, NY, April 2000*
Innovators Breakfast Series
Open Discussion: The Power of E-Mail - Brand Loyalty in Real Time
Massachusetts Institute of Technology, National Press Club, *Washington, D.C., April 2000*
American Express, Naples Conference
Keynote Address: Electronic Customer Relationship Management
American Express, *Naples, FL, March 2000*
American Express, Bermuda Conference
Keynote Address: Electronic Customer Relationship Management
American Express Delivery Group, *South Hampton, Bermuda, March 2000*
Customer E-Mail Management
Keynote Address: Using Automated Systems to Improve E-Mail Response
International Quality & Production Center, *London, England, February 2000*
GM e-Wow Speaker Series: Building Customer Relationships Online
Keynote Address: Electronic Customer Relationship Management
General Motors Global Brand Management College, *Detroit, Michigan, February 2000*
Innovators Breakfast Series
Open Discussion: Is software That Answers E-Mail Automatically the Future of On-line Marketing?
Massachusetts Institute of Technology, *Cambridge, MA, February 2000*
Internet Customer Relationship Management
Keynote Address: Electronic Customer Relationship Management
The Institute for International Research, *San Diego, CA, January 2000*
Electronic Commerce World 1999 Conference
Educational Track: E-Mail--The Ultimate Relationship Builder
EC World 2001 Conference, *Orlando, FL, October 1999*
Technology Based Customer Care ICM Conference
Keynote Address: E-Mail = E-Commerce
ICM Conferences, Atlanta, *Georgia, February 1999*
DISNEY INSTITUTE/ OOPS Conference
Address: Object Oriented Programming, 1998
Other Seminar Leaders: Alan Kay
Books and Chapters in Books
The EMAIL Revolution
Author: V.A. Shiva
Publisher: Allworth Press, New York, 1997
E-Mail: The Ultimate Relationship Builder, Volume (In Progress)
Volume I, Volume II, Volume II
Author: V.A. Shiva
The Internet Publicity Guide: How to Maximize your Marketing and Promotion in Cyberspace
Author: V.A. Shiva
Publisher: Allworth Press, New York, 1997

Arts and The Internet: A Guide to the Revolution,
Author: V.A. Shiva
Publisher: Allworth Press, 1996, New York
Chapter on Electrodynamics, Dynamics,
Chapter in Book by Prof. Williams
Chapter in Communications Arts
Computer Assisted Automatic Indexing
Document Analysis Conference, October, 1994
Author: V.A. Shiva Ayyadurai, Submitted for Publication
Unsupervised Hierarchical Clustering of Fiber Interphases for Materials Classification
American Society of Non-Destructive Testing (ASNT) Conference, April, 1993
Authors: V.A. Shiva Ayyadurai, S. Cimaszewski, J.H. Williams. Jr.
Neural Network Based Hybrid System for Handwritten Character Recognition
Sloan School of Management Technical Report Fall, 1991
Author: Shiva Ayyadurai
Visualization of Wave Propogation in Anisotropic Media
Master of Science Thesis, MIT Media Laboratory February, 1990
Author: S. Ayyadurai
A Workstation for Particle Motion and Flow Analysis
IEEE Computers in Medicine, New Orleans, LA, November, 1988
Authors: Ayyadurai, Novakovic, Gordana, Langer, Bob
Blood Deheparinization in a Fluidized Bed Reactor
Proceedings of the Canadian Conference on Fluid Dynamics, 1987
Author: Novakovic, G., Ayyadurai, S., Michelson, L.
Prototype Expert System for Bridge Deck Deteriorization
Project Report to NSF, September, 1986
Authors: Maser, Ken, Schott, Jean-Pierre, Ayyadurai, Shiva
Sleep Stage and Apnea Pattern Analysis, pp. 505-506
Journal of the International Federation of Medical and Biological Engineering, Espoo Finland, August, 1985
Authors: Laximinarayan, S. Ayyadurai, S., Michelson, L.,
Ayyadurai's Four Point Theorem
The Mathematics Teacher, Spring, 1981
Author: Shiva Ayyadurai
Industry RFP Awards
Allstate Corporation, Business Intelligence and Customer Care Technology ($1,500,000.00)
AT & T, Business Intelligence and Customer Care Technology ($120,000.00)
American Express, Business Intelligence and Customer Care Technology ($4,120,000.00)
BancOne Services Corporation, Business Intelligence and Customer Care Technology ($920,000.00)
BThree (Warner), Business Intelligence and Customer Care Technology ($520,000.00)
Bausch & Lomb, Business Intelligence and Customer Care Technology ($25,000.00)
Becton Dickinson, Business Intelligence and Customer Care Technology ($1,110,000.00)
Bush for President, Inc., Business Intelligence and Customer Care Technology ($820,000.00)
Cendant, Business Intelligence and Customer Care Technology ($20,000.00)
Citigroup, Business Intelligence and Customer Care Technology ($3,150,000.00)

Calvin Klein Cosmetics Company, Business Intelligence and Customer Care Technology ($830,000.00)
Classified Ventures, Inc., Business Intelligence and Customer Care Technology ($710,000.00)
Dial Corporation, Business Intelligence and Customer Care Technology ($110,000.00)
Entertainment Media Services, Inc., Business Intelligence and Customer Care Technology ($150,000.00)
Fireman's Fund Insurance Company, Business Intelligence and Customer Care Technology ($80,000.00)
Gateway, Business Intelligence and Customer Care Technology ($1,170,000.00)
GEICO, Business Intelligence and Customer Care Technology ($2,250,000.00)
Hasbro Interactive, Inc., Business Intelligence and Customer Care Technology ($510,000.00)
Hershey Foods Corporation, Business Intelligence and Customer Care Technology ($9,500.00)
Hilton Hotel, Business Intelligence and Customer Care Technology ($1,050,000.00)
HomePortfolio, Inc., Business Intelligence and Customer Care Technology ($315,000.00)
The IT Group, Business Intelligence and Customer Care Technology ($25,000.00)
John Hancock Financial Services, Business Intelligence and Customer Care Technology ($660,000.00)
JCPenney, Business Intelligence and Customer Care Technology ($5,230,000.00)
LA Times, Business Intelligence and Customer Care Technology ($20,000.00)
Lycos, Inc., Business Intelligence and Customer Care Technology ($670,000.00)
Kimberly Clark Corporation, Business Intelligence and Customer Care Technology ($130,000.00)
People, Business Intelligence and Customer Care Technology ($120,000.00)
Procter & Gamble Company, Business Intelligence and Customer Care Technology ($340,000.00)
Purina, Business Intelligence and Customer Care Technology ($280,000.00)
QVC, E-Mail Management: Inbound and Outbound E-Mail ($890,000.00)
Rx.com, Inc., Business Intelligence and Customer Care Technology ($70,000.00)
Salomon Smith Barney, Business Intelligence and Customer Care Technology ($120,000.00)
Silicon Graphics, Inc., Business Intelligence and Customer Care Technology ($310,000.00)
Sprint Spectrum, Business Intelligence and Customer Care Technology ($850,000.00)
TELUS Corporation, Business Intelligence and Customer Care Technology ($90,000.00)
Time Incorporated, Business Intelligence and Customer Care Technology ($45,000.00)
Turner Entertainment, Business Intelligence and Customer Care Technology ($9,500.00)
United States Senate, Business Intelligence and Customer Care Technology ($890,000.00)
Unilever Consumer Services, Business Intelligence and Customer Care Technology ($780,000.00)
Professional ART RFP Awards
Aaron Concert Management, Art Promotional Support Online Branding Grant ($15,000.00)
American Indian Contemporary Arts, Art Promotional Support Online Branding Grant ($15,000.00)
Allworth Press, Art Promotional Support Online Branding ($15,000.00)
Alvin Ailey American Dance Theater, Art Promotional Support Online Branding Grant ($80,000.00)
Art Complex Museum, Art Promotional Support Online Branding Grant ($15,000.00)
Boston Ballet, Art Promotional Support Online Branding Grant ($40,000.00)

Boston Casting Company, Art Promotional Support Online Branding Grant ($15,000.00)
Cambridge Art Cooperative, Art Promotional Support Online Branding Grant ($15,000.00**)**
Cambridge Multi-Cultural Art Center, Art Promotional Support Online Branding Grant ($15,000.00)
Dance Umbrella, Art Promotional Support Online Branding Grant ($15,000.00)
Fashion Cafe, Art Promotional Support Online Branding ($15,000.00)
Green Linnet/Xeonphile, Art Promotional Support Online Branding ($15,000.00)
Handle & Haydn Society, Art Promotional Support Online Branding Grant ($15,000.00)
Honolulu Academy of Arts, Art Promotional Support Online Branding Grant ($15,000.00)
International Arts Manager, Art Promotional Support Online Branding Grant ($15,000.00)
Houston Ballet, Art Promotional Support Online Branding Grant ($15,000.00)
Lyric Stage, Art Promotional Support Online Branding Grant ($15,000.00)
MMC Recordings, Art Promotional Support Online Branding ($15,000.00)
MUSICIAN Magazine, Art Promotional Support Online Branding ($40,000.00)
National Association Performing Artists Managers of America (NAPAMA), Online Branding Grant
($15,000.00)
New Age Voice, Art Promotional Support Online Branding Grant ($15,000.00)
Poetry Alive! Art Promotional Support Online Branding Grant ($15,000.00)
Sedia Furniture Design, Art Promotional Support Online Branding Grant ($15,000.00)
Sculpture Review, Art Promotional Support Online Branding Grant ($15,000.00)
Strand Theater, Art Promotional Support Online Branding Grant ($15,000.00)
Very Special Art, National, Art Promotional Support Online Branding Grant ($70,000.00)
Very Special Art, Massachusetts, Art Promotional Support Online Branding Grant ($30,000.00)
World Music, Art Promotional Support Online Branding Grant ($15,000.00)
Young Concert Artists, Art Promotional Support Online Branding Grant ($15,000.00)
ZIMA, Art Promotional Support Online Branding Grant ($15,000.00)
PROFESSIONAL ART WORKSHOPS
Arts & The Internet
Art Promotional Through Online Branding
Arts & The Internet: A Guide to the Revolution
Empowering the artist and art organization to reach a global audience, using new technological tools.
MIT Classroom of the Future, 1996
Research Interests
Mathematical Modeling, Email Technologies, Systems Thinking, Organizational Structure and Planning, User Interface Design, Visual Arts, Politics, Nutrition & Health
Community Interests
MIT Graduate Alumni Consortium for Improving MIT Community, Very Special Arts, World Music, Read Across America, Spare Change, The Meena Scholarship Fund for Gifted South Indian Students, Kauai Hindu Temple Construction Fund

Exh. B

Joint Cybersecurity Advisory
Iranian Advanced Persistent Threat Actor
Identified Obtaining Voter Registration Data

JOINT CYBERSECURITY ADVISORY

TLP:WHITE

Product ID: AA20-304A

October 30, 2020

Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data

SUMMARY

This advisory uses the MITRE Adversarial Tactics, Techniques, and Common Knowledge (ATT&CK®) framework. See the ATT&CK for Enterprise framework for all referenced threat actor techniques.

This joint cybersecurity advisory was coauthored by the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI). CISA and the FBI are aware of an Iranian advanced persistent threat (APT) actor targeting U.S. state websites—to include election websites. CISA and the FBI assess this actor is responsible for the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related disinformation in mid-October 2020.[1] (Reference FBI FLASH message ME-000138-TT, disseminated October 29, 2020). Further evaluation by CISA and the FBI has identified the targeting of U.S. state election websites was an intentional effort to influence and interfere with the 2020 U.S. presidential election.

TECHNICAL DETAILS

Analysis by CISA and the FBI indicates this actor scanned state websites, to include state election websites, between September 20 and September 28, 2020, with the Acunetix vulnerability scanner (*Active Scanning: Vulnerability Scanning* [T1595.002]). Acunetix is a widely used and legitimate web scanner, which has been used by threat actors for nefarious purposes. Organizations that do not regularly use Acunetix should monitor their logs for any activity from the program that originates from IP addresses provided in this advisory and consider it malicious reconnaissance behavior.

Additionally, CISA and the FBI observed this actor attempting to exploit websites to obtain copies of voter registration data between September 29 and October 17, 2020 (*Exploit Public-Facing*

[1] See FBI FLASH, ME-000138-TT, disseminated 10/29/20, https://www.ic3.gov/Media/News/2020/201030.pdf. This disinformation (hereinafter, "the propaganda video") was in the form of a video purporting to misattribute the activity to a U.S. domestic actor and implies that individuals could cast fraudulent ballots, even from overseas. https://www.odni.gov/index.php/newsroom/press-releases/item/2162-dni-john-ratcliffe-s-remarks-at-press-conference-on-election-security.

To report suspicious or criminal activity related to information found in this Joint Cybersecurity Advisory, contact your local FBI field office at www.fbi.gov/contact-us/field, or the FBI's 24/7 Cyber Watch (CyWatch) at (855) 292-3937 or by e-mail at CyWatch@fbi.gov. When available, please include the following information regarding the incident: date, time, and location of the incident; type of activity; number of people affected; type of equipment used for the activity; the name of the submitting company or organization; and a designated point of contact. To request incident response resources or technical assistance related to these threats, contact CISA at Central@cisa.dhs.gov.

This document is marked TLP:WHITE. Disclosure is not limited. Sources may use TLP:WHITE when information carries minimal or no foreseeable risk of misuse, in accordance with applicable rules and procedures for public release. Subject to standard copyright rules, TLP:WHITE information may be distributed without restriction. For more information on the Traffic Light Protocol, see https://us-cert.cisa.gov/tlp.

Application [T1190]). This includes attempted exploitation of known vulnerabilities, directory traversal, Structured Query Language (SQL) injection, web shell uploads, and leveraging unique flaws in websites.

CISA and the FBI can confirm that the actor successfully obtained voter registration data in at least one state. The access of voter registration data appeared to involve the abuse of website misconfigurations and a scripted process using the cURL tool to iterate through voter records. A review of the records that were copied and obtained reveals the information was used in the propaganda video.

CISA and FBI analysis of identified activity against state websites, including state election websites, referenced in this product cannot all be fully attributed to this Iranian APT actor. FBI analysis of the Iranian APT actor's activity has identified targeting of U.S. elections' infrastructure (*Compromise Infrastructure* [T1584]) within a similar timeframe, use of IP addresses and IP ranges – including numerous virtual private network (VPN) service exit nodes – which correlate to this Iran APT actor (*Gather Victim Host Information* [T1592)]), and other investigative information.

Reconnaissance

The FBI has information indicating this Iran-based actor attempted to access PDF documents from state voter sites using advanced open-source queries (*Search Open Websites and Domains* [T1539]). The actor demonstrated interest in PDFs hosted on URLs with the words "vote" or "voter" and "registration." The FBI identified queries of URLs for election-related sites.

The FBI also has information indicating the actor researched the following information in a suspected attempt to further their efforts to survey and exploit state election websites.

- YOURLS exploit
- Bypassing ModSecurity Web Application Firewall
- Detecting Web Application Firewalls
- SQLmap tool

Acunetix Scanning

CISA's analysis identified the scanning of multiple entities by the Acunetix Web Vulnerability scanning platform between September 20 and September 28, 2020 (*Active Scanning: Vulnerability Scanning* [T1595.002]).

The actor used the scanner to attempt SQL injection into various fields in `/registration/registration/details` with status codes 404 or 500:

```
/registration/registration/details?addresscity=-1 or 3*2<(0+5+513-513) --
&addressstreet1=xxxxx&btnbeginregistration=begin voter
registration&btnnextelectionworkerinfo=next&btnnextpersonalinfo=next&btnnextresde
tails=next&btnnextvoterinformation=next&btnsubmit=submit&chkageverno=on&chkagever
yes=on&chkcitizenno=on&chkcitizenyes=on&chkdisabledvoter=on&chkelectionworker=on&
chkresprivate=1&chkstatecancel=on&dlnumber=1&dob=xxxx/x/x&email=sample@email.tst&
```

```
firstname=xxxxx&gender=radio&hdnaddresscity=&hdngender=&last4ssn=xxxxx&lastname=x
xxxxinjjeuee&mailaddresscountry=sample@xxx.xxx&mailaddressline1=sample@email.tst&
mailaddressline2=sample@xxx.xxx&mailaddressline3=sample@xxx.xxx&mailaddressstate=
aa&mailaddresszip=sample@xxxx.xxx&mailaddresszipex=sample@xxx.xxx&middlename=xxxx
x&overseas=1&partycode=a&phoneno1=xxx-xxx-xxxx&phoneno2=xxx-xxx-
xxxx&radio=consent&statecancelcity=xxxxxxx&statecancelcountry=usa&statecancelstat
e=XXaa&statecancelzip=xxxxx&statecancelzipext=xxxxx&suffixname=esq&txtmailaddress
city=sample@xxx.xxx
```

Requests

The actor used the following requests associated with this scanning activity.

```
2020-09-26 13:12:56 x.x.x.x GET /x/x v[$acunetix]=1 443 - x.x.x.x
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome/41.
0.2228.0+Safari/537.21 - 200 0 0 0
```

```
2020-09-26 13:13:19 X.X.x.x GET /x/x voterid[$acunetix]=1 443 - x.x.x.x
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome/41.
0.2228.0+Safari/537.21 - 200 0 0 1375
```

```
2020-09-26 13:13:18 .X.x.x GET /x/x voterid=;print(md5(acunetix_wvs_security_test));
443 - X.X.x.x
```

User Agents Observed

CISA and FBI have observed the following user agents associated with this scanning activity.

```
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome
/41.0.2228.0+Safari/537.21 - 500 0 0 0
```

```
Mozilla/5.0+(X11;+U;+Linux+x86_64;+en-
US;+rv:1.9b4)+Gecko/2008031318+Firefox/3.0b4
```

```
Mozilla/5.0+(X11;+U;+Linux+i686;+en-
US;+rv:1.8.1.17)+Gecko/20080922+Ubuntu/7.10+(gutsy)+Firefox/2.0.0.17
```

Exfiltration

Obtaining Voter Registration Data

Following the review of web server access logs, CISA analysts, in coordination with the FBI, found instances of the cURL and FDM User Agents sending GET requests to a web resource associated with voter registration data. The activity occurred between September 29 and October 17, 2020. Suspected scripted activity submitted several hundred thousand queries iterating through voter

identification values, and retrieving results with varying levels of success [*Gather Victim Identity Information* (T1589)]. A sample of the records identified by the FBI reveals they match information in the aforementioned propaganda video.

Requests

The actor used the following requests.

```
2020-10-17 13:07:51 x.x.x.x GET /x/x voterid=XXXX1 443 - x.x.x.x curl/7.55.1 -
200 0 0 1406
```

```
2020-10-17 13:07:55 x.x.x.x GET /x/x voterid=XXXX2 443 - x.x.x.x curl/7.55.1 - 200 0
0 1390
```

```
2020-10-17 13:07:58 x.x.x.x GET /x/x voterid=XXXX3 443 - x.x.x.x curl/7.55.1 - 200 0
0 1625
```

```
2020-10-17 13:08:00 x.x.x.x GET /x/x voterid=XXXX4 443 - x.x.x.x curl/7.55.1 - 200 0
0 1390
```

Note: incrementing `voterid` values in `cs_uri_query field`

User Agents

CISA and FBI have observed the following user agents.

```
FDM+3.x
```

```
curl/7.55.1
```

```
Mozilla/5.0+(Windows+NT+6.1;+WOW64)+AppleWebKit/537.21+(KHTML,+like+Gecko)+Chrome
/41.0.2228.0+Safari/537.21 - 500 0 0 0
Mozilla/5.0+(X11;+U;+Linux+x86_64;+en-US;+rv:1.9b4)+Gecko/2008031318+Firefox/3.0b4
```

See figure 1 below for a timeline of the actor's malicious activity.

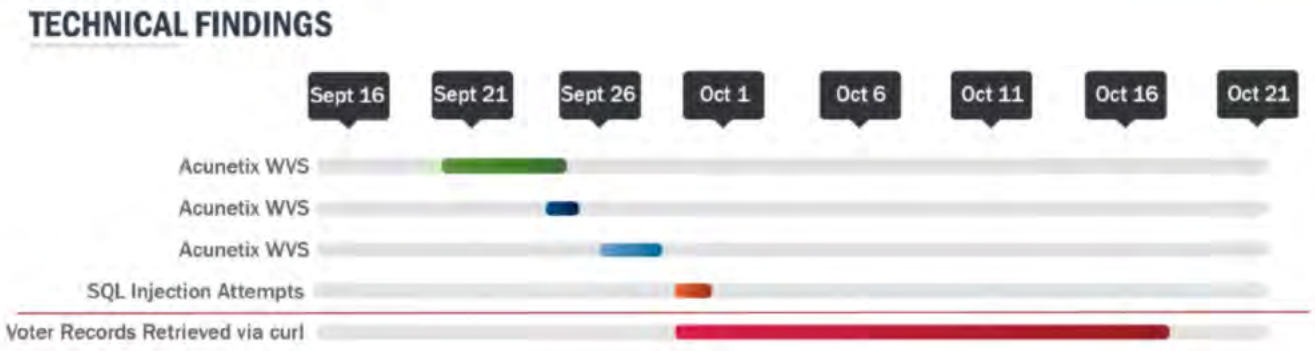


Figure 1: Overview of malicious activity

MITIGATIONS

Detection

Acunetix Scanning

Organizations can identify Acunetix scanning activity by using the following keywords while performing log analysis.

- `$acunetix`
- `acunetix_wvs_security_test`

Indicators of Compromise

For a downloadable copy of IOCs, see AA20-304A.stix.

Disclaimer: *Many of the IP addresses included below likely correspond to publicly available VPN services, which can be used by individuals all over the world. Although this creates the potential for false positives, any activity listed should warrant further investigation. The actor likely uses various IP addresses and VPN services.*

The following IPs have been associated with this activity.

- 102.129.239[.]185 (Acunetix Scanning)
- 143.244.38[.]60 (Acunetix Scanning and cURL requests)
- 45.139.49[.]228 (Acunetix Scanning)
- 156.146.54[.]90 (Acunetix Scanning)
- 109.202.111[.]236 (cURL requests)
- 185.77.248[.]17 (cURL requests)
- 217.138.211[.]249 (cURL requests)
- 217.146.82[.]207 (cURL requests)
- 37.235.103[.]85 (cURL requests)
- 37.235.98[.]64 (cURL requests)
- 70.32.5[.]96 (cURL requests)

- 70.32.6[.]20 (cURL requests)
- 70.32.6[.]8 (cURL requests)
- 70.32.6[.]97 (cURL requests)
- 70.32.6[.]98 (cURL requests)
- 77.243.191[.]21 (cURL requests and FDM+3.x (Free Download Manager v3) enumeration/iteration)
- 92.223.89[.]73 (cURL requests)

CISA and the FBI are aware the following IOCs have been used by this Iran-based actor. These IP addresses facilitated the mass dissemination of voter intimidation email messages on October 20, 2020.

- 195.181.170[.]244 (Observed September 30 and October 20, 2020)
- 102.129.239[.]185 (Observed September 30, 2020)
- 104.206.13[.]27 (Observed September 30, 2020)
- 154.16.93[.]125 (Observed September 30, 2020)
- 185.191.207[.]169 (Observed September 30, 2020)
- 185.191.207[.]52 (Observed September 30, 2020)
- 194.127.172[.]98 (Observed September 30, 2020)
- 194.35.233[.]83 (Observed September 30, 2020)
- 198.147.23[.]147 (Observed September 30, 2020)
- 198.16.66[.]139(Observed September 30, 2020)
- 212.102.45[.]3 (Observed September 30, 2020)
- 212.102.45[.]58 (Observed September 30, 2020)
- 31.168.98[.]73 (Observed September 30, 2020)
- 37.120.204[.]156 (Observed September 30, 2020)
- 5.160.253[.]50 (Observed September 30, 2020)
- 5.253.204[.]74 (Observed September 30, 2020)
- 64.44.81[.]68 (Observed September 30, 2020)
- 84.17.45[.]218 (Observed September 30, 2020)
- 89.187.182[.]106 (Observed September 30, 2020)
- 89.187.182[.]111 (Observed September 30, 2020)
- 89.34.98[.]114 (Observed September 30, 2020)
- 89.44.201[.]211 (Observed September 30, 2020)

Recommendations

The following list provides recommended self-protection mitigation strategies against cyber techniques used by advanced persistent threat actors:

- Validate input as a method of sanitizing untrusted input submitted by web application users. Validating input can significantly reduce the probability of successful exploitation by providing

protection against security flaws in web applications. The types of attacks possibly prevented include SQL injection, Cross Site Scripting (XSS), and command injection.

- Audit your network for systems using Remote Desktop Protocol (RDP) and other internet-facing services. Disable unnecessary services and install available patches for the services in use. Users may need to work with their technology vendors to confirm that patches will not affect system processes.
- Verify all cloud-based virtual machine instances with a public IP, and avoid using open RDP ports, unless there is a valid need. Place any system with an open RDP port behind a firewall and require users to use a VPN to access it through the firewall.
- Enable strong password requirements and account lockout policies to defend against brute-force attacks.
- Apply multi-factor authentication, when possible.
- Maintain a good information back-up strategy by routinely backing up all critical data and system configuration information on a separate device. Store the backups offline, verify their integrity, and verify the restoration process.
- Enable logging and ensure logging mechanisms capture RDP logins. Keep logs for a minimum of 90 days and review them regularly to detect intrusion attempts.
- When creating cloud-based virtual machines, adhere to the cloud provider's best practices for remote access.
- Ensure third parties that require RDP access follow internal remote access policies.
- Minimize network exposure for all control system devices. Where possible, critical devices should not have RDP enabled.
- Regulate and limit external to internal RDP connections. When external access to internal resources is required, use secure methods, such as a VPNs. However, recognize the security of VPNs matches the security of the connected devices.
- Use security features provided by social media platforms; use strong passwords, change passwords frequently, and use a different password for each social media account.
- See CISA's Tip on Best Practices for Securing Election Systems for more information.

General Mitigations

Keep applications and systems updated and patched

Apply all available software updates and patches and automate this process to the greatest extent possible (e.g., by using an update service provided directly from the vendor). Automating updates and patches is critical because of the speed of threat actors to create new exploits following the release of a patch. These "N-day" exploits can be as damaging as zero-day exploits. Ensure the authenticity and integrity of vendor updates by using signed updates delivered over protected links. Without the rapid and thorough application of patches, threat actors can operate inside a defender's patch cycle.[2]

[2] NSA "NSA'S Top Ten Cybersecurity Mitigation Strategies" https://www.nsa.gov/Portals/70/documents/what-we-do/cybersecurity/professional-resources/csi-nsas-top10-cybersecurity-mitigation-strategies.pdf

Additionally, use tools (e.g., the OWASP Dependency-Check Project tool[3]) to identify the publicly known vulnerabilities in third-party libraries depended upon by the application.

Scan web applications for SQL injection and other common web vulnerabilities

Implement a plan to scan public-facing web servers for common web vulnerabilities (e.g., SQL injection, cross-site scripting) by using a commercial web application vulnerability scanner in combination with a source code scanner.[4] Fixing or patching vulnerabilities after they are identified is especially crucial for networks hosting older web applications. As sites get older, more vulnerabilities are discovered and exposed.

Deploy a web application firewall

Deploy a web application firewall (WAF) to prevent invalid input attacks and other attacks destined for the web application. WAFs are intrusion/detection/prevention devices that inspect each web request made to and from the web application to determine if the request is malicious. Some WAFs install on the host system and others are dedicated devices that sit in front of the web application. WAFs also weaken the effectiveness of automated web vulnerability scanning tools.

Deploy techniques to protect against web shells

Patch web application vulnerabilities or fix configuration weaknesses that allow web shell attacks, and follow guidance on detecting and preventing web shell malware.[5] Malicious cyber actors often deploy web shells—software that can enable remote administration—on a victim's web server. Malicious cyber actors can use web shells to execute arbitrary system commands commonly sent over HTTP or HTTPS. Attackers often create web shells by adding or modifying a file in an existing web application. Web shells provide attackers with persistent access to a compromised network using communications channels disguised to blend in with legitimate traffic. Web shell malware is a long-standing, pervasive threat that continues to evade many security tools.

Use multi-factor authentication for administrator accounts

Prioritize protection for accounts with elevated privileges, remote access, or used on high-value assets.[6] Use physical token-based authentication systems to supplement knowledge-based factors such as passwords and personal identification numbers (PINs).[7] Organizations should migrate away from single-factor authentication, such as password-based systems, which are subject to poor user

[3] https://owasp.org/www-project-dependency-check/
[4] NSA "Defending Against the Exploitation of SQL Vulnerabilities to Compromise a Network" https://apps.nsa.gov/iaarchive/library/ia-guidance/tech-briefs/defending-against-the-exploitation-of-sql-vulnerabilities-to.cfm
[5] NSA & ASD "CyberSecurity Information: Detect and Prevent Web Shell Malware" https://media.defense.gov/2020/Jun/09/2002313081/-1/-1/0/CSI-DETECT-AND-PREVENT-WEB-SHELL-MALWARE-20200422.PDF
[6] https://us-cert.cisa.gov/cdm/event/Identifying-and-Protecting-High-Value-Assets-Closer-Look-Governance-Needs-HVAs
[7] NSA "NSA'S Top Ten Cybersecurity Mitigation Strategies" https://www.nsa.gov/Portals/70/documents/what-we-do/cybersecurity/professional-resources/csi-nsas-top10-cybersecurity-mitigation-strategies.pdf

choices and more susceptible to credential theft, forgery, and password reuse across multiple systems.

Remediate critical web application security risks

First, identify and remediate critical web application security risks. Next, move on to other less critical vulnerabilities. Follow available guidance on securing web applications.[8,9,10]

How do I respond to unauthorized access to election-related systems?

Implement your security incident response and business continuity plan

It may take time for your organization's IT professionals to isolate and remove threats to your systems and restore normal operations. In the meantime, take steps to maintain your organization's essential functions according to your business continuity plan. Organizations should maintain and regularly test backup plans, disaster recovery plans, and business continuity procedures.

Contact CISA or law enforcement immediately

To report an intrusion and to request incident response resources or technical assistance, contact CISA (Central@cisa.gov or 888-282-0870) or the FBI through a local field office or the FBI's Cyber Division (CyWatch@ic.fbi.gov or 855-292-3937).

RESOURCES

- CISA Tip: Best Practices for Securing Election Systems
- CISA Tip: Securing Voter Registration Data
- CISA Tip: Website Security
- CISA Tip: Avoiding Social Engineering and Phishing Attacks
- CISA Tip: Securing Network Infrastructure Devices
- Joint Advisory: Technical Approaches to Uncovering and Remediating Malicious Activity
- CISA Insights: Actions to Counter Email-Based Attacks on Election-related Entities
- FBI and CISA Public Service Announcement (PSA): Spoofed Internet Domains and Email Accounts Pose Cyber and Disinformation Risks to Voters
- FBI and CISA PSA: Foreign Actors Likely to Use Online Journals to Spread Disinformation Regarding 2020 Elections
- FBI and CISA PSA: Distributed Denial of Service Attacks Could Hinder Access to Voting Information, Would Not Prevent Voting
- FBI and CISA PSA: False Claims of Hacked Voter Information Likely Intended to Cast Doubt on Legitimacy of U.S. Elections FBI and CISA PSA: Cyber Threats to Voting Processes Could Slow But Not Prevent Voting

[8] NSA "Building Web Applications – Security for Developers" https://apps.nsa.gov/iaarchive/library/ia-guidance/security-tips/building-web-applications-security-recommendations-for.cfm
[9] https://owasp.org/www-project-top-ten/
[10] https://cwe.mitre.org/top25/archive/2020/2020_cwe_top25.html

- FBI and CISA PSA: Foreign Actors and Cybercriminals Likely to Spread Disinformation Regarding 2020 Election Results

Exh. C

Proposed Order

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, JASON M. SHEPHERD ON BEHALF OF THE COBB COUNTY REPUBLICAN PARTY **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N.SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO. 1:20-cv-4809**

ORDER GRANTING EMERGENCY INJUNCTIVE RELIEF

THE COURT has before it Plaintiffs' Emergency Motion for Injunctive Relief filed. November 27, 2020, seeking:

1. An order directing Governor Kemp, Secretary Raffensperger and the Georgia State Board of Elections to de-certify the election results;
2. An order enjoining Governor Kemp from transmitting the currently certified election results to the Electoral College;
3. An order requiring Governor Kemp to transmit certified election results that state that President Donald Trump is the winner of the election;
4. An order that no votes received or tabulated by machines that were not certified as required by federal and state law be counted;
5. A declaratory judgment declaring that Georgia Secretary of State Rule 183-1-14-0.9-.15 violates O.C.G.A. § 21-2-386(a)(2) and the Electors and Elections Clause, U.S. Const. Art. I, § 4;
6. A declaratory judgment that Georgia's failed system of signature verification violates the Electors and Elections Clause by working a de facto abolition of the signature verification requirement;
7. A declaratory judgment declaring that current certified election results violate the Due Process Clause, U.S. Const. Amend. XIV;
8. A declaratory judgment declaring that mail-in and absentee ballot fraud must be remedied with a Full Manual Recount or statistically valid sampling that properly verifies the signatures on absentee ballot envelopes and that invalidates the certified results if the recount or

sampling analysis shows a sufficient number of ineligible absentee ballots were counted;

9. An emergency declaratory judgment that voting machines be seized and impounded immediately for a forensic audit by plaintiffs' experts;
10. A declaratory judgment declaring absentee ballot fraud occurred in violation of Constitutional rights and election laws under state law;
11. A permanent injunction prohibiting the Governor and Secretary of State from transmitting the currently certified results to the Electoral College based on the overwhelming evidence of election tampering; and
12. Immediate production of 36 hours of security camera recording of all rooms used in the voting process at State Farm Arena in Fulton County, GA from 12:00 AM November 3, 2020 to 12:00 PM on November 4, 2020.

Plaintiffs also contend that on November 27, 2020, Union County officials advised that they are going to wipe or reset the voting machines of all data and bring the count back to zero on Monday, November 30, 2020 for purposes of a machine recount commencing that day. Plaintiffs contend this act and any like it must be immediately enjoined across the state of Georgia pursuant to 52 U.S.C. § 20701 (preservation of voting records) because resetting the machines would destroy the evidence on them and make impossible any forensic computer audit of

the election computer systems for the 2020 General Election. Plaintiffs therefore ask for an injunction to prevent any wiping of data, and to ensure forensic analysis can take place.

Plaintiffs further ask for emergency injunctive to expedite the flow of discovery material and to preserve the Voting Systems computer data information;

The Court has reviewed the terms and conditions of this Emergent Injunctive Relief Order, and for good cause shown IT IS HEREBY ORDERED THAT:

1. A Temporary Restraining Order is immediately in effect to preserve the voting machines in the State of Georgia, and to prevent any wiping of data, until such time as a full computer audit is completed.
2. Governor Kemp, Secretary Raffensperger and the Georgia State Board of Elections are to de-certify the election results.
3. Governor Kemp is hereby enjoined from transmitting the currently certified election results to the Electoral College.
4. Governor Kemp is required to transmit certified election results that state that President Donald Trump is the winner of the election.
5. It is hereby Ordered that no votes received or tabulated by machines that were not certified as required by federal and state law be counted.

6. A declaratory judgment is hereby issued declaring that Georgia Secretary of State Rule 183-1-14-0.9-.15 violates the Electors and Elections Clause, U.S. Const. art. I, § 4.
7. A declaratory judgment declaring that Georgia's failed system of signature verification violates the Electors and Elections Clause by working a de facto abolition of the signature verification requirement is hereby issued.
8. A declaratory judgment declaring that current certified election results violates the Due Process Clause, U.S. Const. Amend. XIV is hereby issued.
9. A declaratory judgment declaring that mail-in and absentee ballot fraud must be remedied with a Full Manual Recount or statistically valid sampling that properly verifies the signatures on absentee ballot envelopes and that invalidates the certified results if the recount or sampling analysis shows a sufficient number of ineligible absentee ballots were counted Is hereby issued.
10. An emergency declaratory judgment that voting machines in Fulton County be seized and impounded immediately for a forensic audit—by plaintiffs' experts is hereby issued.

11. A declaratory judgment declaring absentee ballot fraud occurred in violation of Constitutional rights, Election laws and under state law Is hereby issued.

12. A permanent injunction prohibiting the Governor and Secretary of State from transmitting the currently certified results to the Electoral College based on the overwhelming evidence of election tampering.

13. Immediate production of 36 hours of security camera recording of all rooms used in the voting process at State Farm Arena in Fulton County, GA from 12:00 AM November 3, 2020 to 12:00 PM on November 4, 2020 is hereby ordered.

It is so Ordered, this _____ day of _____ 2020.

_____
Timothy C. Batten
U.S. District Court Judge
Northern District of Georgia
Atlanta Division

Presented by:

Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219

*Application for admission pro hac vice forthcoming

Harry W. MacDougald
Georgia Bar No. 463076
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO. 1:20-cv-4809-TCB**

PLAINTIFFS' EMERGENCY MOTION FOR DECLARATORY, EMERGENCY, AND PERMANENT INJUNCTIVE RELIEF AND MEMORANDUM IN SUPPORT THEREOF

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PLAINTIFFS' EMERGENCY MOTION FOR DECLARATORY, EMERGENCY, AND PERMANENT INJUNCTIVE RELIEF AND MEMORANDUM IN SUPPORT THEREOF

COMES NOW Plaintiffs, by and through their undersigned counsel, and file this Emergency Motion for Declaratory, Emergency, And Permanent Injunctive Relief and Memorandum of Law in Support Thereof, respectfully requesting relief for the following reasons:

STATEMENT OF FACTS

The facts establishing the Plaintiffs' right to the relief sought herein are set forth in detail in the Complaint and its accompanying exhibits, all of which are incorporated herein by reference. We present only a summary of certain highlighted facts for the convenience of the court, and because the Complaint is in excess of 100 pages with 29 exhibits.

After a general election and hand recount audit, Vice President Biden was declared the winner of Georgia's General Election for President by a margin of 12,670 votes on November 20, 2020. But the vote count certified by the Defendants on November 20 is wrong. Tens of thousands of votes counted toward Vice President Biden's final tally were the product of illegality, and physical and computer-based fraud leading to "outright ballot stuffing."

On November 27, 2020, Union County officials advised that they are going to wipe the voting machines of all data and bring the count back to zero on

Monday, November 30, 2020. Resetting the machines would destroy relevant evidence now existing on each voting machine. This cannot be allowed.

I. MAIL-IN BALLOTS AND A PATTERN OF FRAUD

Sworn affidavit testimony and detailed analyses of reported election results demonstrate that 96,600 mail-in votes were illegally cast. (See Compl. Exh. 9, Ramsland Aff., par. 11). As Plaintiffs' expert, Russel Ramsland, explains:

> The first red flag comes from mail-in ballots dates. The voter records of the counties show that 96,600 mail-in ballots were voted, yet the county records show they were never received back. Further, 42 mail-in ballots were received back completed *before* they were mailed out to the voter by the county, 1,887 mail-in ballots were received back completed *the same day* they were mailed out to the voter by the county, 1,786 mail-in ballots were received back completed *one day after* they were mailed out to the voter by the county and 2,275 mail-in ballots were received back completed only *two days after* they were mailed out to the voter by the county. This impossible phenomenon occurred throughout the counties of Georgia and were not an isolated event. Following is a summary:

GEORGIA MAIL-IN BALLOT ISSUES

Ballots received back completed BEFORE they were mailed out	42
Ballots received back completed THE SAME DAY they were mailed out	1,887
Ballots received back completed ONE day after they were mailed out	1,786
Ballots received back completed TWO days after they were mailed out	2,275
Total Ballots with impossible mail out and received back completed dates	5,990

Ballots with NO RETURN RECORD AT ALL	231,188
Ballots with NO RETURN RECORD & Cancelled	-134,588
Ballots with NO RETURN RECORD & Voted	96,600

(See Ex. 9 at pars. 15 – 19.)

Separately, evidence gathered by Matt Braynard in the form of recorded calls and declarations of voters, and analyzed by Plaintiffs' expert, William M. Briggs, Ph.D., shows that, based on a statistically significant sample, **the total number of mail ballots that voters mailed in, but were never counted, have a 95% likelihood of falling between 31,559 and 38,886 total lost votes.** This range exceeds the margin of loss of President Trump of 12,670 votes by at least 18,889 lost votes and by as many as 26,196 lost votes. (See Ex. 1, Dr. Briggs' Report).

Further, as calculated by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were shown on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes. (See Compl. at par. 120).

Additionally, Plaintiffs have presented evidence of a wide-spread fraud in a pattern of incidents that shows an absence of mistake – and always in the favor of

Vice President Biden. Rules of Evidence, 404(b), applicable to civil matters makes clear that, "(b) Evidence of other crimes, wrongs, or acts shall not be admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, including, but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." O.C.G.A. § 24-4-404; Fed. Rules of Evidence 404(b).

Specifically, an Affiant testified about the lack of process and the hostility only towards the Republican party, which is a violation of the Equal Protection Clause:

> I also observed throughout my three days in Atlanta, not once did anyone verify these ballots. In fact, there was no authentication process in place and no envelopes were observed or allowed to be observed. I saw hostility towards Republican observers but never towards Democrat observers. Both were identified by badges.

(*See* Compl. at par. 86; Exh. 18 at par. 12, Aff. of Carlos Silva).

Another Affiant explained that his ballot was not only not processed in accordance with election law, he witnessed people reviewing his ballot to decide where to place it, which violated the privacy of his ballot, and when he tried to report it to a voter fraud line, he never received any contact or cooperation:

> I voted early on October 12 at the precinct at Lynwood Park … Because of irregularities at the polling location, I called the voter fraud line to ask why persons were discussing my ballot and reviewing it to decide where to place it. When I called the state fraud line, I was directed to a worker in the office of the Secretary of State…

(Exh. 19, Andrea ONeal Aff, at par. 3). This Affiant further testified that when they were an Observer at the Lithonia location, they saw many irregularities, and specifically **"saw an auditor sort Biden votes that he collected and sorted into ten ballot stacks, which [the auditor] did not show anyone**." (*Id*. at par. 8).

Another Affiant testified about the use of different paper for ballots, that would constitute fraud, stating:

> I noticed that almost all of the ballots I reviewed were for Biden. Many batches went 100% for Biden. I also observed that the watermark on at least 3 ballots were solid gray instead of transparent, leading me to believe the ballot was counterfeit. I challenged this and the Elections Director said it was a legitimate ballot and was due to the use of different printers. Many ballots had markings for Biden only, and no markings on the rest of the ballot.

(*See* Compl. at par. 85).

An Affiant, who attended the Audit testified: "While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table 'A'". (*See* Exh. 13, at par. 29).

Another Affiant testified that

> I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray. I also witnessed the same two poll workers putting the already separated paper receipt ballots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray. They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet.

(See Exh. 17, Johnson Aff., pars. 4-5).

Another Affiant, a Democrat, testified in his sworn affidavit, before he was forced to move back to where he could not see, that he had in fact seen "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times." (See Compl. at par. 132).

"A Republican National Committee monitor in Georgia's election recount, Hale Soucie, told an undercover journalist there are individuals counting ballots who have made continuous errors," writes O'Keefe. Project Veritas, Watch: Latest Project Veritas Video reveals "Multiple Ballots Meant for Trump Went to Biden in Georgia.[1] (See Compl. at par. 88). An Affiant in his sworn affidavit testified, that while at the Audit in Henry County, **"I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table "A"**'. (*See* Compl. at par. 76).

The expert analysis of Dr. Shiva Ayyadurai explains that the electronic data files must be analyzed before any wiping of data occurs.

> This Declaration has presented, in multiple counties in Georgia, a consistent pattern of "High Republican, Low Trump" vote pattern anomalies that are improbable. In addition, it was discovered that when ethnic distributions were applied to three (3) counties, the only plausible

[1] https://hannity.com/media-room/watch-latest-project-veritas-video-reveals-multiple-ballots-meant-for-trump-went-to-biden-in-georgia/

> explanation for the vote distribution was that President Trump received near zero Black votes, which is also highly improbable.
>
> Analysis of DeKalb County enabled the discovery of a "weighted race" algorithm that transferred, using a "weight" of 1.22, approximately 48,000 votes from President Trump to Mr. Biden. In DeKalb County, 373,000 votes were cast. The approximate 48,000 votes transferred to Mr. Biden represents approximately 13% of the total votes cast in DeKalb County.
>
> When one considers the entire State of Georgia, the number of votes cast in DeKalb county represents a mere 7.5% of the total number of votes cast in the entire State of Georgia, which was reported by the Secretary of State of Georgia to be 4,998,482 votes. The analysis herein reveals the number of voters may likely not equal of the number of votes given algorithms were in place to manipulate the tabulation of votes. This result demands that ballot images, log files, CVR, and electronic data files from each precinct be reviewed to validate the integrity of the election in Georgia. Until that time, the election results are unverifiable.

(See Ex. A to this Motion, at par. 121).

The expert analyses of proven illegal ballots counted from mail-in votes together with first-hand testimonials of fraudulent activity by election officials compels the conclusion that the Defendants' certification of the election in Vice President Biden's favor must be reversed.

II. BALLOT STUFFING

Georgia's election process depends entirely on voting machines, tabulators and software purchased from Dominion Voting Systems Corporation ("Dominion") that was compromised. Computerized vote recording and tabulations are controlled by software programs that were designed to cheat, and which were open to human

manipulation. In 2020, ballot stuffing is not simply counting votes of dead people, illegal aliens or out of state residents -- all of which clearly occurred here. See Exh. 1, Briggs Report; Exh. 9, Ramsland Affid. Instead, sworn affidavit testimony and detailed analyses of reported election results demonstrate that over 135,000 votes were illegally transferred from President Trump to Vice President Biden through an algorithm embedded in Dominion's software. (See Exh. 9, Ramsland Aff., para.11).

Manipulation of votes was apparent shortly after the polls closed on November 3, 2020. At approximately 10:00 pm, election officials evacuated State Farm arena where votes were being counted. Fulton County election officials claimed that a plumbing leak represented a threat. This was a lie. Video of the location at the time shows that there was no flood and no emergency. Instead, after all challengers and other personnel left, several election workers stayed behind and continued to feed votes into Dominion tabulators for over three hours, until 1:00 a.m. on November 4. (Compl. at par. 117).

Without supervision or challengers, election officials could have processed tens of thousands of votes from phony vote machine memory cards and thumb drives. They could also have processed thousands of illegal mail-in ballots that were cast by third-parties or even blank ballots that were counted over and over. This kind of voter manipulation would not be uncovered during a recount because

the voting ballots and memory cards with the phony information would just be counted again and run through the same tainted tabulation machines.

The election software and hardware from Dominion, only recently purchased and rushed into use by Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and the Georgia Board of Elections, was unsecure, and capable of being manipulated. (See Compl. at par. 4). This is shown by compelling evidence presented in *Curling, et al. v. Kemp, et. al*, Case No. 1:17-cv-02989 and reviewed in a lengthy order by Judge Totenberg at Doc. No. 964. It is also shown by the expert testimony presented with the Complaint, particularly Exhibits 8[2] ("Spider Declaration") and 9 (Ramsland Affidavit).

Sworn testimony by a former military intelligence expert is consistent with the above Federal Government advisory, and confirms foreign interference through the electronic Voting Systems:

> I was an electronic intelligence analyst under 305th Military Intelligence with experience gathering SAM missile system electronic intelligence. I have extensive experience as a white hat hacker used by some of the top election specialists in the world. The methodologies I have employed represent industry standard cyber operation toolkits for digital forensics and OSINT, which are commonly used to certify connections between servers, network nodes and other digital properties and probe to network system vulnerabilities.

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[2] Exhibit 8 to the Complaint had a slip sheet that erroneously labeled it Exh. 7.

> In my professional opinion, this affidavit presents unambiguous evidence that Dominion Voter Systems and Edison Research have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, these organizations neglectfully allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. This represents a complete failure of their duty to provide basic cyber security. This is not a technological issue, but rather a governance and basic security issue: if it is not corrected, future elections in the United States and beyond will not be secure and citizens will not have confidence in the results.

(See Compl. Exh. 8, Aff. at pars. 1 and 21).

The Federal government issued the following Advisory on October 20, 2020:

> This joint cybersecurity advisory was coauthored by the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI). CISA and the FBI are aware of an Iranian advanced persistent threat (APT) actor targeting U.S. state websites to include election websites. CISA and the FBI assess this actor is responsible for the mass dissemination of voter intimidation emails to U.S. citizens and the dissemination of U.S. election-related disinformation in mid-October 2020.1 (Reference FBI FLASH message ME-000138-TT, disseminated October 29, 2020). Further evaluation by CISA and the FBI has identified the targeting of U.S. state election websites was an intentional effort to influence and interfere with the 2020 U.S. presidential election.

(Joint Cybersecurity Advisory Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data, Attached as Exhibit B).

The Advisory further states,

> Following the review of web server access logs, CISA analysts, in coordination with the FBI, found instances of the cURL and FDM User Agents sending GET requests to a web resource associated with voter

> registration data. The activity occurred between September 29 and October 17, 2020. Suspected scripted activity submitted several hundred thousand queries iterating through voter identification values and retrieving results with varying levels of success [Gather Victim Identity Information (T1589)]. A sample of the records identified by the FBI reveals they match information in the aforementioned propaganda video.

(Id. at pp. 4-5).

Defendants Kemp and Raffensperger rushed through the purchase of Dominion voting machines and software in 2019 for the 2020 Presidential Election[3]. The certificate was awarded to Dominion but is undated. (*See* Compl. at par. 12). Similarly, a test report is signed by Michael Walker as Project Manager but it too is undated. (See *Id*.). They disregarded all the concerns that caused Dominion software to be rejected by the Texas Board of elections in 2018 because it was deemed vulnerable to undetected and non-auditable manipulation. They also ignored House Bill, HR 2722, that passed the House in 2019 mandating certain security precautions for voting machines, including that they not be connected to the internet and have security controls such as paper ballots, unlike those in the Dominion Voting Systems Democracy Suite package: "*This bill addresses election*

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[3] Georgia Governor Inks Law to Replace Voting Machines, The Atlanta Journal-Constitution, AJC News Now, Credit: Copyright 2019 The Associated Press, June 2019. https://www.ajc.com/blog/politics/georgia-governor-inks-law-replace-voting-machines/xNXs0ByQAOvtXhd27kJdqO/

security through grant programs and requirements for voting systems and paper ballots" (See Compl. at par. 112).

An industry expert, Dr. Andrew Appel, Princeton Professor of Computer Science and Election Security Expert recently observed with reference to Dominion voting machines: "**I figured out how to make a slightly different computer program that just before the polls were closed, it switches some votes around from one candidate to another. I wrote that computer program into a memory chip and now to hack a voting machine you just need 7 minutes alone with it and a screwdriver**." (*See* Compl. at par. 13).

Evidence of a pattern of voter manipulation from the lack of physical security and compliance with professional standards, "the breaches" and the "glitches" recently seen in a Dominion system used in one Georgia County, where it is reported that 3,300 votes were found on memory sticks not loaded plus in Floyd county, another 2,600 were unscanned, and the "found votes" reduced Vice President Biden's lead over President Trump[4]. (See Compl. at par. 112).

The opportunity to perform the unauthorized manipulation of votes

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[4] *Recount find thousands of Georgia votes*, Atlanta Journal-Constitution by Mark Niesse and David Wickert,11/19/20. https://www.ajc.com/politics/recount-finds-thousands-of-georgia-votes-missing-from-initial-counts/ERDRNXPH3REQTM4SOINPSEP72M/

presented on multiple occasions, including when it was widely reported that as of 7 p.m. on Wednesday Fulton County Elections officials said 30,000 absentee ballots were not processed due to a pipe burst. Officials reassured voters that none of the ballots were damaged and the water was quickly cleaned up. (See Compl. at par. 81). But the emergency delayed officials from processing ballots between 5:30 a.m. and 9:30 a.m. Officials say they continued to count beginning at 8:30 a.m. Wednesday. The statement from Fulton County continued:

> Tonight, Fulton County will report results for approximately 86,000 absentee ballots, as well as Election Day and Early Voting results. These represent the vast majority of ballots cast within Fulton County.
>
> As planned, Fulton County will continue to tabulate the remainder of absentee ballots over the next two days. Absentee ballot processing requires that each ballot is opened, signatures verified, and ballots scanned. This is a labor-intensive process that takes longer to tabulate than other forms of voting. Fulton County did not anticipate having all absentee ballots processed on Election Day. Officials said they will work to ensure every vote is counted and all laws and regulations are followed.[5]

(See Compl. at par. 114.)

Plaintiffs have learned that the representation that "a water leak affecting the room where absentee ballots were counted" was false. The only water leak that

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[5] 4,000 remaining absentee ballots being counted in Fulton County, Fox 5 Atlanta, November 3, 2020, https://www.fox5atlanta.com/news/pipe-burst-at-state-farm-arena-delays-absentee-ballot-processing

needed repairs at State Farm Arena from November 3 to November 5 was a toilet overflow that occurred on November 3. It did not affect the room with ballot counting, but the water break representation led to "everyone being sent home." Nonetheless, first six (6) people, then three (3) people stayed until 1:05 a.m. working on the computers. (See Compl. at par. 115)

In sum, there are multiple independent bases for concluding that the Defendants' certification of the election in Vice President Biden's favor was incorrect. With only12,670 votes separating the candidates out of a total of 4,998,482 cast, the evidence shows far more illegal or fraudulent ballots than necessary to change the results. Defendant's certification of the election must be set aside.

ARGUMENT AND CITATION OF AUTHORITY

I. PLAINTIFFS HAVE STANDING

Plaintiffs Pearson, Consiglio, Godwin, Carroll, Fisher and Latham are registered Georgia voters and are nominees of the Republican Party to be Presidential Electors on behalf of the State of Georgia. (Complaint, pars. 23-28). They each have standing to bring this action as voters and as candidates for the office of Elector under O.C.G.A. § 21-2-520, et seq. (election procedures for Georgia election contests). Presidential Electors "have a cognizable interest in ensuring that the final vote tally reflects the legally valid votes cast," as "[a]n

inaccurate vote tally is a concrete and particularized injury to candidates such as the Electors." *Carson v. Simon*, 978 F.3d 1051, 1057 (8th Cir. 2020) (affirming that Presidential Electors have Article III and prudential standing to challenge actions of secretaries of state in implementing or modifying state election laws); *see also McPherson v. Blacker*, 146 U.S. 1, 27 (1892); *Bush v. Palm Beach Cty. Canvassing Bd.*, 531 U.S. 70, 76 (2000) (per curiam).

II. PLAINTIFFS ARE ENTITLED TO INJUNCTIVE RELIEF.

Under Georgia state law, the Georgia Supreme Court has made clear that, *"[Plaintiffs] need not show how the [] voters would have voted if their [absentee] ballots had been regular. [they] only had to show that there were enough irregular ballots to place in doubt the result*." *Mead v. Sheffield*, 278 Ga. 268, 272 (1994) (citing O.C.G.A. § 21-2-520, et seq.) (emphasis added).

The Eleventh Circuit recently held that, "To support a preliminary injunction, a district court need not find that the evidence positively guarantees a final verdict in plaintiff's favor." *Common Cause Georgia v. Kemp*, 347 F. Supp. 3d 1270, 1288 (11th Cir. 2018) (*citing Levi Strauss & Co. v. Sunrise Int'l Trading Inc.*, 51 F.3d 982, 985 (11th Cir. 1995)). To obtain a preliminary injunction the movant must satisfy four elements: 1) the likelihood of success on the merits; 2) irreparable harm; 3) the balance of equities favors the movant; and 4) whether the relief sought is in the public interest. *Cunningham v. Adams*, 808 F.2d 815, 818-19 (11th Cir.

1987*); see also United States v. Lambert*, 695 F.2d 536, 539 (11th Cir. 1983). All elements are met here.

"When the state legislature vests the right to vote for President in its people, the right to vote as the legislature has prescribed is fundamental; and one source of its fundamental nature lies in the equal weight accorded to each vote and the equal dignity owed to each voter." *Bush v. Gore*, 531 U.S. 98, 104 (2000). The evidence shows not only that the Defendants failed to administer the November 3, 2020 election in compliance with the Georgia Election Code, but also that illegal or fraudulent votes were counted to make certain the election of Vice President Biden as President of the United States. This conduct violated Plaintiffs' equal protection and due process rights as well their rights under Georgia law.

1. PLAINTIFFS HAVE A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS.

Through detailed fact and expert testimony, including documentary evidence contained in the Complaint and its exhibits, Plaintiffs have made a compelling showing the rights of Georgia citizens to select their leaders under the process established by the Georgia Legislature were violated. Indeed, they have committed election frauds and illegalities that violated Georgia laws intended to establish and maintain "the legality and purity of elections," including O.C.G.A. §§ 21-2-31, 21-2-33.1, Article 10 of Chapter 2 of Title 21 of the Georgia Code pertaining to

absentee voting, including particularly the absentee ballot processing and signature match requirements of O.C.G.A. § 21-2-386, and Part 5 of Article 11 of Chapter 5 of Title 21 of the Georgia Code pertaining to voting by Optical Scanning Voting Equipment. These acts also violated the Equal Protection Clause of the United States Constitution.

The tally of ballots certified by Defendants giving Vice President Biden a 12,670 vote margin cannot possibly stand in light of the thousands of illegal mail-in ballots that were improperly counted and the vote manipulation caused by the Dominion software and the lack of election law procedure.

Plaintiffs' equal protection claim is straightforward. The right of qualified citizens to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution. *See Reynolds v. Sims,* 377 U.S. 533, 554 (1964) (The Fourteenth Amendment protects "the right of all qualified citizens to vote, in state as well as in federal elections."). Indeed, ever since the *Slaughter-House Cases*, 83 U.S. 36 (1873), the United States Supreme Court has held that the Privileges or Immunities Clause of the Fourteenth Amendment protects certain rights of federal citizenship from state interference, including the right of citizens to directly elect members of Congress. *See Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (*citing Ex parte*

Yarbrough, 110 U.S. 651, 663-64 (1884)); *see also Oregon v. Mitchell*, 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting cases).

The fundamental right of citizens to vote protected by the Fourteenth Amendment is cherished in our nation because it "is preservative of other basic civil and political rights." *Reynolds*, 377 U.S. at 562. Voters have a "right to cast a ballot in an election free from the taint of intimidation and fraud," *Burson v. Freeman*, 504 U.S. 191, 211 (1992), and "[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

"Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted" if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315 (1941). "[T]he right to have the vote counted" means counted "at full value without dilution or discount." *Reynolds*, 377 U.S. at 555, n. 29, *quoting South v. Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting).

"Every voter in a federal … election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes." *Anderson v. United States,* 417 U.S. 211, 227 (1974); *see*

also Baker v. Carr, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes "debase[]" and "dilute" the weight of each validly cast vote. *Id.* at 227.

"The right to an honest [count] is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States." *Id.* at 226 (*quoting Prichard v. United States*, 181 F.2d 326, 331 (6th Cir. 1950), *aff'd due to absence of quorum*, 339 U.S. 974 (1950)).

Practices that promote the casting of illegal or fraudulent ballots, or that fail to contain basic minimum guarantees against such, can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots. *Reynolds*, 377 U.S. at 555 ("[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.").

States may not, by arbitrary action or other unreasonable impairment, burden a citizen's right to vote. *See Baker v. Carr*, 369 U.S. 186, 208 (1962) ("A citizen's right to a vote free of arbitrary impairment by state action has been judicially recognized as a right secured by the Constitution"). "Having once granted the right to vote on equal terms, the state may not, by later arbitrary and disparate treatment,

value one person's vote over that of another." *Bush v. Gore*, 531 U.S. 98, 104-05 (2000). Among other things, "specific rules designed to ensure uniform treatment" in order to prevent "arbitrary and disparate treatment of voters" are required. *Id*. at 106-07; *see also Dunn v. Bloomstein*, 405 U.S. 330, 336 (1972) (providing that each citizen "has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction").

Additionally, as candidates for election, Plaintiffs seek redress under Georgia law, O.C.G.A. § 21-2-522, which provides:

> A result of a primary or election may be contested on one or more of the following grounds:
>
> (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;
>
> (2) When the defendant is ineligible for the nomination or office in dispute;
>
> (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;
>
> (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or
>
> (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

As set forth above, all of the conditions in these subsections, except for subsection (2) which is not applicable, support the relief Plaintiffs seek.

Accordingly, Plaintiffs have established a likelihood of success on the

merits.

2. THE PLAINTIFFS WILL SUFFER IRREPARABLE HARM.

"It is well-settled that an infringement on the fundamental right to vote amounts to an irreparable injury." *New Ga. Project v. Raffensperger*, 2020 U.S. Dist. LEXIS 155901, at 86, (N.D. Ga. Aug. 31, 2020). The irreparable nature of the harm to Plaintiffs is apparent. If the Georgia count was defective, including defective absentee ballots and illegal out of state voters in an amount sufficient to place the outcome in doubt, then Georgia's election results are improper and suspect, resulting in Georgia's electoral college votes going to Democrats, including Vice President Biden, contrary to the votes of the majority of Georgia's qualified electors. Consequently, Plaintiffs will be directly and irreparably harmed by the wrongful denial of their right to cast their votes in the Electoral College for President Trump.

3. WEIGHING HARM TO THE OPPOSING PARTY AND THE PUBLIC INTEREST.

The remaining two factors for the preliminary injunction test, "harm to the opposing party and weighing the public interest, merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 129 S. Ct. 1749, 1753 (2009).

The Eleventh Circuit recently addressed a claim related to Georgia's voting system in *Common Cause Georgia v. Kemp*, 347 F. Supp. 3d 1270 (11th Cir. 2018).

The Court found,

> In summary, while further evidence will be necessary in the future, the Court finds that the combination of the statistical evidence and witness declarations in the record here (and the expert witness evidence in the related *Curling* case which the Court takes notice of) persuasively demonstrates the likelihood of Plaintiff succeeding on its claims. Plaintiff has shown a substantial likelihood of proving that the Secretary's failure to properly maintain a reliable and secure voter registration system has and will continue to result in the infringement of the rights of the voters to cast their **vote** and have their **votes** counted.

Id.at 1294-1295.

First, an immediate temporary restraining order is necessary to preserve the forensic data on the voting machines, which may get "wiped" as this motion is filed.

Second, while it is true that invalidating the results of an election in which millions of people have cast valid votes is a momentous decision, it must be recognized that there is no legitimate harm to the opposing party or any legitimate public interest in enforcing the results of an election decided by illegally cast ballots – a point made indisputably clear by the availability of election invalidation as a remedy in Georgia's election contest statutes.

Plaintiffs are entitled to an order de-certifying Georgia's election results or a stay in the delivery of the certified results to the Electoral College to preserve the status quo while this case proceeds. The Plaintiffs are further entitled to an order making the voting machines available for forensic analysis before they are reset for

the machine recount, and other equitable relief, on an emergency basis, due to the irreparable harm and impending Electors' vote.

The low costs to Defendants and high potential harm to Plaintiffs make this a case with a substantial net harm that an immediate and emergent injunctive relief can prevent. Therefore, it is respectfully requested that the Court grant Plaintiffs' Motion. A proposed form of Order is attached.

Respectfully submitted, this 27th day of November 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice forthcoming

Of Counsel
Emily P. Newman (VA Bar No. 84265)*
Julia Z. Haller (DC Bar No. 466921)*

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile

hmacdougald@cpdlawyers.com

L. Lin Wood
GA Bar No. 774588
L. LIN WOOD, P.C.
P.O. Box 52584
Atlanta, GA 30305-0584
Telephone: (404) 891-1402

Howard Kleinhendler
Howard Kleinhendler Esquire
New York Bar No. 2657120
369 Lexington Avenue, 12th Floor
New York, New York 10017
Office (917) 793-1188
Mobile (347) 840-2188
howard@kleinhendler.com
www.kleinhendler.com

*Application for admission pro hac vice
forthcoming

Attorneys for Plaintiffs

FONT CERTIFICATE

The undersigned certifies that the foregoing document was prepared in 14-point Times New Roman font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing document with the Clerk of Court using the CM/ECF system, and that I have delivered the filing to the Defendants by email and FedEx at the following addresses:

This 27th day of November, 2020.

Governor Brian Kemp
206 Washington Street
111 State Capitol
Atlanta, GA 30334

Secretary of State Brad Raffensperger
214 State Capitol
Atlanta, Georgia 30334
brad@sos.ga.gov
soscontact@sos.ga.gov

Rebecca N. Sullivan
Georgia Department of Administrative Services
200 Piedmont A venue SE
Suite 1804, West Tower
Atlanta, Georgia 30334-9010
rebecca.sullivan@doas.ga.gov

David J. Worley
Evangelista Worley LLC
500 Sugar Mill Road
Suite 245A
Atlanta, Georgia 30350
david@ewlawllc.com

Matthew Mashburn
Aldridge Pite, LLP
3575 Piedmont Road, N.E.
Suite 500

Atlanta, Georgia 30305
mmashburn@aldridgepite.com

Anh Le
Harley, Rowe & Fowler, P.C.
2700 Cumberland Parkway
Suite 525
Atlanta, Georgia 30339
ale@hrflegal.com

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

DECLARATION OF [redacted]

I, [redacted], this 28th day of November, under the penalties of perjury and upon personal knowledge that the contents of this Declaration are true, accurate and correct and that I am competent to testify:

1. My name is [redacted].
2. I am a resident of Union County, Georgia.
3. I, through the GOP of Union County, Georgia worked as an authorized poll worker and worked before the election as ballot review member, on the day of election, November 3 and during the hand recount. I will be working on the second machine recount tomorrow, Monday, November 30.
4. On or about October 29, 2020 I worked with Union Country as a ballot review member, our assignment was to take the already opened Overseas Absentee Ballots and create new ballots that we transferred the information over to, so that it could be fed into the machines.
5. We filled out the new ballots on the official legal size ballot paper, which was heavy.
6. We performed this duty in teams of two.
7. Then on Election Day, I worked at the polls from 6AM to 8PM. I stood by the machine as people fed their ballots into the feeders.
8. The chief of our polling place, at the end of the day, locked up and took the card from the machine.

9. On or about November 4 or 5, after the election, I went to work again to help on the hand recount.

10. When I arrived, we had approximately 15,500 ballots to separate into piles.

11. We had three (3) teams and were told to put the ballots in piles of either Trump or Biden.

12. They were given to us in piles of 100. There was no "opening" of these ballots. They came in uniform regular size paper with a QR code on them. After we had noted the votes, we recounted the ballots and gave them back to the supervisor.

13. We only looked at the Presidential vote, not down ballot.

14. These ballots were different from the absentee overseas ballots we reviewed pre-election, which we had transferred to legal size ballot paper on October 29, 2020 in Union County.

15. Instead, these ballots that we put in piles for Trump or Biden after the election, were on short paper, not legal size, and not the same as the longer paper that the voter had put into the machines on election day. These had a QR code written in the top left corner. Infrequently, some of the ballots had two QR codes, which we noted.

16. We then heard that there would be a second recount, though this time it would be a machine recount, not by hand. I received an email from the election manager about the continuing work for the recount, and I attach that email.

17. The election leader, who I work with as a poll worker, told us that the machines are going to be "wiped to 0" Monday and so that a new set of ballots can issue from the machines to count, this process she called "L&A." The email is below:

Original Message-----

From: [redacted]

Sent: Wednesday, November 25, 2020 11:23am

To: [redacted]

Cc: [redacted]

Subject: Machine Recount

Union County Board of Elections will perform a machine recount of the Presidential race from the Nov 3rd general election on Monday, November 30. We will begin at 9:00 am and work until we are finished. The process will begin with an L & A - resetting the machine to "zero" to begin the recount. All ballots will be scanned and Union County totals will be transmitted to Atlanta. We will know the results for UC before we transmit.

The process is not expected to take more than the day, as we are planning to work until done. However, there is a risk that we may carry over to Tuesday - so please check to see if you would be available to return on Tuesday morning, if needed.

I need to know who can volunteer to be a monitor on Monday morning. [redacted] has volunteered for the afternoon - 1:00 pm until we finish. I need a volunteer for the morning - 8:45 am until 1:00 pm. In this role, you will be able to observe the process closely - you can't touch any materials in the room

nor can you ask questions. If you have a question, you will ask either George Burch or me to step out of the room to ask the question.

We will have a Vote Review Panel in the event a ballot rejects. [redacted] will perform this function for us.

There will be a Democrat Monitor and Vote Review Panel representative. We are allowed 2 monitors for each party. Because our facilities are small, and to allow for some distancing, we agreed to have only 1 monitor per party. There may be a rep from the SOS office to observe part of the time. We will also have our tech team and someone from Dominion Systems present. Masks will be required!

Please advise if you can participate on Monday morning by responding to this email or call me. I would like to confirm one and have a backup in the event there is a need. Most of the activity will be in the morning.

George - anything you want to add?

Thank you for volunteering and representing UUGOP throughout this process!

Call me if you have questions! 706-745-2112

FYI - this is open to the public - anyone who comes to watch will have to sit outside the workroom and observe through one of 2 doors.

I then texted the election manager in response and said this:

"[redacted] *because the plan on Monday is to wipe the voting machines clean, and start from 0 so that we can recount using those machines, I'm concerned by what I am reading online. I am seeing lots of notices from lawyers about possibly impounding the machines. Lawyers are now saying that the machines should be confiscated immediately before this happens to protect forensic data. They are*

saying those machines need to be impounded ASAP. Yikes. Maybe I'm being overly paranoid but let's be sure this is what we're supposed to be doing."

Her response: "It's what we are supposed to do. It will take a court order to stop this process - so I guess we need to keep watching the news. If we get a court order to stop, we will see it in our sos information. The issue is, the Atlanta area has already started."

18. When I asked, will that wipe forensic evidence on the machines, she answered that Atlanta already did it.

Summary: There was a single day for "ballot review" on October 29, I believe. The first batch of ballots were overseas and largely (95%+) for Biden. They had already been opened by the registrar's office I was told. The overseas ballots needed to be rewritten on the official ballot paper so they could be put into the machine. The rest of the day we were given absentee ballots that had been rejected from the machine for too many markings, rips, or folds.

Then, on about November 4th or 5th, we had our first hand recount. In three teams, we were given stacks in 100 ballot increments to put into Trump/Biden piles. I am assuming that these were the machine ballots, though they looked entirely different, with a big QR code and regular size paper. There were 15,500 of them approximately and I believe they were the regular ballots. Our entire county has only about 29,000 people, so that number is not surprising. The upcoming 2nd recount will be a machine recount this Monday, November 30. That is probably why they are planning to reset the machines to zero.

Sincerely,

[redacted]

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[redacted]

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809**

NOTICE OF FILING OF REDACTED DECLARATION

Come now the Plaintiffs and give notice of the filing of a redacted declaration regarding Union County, Georgia attached hereto as Exhibit "A."

Respectfully submitted, this 29th day of November 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 14-point Times New Roman font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing document with the Clerk of Court using the CM/ECF system, and that I have delivered the filing to the Defendants by email and FedEx at the following addresses:

This 29th day of November 2020.

Governor Brian Kemp
206 Washington Street
111 State Capitol
Atlanta, GA 30334

Secretary of State Brad Raffensperger
214 State Capitol
Atlanta, Georgia 30334
brad@sos.ga.gov
soscontact@sos.ga.gov

Rebecca N. Sullivan
Georgia Department of Administrative Services
200 Piedmont A venue SE
Suite 1804, West Tower
Atlanta, Georgia 30334-9010
rebecca.sullivan@doas.ga.gov

David J. Worley
Evangelista Worley LLC
500 Sugar Mill Road
Suite 245A
Atlanta, Georgia 30350
david@ewlawllc.com

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mmashburn@aldridgepite.com

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ale@hrflegal.com

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Georgia

CORECO JA'QAN PEARSON, et al

Plaintiff(s)

v.

Brian Kemp, Brad Faffensperger, David J. Worley, Rebecca N. Sullivan, Matthew Mashburn, and Anh Le, in their official capacities

Defendant(s)

Civil Action No. 1:20-cv-4809 -TCB

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Rebecca N. Sullivan
Georgia Department of Administrative Services
200 Piedmont A venue SE
Suite 1804, West Tower
Atlanta, Georgia 30334-9010

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956
hmacdougald@cpdlawyers.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 11/29/20

CLERK OF COURT

s/Robin Harlan

Signature of Clerk or Deputy Clerk

Civil Action No. 1:20-cv-4809

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

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Plaintiff(s)

v.

Brian Kemp, Brad Faffensperger, David J. Worley, Rebecca N. Sullivan, Matthew Mashburn, and Anh Le, in their official capacities

Defendant(s)

Civil Action No. 1:20-cv-4809 -TCB

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Matthew Mashburn
Aldridge Pite, LLP
3575 Piedmont Road, N.E.
Suite 500
Atlanta, Georgia 30305

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956
hmacdougald@cpdlawyers.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 11/29/20

CLERK OF COURT

s/Robin Harlan

Signature of Clerk or Deputy Clerk

Civil Action No. 1:20-cv-4809

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❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

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Date: _____

_____
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Printed name and title

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Additional information regarding attempted service, etc:

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Defendant(s)

Civil Action No. 1:20-cv-4809 -TCB

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Evangelista Worley LLC
500 Sugar Mill Road
Suite 245A
Atlanta, Georgia 30350
david@ewlawllc.com

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956
hmacdougald@cpdlawyers.com

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Date: 11/29/20

CLERK OF COURT

s/Robin Harlan

Signature of Clerk or Deputy Clerk

Civil Action No. 1:20-cv-4809

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v.

Brian Kemp, Brad Faffensperger, David J. Worley, Rebecca N. Sullivan, Matthew Mashburn, and Anh Le, in their official capacities

Defendant(s)

Civil Action No. 1:20-cv-4809 -TCB

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Governor Brian Kemp
206 Washington Street
111 State Capitol
Atlanta, GA 30334

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956
hmacdougald@cpdlawyers.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 11/29/20

s/Robin Harlan

Signature of Clerk or Deputy Clerk

Civil Action No. 1:20-cv-4809

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(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Georgia

CORECO JA'QAN PEARSON, et al

Plaintiff(s)

v.

Brian Kemp, Brad Faffensperger, David J. Worley, Rebecca N. Sullivan, Matthew Mashburn, and Anh Le, in their official capacities

Defendant(s)

Civil Action No. 1:20-cv-4809 -TCB

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Secretary of State Brad Raffensperger
214 State Capitol
Atlanta, Georgia 30334
brad@sos.ga.gov
soscontact@sos.ga.gov

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956
hmacdougald@cpdlawyers.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 11/29/20

s/Robin Harlan

Signature of Clerk or Deputy Clerk

Civil Action No. 1:20-cv-4809

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Georgia

CORECO JA'QAN PEARSON, et al

Plaintiff(s)

v.

Brian Kemp, Brad Faffensperger, David J. Worley, Rebecca N. Sullivan, Matthew Mashburn, and Anh Le, in their official capacities

Defendant(s)

Civil Action No. 1:20-cv-4809 -TCB

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Anh Le
Harley, Rowe & Fowler, P.C.
2700 Cumberland Parkway
Suite 525
Atlanta, Georgia 30339

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956
hmacdougald@cpdlawyers.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 11/29/20

s/Robin Harlan

Signature of Clerk or Deputy Clerk

Civil Action No. 1:20-cv-4809

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

O R D E R

Plaintiffs have filed an emergency motion [6] for temporary injunctive relief. In their motion, Plaintiffs seek an order directing Defendants to allow Plaintiffs' expert(s) to inspect the Dominion voting

machines in Cobb, Gwinnett, and Cherokee Counties. The Court conducted a Zoom hearing at 7:45 p.m. EST to consider Plaintiffs' motion.

During the hearing, Defendants' counsel argued that the secretary of state has no lawful authority over county election officials, citing *Jacobson v. Florida Secretary of State*, 974 F.3d 1236, 1256–58 (11th Cir. 2020). Plaintiffs' counsel responded that Plaintiffs could amend their complaint to add the elections officials in Cobb, Gwinnett, and Cherokee Counties, thus obviating the issue of whether the proper officials had been named as Defendants to this case.

Defendants' counsel also argued that allowing such forensic inspections would pose substantial security and proprietary/trade secret risks to Defendants. Plaintiffs' counsel responded that Defendants' concerns could be alleviated by an order from the Court (1) allowing Defendants' own expert(s) to participate in the requested inspections, which would be video-recorded, and (2) directing the experts to provide whatever information they obtain to the Court—and no one else—for an *in camera* inspection.

After considering the parties' email submissions today and the arguments advanced at the Zoom hearing, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1.

Defendants shall have until Wednesday, December 2, at 5:00 p.m. EST, to file a brief setting forth in detail the factual bases they have, if any, against allowing the three forensic inspections. The brief should be accompanied and supported by affidavit or other evidence, if appropriate.

2.

Defendants are hereby ENJOINED and RESTRAINED from altering, destroying, or erasing, or allowing the alteration, destruction, or erasure of, any software or data on any Dominion voting machine in Cobb, Gwinnett, and Cherokee Counties.

3.

Defendants are ORDERED to promptly produce to Plaintiffs a copy of the contract between the State and Dominion.

4.

This temporary restraining order shall remain in effect for ten days, or until further order of the Court, whichever comes first.

IT IS SO ORDERED this 29th day of November, 2020, at 10:10 p.m. EST.



Timothy C. Batten, Sr.
United States District Judge

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

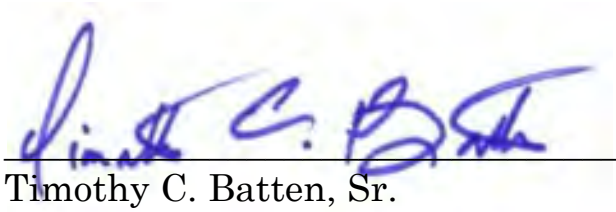
NO. 1:20-cv-4809-TCB

O R D E R

The Court finds that its November 29 order partially granting Defendants' motion for a temporary restraining order involves a controlling question of law as to which there is substantial ground for

difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation. 28 U.S.C.A. § 1292(b).

IT IS SO ORDERED this 30th day of November, 2020.



Timothy C. Batten, Sr.
United States District Judge

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

CORECO JA'QAN PEARSON, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	1:20-cv-4809-TCB
	)	
BRIAN KEMP, *et al.*,	)	
	)	
Defendants.	)	

NOTICE OF APPEARANCE

COMES NOW Charlene S. McGowan, Assistant Attorney General, and hereby makes an entry of appearance in the above-styled action on behalf of Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and State Election Board Members Rebecca Sullivan, David Worley, Matthew Mashburn, and Anh Le (collectively, "State Defendants"). Please direct all further pleadings, notices, orders, and other matters to her at the following:

Office of the Attorney General
40 Capitol Square, SW
Atlanta, Georgia 30334
Telephone: (404) 458-3658
E-Mail: cmcgowan@law.ga.gov

Respectfully submitted, this 30th day of November, 2020.

/s/ *Charlene S. McGowan*
CHARLENE S. MCGOWAN 697316
Assistant Attorney General

Office of the Georgia Attorney General
40 Capitol Square SW
Atlanta, GA 30334
cmcgowan@law.ga.gov
Tel: 404-656-3389
Fax: 404-651-9325

Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been formatted using Times New Roman font in 14-point type in compliance with Local Rule 7.1(D).

/s/Charlene S. McGowan
Charlene S. McGowan
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **NOTICE OF APPEARANCE** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for the parties of record via electronic notification.

Dated: November 30, 2020.

/s/ Charlene S. McGowan
Charlene S. McGowan
Assistant Attorney General

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

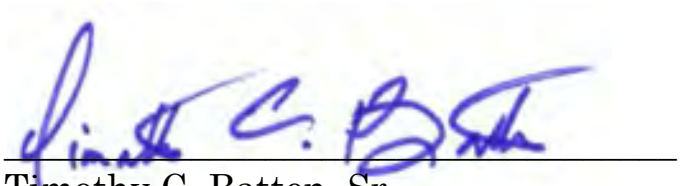
NO. 1:20-cv-4809-TCB

O R D E R

This matter shall come before the Court for hearing on Friday, December 4, at 10:00 a.m., EST, in Courtroom 2106, in Atlanta. The Court sets the following schedule: Defendants' brief in opposition to the

claims in Plaintiffs' complaint will be due on Wednesday, December 2, by 5:00 p.m. EST. Any reply brief will be due Thursday, December 3, by 5:00 p.m. EST.

IT IS SO ORDERED this 30th day of November, 2020.



Timothy C. Batten, Sr.
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

1:20-cv-04809-TCB
Pearson et al v. Kemp et al
Honorable Timothy C. Batten, Sr.

Minute Sheet for proceedings held In Open Court on 11/29/2020.

TIME COURT COMMENCED: 7:52 P.M.
TIME COURT CONCLUDED: 8:48 P.M. COURT REPORTER: Lori Burgess
TIME IN COURT: 00:56 DEPUTY CLERK: Uzma Wiggins
OFFICE LOCATION: Atlanta

ATTORNEY(S) PRESENT:	Harry MacDougald representing Brian Jay Van Gundy Harry MacDougald representing Carolyn Hall Fisher Harry MacDougald representing Cathleen Alston Latham Harry MacDougald representing Coreco Jaqan Pearson Harry MacDougald representing Gloria Kay Godwin Harry MacDougald representing James Kenneth Carroll Harry MacDougald representing Vikki Townsend Consiglio Charlene McGowan representing Anh Le Charlene McGowan representing Brad Raffensperger Charlene McGowan representing Brian Kemp Charlene McGowan representing David J. Worley Charlene McGowan representing Matthew Mashburn Charlene McGowan representing Rebecca N. Sullivan L. Wood representing Brian Jay Van Gundy L. Wood representing Carolyn Hall Fisher L. Wood representing Cathleen Alston Latham L. Wood representing Coreco Jaqan Pearson L. Wood representing Gloria Kay Godwin L. Wood representing James Kenneth Carroll L. Wood representing Vikki Townsend Consiglio ** Russell Willard, Howard Kleinhendler
PROCEEDING CATEGORY:	Telephone Conference(Motion Hearing Non-evidentiary);
MINUTE TEXT:	Zoom Hearing re briefing, scheduling, and Plaintiff's request to forensically inspect county voting machines.

HEARING STATUS: Hearing Concluded

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

PROPOSED INTERVENORS' PROPOSED MOTION TO DISMISS

COME NOW THE DEMOCRATIC PARTY OF GEORGIA, INC., the DSCC, and the DCCC (collectively, the "Democratic Political Party Committees"), by and through their attorneys, and file this Proposed Motion to Dismiss pursuant to the Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

The basis for the motion is more fully set forth in the Democratic Political Party Committees' accompanying Brief in Support of Proposed Motion to Dismiss.

Dated: November 30, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP

700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000
khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

**Pro Hac Vice Application Pending*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: November 30, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

PROPOSED INTERVENORS' BRIEF IN SUPPORT OF PROPOSED MOTION TO DISMISS

I. INTRODUCTION

Since the 2020 general election, various groups and individuals—unwilling to accept President-elect Biden's victory—have filed baseless lawsuits attacking the election's legitimacy.[1] Plaintiffs' current suit, alleging a "scheme and artifice to defraud [] for the purpose of illegally and fraudulently manipulating the vote count to make certain the election of Joe Biden as President of the United States," doubles down on the unfounded conspiracy theories animating these post-election challenges. Compl. for Declaratory, Emergency & Permanent Injunctive Relief ("Compl."), ECF No. 1, ¶ 2. Plaintiffs' requested relief is both unprecedented and unbelievable—they ask the Court to invalidate *all* mail-in ballots, instruct Georgia officials to "de-certify" the election results, and order the Governor to certify results "that state that President Donald Trump, is the winner of the election." Compl. ¶¶

[1] Federal courts have soundly rejected every effort to challenge President-elect Biden's victory in cases raising similar claims. *See generally, e.g.*, *Donald J. Trump for President, Inc. v. Boockvar*, No. 4:20-CV-02078, 2020 WL 6821992 (M.D. Pa. Nov. 21, 2020), *aff'd*, No. 20-3371, ECF No. 91 (3d Cir. Nov. 27, 2020) (affirming district court's refusal to enjoin Pennsylvania from certifying election results based on similar equal protection claims); *Bognet v. Sec'y of Commonwealth*, No. 20-3214, 2020 WL 6686120 (3d Cir. Nov. 13, 2020) (affirming denial of preliminary relief based on equal protection claim premised on vote dilution by purportedly illegal ballots); *Wood v. Raffensperger*, No. 1:20-cv-04561-SDG, ECF No. 54 (N.D. Ga. Nov. 20, 2020) (rejecting plaintiffs' motion to enjoin Georgia from certifying election results based on similar equal protection claims).

210-11. As the Third Circuit observed three days ago in affirming dismissal of another lawsuit seeking to throw out a state's certified election results, "Voters, not lawyers, choose the President. Ballots, not briefs, decide elections." *Donald J. Trump for President, Inc. v. Secretary Commonwealth of Pennsylvania*, No. 20-3371, at 20 (3d Cir. Nov. 27, 2020). This Court should reject Plaintiffs' request to disenfranchise five million Georgians based on implausible allegations of electoral malfeasance. In fact, this suit advances the same contorted legal theories and thin (in some instances verbatim) factual foundations that this Court swiftly dismissed only days ago. Op. & Order, *Wood v. Raffensperger*, No. 1:20-cv-04561, ECF No. 54 at 12-15 (N.D. Ga. Nov. 20, 2020) (Grimberg, J.).

The Court should dismiss this case on multiple grounds. Plaintiffs lack Article III standing to bring their claims, and further lack prudential standing to assert the Georgia General Assembly's interests. Georgia law is clear that Plaintiffs' claim for an election contest cannot be heard in federal court. And Plaintiffs' extraordinary delay in bringing suit additionally means laches bars their claims. Any of these jurisdictional bars independently precludes this Court's adjudication of Plaintiffs' suit.

Even if this Court had jurisdiction, Plaintiffs' claims fail as a matter of law. Their allegations fall far short of federal pleading standards and fail to articulate any

constitutional or statutory violation. Finally, Plaintiffs' requested relief—an extraordinary judicial override of the State's democratic process—would violate the constitutional rights of millions of Georgians. Every other court confronted with similar efforts has promptly and properly rejected them. This Court should do the same.

II. BACKGROUND

A. The General Election

Nearly five million Georgians cast ballots in the November election. On November 11, Secretary of State Brad Raffensperger (the "Secretary") announced that an audit by statewide hand recount of the presidential election would take place. This audit confirmed the outcome of the presidential election in favor of President-elect Biden, and on November 20, the Secretary certified that President-elect Biden prevailed over President Trump by a margin of 12,670 votes. Compl. ¶ 23.

On November 22, President Trump requested a *third* count by machine, which is currently underway.[2] This recount should be completed by December 2.[3]

[2] Kate Brumback, *Georgia counties set to start recount requested by Trump*, Associated Press (November 23, 2020), https://apnews.com/article/election-2020-joe-biden-donald-trump-georgia-state-elections-352e729f14a243b98fdefda94ff164ce.

[3] *Id.*

B. Prior and Ongoing Litigation

Less than three weeks ago, Lin Wood (who represents Plaintiffs in this lawsuit) filed his *own* lawsuit in this Court, asserting claims that bear a striking resemblance to those Plaintiffs press here. *Wood v. Raffensperger et al*., Case No. 1:20-cv-04651-SDG, ECF No. 5. In that case, Wood contends that the Secretary and the State Election Board performed their roles in an unconstitutional manner by entering into a settlement agreement with Proposed Intervenors in a separate federal litigation over eight months ago (the "Settlement Agreement"). *Id.* at 24, 29. The Settlement Agreement articulated uniform, statewide procedures for matching signatures on absentee ballot envelopes and curing deficiencies on the same. *See* ECF No. 5-1 at 2-4 (setting forth substantive terms of agreement between Proposed Intervenors and Defendants). Its dictates were the subject of an extended and public notice and comment process.[4] Wood also contends the Secretary and the State Election Board violated the due process rights of Republican election monitors during the hand recount. *Id.* at 32.

[4] *See* Ga. Comp. R. & Regs. 183-1-14-.13 (amended March 22, 2020); Ga. Comp. R. & Regs. 183-1-14-.13 (May 21, 2020); Ga. Comp. R. & Regs. 183-1-14-.13 (Aug. 31, 2020).

On November 20, the Hon. Steven D. Grimberg resoundingly rejected Wood's request for a temporary restraining order, finding that he lacked standing to assert these claims, ECF No. 54 at 12-19; his claims were barred by the doctrine of laches, *id.* at 19-23; and he failed to carry his burden on even one of the four requisite factors necessary to justify the temporary restraining order he sought, *id.* at 24-38. Wood appealed the denial, and the matter remains ongoing.

A separate lawsuit was filed on November 25 in Fulton County Superior Court by a John Wood, styled as an election contest, and raising many of the same claims regarding the Settlement Agreement, absentee voting, and purported inclusion of illegal votes, in addition to unsupported conspiracy claims regarding funds from a non-profit to certain counties to assist with voting. *See Wood v. Raffensperger et al.,* Pet. Election Contest, Fulton County Civil Action No. 2020CV342959 (November 25, 2020). The lawsuit names the Secretary and Governor as defendants. *Id.*

C. Plaintiffs' Lawsuit

In a transparent attempt to sidestep Wood's first failed bite at this apple, and on the same day the election contest was filed in Fulton County, Plaintiffs filed this Complaint on November 25—over three weeks after the general election and five days after Georgia officials certified the election results. Plaintiffs' 100-page complaint is disjointed, but its gist is that Georgia election officials are engaged in

an elaborate international conspiracy to "fraudulently manipulat[e] the vote count to make certain the election of Joe Biden as President of the United States." Compl. ¶ 2.

The Complaint borrows heavily from the "factual" allegations that this Court found inadequate in *Wood*, re-filing eleven affidavits from that case. It complains, again, about the constitutionality of the Settlement Agreement (*see, e.g., id.* ¶ 136) and about lack of adequate access during the hand recount of the presidential election results (*see, e.g., id.* ¶ 157). Plaintiffs additionally "support" the Complaint with "expert" declarations written for other lawsuits, concerning entirely different issues, often in different states. *See id*. ¶¶ 8, 10, 147-148*; see also* ¶ 2 n.1.

From these incredible factual allegations, Plaintiffs allege various causes of action: ostensible violations of the Elections and Electors Clauses, Compl. ¶¶ 132-142, Equal Protection Clause, *id.* ¶¶ 143-167, Due Process Clause, *id.* ¶¶ 168-181, and "wide-spread ballot fraud", *id.* ¶¶ 182-207. Among many other requests, Plaintiffs ask this Court to order Defendants to "decertify" the election for President-elect Biden and to affirmatively certify results "in favor of President Donald Trump." *Id*. ¶ 208-211.

III. LEGAL STANDARD

"The doctrine of standing asks whether a litigant is entitled to have a federal court resolve his grievance. This inquiry involves 'both constitutional limitations on federal-court jurisdiction and prudential limitations on its exercise.'" *Kowalski v. Tesmer*, 543 U.S. 125, 128-29 (2004) (quoting *Warth v. Seldin*, 422 U.S. 490, 498 (1975)). For a party to have standing, it must have "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Muransky v. Godiva Chocolatier, Inc.*, No. 16-16486 & 16-16783, 2020 WL 6305084, at *4 (11th Cir. Oct. 28, 2020). Prudential considerations require "that a party '[]must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties.'" *Kowalski*, 543 U.S. at 129.

To survive a 12(b)(6) motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is "plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "Plausibility is the key, as the well-pled allegations must nudge the claim across the line from conceivable to plausible." *Jacobs v. Tempur-Pedic Int'l, Inc.*, 626 F.3d 1327, 1333 (11th Cir. 2010) (internal quotations omitted). Where a complaint expressly alleges "fraud," Rule 9(b) requires pleading with "particularity." This pleading standard requires at a

minimum that a plaintiff alleges "facts as to time, place, and substance of the defendant's alleged fraud, specifically the details of the defendants' allegedly fraudulent acts, when they occurred, and who engaged in them.'" *U.S. ex rel. Matheny v. Medco Health Sols., Inc.*, 671 F.3d 1217, 1222 (11th Cir. 2012).

IV. LEGAL ARGUMENT

A. Plaintiffs lack standing.

Plaintiffs lack Article III standing to bring any of their constitutional claims and further lack prudential standing to bring their Elections and Electors Clause claim.

1. Plaintiffs lack standing to assert Elections and Electors Clause claims (Count I).

Plaintiffs lack standing to bring a claim under the Elections and Electors Clause. Their recurring grievance is that Defendants allegedly did not follow Georgia law regarding absentee ballot signature verification, ballot cure, and timing requirements for processing absentee ballots. *See, e.g.,* ¶¶ 51-52, 62, 133-142. But "[t]his injury is precisely the kind of undifferentiated, generalized grievance about

the conduct of government that [courts] have refused to countenance in the past." *Lance*, 549 U.S. at 442.[5]

Plaintiffs mistakenly contend that they have standing under *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020), which held that Minnesota's presidential electors were "candidates" in the general election and thus could bring an Electors Clause challenge to the validity of a Minnesota election-related consent decree. But Georgia, unlike Minnesota, differentiates between "candidates" and "presidential electors." *See, e.g.,* O.C.G.A. § 21-2-499(b) (describing the Secretary's certification of election results for the *candidates* for state and federal public office, on the one hand, and election results for the *slate of presidential electors*, on the other).

And in any event, *Carson* is a lone outlier and not binding on this Court. Other federal courts have repeatedly held that even candidates for office lack Article III standing to challenge alleged violations of state law under the Elections Clause. *See*

[5] Courts have routinely found that the Electors Clause and Elections Clause share "considerable similarity" and may be interpreted in the same manner. *Ariz. State Leg. v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 839 (2015) (Roberts, C.J., dissenting); *Bognet*, 2020 WL 6686120, at *7 (applying same test for standing under both Elections Clause and Electors Clause); *Donald J. Trump for President, Inc. v. Bullock*, No. CV 20-66-H-DLC, 2020 WL 5810556, at *11 (D. Mont. Sept. 30, 2020) ("As an initial matter, the Court finds no need to distinguish between the term 'Legislature' as it is used in the Elections Clause as opposed to the Electors Clause."). *Wood v. Raffensperger*, No. 1:20-cv-04561, ECF No. 54 at 15 n.24 (N.D. Ga. Nov. 20, 2020).

e.g., *Bognet*, 2020 WL 6686120, at *6-7 (finding that voters and candidate lacked Article III standing to bring claims under Elections and Electors Clauses); *Hotze v. Hollins*, No. 4:20-CV-03709, 2020 WL 6437668 at *2 (S.D. Tex. Nov. 2, 2020) (holding candidate lacked standing under Elections Clause and concluding that Supreme Court's cases "stand[s] for the proposition that only the state legislature (or a majority of the members thereof) have standing to assert a violation of the Elections Clause.").

Plaintiffs also lack prudential standing to bring their Elections and Electors Clauses claim. "Even if an injury in fact is demonstrated, the usual rule"—applicable here—"is that a party may assert only a violation of its own rights." *Virginia v. Am. Booksellers Ass'n*, 484 U.S. 383, 392 (1988). Plaintiffs' Count I, by contrast, "rest[s] . . . on the legal rights or interests of third parties,'" *Kowalski v. Tesmer*, 543 U.S. 125, 129 (2009). Plaintiffs' Elections and Electors Clause claims "belong, if they belong to anyone, only to the [Georgia] General Assembly." *Bognet*, 2020 WL 6686120, at *7; *see* Compl. ¶ 135 (alleging "Defendants are not part of the General Assembly and cannot exercise legislative power"). Plaintiffs have no authority to assert the rights of the General Assembly.

2. Plaintiffs lack standing to assert an equal protection claim (Counts II and III).

Plaintiffs have not stated plausible equal protection claims. Plaintiffs allege they are harmed by violations of Georgia law that "diluted" their votes. *See* Compl. ¶ 156. But this purported injury of vote-dilution-through-unlawful balloting has been repeatedly rejected as a viable basis for standing, and for good reason: any purported vote dilution somehow caused by counting allegedly improper votes would affect *all* Georgia voters and candidates, not just Plaintiffs, and therefore constitutes a generalized grievance insufficient for standing. *See, e.g.*, *Bognet*, 2020 WL 6686120, at *11–14 (rejecting identical theory for standing and explaining that "[t]his conceptualization of vote dilution—state actors counting ballots in violation of state election law—is not a concrete harm under the Equal Protection Clause of the Fourteenth Amendment"); *Moore v. Circosta*, No. 1:20-cv-911, 2020 WL 6063332, a *14 (M.D.N.C. Oct. 14, 2020) ("[T]he notion that a single person's vote will be less valuable as a result of unlawful or invalid ballots being cast is not a concrete and particularized injury in fact necessary for Article III standing."). Indeed, just days ago this Court rejected an identical claim on standing grounds. *See Wood v. Raffensperger,* No. 1:20-cv-04561, ECF No. 54 at 16 (N.D. Ga. Nov. 20, 2020) ("As Wood conceded during oral argument, under his theory any one of

Georgia's more than seven million registered voters would have standing to assert these claims. This is a textbook generalized grievance.").

3. Plaintiffs lack standing to assert a due process claim (Count IV).

For similar reasons, Plaintiffs cannot establish standing on their due process claim, which appears to assert that Georgia elections officials failed to adequately verify signatures on absentee ballots. Compl. ¶¶ 180-181. Plaintiffs' objection, in other words, is that Defendants failed to follow Georgia election law. This is once again a generalized grievance insufficient to satisfy Article III. *Lance*, 549 U.S. at 440–41; *see also Nolles v. State Comm. for Reorganization of Sch. Dists.*, 524 F.3d 892, 900 (8th Cir. 2008) (voters lacked standing to allege substantive due process claim regarding implementation of new election law where they failed to allege particularized injury).

B. The Court lacks jurisdiction over Plaintiffs' election contest claim (Count V).

Plaintiffs' Count V—in which Plaintiffs purport to state a claim under Georgia's election contest statute—cannot proceed in federal court. An election contest "article shall be tried and determined by the superior court of the county where the defendant resides . . ." O.C.G.A. § 21-2-523(a).

C. Plaintiffs' claims are barred by the equitable doctrine of laches.

Plaintiffs' extraordinary delay in filing suit is inexcusable and bars their claims. Laches bars a claim when "(1) there was a delay in asserting a right or a claim, (2) the delay was not excusable, and (3) the delay caused [the defendant] undue prejudice." *United States v. Barfield*, 396 F.3d 1144, 1150 (11th Cir. 2005). Federal courts routinely apply laches to bar untimely claims for injunctive relief in election cases. *See, e.g., Sanders v. Dooly Cnty., Ga.*, 245 F.3d 1289, 1291 (11th Cir. 2001) (concluding "that the district court did not abuse its discretion in deeming the claims seeking injunctive relief to be laches-barred" in elections context). Each element of laches is satisfied here.

First, Plaintiffs delayed considerably in asserting these claims. On March 6, 2020, Proposed Intervenors, the Secretary, and the Board executed the Settlement Agreement, which was entered on the public docket. It has since been in effect for at least three elections. Over eight months later—*after* over one million voters cast their absentee ballots in the general election, *after* Governor Kemp certified the slate of presidential electors, and *after* Wood lost his first attempt at litigating these issues—Plaintiffs now challenge the terms of the Settlement Agreement as unconstitutional, and their equal protection and Elections and Electors Clause-related grievances about Defendants' conduct flow from this document. Plaintiffs

"could have, and should have, filed [their] constitutional challenge much sooner than [they] did, and certainly not two weeks *after* the General Election." *Wood v. Raffensperger,* No. 1:20-cv-04561, ECF No. 54 at 20-21 (N.D. Ga. Nov. 20, 2020). Moreover, Plaintiffs seek to challenge decisions related to voting machines that have been heavily litigated for years, including well before the 2020 general election (*see, e.g., Curling v. Raffensperger*, No. 1:17-CV-2989-AT, 2020 WL 5994029 (N.D. Ga. Oct. 11, 2020)), and signature matches on absentee ballots that were separated from their envelopes weeks ago.[6] Plaintiffs have waited until well past the eleventh hour to challenge the processes of which they now complain.

Second, Plaintiffs have not articulated any reasonable excuse for their prolonged delay. Waiting to file this lawsuit solely because their preferred candidate lost in Georgia, as Plaintiffs appear to have done, is not a valid excuse. *See Wood,*. No. 1:20-cv-04561, ECF No. 54 at 21 ("[Plaintiffs'] claims are constitutional challenges . . . and [even if] valid, these claims should not depend on the outcome

[6] Notably, the Eleventh Circuit stayed even minor changes concerning the use of paper poll books on Election Day and ordered by the District Court weeks in advance. *See Curling v. Sec'y of State for Georgia*, No. 20-13730-RR, 2020 WL 6301847 (11th Cir. Oct. 24, 2020). Certainly, the sweeping requests that Plaintiffs seek *after* the election results have been certified are too late.

of any particular election, to wit, whether [Plaintiffs'] preferred candidates won or lost.").

Third, as this Court has already found in *Wood*, "Defendants, [Proposed] Intervenors, and the public at large would be significantly injured if the Court were to excuse [Plaintiffs'] delay." *Id.* at 22. Plaintiffs' requested relief would further "disenfranchise a substantial portion of the electorate and erode the public's confidence in the electoral process," weighing heavily in favor of laches. *Id.*; *see also Arkansas United v. Thurston*, No. 5:20-cv-5193, 2020 WL 6472651, at *5 (W.D. Ark. Nov. 3, 2020) ("[T]he equities do not favor intervention where the election is already in progress and the requested relief would change the rules of the game mid-play.").The doctrine of laches bars Plaintiff's claims.

D. Plaintiffs fail to state a claim upon which relief can be granted.

Even if this Court had jurisdiction to consider Plaintiffs' claims, their Complaint should be dismissed under Rule 12(b)(6) as they fail to state plausible claims for relief.

1. Plaintiffs' claims are simply not plausible

Under the Federal Rules, plaintiffs must allege "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570. While Rule 8 "does not require 'detailed factual allegations,' [] it demands more than an unadorned, the-

defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 555). The shortcomings in Plaintiffs' Complaint are particularly stark considering Rule 9(b), which applies to allegations of fraud. "In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake." Fed. R. Civ. P. 9(b).

Plaintiffs fail to meet the standards of Rule 8, much less Rule 9(b). Plaintiffs' theory is that a Republican governor and Republican secretary of state, both avowed supporters of President Trump, helped advance a "massive fraud" because they "purchased and rushed into use" voting machines made by Dominion (Compl. ¶ 4), which is a company created exclusively to ensure election-rigging so that "Venezuelan dictator Hugo Chavez never lost another election" (*id.* ¶ 5), which thereby allowed Iran and China to manipulate the general election to ensure President-elect Biden's victory (*id.* ¶ 111), apparently in cahoots with Georgian elections officials who forged "pristine" fraudulent ballots for Biden (*id.* ¶ 153). The Supreme Court has instructed that "[d]etermining whether a complaint states a plausible claim for relief" is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Iqbal*, 556 U.S. at 679. It challenges both experience and common sense to accept Plaintiffs' overarching theory that widespread fraud occurred during the most scrutinized election in

modern history, particularly based on the allegations at bar. Under federal pleading standards, this Court need not credit Plaintiffs' specious inferences and conclusory allegations. Plaintiffs' Complaint should therefore be dismissed.

2. Plaintiffs have not pleaded a claim under the Election and Electors Clause.

Plaintiffs' Elections and Electors Clause claims are similarly unavailing. The Elections and Electors Clause vest authority in "the Legislature" of each state to regulate "[t]he Times, Places, and Manner of holding Elections for Senators and Representatives", U.S. Const. art. I, § 4, cl. 1., and to direct the selection of presidential electors, U.S. Const. art. II, § 1, cl. 2, respectively. The Supreme Court has held, however, that state legislatures can delegate this authority—including to state officials like the Secretary. *See, e.g.*, *Ariz. State Legislature*, 576 U.S. at 807 (noting that Elections Clause does not preclude "the State's choice to include" state officials in lawmaking functions so long as such involvement is "in accordance with the method which the State has prescribed for legislative enactments") (quoting *Smiley v. Holm*, 285 U.S. 355, 367 (1932)).

Pursuant to Georgia law, the Secretary is the chief election official for the State, O.C.G.A § 21-2-50(b); *see also Wood v. Raffensperger,* No. 1:20-cv-04561, ECF No. 54 at 30 (N.D. Ga. Nov. 20, 2020) (Grimberg, J.), and the General Assembly has granted him the power and authority to manage Georgia's election

system, including the absentee voting system. *See Fair Fight Action, Inc. v. Raffensperger*, 413 F.Supp.3d 1251 (N.D. Ga. 2019); Ga. Op. Att'y Gen. No. 2005-3 (Apr. 15, 2005) (recognizing the Secretary's authority to manage Georgia's election system). Additionally, the Secretary is the Chair of the Board, which is the governmental body responsible for uniform election practice in Georgia. O.C.G.A. § 21-2-31; *see also Curling v. Raffensperger*, 403 F. Supp. 3d 1311, 1345 (N.D. Ga. 2019) ("[T]he [] Board is charged with enforcing Georgia's election code under state law."). In both roles, the Secretary has significant statutory authority to set election standards. *See New Georgia Project v. Raffensperger*, No. 1:20-CV-01986-ELR, 2020 WL 5200930, at *8 (N.D. Ga. Aug. 31, 2020).

Plaintiffs fleetingly assert the "cure procedure" created as part of the Settlement Agreement violates the Electors and Elections Clause. *See* Compl. ¶ 136. But Judge Grimberg already rejected that theory. *See Wood*, No. 1:20-cv-04561, ECF No. 54 at 31 (rejecting Wood's Elections and Electors Clause claim because "[t]he Settlement Agreement is a manifestation of Secretary Raffensperger's statutorily granted authority"). Plaintiffs also compile a list of "legal infractions" but fail to tie those alleged infractions in any plausible way back to the Electors and Elections Clause.

3. Plaintiffs have not pleaded an equal protection claim.

Plaintiffs have not stated cognizable equal protection claims. Counts II and III allege that Defendants "failed to comply with the requirements of the Georgia Election Code and thereby diluted the lawful ballots of the Plaintiffs[.]" Compl. ¶ 156 (Count II); *see also id.* ¶ 172 (alleging disparate treatment of Georgia voters results in the dilution of the vote). This is not an equal protection injury. Vote dilution is a viable basis for federal claims only in certain contexts, such as when laws structurally devalue one community's votes over another's. *See, e.g.*, *Bognet*, 2020 WL 6686120, at *11 ("[V]ote dilution under the Equal Protection Clause is concerned with votes being weighed differently."). But Plaintiffs' "conceptualization of vote dilution—state actors counting ballots in violation of state election law—is not a concrete harm under the Equal Protection Clause of the Fourteenth Amendment." *Id.* at *11; *see also Wood*, 2020 WL 6817513, at *8–10 (concluding that vote-dilution injury is not "cognizable in the equal protection framework").

Plaintiffs assert a confusing "disparate treatment" claim, s*ee* Compl. ¶¶ 168-72, predicated on provisions of the Settlement Agreement that set forth "standards to be followed by the clerks and registrars in processing absentee ballots *in the State of Georgia*" as a whole, not across different counties. *Id.* ¶ 52 (emphasis added).

But the promulgation of uniform procedures with which Plaintiffs disagree is not an equal protection violation. As the Third Circuit recently concluded under similar circumstances in determining that the plaintiffs failed to state an equal protection claim because they lacked standing:

> Plaintiffs advance an Equal Protection Clause argument based solely on state officials' alleged violation of state law that does not cause unequal treatment. And if dilution of lawfully cast ballots by the "unlawful" counting of invalidly cast ballots were a true equal-protection problem, then it would transform every violation of state election law (and, actually, every violation of every law) into a potential federal equal-protection claim requiring scrutiny of the government's 'interest' in failing to do more to stop the illegal activity. *That is not how the Equal Protection Clause works.*

Bognet, 2020 WL 6686120, at *11 (internal citations and quotations omitted; emphasis added.) The same reasoning applies here.

Plaintiffs also briefly insinuate an equal protection claim by alleging that Defendants "denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants," Compl. ¶161, but this too lacks merit. Courts have repeatedly held that "there is no individual constitutional right to serve as a poll watcher." *Boockvar*, 2020 WL 5997680, at *67 (quoting *Pa. Democratic Party v. Boockvar*, 238 A.3d 345, 385 (Pa. 2020)). Plaintiffs cite no authority to the contrary.

4. Plaintiffs have not pleaded a due process claim.

In Count IV, Plaintiffs attempt to package their theories of purported illegal voting under Georgia law and fraud into a due process theory, once again alleging such violations of state law diluted their votes. *See* Compl. ¶ 178. But as discussed *supra*, vote dilution is a context-specific theory of constitutional harm premised on the Equal Protection Clause, not the Due Process Clause, and at any rate Plaintiffs have failed to plead a cognizable vote-dilution claim. Even lending Plaintiffs a more charitable reading—by construing the allegations in the complaint as a substantive due process claim—the Complaint would still fall short.

It is well-settled that "[f]ederal courts should not 'involve themselves in garden variety election disputes.'" *Serpentfoot v. Rome City Comm'n*, No. 4:09-CV-0187-HLM, 2010 WL 11507239, at *16 (N.D. Ga. Mar. 3, 2010) (quoting *Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir. 1986) (noting "[o]nly in extraordinary circumstances will a challenge to a state election rise to the level of a constitutional deprivation"). For the substantive Due Process Clause to be implicated, the situation "must go well beyond the ordinary dispute over the counting and marking of ballots." *Curry*, 802 F.2d at 1315.

As Judge Grimberg observed based on much of the (exact) same evidence, the allegedly illegal votes and supposedly improvident behavior, even if true, amount to

little more than these types of "garden variety" disputes that simply do not rise to constitutional violations. *Wood*, ECF No. 54 at 36; *see also, e.g.*, *Serpentfoot v. Rome City Comm'n*, 426 F. App'x 884, 887 (11th Cir. 2011) ("[Plaintiff's] allegations show, at most, a single instance of vote dilution and not an election process that has reached the point of patent and fundamental unfairness indicative of a due process violation.").[7]

Citizens are not constitutionally entitled to an error-free election. The sort of unconstitutional irregularity that courts have entertained under the Due Process Clause consists of widescale disenfranchisement. *See, e.g.*, *Bennett v. Yoshina*, 140 F.3d 1218, 1226-27 (9th Cir. 1998). But Plaintiffs' Complaint does not allege disenfranchisement at all. Rather, it seeks to disenfranchise millions of Georgian voters by "decertifying" the result and declaring their preferred candidate the new winner. Plaintiffs' due process claim must be dismissed.

E. Plaintiffs are not entitled to the relief they seek.

The requested relief is not tailored to the allegations in the Complaint because instead of remedying a constitutional violation, Plaintiffs' requested relief *would*

[7] In contrast, it would violate the constitutional rights of the millions of voters who relied on many of the procedures challenged now, after the election. *See e.g.*, *Griffin v. Burns*, 570 F.2d 1065, 1079 (1st Cir. 1978) (finding disenfranchisement of electorate who voted by absentee ballot a violation of substantive due process).

create one. *See, e.g.*, Compl. ¶ 210; *see also Stein v. Cortés*¸ 223 F.Supp.3d 423, 442 (E.D. Pa 2016) (granting relief that "could well ensure that no Pennsylvania vote counts . . . would be both outrageous and completely unnecessary"). As another federal court stated this past week when the Trump Campaign sought similar relief in Pennsylvania, "[t]his Court has been unable to find any case in which a plaintiff has sought such a drastic remedy in the contest of an election, in terms of the sheer volume of votes asked to be invalidated." *Donald J. Trump for President, Inc. v. Boockvar*, No. 4:20-CV-02078, 2020 WL 6821992, at *1 (M.D. Pa. Nov. 21, 2020), *aff'd*, No. 20-3371 (3d Cir. Nov. 27, 2020).

"Voters, not lawyers, choose the President. Ballots, not briefs, decide elections." *Trump for President*, No. 20-3371, ECF No. 91 at 20. The same should be true in Georgia.

V. CONCLUSION

For the foregoing reasons, Proposed Intervenor-Defendants respectfully request that the Court dismiss Plaintiffs' complaint.

[signature block on following page]

Dated: November 30, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000

khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

**Pro Hac Vice Application Pending*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: November 30, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

PROPOSED INTERVENOR-DEFENDANTS' PROPOSED ANSWER TO PLAINTIFFS' AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Proposed Intervenor-Defendants, the Democratic Party of Georgia, Inc. ("DPG"), the DSCC, and the DCCC (collectively, the "Democratic Political Party Committees") by and through their attorneys, answer Plaintiffs' Amended Complaint for declaratory and injunctive relief (hereafter, "Plaintiffs' Complaint") as set forth below. Unless expressly admitted, each allegation in the complaint is denied, and the Democratic Political Party Committees demand strict proof thereof.

NATURE OF THE ACTION

Responding to the unnumbered introductory paragraph and the footnote referenced therein, the Democratic Political Party Committees deny the allegations.

1. Paragraph 1 of Plaintiffs' Complaint states:

> As a civil action, the Plaintiffs' burden of proof is a "preponderance of the evidence" to show, as the Georgia Supreme Court has made clear that, *"[i] was not incumbent upon [Plaintiff] to show how the [] voters would have voted if their [absentee] ballots had been regular. [Plaintiff] only had to show that there were enough irregular ballots to place in doubt the result."* *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (2004) (*citing Howell v. Fears*, 275 Ga. 627, 571 S.E.2d 392 (2002).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Mead*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

2. Paragraph 2 of Plaintiffs' Complaint states:

The scheme and artifice to defraud was for the purpose of illegally and fraudulently manipulating the vote count to make certain the election of Joe Biden as President of the United States.

Answer: Denied.

3. Paragraph 3 of Plaintiffs' Complaint states:

The fraud was executed by many means, but the most fundamentally troubling, insidious, and egregious is the systemic adaptation of old-fashioned "ballot-stuffing." It has now been amplified and rendered virtually invisible by computer software created and run by domestic and foreign actors for that very purpose. Mathematical and statistical anomalies rising to the level of impossibilities, as shown by affidavits of multiple witnesses, documentation, and expert testimony evince this scheme across the state of Georgia. Especially egregious conduct arose in Forsyth, Paulding, Cherokee, Hall, and Barrow County. This scheme and artifice to defraud affected tens of thousands of votes in Georgia alone and "rigged" the election in Georgia for Joe Biden.

Answer: Denied.

4. Paragraph 4 of Plaintiffs' Complaint states:

The massive fraud begins with the election software and hardware from Dominion Voting Systems Corporation ("Dominion") only recently purchased and rushed into use by Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and the Georgia Board of Elections. Sequoia voting machines were used in 16 states and the District of Colombia in 2006. Smartmatic, which has revenue of about $100 million, focuses on Venezuela and other markets outside the U.S. After selling Sequoia, Smartmatic's chief executive, Anthony Mugica. Mr. Mugica said, he hoped Smartmatic would work with Sequoia on projects in the U.S., though Smartmatic wouldn't take an equity stake." *Id.*

Answer: The Democratic Political Party Committees deny that any fraud occurred with respect to the Dominion Voting Systems Corporation ("Dominion") election software and hardware. The Democratic Political Party Committees lack sufficient information to admit or deny the remaining allegations in Paragraph 4 of Plaintiffs' Complaint and on that basis deny the same.

5. Paragraph 5 of Plaintiffs' Complaint states:

> Smartmatic and Dominion were founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election. (*See* Redacted whistleblower affiant, *attached as Exh. 2*) Notably, Chavez "won" every election thereafter.

Answer: Denied.

6. Paragraph 6 of Plaintiffs' Complaint states:

> As set forth in the accompanying whistleblower affidavit, the Smartmatic software was designed to manipulate Venezuelan elections in favor of dictator Hugo Chavez:
>
> Smartmatic's electoral technology was called "Sistema de Gestión Electoral" (the "Electoral Management System"). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter's ballot. The voter's thumbprint was linked to a computerized record of that voter's identity. Smartmatic created and operated the entire system.

Answer: The Democratic Political Party Committees admit that the quoted language is from the affidavit attached to Plaintiffs' Complaint. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 6 and, on that basis, deny the same.

7. Paragraph 7 of Plaintiffs' Complaint states:

> A core *requirement* of the Smartmatic software design was the *software's ability to hide its manipulation of votes from any audit*. As the whistleblower explains:
>
> Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted, but that voter would not be tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that accomplished that result for President Chavez. (See *Id.*, see also Exh. 3, Aff. Cardozo, attached hereto)).

Answer: The Democratic Political Party Committees admit that the quoted language is from the affidavit attached to Plaintiffs' Complaint. The Democratic Political Party Committees lack knowledge and information

sufficient to form a belief as to the truth of the substance of the quoted language and of each and every other allegation in Paragraph 7 and, on that basis, deny the same.

8. Paragraph 8 of Plaintiffs' Complaint states:

> The design and features *of* the Dominion software do not permit a simple audit to reveal its misallocation, redistribution, or deletion of votes. First, the system's central accumulator does not include a protected real-time audit log that maintains the date and time stamps of all significant election events. Key components of the system utilize unprotected logs. Essentially this allows an unauthorized user the opportunity to arbitrarily add, modify, or remove log entries, causing the machine to log election events that do not reflect actual voting tabulations—or more specifically, do not reflect the actual votes of or the will of the people. (*See* Hursti August 2019 Declaration, attached hereto as Exh. 4, at pars. 45-48; and attached hereto, as Exh. 4B, October 2019 Declaration in Document 959-4, at p. 18, par. 28).

Answer: The Democratic Political Party Committees lack sufficient information to admit or deny the allegations in Paragraph 8 of Plaintiffs' Complaint and on that basis deny the same.

9. Paragraph 9 of Plaintiffs' Complaint states:

> Indeed, under the professional standards within the industry in auditing and forensic analysis, when a log is unprotected, and can be altered, it can no longer serve the purpose of an audit log. There is incontrovertible physical evidence that the standards of physical security of the voting machines and the software were breached, and machines were connected to the internet in violation of professional standards and state and federal laws. (*See Id*.)

Answer: The Democratic Political Party Committees deny that there is any physical evidence, much less incontrovertible physical evidence, that the standards of physical security of the voting machines and the software were breached and that machines were connected to the internet in violation of professional standards and state and federal laws. The Democratic Political Party Committees lack sufficient information to admit or deny the remaining allegations in Paragraph 9 of Plaintiffs' Complaint and on that basis deny the same.

10. Paragraph 10 of Plaintiffs' Complaint states:

> Moreover, lies and conduct of Fulton County election workers about a delay in voting at State Farm Arena and the reasons for it evince the fraud.

Answer: Denied.

11. Paragraph 11 of Plaintiffs' Complaint states:

> Specifically, video from the State Farm Arena in Fulton County shows that on November 3rd after the polls closed, election workers falsely claimed a water leak required the facility to close. All poll workers and challengers were evacuated for several hours at about 10:00 PM. However, several election workers remained unsupervised and unchallenged working at the computers for the voting tabulation machines until after 1:00 AM.

Answer: The Democratic Political Party Committees admit that election workers were evacuated from the State Farm Arena in Fulton County for several hours starting at approximately 10:00 PM on November 3, 2020. The

Democratic Political Party Committees deny that election workers falsely claimed that such a water leak occurred. The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 11 and, on that basis, deny the same.

12. Paragraph 12 of Plaintiffs' Complaint states:

> Defendants Kemp and Raffensperger rushed through the purchase of Dominion voting machines and software in 2019 for the 2020 Presidential Election. A certificate from the Secretary of State was awarded to Dominion Voting Systems but is undated. (*See* attached hereto Exh. 5, copy Certification for Dominion Voting Systems from Secretary of State). Similarly a test report is signed by Michael Walker as Project Manager but is also undated. (See Exh. 6, Test Report for Dominion Voting Systems, Democracy Suite 5-4-A)

Answer: The Democratic Political Party Committees admit that the copy of the Certificate for Dominion Voting Systems in Plaintiffs' Exhibit 5 and the copy of the test report in Plaintiffs' Exhibit 6 do not contain signatures. The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 12 and, on that basis, deny the same.

13. Paragraph 13 of Plaintiffs' Complaint states:

> Defendants Kemp and Raffensperger disregarded all the concerns that caused Dominion software to be rejected by the Texas Board of Elections in

2018, namely that it was vulnerable to undetected and non-auditable manipulation. An industry expert, Dr. Andrew Appel, Princeton Professor of Computer Science and Election Security Expert has recently observed, with reference to Dominion Voting machines: "I figured out how to make a slightly different computer program that just before the polls were closed, it switches some votes around from one candidate to another. I wrote that computer program into a memory chip and now to hack a voting machine you just need 7 minutes alone with it and a screwdriver." (Attached hereto Exh. 7, Study, Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters by Andrew W. Appel Princeton University, Richard A. DeMillo, Georgia Tech Philip B. Stark, for the Univ. of California, Berkeley, December 27, 2019).

Answer: The Democratic Political Party Committees admit that the quoted language is from Plaintiffs' Exhibit 7. The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13 and, on that basis, deny the same.

14. Paragraph 14 of Plaintiffs' Complaint states:

As explained and demonstrated in the accompanying redacted declaration of a former electronic intelligence analyst under 305th Military Intelligence with experience gathering SAM missile system electronic intelligence, the Dominion software was accessed by agents acting on behalf of China and Iran in order to monitor and manipulate elections, including the most recent US general election in 2020. This Declaration further includes a copy of the patent records for Dominion Systems in which Eric Coomer is listed as the first of the inventors of Dominion Voting Systems. (See Attached hereto as Exh. 8, copy of redacted witness affidavit, 17 pages, November 23, 2020).

Answer: The Democratic Political Party Committees admit that the copy of the patent records for Dominion Systems in Exhibit 8 list Eric Coomer as the first of the inventors of Dominion Voting Systems and deny the remaining allegations in Paragraph 14.

15. Paragraph 15 of Plaintiffs' Complaint states:

> Expert Navid Keshavarez-Nia explains that US intelligence services had developed tools to infiltrate foreign voting systems including Dominion. He states that Dominion's software is vulnerable to data manipulation by unauthorized means and permitted election data to be altered in all battleground states. He concludes that hundreds of thousands of votes that were cast for President Trump in the 2020 general election were transferred to former Vice-President Biden. (Exh. 26).

Answer: The Democratic Political Party Committees admit that Exhibit 26 to Plaintiffs' Complaint makes the same allegations as Paragraph 15 and deny the substance of those allegations and any other or different allegations in Paragraph 15.

16. Paragraph 16 of Plaintiffs' Complaint states:

> Additionally, incontrovertible evidence Board of Elections records demonstrates that at least 96,600 absentee ballots were requested and counted but were never recorded as being returned to county election boards by the voter. *Thus, at a minimum, 96,600 votes must be disregarded*. (See Attached hereto, Exh. 9, R. Ramsland Aff.).

Answer: Denied.

17. Paragraph 17 of Plaintiffs' Complaint states:

> The Dominion system used in Georgia erodes and undermines the reconciliation of the number of voters and the number of ballots cast, such that these figures are permitted to be unreconciled, opening the door to ballot stuffing and fraud. The collapse of reconciliation was seen in Georgia's primary and runoff elections this year, and in the November election, where it was discovered during the hand audit that 3,300 votes were found on memory sticks that were not uploaded on election night, plus in Floyd county, another 2,600 absentee ballots had not been scanned. These "found votes" reduced Biden's lead over Donald Trump.

Answer: The Democratic Political Party Committees admit that recounts discovered some previously uncounted votes and deny every remaining allegation in Paragraph 17.

18. Paragraph 18 of Plaintiffs' Complaint states:

> Georgia's election officials and poll workers exacerbated and helped, whether knowingly or unknowingly, the Dominion system carry out massive voter manipulation by refusing to observe statutory safeguards for absentee ballots. Election officials failed to verify signatures and check security envelopes. They barred challengers from observing the count, which also facilitated the fraud.

Answer: Denied.

19. Paragraph 19 of Plaintiffs' Complaint states:

> Expert analysis of the actual vote set forth below demonstrates that at least 96,600 votes were illegally counted during the Georgia 2020 general election. All of the evidence and allegation herein is more than sufficient to place the result of the election in doubt. More evidence arrives by the day and discovery should be ordered immediately.

Answer: Denied.

20. Paragraph 20 of Plaintiffs' Complaint states:

Georgia law, (OCGA 21-5-552) [sic] provides for a contest of an election where:

(1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result; . . . (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result; (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-5-522 and deny each other or different allegation.

21. Paragraph 21 of Plaintiffs' Complaint states:

As further set forth below, all of the above grounds have been satisfied and compel this Court to set aside the 2020 General Election results which fraudulently concluded that Mr. Biden defeated President Trump by 12,670 votes.

Answer: Denied.

22. Paragraph 22 of Plaintiffs' Complaint states:

Separately, and independently, there are sufficient Constitutional grounds to set aside the election results due to the Defendants' failure to observe statutory requirements for the processing and counting of absentee ballots which led to the tabulation of more than fifty thousand illegal ballots.

Answer: Denied.

THE PARTIES

23. Paragraph 23 of Plaintiffs' Complaint states:

> Plaintiff Coreco Ja'Qan ("CJ") Pearson, is a registered voter who resides in Augusta, Georgia. He is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia. He has standing to bring this action under *Carson v. Simon*, 2020 US App Lexis 34184 (8th Cir. Oct. 29, 2020). He brings this action to set aside and decertify the election results for the Office of President of the United States that was certified by the Georgia Secretary of State on November 20, 2020. The certified results showed a plurality of 12,670 votes in favor of former Vice-President Joe Biden over President Trump.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 23. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Coreco Ja'Qan Pearson is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website. The Democratic Political Party Committees deny that Plaintiff Pearson has Article III standing to bring this action. The Democratic Political Party Committees admit the last sentence of Paragraph 23.

24. Paragraph 24 of Plaintiffs' Complaint states:

> Plaintiff Vikki Townsend Consiglio, is a registered voter who resides in Henry County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 24. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Vikki Townsend Consiglio is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

25. Paragraph 25 of Plaintiffs' Complaint states:

> Plaintiff Gloria Kay Godwin, is a registered voter who resides in Pierece County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 25. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Gloria Kay Godwin is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

26. Paragraph 26 of Plaintiffs' Complaint states:

Plaintiff James Kenneth Carroll, is a registered voter who resides in Dodge County, Georgia. He is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 26. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff James Kenneth Carroll is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

27. Paragraph 27 of Plaintiffs' Complaint states:

Plaintiff Carolyn Hall Fisher, is a registered voter who resides in Forsyth County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 27. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Carolyn Hall Fisher is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

28. Paragraph 28 of Plaintiffs' Complaint states:

> Plaintiff Cathleen Alston Latham, is a registered voter who resides in Coffee County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 28. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Cathleen Alston Latham is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

29. Paragraph 29 of Plaintiffs' Complaint states:

> Plaintiff Jason M. Shepherd is the Chairman of the Cobb County Republican Party and brings this action in his official capacity on behalf of the Cobb County Republican Party.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff Jason M. Shepherd's status as the Chairman of the Cobb County Republican Party. These allegations are therefore denied.

30. Paragraph 30 of Plaintiffs' Complaint states:

> Plaintiff Brian Jay Van Gundy is registered voter in Gwinnett County, Georgia. He is the Assistant Secretary of the Georgia Republican Party.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff Brian Jay Van Gundy's residence, voter registration status, or status as the Assistant Secretary of the Georgia Republican Party. These allegations are therefore denied.

31. Paragraph 31 of Plaintiffs' Complaint states:

> Defendant Governor Brian Kemp (Governor of Georgia) is named herein in his official capacity as Governor of the State of Georgia. On or about June 9, 2019, Governor Kemp bought the new Dominion Voting Systems for Georgia, budgeting 150 million dollars for the machines. Critics are quoted, "Led by Abrams, Democrats fought the legislation and pointed to cybersecurity experts who warned it would leave Georgia's elections susceptible to hacking and tampering." And "Just this week, the Fair Fight voting rights group started by [Stacy] Abrams launched a television ad critical of the bill. In a statement Thursday, the group called it "corruption at its worst" and a waste of money on "hackable voting machines."

Answer: The Democratic Political Party Committees admit that Brian Kemp is the Governor of Georgia. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 31 and therefore deny the same.

32. Paragraph 32 of Plaintiffs' Complaint states:

> Defendant Brad Raffensperger ("Secretary Raffensperger") is named herein in his official capacity as Secretary of State of the State of Georgia and the Chief Election Official for the State of Georgia pursuant to Georgia's Election Code and O.C.G.A. § 21-2-50. Secretary Raffensperger is a state

official subject to suit in his official capacity because his office "imbues him with the responsibility to enforce the [election laws]." *Grizzle v. Kemp*, 634 F.3d 1314, 1319 (11th Cir. 2011). Secretary Raffensperger serves as the Chairperson of Georgia's State Election Board, which promulgates and enforces rules and regulations to (i) obtain uniformity in the practices and proceedings of election officials as well as legality and purity in all primaries and general elections, and (ii) be conducive to the fair, legal, and orderly conduct of primaries and general elections. *See* O.C.G.A. §§ 21-2-30(d), 21-2-31, 21-2-33.1. Secretary Raffensperger, as Georgia's chief elections officer, is further responsible for the administration of the state laws affecting voting, including the absentee voting system. *See* O.C.G.A. § 21-2-50(b).

Answer: The Democratic Political Party Committees admit that Brad Raffensperger is the Secretary of State of Georgia with certain responsibilities as described by law. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases and statutory provisions, the Democratic Political Party Committees deny the allegations. To the extent a response is otherwise required, the Democratic Political Party Committees deny the allegations.

33. Paragraph 33 of Plaintiffs' Complaint states:

Defendants Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Le (hereinafter the "State Election Board") are members of the State Election Board in Georgia, responsible for "formulating, adopting, and promulgating such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections." O.C.G.A. § 21-2-31(2). Further, the State Election Board "promulgate[s] rules and regulations to define uniform and nondiscriminatory standards

concerning what constitutes a vote and what will be counted as a vote for each category of voting system" in Georgia. O.C.G.A. § 21-2-31(7). The State Election Board, personally and through the conduct of the Board's employees, officers, agents, and servants, acted under color of state law at all times relevant to this action and are sued for emergency declaratory and injunctive relief in their official capacities.

Answer: The Democratic Political Party Committees admit that Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Lee are members of the State Election Board in Georgia with certain responsibilities as defined by law. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statutory provisions, the Democratic Political Party Committees deny the allegations. To the extent a response is otherwise required, the Democratic Political Party Committees deny the allegations.

JURISDICTION AND VENUE

34. Paragraph 34 of Plaintiffs' Complaint states:

This Court has subject matter jurisdiction under 28 U.S.C. 1331 which provides, "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

Answer: The Democratic Political Party Committees deny that this Court has subject-matter jurisdiction.

35. Paragraph 35 of Plaintiffs' Complaint states:

This Court also has subject matter jurisdiction under 28 U.S.C. 1343 because this action involves a federal election for President of the United States. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush v. Gore*, 531 U.S. 98, 113 (2000) (Rehnquist, C.J., concurring); *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

Answer: The Democratic Political Party Committees deny that this Court has subject-matter jurisdiction. The Democratic Political Party Committees admit that the Plaintiff has quoted *Bush v. Gore* and deny each other or different allegation.

36. Paragraph 36 of Plaintiffs' Complaint states:

The jurisdiction of the Court to grant declaratory relief is conferred by 28 U.S.C. 2201 and 2202 and by Rule 57 and 65, Fed. R. Civ. P. 7.

Answer: Denied because the Court lacks subject-matter jurisdiction.

37. Paragraph 37 of Plaintiffs' Complaint states:

This Court has jurisdiction over the related Georgia Constitutional claims and State law claims under 28 U.S.C. 1367.

Answer: Denied because the Court lacks subject-matter jurisdiction.

38. Paragraph 38 of Plaintiffs' Complaint states:

In Georgia, the "legislature" is the General Assembly. See Ga. Const. Art. III, § I, Para. I.

Answer: The Democratic Political Party Committees admit that the General Assembly is granted "legislative power" by Ga. Const. Art. I, § I, Para. 1, and deny each other or different allegation.

39. Paragraph 39 of Plaintiffs' Complaint states:

> Because the United States Constitution reserves for state legislatures the power to set the time, place, and manner of holding elections for Congress and the President, state executive officers, including but not limited to Secretary Raffensperger, have no authority to exercise that power unilaterally, much less flout existing legislation or the Constitution itself.

Answer: Paragraph 39 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Democratic Political Party Committees deny the allegations.

STATEMENT OF FACTS

40. Paragraph 40 of Plaintiffs' Complaint states:

> Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988, and under Georgia law, O.C.G.A. § 21-2-522 to remedy deprivations of rights, privileges, or immunities secured by the Constitution and laws of the United States and to contest the election results.

Answer: The Democratic Political Party Committees admit that Plaintiffs' are asserting claims under 42 U.S.C. §§ 1983 and 1988 and under O.C.G.A. § 21-

2-522. The Democratic Political Party Committees deny that Plaintiffs have established a cognizable claim under any of these provisions.

41. Paragraph 41 of Plaintiffs' Complaint states:

> The United States Constitution sets forth the authority to regulate federal elections, the Constitution provides:
>
> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators. U.S. CONST. art. I, § 4 ("Elections Clause").

Answer: The Democratic Political Party Committees admit that the quoted language is from U.S. Const. Art. I, section 4 and deny each other or different allegation in Paragraph 41.

42. Paragraph 42 of Plaintiffs' Complaint states:

> With respect to the appointment of presidential electors, the Constitution 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. U.S. CONST. art. II, § 1 ("Electors Clause").

Answer: The Democratic Political Party Committees admit that the quoted language is from U.S. Const. art. II, § 1 and deny each other or different allegation in Paragraph 42.

43. Paragraph 43 of Plaintiffs' Complaint states:

> Neither Defendant is a "Legislature" as required under the Elections Clause or Electors Clause. The Legislature is "'the representative body which ma[kes] the laws of the people.'" *Smiley* 285 U.S. 365. Regulations of congressional and presidential elections, thus, "must be in accordance with the method which the state has prescribed for legislative enactments." Id. at 367; *see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 135 S. Ct. 2652, 2668 (U.S. 2015).

Answer: The Democratic Political Party Committees admit the quoted language is from *Smiley* and deny each other or different allegation. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

44. Paragraph 44 of Plaintiffs' Complaint states:

> While the Elections Clause "was not adopted to diminish a State's authority to determine its own lawmaking processes," *Ariz. State Legislature*, 135 S. Ct. at 2677, it does hold states accountable to their chosen processes when it comes to regulating federal elections, *id.* at 2668. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush*, 531 U.S. at 113 (Rehnquist, C.J., concurring); *Smiley*, 285 U.S. at 365.

Answer: The Democratic Political Party Committees admit the quoted language is from *Ariz. State Legislature*, *Bush*, and *Smiley* and deny each other or different allegation. To the extent Plaintiffs' characterization and

interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

45. Paragraph 45 of Plaintiffs' Complaint states:

Plaintiffs also bring this action under Georgia law, O.C.G.A. § 21-2-522, Grounds for Contest:

> A result of a primary or election may be contested on one or more of the following grounds:
> (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;
> (2) When the defendant is ineligible for the nomination or office in dispute;
> (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;
> (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or
> (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

O.C.G.A. § 21-2-522.

Answer: Paragraph 45 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Democratic Political Party Committees deny the allegations.

46. Paragraph 46 of Plaintiffs' Complaint states:

Under O.C.G.A. § 21-2-10, Presidential Electors are elected.

Answer: Admitted.

47. Paragraph 47 of Plaintiffs' Complaint states:

> Under O.C.G.A. § 21-2-386(a)(l)(B), the Georgia Legislature instructed the county registrars and clerks (the "County Officials") to handle the absentee ballots as directed therein. The Georgia Legislature set forth the procedures to be used by each municipality for appointing the absentee ballot clerks to ensure that such clerks would "perform the duties set forth in this Article." *See* O.C.G.A. § 21-2-380.1.

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). Paragraph 45 of Plaintiffs' Complaint otherwise contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations.

48. Paragraph 48 of Plaintiffs' Complaint states:

> The Georgia Election Code instructs those who handle absentee ballots to follow a clear procedure:
>
> > Upon receipt of each [absentee] ballot, a registrar or clerk ***shall*** write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk ***shall*** then compare the identifying information on the oath with the information on file in his or her office, ***shall*** compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absentee elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application, and ***shall***, if the information and signature appear to be

> valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct.

O.C.G.A. § 21-2-386(a)(l)(B) (emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation.

49. Paragraph 49 of Plaintiffs' Complaint states:

> Under O.C.G.A. § 21-2-386(a)(l)(C), the Georgia Legislature also established a clear and efficient process to be used by County Officials if they determine that an elector has failed to sign the oath on the outside envelope enclosing the ballot or that the signature does not conform with the signature on file in the registrar's or clerk's office (a "defective absentee ballot").

Answer: The Democratic Political Party Committees admit that O.C.G.A. § 21-2-386(a)(l)(C) relates to signature matching. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations.

50. Paragraph 50 of Plaintiffs' Complaint states:

> The Georgia Legislature also provided for the steps to be followed by County Officials with respect to defective absentee ballots:
>
> > ***If the elector has failed to sign the oath, or if the signature does not appear to be valid***, or if the elector has failed to furnish required information ***or information so furnished does not conform with that on file in the registrar's or clerk's office***, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope "Rejected," giving the reason therefor. The board of registrars or absentee ballot clerk *shall* promptly ***notify the elector of such rejection***, a copy of which notification ***shall*** be retained in the files of the board of registrars or absentee ballot clerk for at least one year.
>
> O.C.G.A. § 21-2 -386(a) (l)(C) (emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2 -386(a)(l)(C). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations.

I. DEFENDANTS' UNAUTHORIZED ACTIONS VIOLATED THE GEORGIA ELECTION CODE AND CAUSED THE PROCESSING OF DEFECTIVE ABSENTEE BALLOTS

51. Paragraph 51 of Plaintiffs' Complaint states:

> Notwithstanding the clarity of the applicable statutes and the constitutional authority for the Georgia Legislature's actions, on March 6, 2020, the Secretary of State of the State of Georgia, Secretary Raffensperger, and the State Election Board, who administer the state elections (the "Administrators") entered into a "Compromise and Settlement Agreement

and Release" (the "Litigation Settlement") with the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee (collectively, the "Democrat Party Agencies"), setting forth different standards to be followed by the clerks and registrars in processing absentee ballots in the State of Georgia.

Answer: The Democratic Political Party Committees admit that on March 6, 2020, Secretary Raffensperger, the state Election Board, Democratic Party of Georgia, DSCC, and DCCC entered into a settlement agreement. The Democratic Political Party Committees deny each other or different allegation.

52. Paragraph 52 of Plaintiffs' Complaint states:

Under the Settlement, however, the Administrators agreed to change the statutorily prescribed manner of handling absentee ballots in a manner that is not consistent with the laws promulgated by the Georgia Legislature for elections in this state.

Answer: Denied.

53. Paragraph 53 of Plaintiffs' Complaint states:

The Settlement provides that the Secretary of State would issue an "Official Election Bulletin" to county Administrators overriding the statutory procedures prescribed for those officials. That power, however, does not belong to the Secretary of State under the United States Constitution.

Answer: Denied.

54. Paragraph 54 of Plaintiffs' Complaint states:

The Settlement also changed the signature requirement reducing it to a broad process with discretion, rather than enforcement of the signature requirement as statutorily required under O.C.G.A. 21-2-386(a)(l).

Answer: Denied.

55. Paragraph 55 of Plaintiffs' Complaint states:

The Georgia Legislature instructed county registers and clerks (the "County Officials") regarding the handling of absentee ballots in O.C.G.A. S 21-2-386(a)(1)(B), 21-2-380.1. The Georgia Election Code instructs those who handle absentee ballots to follow a clear procedure:

> Upon receipt of each absentee ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absent elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application, and shall, if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath …

O.C.G.A. S 21-2-386(a)(1)(B).

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations.

The Democratic Political Party Committees deny each other or different allegation in Paragraph 55.

56. Paragraph 56 of Plaintiffs' Complaint states:

> The Georgia Legislature prescribed procedures to ensure that any request for an absentee ballot must be accompanied by sufficient identification of the elector's identity. *See* O.C.G.A. § 21-2-38 l(b)(1) (providing, in pertinent part, "In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417 ... ").

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-38l(b)(1). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation in Paragraph 56.

57. Paragraph 57 of Plaintiffs' Complaint states:

> An Affiant testified, under oath, that "It was also of particular interest to me to see that signatures were not being verified and that there were no corresponding envelopes seen in site." (Attached hereto as Exh. 10, Mayra Romera, at par. 7).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 10, Paragraph 7 to Plaintiffs' Complaint. The

Democratic Political Party Committees deny each other or different allegation.

58. Paragraph 58 of Plaintiffs' Complaint states:

> To reflect the very reason for process, it was documented that in the primary election, prior to the November 3, 2020 Presidential election, many ballots got to voters after the election. Further it was confirmed that "Untold thousands of absentee ballot requests went unfulfilled, and tens of thousands of mailed ballots were rejected for multiple reasons including arriving too late to be counted. *See* the Associated Press, Vote-by-Mail worries: A leaky pipeline in many states, August 8, 2020.

Answer: Democratic Political Party Committees admit the quote comes from the referenced Associated Press article. Democratic Political Party Committees are without sufficient information to form a belief regarding the "very reason for the process" being alleged in the first sentence of Paragraph 58 and therefore deny the same.

59. Paragraph 59 of Plaintiffs' Complaint states:

> Pursuant to the Settlement, the Administrators delegated their responsibilities for determining when there was a signature mismatch by considering in good faith only partisan-based training - "additional guidance and training materials" drafted by the Democrat Party Agencies' representatives contradicting O.C.G.A. § 21-2-31.

Answer: Denied.

UNLAWFUL EARLY PROCESSING OF ABSENTEE BALLOTS

60. Paragraph 60 of Plaintiffs' Complaint states:

In April 2020, the State Election Board adopted on a purportedly "Emergency Basis" Secretary of State Rule 183-1-14-0.9-.15, Processing Ballots Prior to Election Day. Under this rule, county election officials are authorized to begin processing absentee ballots up to three weeks befoe [sic] election day. Thus, the rule provides in part that "(1) Beginning at 8:00 AM on the third Monday prior to Election Day, the county election superintendent **shall be authorized to open the outer envelope of accepted absentee ballots** …" (Emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from SEB Rule 183-1-14-0.9-.15. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited rule, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation in Paragraph 60.

61. Paragraph 61 of Plaintiffs' Complaint states:

Rule 183-1-14-0.9-.15 is in direct and irreconcilable conflict with O.C.G.A. § 21-2-386(a)(2), which prohibits the opening of absentee ballots until election day:

> **After the opening of the polls** on the day of the primary, election, or runoff, the registrars or absentee ballot clerks **shall be authorized to open the outer envelope** on which is printed the oath of the elector in such a manner as not to destroy the oath printed thereon; provided, however, that the registrars or absentee ballot clerk shall not be authorized to remove the contents of such outer envelope or to open the inner envelope marked "Official Absentee Ballot," except as otherwise provided in this Code section.

(Emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(2). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation in Paragraph 61.

62. Paragraph 62 of Plaintiffs' Complaint states:

> In plain terms, the statute clearly prohibits opening absentee ballots prior to election day, while the rule authorizes doing so three weeks before election day. There is no reconciling this conflict. The State Election Board has authority under O.C.G.A. § 21-2-31 to adopt lawful and legal rules and regulations, but no authority to promulgate a regulation that is directly contrary to an unambiguous statute. Rule 183-1-14-0.9-.15 is therefore plainly and indisputably unlawful.

Answer: Denied.

63. Paragraph 63 of Plaintiffs' Complaint states:

> The State Election Board re-adopted Rule 183-1-14-0.9-.15 on November 23, 2020 for the upcoming January 2021 runoff election.

Answer: Denied.

UNLAWFUL AUDIT PROCEDURES

64. Paragraph 64 of Plaintiffs' Complaint states:

> According to Secretary Raffensperger, in the presidential general election, 2,457,880 votes were cast in Georgia for President Donald J. Trump, and

2,472,002 votes were cast for Joseph R. Biden, which narrowed in Donald Trump's favor after the most recent recount.

Answer: The Democratic Political Party Committees admit that President-Elect Joe Biden had more votes cast for him during the 2020 General Election in Georgia than President Donald Trump. The Democratic Political Party Committees deny each other or different allegation in Paragraph 64.

65. Paragraph 65 of Plaintiffs' Complaint states:

Secretary Raffensperger declared that for the Hand Recount:

> Per the instructions given to counties as they conduct their audit triggered full hand recounts, designated monitors will be given complete access to observe the process from the beginning. While the audit triggered recount must be open to the public and media, designated monitors will be able to observe more closely. The general public and the press will be restricted to a public viewing area. Designated monitors will be able to watch the recount while standing close to the elections' workers conducting the recount.
>
> Political parties are allowed to designate a minimum of two monitors per county at a ratio of one monitor per party for every ten audit boards in a county... Beyond being able to watch to ensure the recount is conducted fairly and securely, the two-person audit boards conducting the hand recount call out the votes as they are recounted , providing monitors and the public an additional way to keep tabs on the process.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 65 and, on that basis, deny the same.

66. Paragraph 66 of Plaintiffs' Complaint states:

> The audit was conducted O.C.G.A. § 21-2-498 [sic]. This code section requires that audits be completed "in public view" and authorizes the State Board of Elections to promulgate regulations to administer an audit "to ensure that collection of validly cast ballots is complete, accurate and trustworthy throughout the audit."

Answer: Paragraph 66 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation in Paragraph 66.

67. Paragraph 67 of Plaintiffs' Complaint states:

> Plaintiffs can show that Democrat-majority counties provided political parties and candidates, including the Trump Campaign, no meaningful access or actual opportunity to review and assess the validity of mail-in ballots during the pre-canvassing meetings. While in the audit or recount, they witnessed Trump votes being put into Biden piles.

Answer: Denied.

68. Paragraph 68 of Plaintiffs' Complaint states:

> Non-parties Amanda Coleman and Maria Diedrich are two individuals who volunteered to serve as designated monitors for the Donald J. Trump Presidential Campaign, Inc. (the "Trump Campaign") on behalf of the Georgia Republican Party (the "Republican Party") at the Hand Recount. (Attached hereto and incorporated herein as Exhibits 2 and 3), respectively,

are true and correct copies of (1) the Affidavit of Amanda Coleman in Support of Plaintiffs' Motion for Temporary Restraining Order (the "Coleman Affidavit"), and (2) the Affidavit of Maria Diedrich in Support of Plaintiffs' Motion for Temporary Restraining Order (the "Diedrich Affidavit"). (See Exh. 11, Coleman Aff.,2; Exh. 12, Diedrich Aff., 2.)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegations in Paragraph 68 and, on that basis, deny the same.

69. Paragraph 69 of Plaintiffs' Complaint states:

The Affidavits set forth various conduct amounting to federal crimes, clear improprieties, insufficiencies, and improper handling of ballots by County Officials and their employees that Ms. Coleman and Ms. Diedrich personally observed while monitoring the Hand Recount. (See Exh. 11, Coleman Aff., 3-10; Exh. 12, Diedrich Aff., 4-14.)

Answer: Denied.

70. Paragraph 70 of Plaintiffs' Complaint states:

As a result of her observations of the Hand Recount as a Republican Party monitor, Ms. Diedrich declared, "There had been no meaningful way to review or audit any activity" at the Hand Recount. (See Exh. 12, Diedrich Aff.,14.)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 70 and, on that basis, deny the same.

71. Paragraph 71 of Plaintiffs' Complaint states:

As a result of their observations of the Hand Recount as Republican Party monitors, Ms. Coleman likewise declared, "There was no way to tell if any counting was accurate or if the activity was proper." (See Exh. 12, Coleman Aff.,10).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 71 and, on that basis, deny the same.

72. Paragraph 72 of Plaintiffs' Complaint states:

On Election Day, when the Republican poll watchers were, for a limited time, present and allowed to observe in various polling locations, they observed and reported numerous instances of election workers failing to follow the statutory mandates relating to two critical requirements, among other issues:

(1) a voter's right to spoil their mail-in ballot at their polling place on election day and to then vote in-person, and

(2) the ability for voters to vote provisionally on election day when a mail-in ballot has already been received for them, but when they did not cast those mail-in ballots, who sought to vote in person during early voting but was told she already voted; she emphasized that she had not. The clerk told her he would add her manually with no explanation as to who or how someone voted using her name. (Attached hereto as Exh. 13, Aff. Ursula Wolf)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the

quoted language or any other allegation in Paragraph 71 and, on that basis, deny the same.

73. Paragraph 73 of Plaintiffs' Complaint states:

> Another observer for the ballot recount testified that "*at no time did I witness any Recounter or individual participate in the recount verifying signatures [on mail-in ballots]*." (Attached hereto as Exh. 14, Nicholas Zeher Aff).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 73 and, on that basis, deny the same.

74. Paragraph 74 of Plaintiffs' Complaint states:

> In some counties, there was no actual "hand" recounting of the ballots during the Hand Recount, but rather, County Officials and their employees simply conducted another machine count of the same ballots. (See. Exh. 9, 10). That will not reveal the massive fraud of which plaintiffs complain.

Answer: Denied.

75. Paragraph 75 of Plaintiffs' Complaint states:

> A large number of ballots were identical and likely fraudulent. An Affiant explains that she observed a batch of utterly pristine ballots:
>
> > 14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper - it was if they were intended for

absentee use but had not been used for that purposes. There was a difference in the feel.

15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had com~ from, or where they had been processed. These stood out.

16. In my 20 years of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joe Biden. I only observed two of these ballots as votes for President Donald J. Trump." (See Exh. 15 Attached hereto).

Answer: The Democratic Political Party Committees deny that a "large number" of ballots were "likely fraudulent." The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 75 and, on that basis, deny the same.

76. Paragraph 76 of Plaintiffs' Complaint states:

The same Affiant further testified specifically to the breach of the chain of custody of the voting machines the night before the election stating:

> we typically receive the machines, the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. **In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 AM in the morning on Election Day.**

> The Milton precinct received its machines at 1:00 AM in the morning on Election Day. This is unacceptable and voting machines should [not] be out of custody prior to an Election Day. *Id*.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 76 and, on that basis, deny the same.

77. Paragraph 77 of Plaintiffs' Complaint states:

> The stunning pattern of the nature and acts of fraud demonstrate an absence of mistake.

Answer: Denied.

78. Paragraph 78 of Plaintiffs' Complaint states:

> The same Affiant further explained, in sworn testimony, that the breach included: "when we did receive the machines, they were not sealed or locked, the serial numbers were not what were reflected on the related documentation…" *See Id*.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 78 and, on that basis, deny the same.

79. Paragraph 79 of Plaintiffs' Complaint states:

An affiant testified that "While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden, I witnessed this happen at table "A".' (See Exh. 14, par. 27).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 79 and, on that basis, deny the same.

80. Paragraph 80 of Plaintiffs' Complaint states:

The Affiant further testified, that "when this was brought to Ms. Pitts attention, it was met with extreme hostility. At no time did I witness any ballot cast for Joseph Biden be placed in the pile for Donald Trump. (See Exh. 14, par. 28).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 80 and, on that basis, deny the same.

81. Paragraph 81 of Plaintiffs' Complaint states:

Another Affiant in the mail-in ballot and absentee ballot recounting process, testified in her sworn affidavit, that "on November 16, 2020 … It was also of particular interest to me to see that signatures were not being verified and there were no corresponding envelopes seen in sight." (See Exh. 10, at Par. 7).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 81 and, on that basis, deny the same.

82. Paragraph 82 of Plaintiffs' Complaint states:

> Yet another Affiant, in the recount process, testified that he received push back and a lack of any cooperation and was even threatened as if he did something wrong, when he pointed out the failure to follow the rules with the observers while open mail-in ballot re-counting was occurring, stating:
>
> > "However, as an observer, I observed that the precinct had twelve (12) counting tables, but only one (1) monitor from the Republican Party. I brought it up to Erica Johnston since the recount rules provided for one (1) monitor from each Party per ten (10) tables or part thereof…"
>
> (See Attached hereto, Exh. 16, Ibrahim Reyes Aff.)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 82 and, on that basis, deny the same.

83. Paragraph 83 of Plaintiffs' Complaint states:

> Another Affiant explains a pattern of behavior that is alarming, in his position as an observer in the recount on absentee ballots with barcodes, he testified:
>
> > ***I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing***

> ***them in to the Biden tray***. I also witnessed the same two poll workers putting the already separated paper receipt ballots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray, They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet.

(*See* Attached hereto, Exh.17, pars. 4-5, Aff. of Consetta Johson).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 83 and, on that basis, deny the same.

84. Paragraph 84 of Plaintiffs' Complaint states:

> Another Affiant, a Democrat, testified in his sworn affidavit, that before he was forced to move back to where he could not see, he had in fact seen "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times". (See attached hereto, Exh. 18 at Par. 12, Aff. of Carlos Silva).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 84 and, on that basis, deny the same. The Democratic Political Party Committees deny each other allegation in Paragraph 84.

85. Paragraph 85 of Plaintiffs' Complaint states:

Yet another Affiant testified about the lack of process and the hostility only towards the Republican party, which is a violation of the Equal Protection Clause. He testified:

> I also observed throughout my three days in Atlanta, not once did anyone verify these ballots. In fact, there was no authentication process in place and no envelopes were observed or allowed to be observed. I saw hostility towards Republican observers but never towards Democrat observers. Both were identified by badges.

(*See Id*., at pars. 13-14).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 85 and, on that basis, deny the same.

86. Paragraph 86 of Plaintiffs' Complaint states:

Another Affiant explained that his ballot was not only not processed in accordance with Election law, he witnessed people reviewing his ballot to decide where to place it, which violated the privacy of his ballot, and when he tried to report it to a voter fraud line, he never received any contact or cooperation stating:

> "I voted early on October 12 at the precinct at Lynwood Park … Because of irregularities at the polling location, I called the voter fraud line to ask why persons were discussing my ballot and reviewing it to decide where to place it. When I called the state fraud line, I was directed to a worker in the office of the Secretary of State…"

(See Attached hereto, Exh. 19, Andrea ONeal Aff, at par. 3).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 86 and, on that basis, deny the same.

87. Paragraph 87 of Plaintiffs' Complaint states:

> He further testified that when he was an Observer at the Lithonia location, he saw many irregularities, and specifically "saw an auditor sort Biden votes that he collected and sorted into ten ballot stacks, which [the auditor] did not show anyone." Id. at p. 8.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 87 and, on that basis, deny the same.

88. Paragraph 88 of Plaintiffs' Complaint states:

> Another Affiant testified about the use of different paper for ballots, that would constitute fraud stating:
>
> > I noticed that almost all of the ballots I reviewed were for Biden. Many batches went 100% for Biden. I also observed that the watermark on at least 3 ballots were solid gray instead of transparent, leading me to believe the ballot was counterfeit. I challenged this and the Elections Director said it was a legitimate ballot and was due to the use of different printers. Many ballots had markings for Biden only, and no markings on the rest of the ballot.
>
> (See Attached hereto, Exh. 20, Aff of Debra J. Fisher, at pars. 4, 5, 6).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 88 and, on that basis, deny the same.

89. Paragraph 89 of Plaintiffs' Complaint states:

> An Affiant testified, that while at the Audit, '**While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table "A"**'. (*See* attached hereto as Exh. 22, Kevin Peterford, at par. 29). Another Affiant testified, that "I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray. I also witnessed the same two poll workers putting the already separated paper receipt abllots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray, They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet. (See Exh. 17, Johnson, pars. 4-5).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 89 and, on that basis, deny the same.

90. Paragraph 90 of Plaintiffs' Complaint states:

> Another Affiant, a Democrat, testified in his sworn affidavit, before he was forced to move back to where he could not see, he had in fact seen, "***I also saw absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times***". (See Exh. 18, Par. 12).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 18 to the Plaintiffs' Complaint. The Democratic Political Party Committees deny each other or different allegation in Paragraph 159.

91. Paragraph 91 of Plaintiffs' Complaint states:

> A Republican National Committee monitor in Georgia's election recount, Hale Soucie, told an undercover journalist there are individuals counting ballots who have made continuous errors," writes O'Keefe. Project Veritas, Watch: Latest Project Veritas Video reveals "Multiple Ballots Meant for Trump Went to Biden in Georgia.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 91 and, on that basis, deny the same.

92. Paragraph 92 of Plaintiffs' Complaint states:

> These violations of federal and state laws impacted the election of November 3, 2020 and set the predicate for the evidence of deliberate fraudulent conduct, manipulation, and lack of mistake that follows. The commonality and statewide nature of these legal violations renders certification of the legal vote untenable and warrants immediate impoundment of voting machines and software used throughout Georgia for expert inspection and retrieval of the software.

Answer: Denied.

93. Paragraph 93 of Plaintiffs' Complaint states:

An Affiant, who is a network & information cyber-security expert, under sworn testimony explains that after studying the user manual for Dominion Voting Systems Democracy software, he learned that the information about scanned **ballots can be tracked inside the software system for Dominion**:

> (a) When bulk ballot scanning and tabulation begins, the "ImageCast Central" workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning procedure within the software menu. The scanner then begins to scan the ballots which were loaded into the feed tray while the "ImageCast Central" software application tabulates votes in real-time. Information about scanned ballots can be tracked inside the "ImageCast Central" software application.

(*See* attached hereto Exh 22, Declaration of Ronald Watkins, at par. 11).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 93 and, on that basis, deny the same.

94. Paragraph 94 of Plaintiffs' Complaint states:

Affiant further explains that the central operator can remove or discard batches of votes. "After all of the ballots loaded into the scanner's feed tray have been through the scanner, the "ImageCast Central" operator will remove the ballots from the tray then have the option to either "Accept Batch" or "Discard Batch" on the scanning menu …. "(Id. at par. 8).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the

quoted language or any other or different allegation in Paragraph 93 and, on that basis, deny the same.

95. Paragraph 95 of Plaintiffs' Complaint states:

> Affiant further testifies that the Dominion/ Smartmatic user manual itself makes clear that the system allows for threshold settings to be set to mark all ballots as "problem ballots" for *discretionary determinations* on where the vote goes. It states:
>
> *During the scanning process, the "ImageCast Central" software will detect how much of a percent coverage of the oval was filled in by the voter. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a "problem ballot" and may be set aside into a folder named "NotCastImages". Through creatively tweaking the oval coverage threshold settings it should be possible to set thresholds in such a way that a non-trivial amount of ballots are marked "problem ballots" and sent to the "NotCastImages" folder. It is possible for an administrator of the ImageCast Central work station to view all images of scanned ballots which were deemed "problem ballots" by simply navigating via the standard "Windows File Explorer" to the folder named "NotCastImages" which holds ballot scans of "problem ballots". It is possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system.*
>
> *Id*. at pars. 9-10.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the

quoted language or any other or different allegation in Paragraph 93 and, on that basis, deny the same.

96. Paragraph 96 of Plaintiffs' Complaint states:

> The Affiant further explains the vulnerabilities in the system when the copy of the selected ballots that are approved in the Results folder are made to a flash memory card – and that is connected to a Windows computer stating:
>
> *It is possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system. … The upload process is just a simple copying of a "Results" folder containing vote tallies to a flash memory card connected to the "Windows 10 Pro" machine. The copy process uses the standard drag-n-drop or copy/paste mechanisms within the ubiquitous "Windows File Explorer". While a simple procedure, this process may be error prone and* ***is very vulnerable to malicious administrators****.*
>
> *Id*. at par. 11-13 (emphasis supplied).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 96 and, on that basis, deny the same.

97. Paragraph 97 of Plaintiffs' Complaint states:

> It was announced on "Monday, [July 29, 2019], [that] Governor Kemp awarded a contract for 30,000 new voting machines to Dominion Voting Systems, scrapping the state's 17-year-old electronic voting equipment and replacing it with touchscreens that print out paper ballots."12 Critics are quoted: "Led by Abrams, Democrats fought the legislation and pointed to

cybersecurity experts who warned it would leave Georgia's elections susceptible to hacking and tampering." And "Just this week, the Fair Fight voting rights group started by [Stacy] Abrams launched a television ad critical of the bill. In a statement Thursday, the group called it "corruption at its worst" and a waste of money on "hackable voting machines."

Answer: The Democratic Political Party Committees admit that Georgia awarded Dominion Voting Systems a contract for voting machines and these machines have touchscreens. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 97 and, on that basis, deny the same.

98. Paragraph 98 of Plaintiffs' Complaint states:

It was further reported in 2019 that the new Dominion Voting Machines in Georgia "[w]ith Georgia's current voting system, there's **no way to guarantee that electronic ballots accurately reflect the choices of voters because there's no paper backup to verify results**, with it being reported that:

(a) Recounts are meaningless on the direct-recording electronic voting machines because they simply reproduce the same numbers they originally generated.

(b) But paper ballots alone won't protect the sanctity of elections on the new touchscreens, called ballot-marking devices.

(c) The new election system depends on voters to verify the printed text of their choices on their ballots, a step that many voters might not take. The State Election Board hasn't yet created regulations for how recounts and audits will be conducted. And paper ballots embed selections in bar codes

that are only readable by scanning machines, leaving Georgians uncertain whether the bar codes match their votes.

> *i. As part of the scheme and artifice to defraud the plaintiffs, the candidates and the voters of undiminished and unaltered voting results in a free and legal election, the Defendants and other persons known and unknown committed the following violations of law:*

50 U.S.C. § 20701 requires the retention and preservation of records and papers by officers of elections under penalty of fine and imprisonment:

> **§ 20701. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation**
>
> Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, **all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election**, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

50 U.S.C.§ 20701.

Answer: The Democratic Political Party Committees admit that the quoted language is from 52 U.S.C. § 20701. As to the 2019 report regarding

Dominion machines, the Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of these allegations and, on that basis, deny the same. Democratic Political Party Committees deny each other or different allegation.

99. Paragraph 99 of Plaintiffs' Complaint states:

> In the primaries it was confirmed that, "The rapid introduction of new technologies and processes in state voting systems heightens the risk of foreign interference and insider tampering. That's true even if simple human error or local maneuvering for political advantage are more likely threats.

Answer: The Democratic Political Party Committees admit that the quoted language is from the cited article and deny each other or different allegation.

100. Paragraph 100 of Plaintiffs' Complaint states:

> A Penn Wharton Study from 2016 concluded that "Voters and their representatives in government, often prompted by news of high-profile voting problems, also have raised concerns about the reliability and integrity of the voting process, and have increasingly called for the use of modern technology such as laptops and tablets to improve convenience."

Answer: The Democratic Political Party Committees admit that the quoted language is from the cited article and deny each other or different allegation.

101. Paragraph 101 of Plaintiffs' Complaint states:

> As evidence of the defects or features of the Dominion Democracy Suite, as described above, the same Dominion Democracy Suite was denied certification in Texas by the Secretary of State on January 24, 2020

specifically because of a **lack of evidence of efficiency and accuracy and to be safe from fraud or unauthorized manipulation**.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegations in Paragraph 101 and, on that basis, deny the same.

102. Paragraph 102 of Plaintiffs' Complaint states:

Plaintiffs have since learned that the "glitches" in the Dominion system–that have the uniform effect of taking votes from Trump and shifting them to Biden—have been widely reported in the press and confirmed by the analysis of independent experts.

Answer: Denied.

103. Paragraph 103 of Plaintiffs' Complaint states:

Plaintiffs can show, through expert and fact witnesses that:

c. Dominion/ Smartmatic Systems Have Massive End User Vulnerabilities.

1. Users on the ground have full admin privileges to machines and software. Having been created to "rig" elections, the Dominion system is designed to facilitate vulnerability and allow a select few to determine which votes will be counted in any election. Workers were responsible for moving ballot data from polling place to the collector's office and inputting it into the correct folder. Any anomaly, such as pen drips or bleeds, results in a ballot being rejected. It is then handed over to a poll worker to analyze and decide if it should count. This creates massive opportunity for purely discretionary and improper vote "adjudication."

> 2. Affiant witness (name redacted for security reasons), in his sworn testimony explains he was selected for the national security guard detail of the President of Venezuela, and that he witnessed the creation of Smartmatic for the purpose of election vote manipulation to insure Venezuelan dictator Hugo Chavez never lost an election and he saw it work. Id.
>
> "The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes against persons running the Venezuelan government to votes in their favor in order to maintain control of the government."

(See Exh. 2, pars. 6, 9, 10).

Answer: Denied.

104. Paragraph 104 of Plaintiffs' Complaint states:

Smartmatic's incorporators and inventors have backgrounds evidencing their foreign connections, including Venezuela and Serbia, specifically its identified inventors:

> Applicant: SMARTMATIC, CORP.
>
> Inventors: Lino Iglesias, Roger Pinate, Antonio Mugica, Paul Babic, Jeffrey Naveda, Dany Farina, Rodrigo Meneses, Salvador Ponticelli, Gisela Goncalves, Yrem Caruso.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 104 and, on that basis, deny the same.

105. Paragraph 105 of Plaintiffs' Complaint states:

The presence of Smartmatic in the United States—owned by foreign nationals, and Dominion, a Canadian company with its offices such as the Office of General Counsel in Germany, would have to be approved by CFIUS. CFIUS was created in 1988 by the Exon-Florio Amendment to the Defense Production Act of 1950. CFIUS' authorizing statute was amended by the Foreign Investment and National Security Act of 2007 (FINSA).

> As amended, section 721 of the DPA directs "the President, acting through [CFIUS]," to review a "**covered transaction to determine the effects of the transaction on the national security of the United States**." 50 U.S.C. app. § 2170(b)(1)(A). Section 721 defines a covered transaction as "any merger, acquisition, or takeover …, by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States." Id. § 2170(a)(3). *Ralls Corp. v. Comm. on Foreign Inv*., 758 F.3d 296, 302, 411 U.S. App. D.C. 105, 111, (2014). Review of covered transactions under section 721 begins with CFIUS. As noted, CFIUS is chaired by the Treasury Secretary and its members include the heads of various federal agencies and other high-ranking Government officials with foreign policy, national security and economic responsibilities.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the apparently quoted language or any other or different allegation in Paragraph 105 and, on that basis, deny the same.

106. Paragraph 106 of Plaintiffs' Complaint states:

Then Congresswoman Carolyn Maloney wrote October 6, 2006 to the Secretary of Treasury, Henry M. Paulson, Jr., Objecting to approval of Dominion/Smartmatic by CFIUS because of its corrupt Venezuelan origination, ownership and control. (See attached hereto as Exh. 24, Carolyn Maloney Letter of October 6, 2006). Our own government has long known

of this foreign interference on our most important right to vote, and it had either responded with incompetence, negligence, willful blindness, or abject corruption. In every CFIUS case, there are two TS/SCI reports generated. One by the ODNI on the threat and one by DHS on risk to critical infrastructure. Smartmatic was a known problem when it was nonetheless approved by CFIUS.

Answer: The Democratic Political Party Committees admit that Exhibit 24 is a letter sent by Congresswoman Maloney to Secretary Paulson and deny each other or different allegation in paragraph 106 of Plaintiffs' complaint.

107. Paragraph 107 of Plaintiffs' Complaint states:

The Wall Street Journal in 2006 did an investigative piece and found that, "Smartmatic came to prominence in 2004 when its machines were used in an election to recall President Chávez, which Mr. Chávez won handily -- and which the Venezuelan opposition said was riddled with fraud. Smartmatic put together a consortium to conduct the recall elections, including a company called Bizta Corp., in which Smartmatic owners had a large stake. For a time, the Venezuelan government had a 28% stake in Bizta in exchange for a loan.' …"Bizta paid off the loan in 2004, and Smartmatic bought the company the following year. But accusations of Chávez government control of Smartmatic never ended, especially since Smartmatic scrapped a simple corporate structure, in which it was based in the U.S. with a Venezuelan subsidiary, for a far more complex arrangement. The company said it made the change for tax reasons, but critics, including Rep. Carolyn Maloney (D., N.Y.) and TV journalist Lou Dobbs, pounded the company for alleged links to the Chávez regime. *Id*. Since its purchase by Smartmatic, Sequoia's sales have risen sharply to a projected $200 million in 2006, said Smartmatic's chief executive, Anthony Mugica." *Id*.

Answer: The Democratic Political Party Committees admit that the quoted language is from a Wall Street Journal article but lack knowledge and

information sufficient to form a belief about the truth of the substance of the language and, on that basis, deny the same. The Democratic Political Party Committees deny each other or different allegation in Paragraph 107.

108. Paragraph 108 of Plaintiffs' Complaint states:

> Indeed, Mr. Cobucci testified, through his sworn affidavit, that he born in Venezuela, is cousins with Antonio ('Anthony') Mugica, and he has personal knowledge of the fact that Anthony Mugica incorporated Smartmatic in the U.S. in 2000 with other family members in Venezuela listed as owners. He also has personal knowledge that Anthony Mugica manipulated Smartmatic to ensure the election for Chavez in the 2004 Referendum in Venezuela. He also testified, through his sworn affidavit, that Anthony Mugica received tens of millions of dollars from 2003- 2015 from the Venezuelan government to ensure Smartmatic technology would be implemented around the world, including in the U.S. (See attached hereto, Exh. 25, Juan Carlos Cobucci Aff.)

Answer: The Democratic Political Party Committees admit that the referenced allegations are from Exhibit 25 of Plaintiffs' complaint but lack knowledge and information sufficient to form a belief about the truth of the substance of the allegations, and on that basis, deny the same. The Democratic Political Party Committees deny each other or different allegation in Paragraph 108.

109. Paragraph 109 of Plaintiffs' Complaint states:

> Another Affiant witness testifies that in Venezuela, she was in an official position related to elections and witnessed manipulations of petitions to prevent a removal of President Chavez and because she protested, she was

summarily dismissed. Corroborating the testimony of our secret witness, and our witness Mr. Cobucci, cousin of Anthony Mugica, who began Smartmatic, and this witness explains the vulnerabilities of the electronic voting system and Smartmatica to such manipulations. (See Exh. 3, Diaz Cardozo Aff).

Answer: The Democratic Political Party Committees admit that the referenced allegations are from Exhibit 3 of Plaintiffs' complaint but lack knowledge and information sufficient to form a belief about the truth of the substance of the allegations, and on that basis, deny the same. The Democratic Political Party Committees deny each other or different allegation in Paragraph 109.

110. Paragraph 110 of Plaintiffs' Complaint states:

Specific vulnerabilities of the systems in question that have been documented or reported include:

a. Barcodes can override the voters' vote: As one University of California, Berkeley study shows, "In all three of these machines [including Dominion Voting Systems] the ballot marking printer is in the same paper path as the mechanism to deposit marked ballots into an attached ballot box. This opens up a very serious security vulnerability: the voting machine can make the paper ballot (to add votes or spoil already-cast votes) after the last time the voter sees the paper, and then deposit that marked ballot into the ballot box without the possibility of detection." (See Exh. 7).

b. Voting machines were able to be connected to the internet by way of laptops that were obviously internet accessible. If one laptop was connected to the internet, the entire precinct was compromised.

c. We … discovered that at least some jurisdictions were not aware that their systems were online," said Kevin Skoglund, an independent security consultant who conducted the research with nine others, all of them long-time security professionals and academics with expertise in election security. Vice. August 2019.

d. October 6, 2006 – Congresswoman Carolyn Maloney called on Secretary of Treasury Henry Paulson to conduct an investigation into Smartmatic based on its foreign ownership and ties to Venezuela. (See Exh. 24)

e. Congresswoman Maloney wrote that "It is undisputed that Smartmatic is foreign owned and it has acquired Sequoia … Smartmatica now acknowledged that Antonio Mugica, a Venezuelan businessman has a controlling interest in Smartmatica, but the company has not revealed who all other Smartmatic owners are." *Id*.

f. Dominion "got into trouble" with several subsidiaries it used over alleged cases of fraud. One subsidiary is Smartmatic, a company "that has played a significant role in the U.S. market over the last decade," according to a report published by UK-based AccessWire.

g. Litigation over Smartmatic "glitches" alleges they impacted the 2010 and 2013 mid-term elections in the Philippines, raising questions of cheating and fraud. An independent review of the source codes used in the machines found multiple problems, which concluded, "The software inventory provided by Smartmatic is inadequate, … which brings into question the software credibility…"

h. Dominion acquired Sequoia Voting Systems as well as Premier Election Solutions (formerly part of Diebold, which sold Premier to ES&S in 2009, until antitrust issues forced ES&S to sell Premier, which then was acquired by Dominion).

i. Dominion entered into a 2009 contract with Smartmatic and provided Smartmatic with the PCOS machines (optical scanners) that were used in the 2010 Philippine election—the biggest automated

election run by a private company. The international community hailed the automation of that first election in the Philippines. The results' transmission reached 90% of votes four hours after polls closed and Filipinos knew for the first time who would be their new president on Election Day. In keeping with local election law requirements, Smartmatic and Dominion were required to provide the source code of the voting machines prior to elections so that it could be independently verified.

j. In late December of 2019, three Democrat Senators, Warren, Klobuchar, Wyden, and House Member Mark Pocan wrote about their ***'particularized concerns that secretive & "trouble -plagued companies"' "have long skimped on security in favor of convenience,"*** in the context of how they described the voting machine systems that three large vendors – Election Systems & Software, Dominion Voting Systems, & Hart InterCivic – collectively provide voting machines & software that facilitate voting for over 90% of all eligible voters in the U.S." (See attached hereto as Exh. 26, copy of Senator Warren, Klobuchar, Wyden's December 6, 2019 letter).

k. Senator Ron Wyden (D-Oregon) said the findings [insecurity of voting systems] are "yet another damning indictment of the profiteering election vendors, who care more about the bottom line than protecting our democracy." It's also an indictment, he said, "of the notion that important cybersecurity decisions should be left entirely to county election offices, many of whom do not employ a single cybersecurity specialist."

Answer: The Democratic Political Party Committees admit that Plaintiffs have cited various studies, news articles, and letters, but lack knowledge and information sufficient to form a belief about the truth of the of the allegations in Paragraph 110 and, on that basis, deny the same.

111. Paragraph 111 of Plaintiffs' Complaint states:

An analysis of the Dominion software system by a former US Military Intelligence expert concludes that the system and software have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees conected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, Dominion neglectfully allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. (See Exh. 7).

Answer: The Democratic Political Party Committees admit that the referenced allegations are from Exhibit 7 to Plaintiffs' Complaint. The Democratic Political Party Committees deny each other or different allegation in Paragraph 111.

112. Paragraph 112 of Plaintiffs' Complaint states:

An expert witness in pending litigation in the United States District Court, Northern District Court of Georgia, Atlanta Div., 17-cv-02989 specifically testified to the acute security vulnerabilities, among other facts, by declaration filed on October 4, 2020, (See Exh. 4B, Document 959-4 attached hereto, paragraph. 18 and 20 of p. 28, Exh. 4, Hursti Declaration). wherein he testified or found:

1) The failure of the Dominion software "*to meet the methods and processes for national standards for managing voting system problems and should not be accepted for use in a public election under any circumstances*."

2) In Hursti's declaration he explained that "There is evidence of remote access and remote troubleshooting which presents a grave security implication and certified identified vulnerabilities should be considered an "extreme security risk." *Id*. Hari Hursti also explained that USB drives with

vote tally information were observed to be removed from the presence of poll watchers during a recent election. *Id*. The fact that there are no controls of the USB drives was seen recently seen the lack of physical security and compliance with professional standards, " in one Georgia County, where it is reported that 3,300 votes were found on memory sticks not loaded plus in Floyd county, another 2,600 were unscanned, and the "found votes" reduced Biden's lead over Donald Trump.

(a) In the prior case against Dominion, supra, further implicating the secrecy behind the software used in Dominion Systems, Dr. Eric Coomer, a Vice President of Dominion Voting Systems, testified that even he was not sure of what testing solutions were available to test problems or how that was done, "*I have got to be honest, we might be a little bit out of my bounds of understanding the rules and regulations*… and in response to a question on testing for voting systems problems in relation to issues identified in 2 counties, he explained that "*Your Honor, I'm not sure of the complete test plan… Again Pro V&V themselves determine what test plan in necessary based on their analysis of the code itself*." (*Id*. at Document 959-4, pages 53, 62 L.25- p. 63 L3).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 4, paragraphs 18 and 20. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 112 and, on that basis, deny the same.

113. Paragraph 113 of Plaintiffs' Complaint states:

Hursti stated within said Declaration:

"The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential

remote access are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system."

(See Paragraph 49 of Hursti Declaration).

Answer: The Democratic Political Party Committees admit that the quoted language is from the Exhibit 4, paragraph 49. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 113 and, on that basis, deny the same.

114. Paragraph 114 of Plaintiffs' Complaint states:

Rather than engaging in an open and transparent process to give credibility to Georgia's brand-new voting system, the election processes were hidden during the receipt, review, opening, and tabulation of those votes in direct contravention of Georgia's Election Code and federal law.

Answer: Denied.

115. Paragraph 115 of Plaintiffs' Complaint states:

The House of Representatives passed H.R. 2722 in an attempt to address these very risks identified by Hursti, on June 27, 2019:

> *This bill addresses election security through grant programs and requirements for voting systems and paper ballots.*
>
> *The bill establishes requirements for voting systems, including that systems (1) use individual, durable, voter-verified paper ballots; (2) make a voter's marked ballot available for inspection and verification by the voter before the vote is cast; (3) ensure that individuals with disabilities are given an equivalent opportunity to vote, including with privacy and independence, in a manner that produces a voter-verified*

> *paper ballot; (4) be manufactured in the United States; and (5) meet specified cybersecurity requirements, including the prohibition of the connection of a voting system to the internet.*

Answer: The Democratic Political Party Committees admit that the quoted language is from H.R. 2722 and deny each other or different allegation in Paragraph 115.

116. Paragraph 116 of Plaintiffs' Complaint states:

On November 4, 2020, the Georgia GOP Chairman issued the following statement:

> *"Let me repeat. Fulton County elections officials told the media and our observers that they were shutting down the tabulation center at State Farm Arena at 10:30 p.m. on election night to continue counting ballots in secret until 1:00 a.m.*

Answer: The Democratic Political Party Committees admit that the quoted language is from a statement of the Georgia GOP Chairman and deny each other or different allegation in Paragraph 116.

117. Paragraph 117 of Plaintiffs' Complaint states:

It was widely reported that "As of 7 p.m. on Wednesday Fulton County Elections officials said 30,000 absentee ballots were not processed due to a pipe burst." Officials reassured voters that none of the ballots were damaged and the water was quickly cleaned up. But the emergency delayed officials from processing ballots between 5:30 a.m. and 9:30 a.m. Officials say they continued to count beginning at 8:30 a.m. Wednesday. The statement from Fulton County continues:

> "Tonight, Fulton County will report results for approximately 86,000 absentee ballots, as well as Election Day and Early Voting results. These represent the vast majority of ballots cast within Fulton County.
>
> "As planned, Fulton County will continue to tabulate the remainder of absentee ballots over the next two days. Absentee ballot processing requires that each ballot is opened, signatures verified, and ballots scanned. This is a labor-intensive process that takes longer to tabulate than other forms of voting. Fulton County did not anticipate having all absentee ballots processed on Election Day." Officials said they will work to ensure every vote is counted and all laws and regulations are followed.

Answer: The Democratic Political Party Committees admit that the quoted language appears in the cited news articles and deny each other or different allegation in Paragraph 117.

118. Paragraph 118 of Plaintiffs' Complaint states:

> Plaintiffs have learned that the representation about "a water leak affecting the room where absentee ballots were counted" was not true. The only water leak that needed repairs at State Farm Arena from November 3 – November 5 was a toilet overflow that occurred earlier on November 3. It had nothing to do with a room with ballot counting, but the false water break representation led to "everyone being sent home." Nonetheless, first six (6) people, then three (3) people stayed until 1:05 a.m. working on the computers.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 118 and, on

that basis, deny the same. The Democratic Political Party Committees deny each other or different allegation in Paragraph 118.

119. Paragraph 119 of Plaintiffs' Complaint states:

> An Affiant recounts how she was present at State Farm Arena on November 3, and saw election workers remaining behind after people were told to leave. (See Exh. 28, Affidavit of Mitchell Harrison; Exh. 29, Affid. of Michelle Branton)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegatins in Paragraph 119 and, on that basis, deny the same.

120. Paragraph 120 of Plaintiffs' Complaint states:

> Plaintiffs have also learned through several reports that in 2010 Eric Coomer joined Dominion as Vice President of U.S. Engineering. According to his bio, Coomer graduated from the University of California, Berkeley with a Ph.D. in Nuclear Physics. Eric Coomer was later promoted to Voting Systems Officer of Strategy and Security although Coomer has since been removed from the Dominion page of directors. Dominion altered its website after Colorado resident Joe Oltmann disclosed that as a reporter he infiltrated ANTIFA, a domestic terrorist organization where he recorded Eric Coomer representing: "Don't worry. Trump won't win the election, we fixed that." – as well as social media posts with violence threatened against President Trump. (See Joe Oltmann interview with Michelle Malkin dated November 13, 2020 which contains copies of Eric Coomer's recording and tweets).

Answer: The Democratic Political Party Committees lack information or knowledge sufficient to form a belief as to the truth of each other or different allegation in Paragraph 120 and, on that basis, deny the same.

121. Paragraph 121 of Plaintiffs' Complaint states:

While the bedrock of American elections has been transparency, almost every crucial aspect of Georgia's November 3, 2020, General Election was shrouded in secrecy, rife with "errors," and permeated with anomalies so egregious as to render the results incapable of certification:

Answer: Denied.

122. Paragraph 122 of Plaintiffs' Complaint states:

As evidenced by numerous public reports, expert reports, and witness statements, Defendants egregious misconduct has included ignoring legislative mandates concerning mail-in and ordinary ballots and led to disenfranchisement of an enormous number of Georgia voters. Plaintiffs experts can show that, consistent with the above specific misrepresentations, analysis of voting data reveals the following:

(a) Regarding uncounted mail ballots, based on evidence gathered by Matt Braynard in the form of recorded calls and declarations of voters, and analyzed by Plaintiff's expert, Williams M. Briggs, PhD, shows, based on a statistically significant sample, **that the total number of mail ballots that voters mailed in, but were never counted, have a 95% likelihood of falling between 31,559 and 38,886 total lost votes**. This range exceeds the margin of loss of President Trump of 12,670 votes by at least 18,889 lost votes and by as many as 26,196 lost votes. (See Exh. 1, Dr. Briggs' Report, with attachments).

(b) Plaintiff's expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an absentee ballot that they did not request ranges from 16,938 to 22,771. **This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.** *Id.*

(c) This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. **These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud down ballot as well.**

(d) **Further, as calculated by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state.** (See Id., attachment to report). Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

(e) Applying pro-rata the above calculations separately to Cobb County based on the number of unreturned ballots, a range of 1,255 and 1,687 ballots ordered by 3rd parties and a range of 2,338 and 2,897 lost mail ballots, plus 10,684 voters documented in the NCOA as having moved, **for a combined minimum of 14,276 missing and unlawful ballots, and maximum of 15,250 missing and unlawful ballots, which exceeds the statewide Presidential race total margin by a range of as few as 1,606 ballots and as many as 2,580 in the County of Cobb alone impacting the Cobb County Republican Party ("Cobb County Republicans").**

Answer: Denied.

123. Paragraph 123 of Plaintiffs' Complaint states:

As seen from the expert analysis of Eric Quinnell, mathematical anomalies further support these findings, when in various districts within Fulton County such as vote gains that exceed reasonable expectations when compared to 2016, and a failure of gains to be normally distributed but instead shifting substantially toward the tail of the distribution in what is

known as a platykurtic distribution. Dr. Quinell identifies numerous anomalies such as votes to Biden in excess of 2016 exceed the registrations that are in excess of 2016. Ultimately, he identifies the counties in order of their excess performance over what would have fit in a normal distribution of voting gains, revealing a list of the most anomalous counties down to the least. These various anomalies provide evidence of voting irregularities. (See Exh.27, Declaration of Eric Quinnell, with attachments).

Answer: The Democratic Political Party Committees admit that Eric Quinnell makes the referenced allegations but deny the substance of those allegations and any other or different allegation in paragraph 123.

124. Paragraph 124 of Plaintiffs' Complaint states:

In sum, with the expert analysis of William M. Briggs PhD based on recorded calls and declarations, the extent of missing AND unlawfully requested ballots create substantial evidence that the mail ballot system has fundamentally failed to provide a fair voting mechanism. In short, tens of thousands of votes did not count while the pattern of fraud makes clear that tens of thousands were improperly counted. This margin of victory in the election for Mr. Biden was only 12,670 and cannot withstand most of these criticisms individually and certainly not in aggregate.

Answer: The Democratic Political Party Committees admit that Joe Biden won the presidential election and deny any other or different allegation in paragraph 124.

125. Paragraph 125 of Plaintiffs' Complaint states:

Cobb county, based on lost votes, unlawfully requested votes and NCOA data on these facts alone would consume more than the entire margin of the statewide difference in the Presidential race. These election results must be reversed.

Answer: Denied.

126. Paragraph 126 of Plaintiffs' Complaint states:

Applying *pro-rata* the above calculations separately to Cobb County based on the number of unreturned ballots, a range of 1,255 and 1,687 ballots ordered by 3rd parties and a range of 2,338 and 2,897 lost mail ballots, plus 10,684 voters documented in the NCOA as having moved, **for a combined minimum of 14,276 missing and unlawful ballots, and maximum of 15,250 missing and unlawful ballots, which exceeds the statewide Presidential race total margin by a range of as few as 1,606 ballots and as many as 2,580 in the County of Cobb alone impacting the Cobb County Republican Party ("Cobb County Republicans").** (See Exh. 1).

Answer: Denied.

127. Paragraph 127 of Plaintiffs' Complaint states:

Mr. Braynard also found a pattern in Georgia of voters registered at totally fraudulent residence addresses, including shopping centers, mail drop stores and other non-residential facilities.

Answer: The Democratic Political Party Committees admit that Mr. Braynard made the referenced allegations but deny the substance of those allegations and any other or different allegation in paragraph 127.

128. Paragraph 128 of Plaintiffs' Complaint states:

In sum, with the expert analysis of William M. Briggs PhD based on extensive investigation, recorded calls and declarations collected by Matt Braynard, (See attachments to Exh. 1, Briggs' report) the extent of missing and unlawfully requested ballots create substantial evidence that the mail ballot system has fundamentally failed to provide a fair voting mechanism. In short, tens of thousands of votes did not count while the pattern of fraud and mathematical anomalies that are impossible absent malign human

agency makes clear that tens of thousands were improperly counted. This margin of victory in the election for Mr. Biden was only 12,670 and cannot withstand most of these criticisms individually and certainly not in aggregate.

Answer: Denied.

129. Paragraph 129 of Plaintiffs' Complaint states:

Cobb county, based on lost votes, unlawfully requested votes and NCOA data on these facts alone would consume more than the entire margin of the statewide difference in the Presidential race.

Answer: Denied.

130. Paragraph 130 of Plaintiffs' Complaint states:

Russell Ramsland confirms that data breaches in the Dominion software permitted rogue actors to penetrate and manipulate the software during the recent general election. He further concludes that at least 96,600 mail-in ballots were illegally counted as they were not cast by legal voters.

Answer: The Democratic Political Party Committees admit that Exhibit makes these allegations about Dominion software but deny the substance of those allegations and any other or different allegations in Paragraph 130.

131. Paragraph 131 of Plaintiffs' Complaint states:

In sum, as set forth above, for a host of independent reasons, the Georgia certified election results concluding that Joe Biden received 12,670 more votes that President Donald Trump must be set aside.

Answer: Denied.

COUNT I

DEFENDANTS VIOLATED THE ELECTIONS CLAUSE AND 42 U.S.C. § 1983

132. Paragraph 132 of Plaintiffs' Complaint states:

Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

Answer: The Democratic Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

133. Paragraph 133 of Plaintiffs' Complaint states:

The Electors Clause states that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" for President. Art. II, § 1, cl. 2 (emphasis added). Likewise, the Elections Clause of the U.S. Constitution states that "[t]he Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." Art. I, § 4, cl. 1 (emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from U.S. Const. Art. II § 1, cl. 2 and Art. I § 4, cl. 1 and deny each other or different allegation in Paragraph 133.

134. Paragraph 134 of Plaintiffs' Complaint states:

The Legislature is "'the representative body which ma[kes] the laws of the people.'" *Smiley*, 285 U.S. at 193. Regulations of congressional and presidential elections, thus, "must be in accordance with the method which the state has prescribed for legislative enactments." *Id. at 367; see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2668 (2015).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Smiley*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

135. Paragraph 135 of Plaintiffs' Complaint states:

> Defendants are not part of the General Assembly and cannot exercise legislative power. Rather, Defendants' power is limited to "tak[ing] care that the laws be faithfully executed." Pa. Const. Art. IV, § 2. Because the United States Constitution reserves for the General Assembly the power to set the time, place, and manner of holding elections for the President and Congress, county boards of elections and state executive officers have no authority to unilaterally exercise that power, much less to hold them in ways that conflict with existing legislation.

Answer: The Democratic Political Party Committees admit that the Defendants are not part of the General Assembly. The Democratic Political Party Committees further admit that Article IV § 2 of the Pennsylvania Constitution charges the Governor of that state with "tak[ing] care that the laws be faithfully executed" but denies that this provision of the Pennsylvania Constitution limits Defendants' power or is otherwise relevant to this case. The remaining allegations of Paragraph 135 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To

the extent a response is required the Democratic Political Party Committees deny the same.

136. Paragraph 136 of Plaintiffs' Complaint states:

> Defendants are not the legislature, and their unilateral decision to create a "cure procedure" violates the Electors and Elections Clauses of the United States Constitution.

Answer: The Democratic Political Party Committees admit that the Defendants are not the legislature. The remaining allegations of Paragraph 136 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, the Democratic Political Party Committees deny the same.

137. Paragraph 137 of Plaintiffs' Complaint states:

> The Secretary of State and the State Election Board are not the legislature, and their decision to permit early processing of absentee ballots in direct violation of the unambiguous requirements of O.C.G.A. § 21-2-386(a)(2) violates the Electors and Elections Clauses of the United States Constitution.

Answer: The Democratic Political Party Committees admit that the Secretary of State and the State Election Board are not the legislature. The remaining allegations of Paragraph 137 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a

response is required, the Democratic Political Party Committees deny the same.

138. Paragraph 138 of Plaintiffs' Complaint states:

> Many Affiants testified to many legal infractions in the voting process, including specifically switching absentee ballots or mail-in ballots for Trump to Biden. Even a Democrat testified in his sworn affidavit that before he was forced to move back to where he could not see, he had in fact seen, "*I also saw absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times"*. (See Exh. 18, Par. 12).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 18, Paragraph 12 to Plaintiffs' Complaint. The Democratic Political Party Committees deny the substance of the quoted language and further deny each other or different allegation in Paragraph 138.

139. Paragraph 139 of Plaintiffs' Complaint states:

> Plaintiffs' expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1, Dr. Briggs' Report). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an absentee ballot that they did not request one ranges from 16,938 to 22,771. This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.

Answer: The Democratic Political Party Committees admit that the data in Paragraph 139 is from Exhibit 1 to Plaintiffs' Complaint. Plaintiffs lack information or knowledge sufficient to form a belief as to the truth of each

other or different allegation in Paragraph 139 and, on that basis, deny the same.

140. Paragraph 140 of Plaintiffs' Complaint states:

> This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud.

Answer: Denied.

141. Paragraph 141 of Plaintiffs' Complaint states:

> Further, as shown by data collected by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

Answer: Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 141 and, on that basis, deny the same.

142. Paragraph 142 of Plaintiffs' Complaint states:

> Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

Defendants have acted and, unless enjoined, will act under color of state law to violate the Elections Clauses of the Constitution. Accordingly, the results for President and Congress in the November 3, 2020 election must be set aside. The results are infected with Constitutional violations.

Answer: Denied.

COUNT II

THE SECRETARY OF STATE AND GEORGIA COUNTIES VIOLATED THE FOURTEENTH AMENDMENT U.S. CONST. AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF EQUAL PROTECTION

INVALID ENACTMENT OF REGULATIONS AFFECTING OBSERVATION AND MONITORING OF THE ELECTION

143. Paragraph 143 of Plaintiffs' Complaint states:

Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: The Democratic Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

144. Paragraph 144 of Plaintiffs' Complaint states:

The Fourteenth Amendment of the United States Constitution provides "nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. *See also Bush v. Gore*, 531 U.S. 98, 104 (2000)(having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over the value of another's). *Harper v. Virginia Board of Elections*, 383 U.S. 663, 665 (1966) ("Once the franchise is granted to the electorate, lines may

not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment.").

Answer: The Democratic Political Party Committees admit that the quoted language is from the Fourteenth Amendment of the United States Constitution, *Bush*, and *Harper*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provision and cases, the Democratic Political Party Committees deny the allegations.

145. Paragraph 145 of Plaintiffs' Complaint states:

> The Court has held that to ensure equal protection, a "problem inheres in the absence of specific standards to ensure its equal application. The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude, necessary." *Bush v. Gore*, 531 U.S. 98, 106, 121 S. Ct. 525, 530, 148 L. Ed. 2d 388 (2000).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Bush*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited case, the Democratic Political Party Committees deny the allegations.

146. Paragraph 146 of Plaintiffs' Complaint states:

> The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights. The requirement of equal protection is particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

Answer: Paragraph 146 of Plaintiffs' Complaint contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here, the Democratic Political Party Committees deny the same.

147. Paragraph 147 of Plaintiffs' Complaint states:

> In statewide and federal elections conducted in the State of Georgia, including without limitation the November 3, 2020, General Election, all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process in each County to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: Denied.

148. Paragraph 148 of Plaintiffs' Complaint states:

> Moreover, through its provisions involving watchers and representatives, the Georgia Election Code ensures that all candidates and political parties in each County, including the Trump Campaign, have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent. *See*, *e.g.* In plain terms, the statute clearly prohibits opening absentee ballots prior to election day, while the rule authorizes doing so three weeks before election day. There is no reconciling this conflict. The State Election Board has authority under O.C.G.A. § 21-2-31 to adopt lawful and legal rules and regulations, but no authority to promulgate a regulation that is directly contrary to an unambiguous statute. Rule 183-1-14-0.9-.15 is therefore plainly and indisputably unlawful. Plaintiffs also bring this action under Georgia law, O.C.G.A. § 21-2-522, Grounds for Contest:

Answer: The Democratic Political Party Committees admit that Plaintiffs assert claims under O.C.G.A. § 21-2-522. The Democratic Political Party Committees deny that Plaintiffs have established cognizable claims under this provision. The remaining allegations of Paragraph 148 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Democratic Political Party Committees deny the same.

149. Paragraph 149 of Plaintiffs' Complaint states:

> A result of a primary or election may be contested on one or more of the following grounds:

Answer: The Democratic Political Party Committees admit that the Plaintiffs' quoted language is from O.C.G.A. § 21-2-522. To the extent Plaintiffs' characterization of the statute is inaccurate or intended to apply to the claims here, the Democratic Political Party Committees deny the same.

150. Paragraph 150 of Plaintiffs' Complaint states:

> (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;
>
> (2) When the defendant is ineligible for the nomination or office in dispute;

(3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;

(4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or

(5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election. O.C.G.A. § 21-2-522.

Answer: The Democratic Political Party Committees admit that the Plaintiffs' quoted language is from O.C.G.A. § 21-2-522. To the extent Plaintiffs' characterization of the statute is inaccurate or intended to apply to the claims here, the Democratic Political Party Committees deny the same.

151. Paragraph 151 of Plaintiffs' Complaint states:

Several affiants testified to the improper procedures with absentee ballots processing, with the lack of auditable procedures with the logs in the computer systems, which violates Georgia law, and federal election law. See also, 50 U.S.C. § 20701 requires the retention and preservation of records and papers by officers of elections under penalty of fine and imprisonment.

Answer: The Democratic Political Party Committees deny the first sentence of Paragraph 151. The remaining allegations of Paragraph 151 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, the Democratic Political Party Committees deny the same.

152. Paragraph 152 of Plaintiffs' Complaint states:

The State Election Board re-adopted Rule 183-1-14-0.9-.15 on November 23, 2020 for the upcoming January 2021 runoff election.

Answer: Admitted.

153. Paragraph 153 of Plaintiffs' Complaint states:

A large number of ballots were identical and likely fraudulent. An Affiant explains that she observed a batch of utterly pristine ballots:

14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper - it was if they were intended for absentee use but had not been used for that purposes. There was a difference in the feel.

15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had com~ from, or where they had been processed. These stood out.

16. In my 20 years of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joe Biden. I only observed two of these ballots as votes for President Donald J. Trump." (See Exh. 15).

Answer: The Democratic Political Party Committees deny that a large number of ballots were identical and likely fraudulent. The Democratic Political Party Committees admit that the quoted language is from Exhibit 15 to Plaintiffs' Complaint and deny each other or different allegation in Paragraph 153.

154. Paragraph 154 of Plaintiffs' Complaint states:

> The same Affiant further testified specifically to the breach of the chain of custody of the voting machines the night before the election stating:
>
> we typically receive the machines, the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. **In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 AM in the morning on Election Day**. The Milton precinct received its machines at 1:00 AM in the morning on Election Day. This is unacceptable and voting machines should [not] be out of custody prior to an Election Day. *Id*.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 154 and, on that basis, deny the same.

155. Paragraph 155 of Plaintiffs' Complaint states:

> Defendants have a duty to treat the voting citizens in each County in the same manner as the citizens in other counties in Georgia.

Answer: Paragraph 155 contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Democratic Political Party Committees deny the same.

156. Paragraph 156 of Plaintiffs' Complaint states:

As set forth in Count I above, Defendants failed to comply with the requirements of the Georgia Election Code and thereby diluted the lawful ballots of the Plaintiffs and of other Georgia voters and electors in violation of the United States Constitution guarantee of Equal Protection.

Answer: Denied.

157. Paragraph 157 of Plaintiffs' Complaint states:

Specifically, Defendants denied the plaintiffs equal protection of the law and their equal rights to meaningful access to observe and monitor the electoral process enjoyed by citizens in other Georgia Counties by:

(a) mandating that representatives at the pre-canvass and canvass of all absentee and mail-ballots be either Georgia barred attorneys or qualified registered electors of the county in which they sought to observe and monitor;

(b) not allowing watchers and representatives to visibly see and review all envelopes containing official absentee and mail-in ballots either at or before they were opened and/or when such ballots were counted and recorded; and

(c) allowing the use of Dominion Democracy Suite software and devices, which failed to meet the Dominion Certification Report's conditions for certification.

Answer: Denied.

158. Paragraph 158 of Plaintiffs' Complaint states:

Instead, Defendants refused to credential all of the Trump Republican's submitted watchers and representatives and/or kept Trump Campaign's watchers and representatives by security and metal barricades from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. Consequently, Defendants created a system whereby it

was physically impossible for the candidates and political parties to view the ballots and verify that illegally cast ballots were not opened and counted

Answer: Denied.

159. Paragraph 159 of Plaintiffs' Complaint states:

Many Affiants testified to switching absentee ballots or mail-in ballots for Trump to Biden, including a Democrat. He testified in his sworn affidavit, that before he was forced to move back to where he could not see, he had in fact seen, "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times". (See Exh. 18, Par. 12).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 18 to the Plaintiffs' Complaint. The Democratic Political Party Committees deny each other or different allegation in Paragraph 159.

160. Paragraph 160 of Plaintiffs' Complaint states:

Other Georgia county boards of elections provided watchers and representatives of candidates and political parties, including without limitation watchers and representatives of the Republicans and the Trump Campaign, with appropriate access to view the absentee and mail-in ballots being pre-canvassed and canvassed by those county election boards and without restricting representatives by any county residency or Georgia bar licensure requirements.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 160 and, on that basis, deny the same.

161. Paragraph 161 of Plaintiffs' Complaint states:

> Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants, depriving them of the equal protection of those state laws enjoyed by citizens in other Counties.

Answer: Denied.

162. Paragraph 162 of Plaintiffs' Complaint states:

> Defendants have acted and will continue to act under color of state law to violate Plaintiffs' right to be present and have actual observation and access to the electoral process as secured by the Equal Protection Clause of the United States Constitution.

Answer: Denied.

163. Paragraph 163 of Plaintiffs' Complaint states:

> Defendants further violated Georgia voters' rights to equal protection insofar as Defendants allowed the Georgia counties to process and count ballots in a manner that allowed ineligible ballots to be counted, and through the use of Dominion Democracy Suite, allowed eligible ballots for Trump and McCormick to be switched to Biden or lost altogether. Defendants thus failed to conduct the general election in a uniform manner as required by the Equal Protection Clause of the Fourteenth Amendment and the Georgia Election Code.

Answer: Denied.

164. Paragraph 164 of Plaintiffs' Complaint states:

> Plaintiffs seek declaratory and injunctive relief holding that the election, under these circumstances, was improperly certified and that the Governor be enjoined from transmitting Georgia's certified Presidential election

results to the Electoral College. Georgia law forbids certifying a tally that includes any ballots that were not legally cast, or that were switched from Trump to Biden, through the unlawful use of Dominion Democracy Suite software and devices.

Answer: The Democratic Political Party Committees admit that Plaintiffs seek the declaratory and injunctive relief described in Paragraph 164 and deny that Plaintiffs have established cognizable claims entitling them to such relief. The remaining allegations in Paragraph 164 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Democratic Political Party Committees deny the same.

165. Paragraph 165 of Plaintiffs' Complaint states:

Alternatively, Plaintiffs seek declaratory and injunctive relief holding that the election, under these circumstances, was improperly certified and that the Governor be required to recertify the results declaring that Donald Trump has won the election and transmitting Georgia's certified Presidential election result in favor of President Trump.

Answer: The Democratic Political Party Committees admit that Plaintiffs seek the declaratory and injunctive relief described in Paragraph 165 and deny that Plaintiffs have established cognizable claims entitling them to such relief.

166. Paragraph 166 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the declaratory and injunctive relief requested herein is granted. Indeed, the setting aside of an election in which the people have chosen their representative is a drastic remedy that should not be undertaken lightly, but instead should be reserved for cases in which a person challenging an election has clearly established a violation of election procedures and has demonstrated that the violation has placed the result of the election in doubt. Georgia law allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately. O.C.G.A. § 21-2-520 et seq.

Answer: Denied.

167. Paragraph 167 of Plaintiffs' Complaint states:

In addition to the alternative requests for relief in the preceding paragraphs, hereby restated, Plaintiffs seek a permanent injunction requiring the County Election Boards to invalidate ballots cast by: 1) voters whose signatures on their registrations have not been matched with ballot, envelope and voter registration check; 2) all "dead votes"; and 4) all 900 military ballots in Fulton county that supposedly were 100% for Joe Biden.

Answer: The Democratic Political Party Committees admit that Plaintiffs seek the injunctive relief described in Paragraph 167 and deny that Plaintiffs have established cognizable claims entitling them to such relief.

COUNT III

FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE U.S. CONST. AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF DUE PROCESS

DISPARATE TREATMENT OF ABSENTEE/MAIL-IN VOTERS AMONG DIFFERENT COUNTIES

168. Paragraph 168 of Plaintiffs' Complaint states:

> Plaintiffs incorporate each of the prior allegations in this Complaint.
>
> Voting is a fundamental right protected by the Fourteenth Amendment to the United States Constitution. The Fourteenth Amendment protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin*, 570 F.2d at 1077-78. "[H]aving once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05.

Answer: The Democratic Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein. The Democratic Political Party Committees admit that voting is a fundamental right protected by the Fourteenth Amendment to the United States Constitution, including from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. The Democratic Political Party Committees further admit that the quoted language is from

Bush. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provision and case, the Democratic Political Party Committees deny the allegations.

169. Paragraph 169 of Plaintiffs' Complaint states:

> Defendants are not part of the General Assembly and cannot exercise legislative power. Rather, Defendants' power is limited to executing the laws as passed by the legislature. Although the Georgia General Assembly may enact laws governing the conduct of elections, "no legislative enactment may contravene the requirements of the Georgia or United States Constitutions." *Shankey*, 257 A. 2d at 898.

Answer: The Democratic Political Party Committees admit that the Defendants are not part of the General Assembly. The Democratic Political Party Committees further admit that the quoted language is from *Shankey*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of *Shankey*, the Democratic Political Party Committees deny the allegations. The remainder of the allegations in Paragraph 169 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Democratic Political Party Committees deny the same.

170. Paragraph 170 of Plaintiffs' Complaint states:

Federal courts "possess broad discretion to fashion an equitable remedy." *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 781 F.3d 1271, 1290 (11th Cir. 2015); *Castle v. Sangamo Weston, Inc*., 837 F.2d 1550, 1563 (11th Cir. 1988) ("The decision whether to grant equitable relief, and, if granted, what form it shall take, lies in the discretion of the district court.").

Answer: Admitted.

171. Paragraph 171 of Plaintiffs' Complaint states:

Moreover, "[t]o the extent that a voter is at risk for having his or her ballot rejected due to minor errors made in contravention of those requirements, … the decision to provide a 'notice and opportunity to cure' procedure to alleviate that risk is one best suited for the Legislature[,] . . . particularly in light of the open policy questions attendant to that decision, including what the precise contours of the procedure would be, how the concomitant burdens would be addressed, and how the procedure would impact the confidentiality and counting of ballots, all of which are best left to the legislative branch of Georgia's government." *Id*.

Answer: The Democratic Political Party Committees deny that the quoted language is from any of the cases cited in Paragraph 170 or from a case involving Georgia law or elections and further deny that the quoted language is accurate. The Democratic Political Party Committees affirmatively state that the quoted language is from *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345, 374 (Pa. 2020), which involves "Pennsylvania's government," not, as Plaintiffs allege and misquote, Georgia's government. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the

text of *Boockvar*, the Democratic Political Party Committees deny the allegations.

172. Paragraph 172 of Plaintiffs' Complaint states:

> The disparate treatment of Georgia voters, in subjecting one class of voters to greater burdens or scrutiny than another, violates Equal Protection guarantees because "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 555. *Rice v. McAlister*, 268 Ore. 125, 128, 519 P.2d 1263, 1265 (1975); *Heitman v. Brown Grp., Inc*., 638 S.W.2d 316, 319, 1982 Mo. App. LEXIS 3159, at *4 (Mo. Ct. App. 1982); *Prince v. Bear River Mut. Ins. Co*., 2002 UT 68, ¶ 41, 56 P.3d 524, 536-37 (Utah 2002).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

173. Paragraph 173 of Plaintiffs' Complaint states:

> Defendants are not the legislature, and their unilateral decision to create and implement a cure procedure for some but not all absentee and mail-in voters in this State violates the Due Process Clause of the United States Constitution. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

Answer: The Democratic Political Party Committees admit that the Defendants are not the legislature. The Democratic Political Party Committees deny each other or different allegation in Paragraph 173.

COUNT IV

FOURTEENTH AMENDMENT, U.S. CONST. ART. I § 4, CL. 1; ART. II § 1, CL. 2; AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF DUE PROCESS ON THE RIGHT TO VOTE

174. Paragraph 174 of Plaintiffs' Complaint states:

> Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: The Democratic Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

175. Paragraph 175 of Plaintiffs' Complaint states:

> The right of qualified citizens to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution. *Harper*, 383 U.S. at See also *Reynolds*, 377 U.S. at 554 (The Fourteenth Amendment protects the "the right of all qualified citizens to vote, in state as well as in federal elections."). Indeed, ever since the Slaughter-House Cases, 83 U.S. 36 (1873), the United States Supreme Court has held that the Privileges or Immunities Clause of the Fourteenth Amendment protects certain rights of federal citizenship from state interference, including the right of citizens to directly elect members of Congress. *See Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (*citing Ex parte Yarbrough*, 110 U.S. 651, 663-64 (1884)). *See also Oregon v. Mitchell*, 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting cases).

Answer: Admitted.

176. Paragraph 176 of Plaintiffs' Complaint states:

> The fundamental right to vote protected by the Fourteenth Amendment is cherished in our nation because it "is preservative of other basic civil and political rights." *Reynolds*, 377 U.S. at 562. Voters have a "right to cast a ballot in an election free from the taint of intimidation and fraud," Burson v. Freeman, 504 U.S. 191, 211 (1992), and "[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Reynolds*, *Burson*, and *Purcell*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

177. Paragraph 177 of Plaintiffs' Complaint states:

> "Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted" if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315 (1941). "[T]he right to have the vote counted" means counted "at full value without dilution or discount." *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Classic* and *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

178. Paragraph 178 of Plaintiffs' Complaint states:

> "Every voter in a federal . . . election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes." *Anderson v. United States*, 417 U.S. 211, 227 (1974); see also *Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes "debase[]" and "dilute" the weight of each validly cast vote. *See Anderson*, 417 U.S. at 227.

Answer: The Democratic Political Party Committees admit that the quoted language is from *Anderson*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

179. Paragraph 179 of Plaintiffs' Complaint states:

> The right to an honest [count] is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States." *Anderson*, 417 U.S. at 226 (quoting *Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff'd due to absence of quorum*, 339 U.S. 974 (1950)).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Anderson*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

180. Paragraph 180 of Plaintiffs' Complaint states:

Practices that promote the casting of illegal or unreliable ballots or fail to contain basic minimum guarantees against such conduct, can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots. *See Reynolds*, 377 U.S. at 555 ("[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.").

Answer: The Democratic Political Party Committees admit that the quoted language is from *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited case, the Democratic Political Party Committees deny the allegations.

181. Paragraph 181 of Plaintiffs' Complaint states:

In Georgia, the signature verification requirement is a dead letter. The signature rejection rate for the most recent election announced by the Secretary of State was 0.15%. The signature rejection rate for absentee ballot applications was .00167% - only 30 statewide. Hancock County, Georgia, population 8,348, rejected nine absentee ballot applications for signature mismatch. Fulton County rejected eight. No other metropolitan county in Georgia rejected even a single absentee ballot application for signature mismatch. The state of Colorado, which has run voting by mail for a number of years, has a signature rejection rate of between .52% and .66%.35 The State of Oregon had a rejection rate of 0.86% in 2016.36 The State of Washington has a rejection rate of between 1% and 2%.37If Georgia rejected absentee ballots at a rate of .52% instead of the actual .15%, approximately 4,600 more absentee ballots would have been rejected.

Answer: The Democratic Political Party Committees deny that Georgia's signature verification requirement is a "dead letter." The Democratic Political Party Committees lack knowledge and information sufficient to form a belief

as to the truth of the remaining allegations in Paragraph 181 and, on that basis, deny the same.

COUNT V

THERE WAS WIDE-SPREAD BALLOT FRAUD.

O.C.G.A. § 21-2-522

182. Paragraph 182 of Plaintiffs' Complaint states:

> Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

183. Paragraph 183 of Plaintiffs' Complaint states:

> Plaintiffs contest the results of Georgia's election, with Standing conferred under pursuant to O.G.C.A. 21-2-521.

Answer: The Democratic Political Party Committees admit that Plaintiffs contest the results of Georgia's election and deny that Plaintiffs have established a valid basis for doing so. The Democratic Political Party Committees further deny that Plaintiffs have standing.

184. Paragraph 184 of Plaintiffs' Complaint states:

> Therefore, pursuant to O.G.C.A. 21-2-522, for misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result. The foundational principle that Georgia

law "nonetheless allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately." *Martin v. Fulton County Bd. of Registration & Elections*, 307 Ga. 193, 194, 835 S.E.2d 245, 248 (2019). The Georgia Supreme Court has made clear that Plaintiffs need not show how the [] voters would have voted if their [absentee] ballots had been regular. [] only had to show that there were enough irregular ballots to place in doubt the result." See OCGA § 21-2-520 et seq., *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (1994) the Supreme Court invalidated an election, and ordered a new election because it found that,

Thus, [i]t was not incumbent upon [the Plaintiff] to show how the [481] voters would have voted if their [absentee] ballots had been regular. He only had to show that there were enough irregular ballots to place in doubt the result. He succeeded in that task.

Id. at 271 (citing *Howell v. Fears*, 275 Ga. 627, 571 SE2d 392, (2002) (primary results invalid where ballot in one precinct omitted names of both qualified candidates).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Martin* and *Mead*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

185. Paragraph 185 of Plaintiffs' Complaint states:

The "glitches" in the Dominion system—that seem to have the uniform effect of hurting Trump and helping Biden have been widely reported in the press and confirmed by the analysis of independent experts.

Answer: Denied.

186. Paragraph 186 of Plaintiffs' Complaint states:

Prima facie evidence in multiple affidavits shows specific fraudulent acts, which directly resulted in the flipping of the race at issue:

a) votes being switched in Biden's favor away from Trump during the recount;

b) the lack of procedures in place to follow the election code, and the purchase and use, Dominion Voting System despite evidence of serious vulnerabilities;

c) a demonstration that misrepresentations were made about a pipe burst that sent everyone home, while first six, then three, unknown individuals were left alone until the morning hours working on the machines;

d) further a failure to demonstrate compliance with the Georgia's Election Codes, in maintaining logs on the Voting system for a genuine and sound audit, other than voluntary editable logs that prevent genuine audits. While the bedrock of this Democratic Republic rests on citizens' confidence in the validity of our elections and a transparent process, Georgia's November 3, 2020 General Election remains under a pall of corruption and irregularity that reflects a pattern of the absence of mistake. At best, the evidence so far shows ignorance of the truth; at worst, it proves a knowing intent to defraud.

Answer: Denied.

187. Paragraph 187 of Plaintiffs' Complaint states:

Plaintiffs' expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1, Dr. Briggs' Report). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an **absentee ballot that they did not request ranges from 16,938 to 22,771**. This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.

Answer: The Democratic Political Party Committees admit that the data in Paragraph 139 is from Exhibit 1 to Plaintiffs' Complaint. Plaintiffs lack information or knowledge sufficient to form a belief as to the truth of each other or different allegation in Paragraph 139 and, on that basis, deny the same.

188. Paragraph 188 of Plaintiffs' Complaint states:

> This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud.

Answer: Denied.

189. Paragraph 189 of Plaintiffs' Complaint states:

> Further, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

Answer: Denied.

190. Paragraph 190 of Plaintiffs' Complaint states:

Plaintiffs' expert Russell Ramsland concludes that at least 96,600 mail-in ballots were fraudulently cast. He further concludes that up to 136,098 ballots were illegally counted as a result of improper manipulation of the Dominion software. (Ramsland Aff).

Answer: The Democratic Political Party Committees admit that the data in Paragraph 190 is from Exhibit 9 to Plaintiffs' Complaint. The Democratic Political Party Committees deny the truth of that data and the substance of the allegations in Paragraph 190.

191. Paragraph 191 of Plaintiffs' Complaint states:

The very existence of absentee mail in ballots created a heightened opportunity for fraud. The population of unreturned ballots analyzed by William Briggs, PhD, reveals the probability that a far greater number of mail ballots were requested by 3rd parties or sent erroneously to persons and voted fraudulently, undetected by a failed system of signature verification. The recipients may have voted in the name of another person, may have not had the legal right to vote and voted anyway, or may have not received the ballot at the proper address and then found that they were unable to vote at the polls, except provisionally, due to a ballot outstanding in their name.

Answer: Denied.

192. Paragraph 192 of Plaintiffs' Complaint states:

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin of votes between the presidential candidates in the

state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote.

Answer: Denied.

193. Paragraph 193 of Plaintiffs' Complaint states:

The right to vote includes not just the right to cast a ballot, but also the right to have it fairly counted if it is legally cast. The right to vote is infringed if a vote is cancelled or diluted by a fraudulent or illegal vote, including without limitation when a single person votes multiple times. The Supreme Court of the United States has made this clear in case after case. See, e.g., *Gray v. Sanders*, 372 U.S. 368, 380 (1963) (every vote must be "protected from the diluting effect of illegal ballots."); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (plurality op. of Stevens, J.) ("There is no question about the legitimacy or importance of the State's interest in counting only the votes of eligible voters."); *accord Reynolds v. Sims*, 377 U.S. 533, 554-55 & n.29 (1964).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Gray* and *Crawford*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases or Plaintiffs allege that this law applies here, the Democratic Political Party Committees deny the allegations.

194. Paragraph 194 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law. As seen from the expert analysis of William Higgs, PhD, based on actual voter data, tens of thousands of votes did not count, and tens of thousands of votes were unlawfully requested.

Answer: Denied.

195. Paragraph 195 of Plaintiffs' Complaint states:

The Fourteenth Amendment Due Process Clause protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin v. Burns*, 570 F.2d 1065, 1077-78 (1st Cir. 1978).

Answer: Admitted.

196. Paragraph 196 of Plaintiffs' Complaint states:

Separate from the Equal Protection Clause, the Fourteenth Amendment's due process clause protects the fundamental right to vote against "the disenfranchisement of a state electorate." *Duncan v. Poythress*, 657 F.2d 691, 702 (5th Cir. 1981). "When an election process 'reaches the point of patent and fundamental unfairness,' there is a due process violation." *Florida State Conference of* N.A.A.C.P. *v. Browning*, 522 F.3d 1153, 1183-84 (11th Cir. 2008) (*quoting Roe v. Alabama*, 43 F.3d 574, 580 (11th Cir.1995) (*citing Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir.1986))). See also *Griffin*, 570 F.2d at 1077 ("If the election process itself reaches the point of patent and fundamental unfairness, a violation of the due process clause may be indicated and relief under § 1983 therefore in order."); *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994) (enjoining winning state senate candidate from exercising official authority where absentee ballots were obtained and cast illegally).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Duncan*, *Florida State Conference of N.A.A.C.P.*, *Griffin*, and *Marks*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

197. Paragraph 197 of Plaintiffs' Complaint states:

> Part of courts' justification for such a ruling is the Supreme Court's recognition that the right to vote and to free and fair elections is one that is preservative of other basic civil and political rights. *See Black*, 209 F.Supp.2d at 900 (quoting *Reynolds*, 377 U.S. at 561-62 ("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.")); see also *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) ("the political franchise of voting … is regarded as a fundamental political right, because [sic] preservative of all rights.").

Answer: The Democratic Political Party Committees admit that the quoted language is from *Reynolds* and *Yick Wo*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

198. Paragraph 198 of Plaintiffs' Complaint states:

> "[T]he right to vote, the right to have one's vote counted, and the right to have ones vote given equal weight are basic and fundamental constitutional rights incorporated in the due process clause of the Fourteenth Amendment to the Constitution of the United States." Black, 209 F. Supp. 2d at 900 (a state law that allows local election officials to impose different voting schemes upon some portions of the electorate and not others violates due process). "Just as the equal protection clause of the Fourteenth Amendment prohibits state officials from improperly diluting the right to vote, the due process clause of the Fourteenth amendment forbids state officials from unlawfully eliminating that fundamental right." *Duncan*, 657 F.2d at 704. "Having once granted the right to vote on equal terms,[Defendants] may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05.

Answer: The Democratic Political Party Committees admit that the quoted language is from *Black*, *Duncan*, and *Bush*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

199. Paragraph 199 of Plaintiffs' Complaint states:

> In statewide and federal elections conducted in the State of Georgia, including without limitation the November 3, 2020 General Election, all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: Denied.

200. Paragraph 200 of Plaintiffs' Complaint states:

> Moreover, through its provisions involving watchers and representatives, the Georgia Election Code ensures that all candidates and political parties, including without limitation Plaintiff, Republicans, and the Trump Campaign, shall be "present" and have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: The allegations of Paragraph 200 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to

the claims here or a response is required, the Democratic Political Party Committees deny the same.

201. Paragraph 201 of Plaintiffs' Complaint states:

> Defendants have a duty to guard against deprivation of the right to vote through the dilution of validly cast ballots by ballot fraud or election tampering. Rather than heeding these mandates and duties, Defendants arbitrarily and capriciously denied the Trump Campaign and Republicans meaningful access to observe and monitor the electoral process by: (a) mandating that representatives at the pre- canvass and canvass of all absentee and mail-ballots be either Georgia barred attorneys or qualified registered electors of the county in which they sought to observe and monitor; and (b) not allowing watchers and representatives to visibly see and review all envelopes containing official absentee and mail-in ballots either at the time or before they were opened and/or when such ballots were counted and recorded. Instead, Defendants refused to credential all of the Trump Campaign's submitted watchers and representatives and/or kept Trump Campaign's watchers and representatives by security and metal barricades from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. The lack of meaningful access with actual access to see the ballots invited further fraud and cast doubt of the validity of the proceedings.

Answer: Denied.

202. Paragraph 202 of Plaintiffs' Complaint states:

> Consequently, Defendants created a system whereby it was physically impossible for the candidates and political parties to view the ballots and verify that illegally cast ballots were not opened and counted.

Answer: Denied.

203. Paragraph 203 of Plaintiffs' Complaint states:

Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants, and included the unlawfully not counting and including uncounted mail ballots, and that they failed to follow absentee ballot requirements when thousands of **voters received ballots that they never requested**. Defendants have acted and will continue to act under color of state law to violate the right to vote and due process as secured by the Fourteenth Amendment to the United States Constitution.

Answer: Denied.

204. Paragraph 204 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

Answer: Denied.

205. Paragraph 205 of Plaintiffs' Complaint states:

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin in the state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote.

Answer: Denied.

206. Paragraph 206 of Plaintiffs' Complaint states:

Relief sought is the elimination of the mail ballots from counting in the 2020 election. Alternatively, the Presidential electors for the state of Georgia should be disqualified from counting toward the 2020 election.

Answer: The Democratic Political Party Committees admit that the Plaintiffs seek the relief described in Paragraph 206 but deny that the Plaintiffs have established any cognizable claim entitling them to such relief.

207. Paragraph 207 of Plaintiffs' Complaint states:

> The United States Code (3 U.S.C. 5) provides that,
>
> "[i]f any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned. 3 USCS § 5.

Answer: The Democratic Political Party Committees admit that the quoted language is from 3 U.S.C. § 5 and deny each other or different allegations.

REQUEST FOR RELIEF

Answer: The Democratic Political Party Committees deny that the Plaintiffs are entitled to any of the requested relief set forth in the Prayer for Relief section of Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

The Democratic Political Party Committees assert the following affirmative defenses without accepting any burdens regarding them.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because this Court lacks jurisdiction to adjudicate Plaintiffs' claims.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs lack standing to assert their claims.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' Compliant fails, in whole or in part, to state a claim upon which relief can be granted.

The Democratic Political Party Committees reserve the right to assert any further defenses that may become evident during the pendency of this matter.

PROPOSED INTERVENORS' REQUEST FOR RELIEF

Having answered Plaintiffs' Complaint, the Democratic Political Party Committees request that the Court:

1. Deny Plaintiffs are entitled to any relief;
2. Dismiss Plaintiffs' Complaint with prejudice;

3. Award the Democratic Political Party Committees their costs and attorneys' fees incurred in defending against Plaintiffs' claims in accordance with 42 U.S.C. § 1988; and
4. Grant such other and further relief as this Court deems just and proper.

Dated: November 30, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800

Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000
khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

**Pro Hac Vice Application Pending*

United States District Court
Northern District Of Georgia
Atlanta Division

Coreco Jaqan Pearson, et al.,
Plaintiff,
vs.
Brian Kemp, et al.,
Defendant.

Civil Action
File No. 1:20-CV-4809-TCB

Atlanta, Georgia
Monday December 7, 2020
10:00 a.m.

Transcript of Motions Hearing
Before The Honorable Timothy C. Batten, Sr.
United States District Judge

APPEARANCES:

FOR THE PLAINTIFFS: Sidney Powell
Harry MacDougald
Attorneys at Law

FOR THE DEFENDANTS: Carey Allen Miller
Joshua Barret Belinfante
Charlene Swartz McGowan
Melanie Leigh Johnson
Attorneys at Law

Lori Burgess, Official Court Reporter
(404) 215-1528

Proceedings recorded by mechanical stenography, transcript produced by CAT.

THE COURT: Good morning. I would like to point out that this hearing is being audio streamed nationally, so whatever you say near your microphones will be picked up for the world to hear, so you might want to be discreet in what you have to say this morning with the microphones. Also, I would ask that -- each of y'all should have some plastic bags. As you leave the lectern, take the bag with you, and the next person who comes up should put a new bag. You all have bags, right? Okay. So that is what we are going to do. All right.

In this case, the Plaintiffs are a group of disappointed Republican presidential electors. They assert that the 2020 presidential election in Georgia was stolen, and that the results, Joe Biden winning, occurred only because of massive fraud. Plaintiffs contend that this massive fraud was manifest primarily, but not exclusively, through the use of ballot stuffing. And they allege that this ballot stuffing has been rendered virtually invisible by computer software created and run by foreign oligarchs and dictators from Venezuela to China to Iran.

The defendants deny all of Plaintiffs' accusations. They begin in their motions to dismiss by rhetorically asking what a lot of people are thinking, why would Georgia's Republican Governor and Republican Secretary of State, who were avowed supporters of President Trump, conspire to throw the election in favor of the Democratic candidate for

President.

We are going to turn now to the legal arguments. We have several motions today, but primarily they are grouped into two. First we have a motion to dismiss that has been filed by the State Defendants, the original defendants in the case, and then we have another motion to dismiss filed by the Intervening Defendants in the case. The Plaintiffs of course oppose both of these motions. They've been fully briefed, and I have read everything that has been filed in this case by the Plaintiffs and everything pertaining to these motions. If the Defendants are not successful on those motions to dismiss, we will proceed to hear argument on the substantive merits of the complaint and the claims in the complaint. The way that time is going to be -- well let me begin it this way. In their legal arguments the Defendants contend that Plaintiffs lack standing to bring this suit, which is pretty much what the 11th Circuit just held in Mr. Woods's own separate suit against the State on Saturday. The Defendants further argue that under Georgia law this kind of suit, one for election fraud, should be filed in State Court, not Federal Court. This too is what the 11th Circuit held in a separate but similar case recently. And next, Defendants assert that Plaintiffs waited too long to file this suit which seeks an order decertifying the election results. The Secretary of State has already certified the election result, and there is

no mechanism that the Court is aware of of decertifying it, but that is that the Plaintiffs seek.

And finally, the law is pretty clear that a party cannot obtain the extraordinary remedy of injunctive relief unless he acts quickly. And Defendants contend that the Plaintiffs have failed to do that, pointing out that all of Plaintiffs' claims about the Dominion voting machines, the ballot marking devices, could have been raised months ago, and certainly prior to the November 3 election, and certainly before Plaintiffs filed this suit over three weeks after the election took place.

So these are the procedural arguments that the Defendants are making today, or at least the main ones, I believe. And then the question is, assuming the Plaintiffs can survive these procedural hurdles, what is the relief that they want? They want me to agree with their allegations of massive fraud. And what do they want me to do about it? They want me to enter injunctive relief, specifically the extraordinary remedy of declaring that the winner of the election in Georgia was Donald Trump and not Joe Biden. They ask me to order the Governor and the Secretary of State to undo what they have done, which is certify Joe Biden as the election winner. We will get to those merits if the Plaintiffs survive the motion to dismiss.

At this time we're going to begin with the motion to

dismiss, and the time allotment will be as follows: The State Defendants have 20 minutes -- let me back up. Each side gets 30 minutes. The Plaintiffs get all 30 of their minutes, and the Defendants' 30 minutes are divided among the two sets of Defendants. The State Defendants -- the State Defendants get 20 minutes, and then the Intervening Defendants get 10 minutes, following which we will hear the Plaintiffs' response. They have up to 30 minutes. And then whatever time was saved in -- reserved for rebuttal, the State Defendants and Intervening Defendants will then have.

But before we go forward, is there any way we can stop this fuzzy sound that is coming through up here? I don't know if it is coming through in the whole courtroom. I don't think has anything to do with my microphone. (pause). All right, is that better? I think it was the speaker, one of the two speakers up here on the bench. I talk loud enough and I think the lawyers talk loud enough that I can hear what they are going to say. I don't need a microphone. So at this time I will turn the matter over to the State Defendants.

MR. MILLER: Good morning, Your Honor. Carey Miller on behalf of the State Defendants. I am joined today by Josh Belinfante, Charlene McGowan, and Melanie Johnson. Mr. Belinfante will be handling the motion to dismiss. I do want to raise with the Court, to the extent that we get there, State Defendants would like to renew their motion to alter the

TRO that is in place at this point. I understand that we can address that in that section.

THE COURT: All right. Thank you, sir.

MR. BELINFANTE: I am not checking email, I am trying to keep my time.

THE COURT: Okay.

MR. BELINFANTE: I would ask this. Would the Court allow me to speak without the mask? Or do you prefer I keep the mask on to speak?

THE COURT: I think I need to have everybody keep the mask on.

MR. BELINFANTE: I'll be happy to do it. Good morning, Your Honor. I think you have hit the nail on the head in terms of what the issues are. This case simply does not belong in this Court. The relief that Plaintiffs seek is, as the Court described, extraordinary. It is to substitute by judicial fiat the wishes of the Plaintiffs over presidential election results that have been certified, that have been audited, that have been looked over with a hand-marked count. There is zero authority under the Federal law, under the Constitution of the United States, or even under Georgia law for such a remedy.

If the Plaintiffs wanted the relief they seek, they are not without remedies. They could do what the campaign of the President has done, which is file a challenge in Georgia

court under Georgia law challenging election irregularities. There are three currently pending. I have with me two Rule Nisi orders. One will proceed today at 3:30 in the Cobb Superior Court sitting by designation. Another I believe is Wednesday. And the President's, as I understand it, is to proceed on Friday. That is where these claims should be brought.

To the extent that the claims are about something else, the Court need only look at what has happened in Georgia since roughly 2019 and the passage of House Bill 316. It was at that time that the Georgia legislature completely redid Georgia election law. And there had been suit after suit after suit, many of which brought by the Defendant interveners, their allies, and others who question election outcomes. And in every suit no relief has been ordered that has been upheld by the 11th Circuit. In fact, no court has ordered relief. And to the extent that two have, the *Curling* case and the *New Georgia Project* case on discrete issues, the 11th Circuit stayed those because it concluded that there was a strong likelihood of reversible error.

So what does this tell you? It tells you that Georgia laws are constitutional, Georgia elections are constitutional, and Georgia machines are constitutional. The constitutional that the legislature has set forward is constitutional. Now, that's where the Plaintiffs have backed

themselves into a corner from which they cannot escape. In their reply brief, the claims, from the State's perspective, got significantly crystallized. It became much clearer. And they're relying heavily on *Bush v. Gore*. The problem is that they are turning *Bush v. Gore* on its head.

In *Bush v. Gore* the challenge was that a Florida Supreme Court decision was going to, as the Plaintiffs repeat often, substitute its will for the legislative scheme for appointing presidential elections. That is exactly what they are asking this Court to do, substitute this Court for the Florida Supreme Court, and you have *Bush v. Gore* all over again. And that manifests itself in various different forms that the Court has seen in our brief and the Court has already identified. I will not go through all of them. I will try to hit the high notes on some, but we will rely on our briefs. We're not dropping or conceding arguments, but we will rely on our briefs for those that I don't address expressly.

Let's talk briefly about what the complaint is, because that has been I think significantly clarified with the reply brief. One, the parties are presidential electors. And they argue that that makes a significant difference. But what are the acts of the State? Not Fulton County, not mullahs in Iran, not dictators in Venezuela. What are the acts of the State that are at issue? And it's in the discussion about traceability and the *Jacobson* decision in the 11th Circuit

where that gets fleshed out really for the first time in the reply brief, and there are three. And they tell you, and I will keep coming back to it, on Page 20 of their reply brief.

The Plaintiffs, describing the State, say they picked the Dominion system. Their policies led to de facto abolition of the signature match requirement, their regulations to permit early processing of absentee ballots is unlawful and unconstitutional. Those are the three acts of the State. Everything else is happening at a county level, period. And from that they raise what appears to now be four claims. One is the Elections and Electors Clause citing the absentee ballot opening rule, I will refer to it as, the settlement agreement. They raise equal protection claims saying that the violation of the Election Clause has led to a vote dilution and discrimination against Republican voters. They argue that due process is violated because they have a property interest in lawful elections, again, under the Elections and Electors Clause. And finally, they raise a pure State claim in Federal Court under a voter election challenge.

What is the relief they seek? The Court has identified it. Why do they seek it? The Court is informed of this on Page 25 of the reply brief. And it is -- if the Court will not order a different result than what a certified election has, they seek it through another means. They say on Page 25 that allowing the electors to be chosen by the

legislature under the plenary power granted to them for this purpose by the elections and election laws. One way or the another, the relief they seek is judicial fiat, changing certified election results. And to evaluate these claims the Court does need to consider aspects of State law. And this is where the problem lies. I am going to keep going until you tell me to stop.

(noise from courtroom audio system).

THE COURT: I am sorry, Mr. Belinfante. I don't know what the issue is. We just have to bear through it unless or until somebody fixes it. I've got six kids. It doesn't bother me.

MR. BELINFANTE: I have three, I understand. I also have the loudest dog in America. In any case, to evaluate the claims, you have to look at State law. And because the Plaintiffs raise Code Section 21-2-522 and the statutes that surround it, it's those cases that are important. It allows a challenge based on these grounds - in fact some are pending now - misconduct, fraud, irregularity, illegal votes, and error are all grounds to challenge an election in Georgia. All of these issues can be brought in in those cases. Those election challenges have to be decided promptly under 21-2-525. And, and this is critical, the relief sought is not to declare someone else a winner, it is to have another election. This goes to the point that there is simply no

authority for the relief that they seek.

Turning first, with that factual predicate in mind, to standing. There has been a fair amount of briefing on whether the status as a presidential elector guarantees standing. The 8th Circuit said yes, the 3rd Circuit said no. And I think the 3rd Circuit's analysis is more persuasive. And to the extent that the Plaintiffs say the 3rd Circuit did not consider their status as an electorate, that is true, but the electorate is not what gives you unique status, it's if the electorate is a candidate. And that is expressly what the 3rd Circuit considered in the *Bognet* decision, and we would suggest that that is the more persuasive one that we rely on in our briefs.

But I do want to address two other aspects of standing that are more particularized. One is that when they are seeking to invalidate a State rule or a consent decree that the State has entered into, or anything truly under the Elections Clause, the *Bognet* case speaks to this as well. And it says that because Plaintiffs are not the General Assembly, nor do they bear any conceivable relationship to the State law-making process, they lack standing to sue over the alleged usurpation of the General Assembly's rights under the Elections and Electors Clauses. That is absolutely true here. The *Wood* court, the 11th Circuit *Wood* opinion, says the same, citing *Walker,* because Federal Courts are not constituted as

freewheeling enforcers of the Constitution and laws. And that is the injury that underlies all of their claims, which is why they lack standing.

I am not going to get into traceability as much because I think the most useful aspect of the traceability issue is the crystallizing of Plaintiffs' complaints, and as I've indicated, the isolating of the State acts in particular.

On sovereign immunity, I only want to highlight that a decision just came out in Michigan seeking very similar relief. We will get you the cite. It is Michigan -- it is against Whitmer, *King versus Whitmer*, in the Eastern District of Michigan. Walks through all of the issues in this case and rejects the claims, denies the relief. On sovereign immunity they raise the point that under *Young*, you can only get prospective injunctive relief. That is not decertification, that is a retrospective. And so sovereign immunity would bar that. They do seek to prevent the Governor from mailing the results; that can be prospective, but there is just no relief for it. So that is all I will says on sovereign immunity.

On laches, the Michigan Court also joined in with Judge Grimberg on laches in the *Wood* case and said that there is time that is inexcusable. The Court is well-aware of the elements, was there a delay, was it not excusable, and did the delay cause undue prejudice. Judge Grimberg has already looked at this argument in the context of the *Wood* case and

the challenge to the consent order and said laches applied. And it does here for all of the Plaintiffs' arguments, and all you need to do, again, is go back to that Page 20 and see why. They say that their policies, the State's policies, led to a de facto abolition of the signature requirement. The complaint at Paragraph 58 acknowledges in Exhibit A that that happened in March of this year. There has been plenty of time that they thought the Secretary overstepped his bounds to bring a challenge in that case or to bring a challenge even afterwards, challenge the OEB. They did not.

They say on Page 20 that they, the State, picked the Dominion system. They tell you on Paragraph 12 that happened in 2019. There has been significant litigation over the Dominion system. Nothing has been held in order that the Dominion system is unconstitutional, is flawed, or anything else that has stuck.

Third, they said that their regulation, the absentee ballot regulation, permitted absentee ballots as unlawful and unconstitutional. They tell you in Paragraph 60 that happened in April of 2020. Georgia law, in the Administrative Procedures Act, specifically allows you to challenge rules, 50-13-10. That wasn't done. They certainly could have. And you don't need the fraud, as they allege, to happen first, because their argument is not based on the fraud, it is based on usurpation of power by the Executive Branch. That can be

challenged when the rule has been promulgated, when the order is out, and when the Dominion machines were selected.

We raise in our brief several forms of abstention. And truly, Your Honor, they all kind of get to the same place under different theories. And again, the reply brief made this point to the clearest. I think at the end of the day, while we will rely on our briefs in terms of why those matter, and the Michigan court found that *Colorado River* abstention should apply, there are parallel proceedings in State Court --

THE COURT: Did they even argue why it shouldn't?

MR. BELINFANTE: They argued that in voting rights cases the 11th Circuit does not typically abstain. And those cases are slightly different. They are challenging an underlying statute, for the most part. *Siegel* is a slightly -- it's a different case. But they are mostly challenging underlying statutes. And there is not a pending election challenge on the same thing in State Court. It's like the other cases that we have seen that we've defended since the gubernatorial election in 2018. So no, I don't think so. But I think the *Bush v. Gore* analysis is the one that is most critical, and it is that simply the Secretary -- the legislative scheme for electing presidential electors is set forth in the Code in Title 21, it has a means of challenging fraudulent illegal votes, it has a means of allowing the Secretary to address various issues, the State Election Board

to pass regulations. All of that authority has been delegated by, first, Congress to the Georgia Legislature, and then to the Executive Branch. That is the scheme that is put in place, and that is exactly what they seek to turn on its head. And what the three justice concurrence on which they rely says, makes that impossible. Because the Supreme Court said at Page 120, for the Court, in that case the Florida Court, to step away from this established practice prescribed by the Secretary, the State official charged by the Legislature with the responsibility to obtain and maintain uniformity in the application, operation, and interpretation of election laws was to depart from the legislative scheme.

Read the proposed order. That is exactly what the Plaintiffs seek here, and that is exactly what their own authority says the Court cannot issue in terms of relief, and that would actually trump the remaining claims because it would violate the Elections Clause in order to arguably save some other vague right in terms of due process.

Turning to that, let me talk briefly about the absentee ballot regulation, the return of the ballots. There is nothing that is inconsistent with that, number one, because if you look in the Election Code, there are five times that the General Assembly said something cannot occur earlier than X date. This doesn't say that. This says beginning on this date they can do this, but it doesn't say it can only happen.

And the five times elsewhere in the Code would suggest that the legislature knew how to change it if they wanted. That is 121-2-132, 133, 153, 187, and 384. They are simply reading the regulation to create the conflict, when every piece of Federal and State law says you should read it to avoid the conflict. In terms of the settlement agreement itself, I think Judge Grimberg has sufficiently analyzed that. And it fills the gap. There is no conflict. They can't point to any language that it does. And at the end of the day it is an OEB, an Official Election Bulletin, not a statute and not a regulation of the State Election Board anyway.

On the Dominion machines, I think we will rely on -- Mr. Miller is going to talk about that a good deal, but also they argue that the audit somehow doesn't save it because of *Prohm* and that we are estopped from raising *Prohm.* There are two problems with that. One, estoppel doesn't apply. There has been no final order. They're not estopped from doing anything. That's the *Community State Bank vs. Strong* decision from the 11th Circuit applying Georgia law 2011. And two, there has not been an order in *Curling* saying that the machines are unconstitutional. There have been nine preliminary injunctions filed, no standard relief, and it ignores -- the entire premise of the argument ignores that when a voter gets a ballot from the machine they can read who they voted for. And when the hand count took place, they

didn't scan it back in, they looked at what the ballot said and who they voted for and that is why things were put in different boxes. Their own affidavits talk about that provision of separating the boxes by hand. It resolves the issue.

The remaining theories fail -- again, I want to be cognizant of time and save some time for rebuttal. We rely on our briefs in terms of the merits of those, but the equal protection and due process allegations I think are addressed in *Wood* from the 11th Circuit. On procedural due process, to the extent that that is the due process claim, they don't challenge the Georgia election means of correcting as somehow invalid or insufficient. In fact, they raised it. And so you can't have a procedural due process claim if you have a remedy. You can't have a substantive due process claim if it doesn't shock the conscience, which having to use the remedy here, they can do. Your Honor, with that, unless there are questions, I would will reserve the rest of my time for rebuttal.

THE COURT: Thank you, sir.

MS. CALLAIS: Good morning, Your Honor. I am Amanda Callais on behalf of Intervenor Defendants, the Democratic Party of Georgia, the DSCC and the DCCC, and I am mindful of many of the points Mr. Belinfante just made, and I will not repeat them, but for the record, Your Honor, I would just like

to say that for the statements that we've made in our motion to dismiss, this case should be dismissed. The Plaintiffs in this case lack standing. They bring their claims and assert only generalized grievances. This Court also lacks jurisdiction to hear their claims because this case is moot now that the election has been certified, which is what the 11th Circuit found just this past Saturday in the *Wood v. Raffensperger* case. And then Plaintiffs have also failed to state any cognizable claim under the Election and Elections Clause, Equal Protection Clause, and Due Process Clause.

Where I would like to begin though is where Mr. Belinfante started, and I would like to bring us back to this point about where we are in terms of Georgia elections and with the remedy asked for in this case. Over a month ago five million Georgians cast their ballots in the 2020 presidential election with the majority of them choosing Joseph R. Biden, Jr. as their next President. Those votes, both the ballots that were cast on Dominion machines and the ballots that were cast by absentee were counted. Almost immediately after that count took place, those votes were counted again by hand, and then almost immediately after that count finished, the recount began again, a third time, by machine. Each and every one of those counts has confirmed Georgia voters' choice. Joe Biden should be the next President of The United States. At this point there is simply

no question that Joe Biden won Georgia's presidential election and with it all of Georgia's 16 electoral votes. Despite that, Plaintiffs have come to this Court eight months after a settlement agreement they challenged was entered, three weeks after the election is over, and days after certification took place, and they asked this Court to take back that choice, to set aside the choice that Georgia voters have made, and to choose the next president by decertifying the 2020 presidential election results and ordering the governor to appoint a new slate of electors.

THE COURT: Speaking of taking back, how do the Intervening Defendants respond to the Plaintiffs' point in their complaint that many people, including Stacey Abrams, affiliated with the Democratic Party, opposed these machines from the beginning and said that they are rife with the possibility of fraud?

MS. CALLAIS: I think, Your Honor, that the key there is that when we talk about a possibility of fraud, that does not mean that fraud has actually occurred. And here Plaintiffs come after an election has taken place and they say on very -- as we will talk about if we get to the TRO portion -- on very limited specious evidence that there is a possibility of fraud. A possibility of fraud does not mean that fraud has actually occurred. And truthfully, Your Honor, that is what the Plaintiffs would need to show to get some

sort of -- the relief that they are requesting here, that there has been actual fraud. And that is just not in their complaint, it is not in their evidence. It makes no difference whether there has been a possibility of fraud or issues with the machines. That is a case that is in front of Judge Totenberg and that she is deciding. But that is not the evidence that they have presented here, and it certainly does not support their claims.

So with that, Your Honor, as the 3rd Circuit explained just a little over a week ago when denying an emergency motion to stop certification in a case similar to this one brought by Donald J. Trump's campaign, voters not lawyers choose the President. Ballots not briefs decide elections. Plaintiffs' request for sweeping relief in this case is unprecedented. It is unprecedented anywhere, and it is particularly unprecedented in Georgia where the ballots have been counted not once, not twice, but three times, and the vote has been confirmed. Their request for relief is not just unprecedented, but also provides a separate and independent grounds for this Court to dismiss this case.

As we explained in our motion to dismiss, granting Plaintiffs' remedy in and of itself would require the Court to disenfranchise over 5 million Georgia voters, violating their constitutional right to vote. Post-election disenfranchisement has consistently been found to be a

violation of the Due Process Clause throughout the courts. For example, in *Griffin v. Burns* the 1st Circuit found that throwing out absentee votes post election that voters believed has been lawfully cast would violate the Due Process Clause. Similarly, in *Marks v. Stinson*, a number of years later, the 3rd Circuit found the same thing in their finding where they found even if there is actual evidence of fraud, discarding ballots that were legally cast or that voters believed to be legally cast violates the Due Process Clause and is a drastic remedy. This is precisely what would happen here if this Court were to order the requested relief. That order would violate the Due Process Clause. And because of that, this Court cannot grant the remedy that Plaintiffs seek and the Court should dismiss this suit.

In finding that the Court can't grant this relief, this Court would not be alone, it would be in actually quite good company, not just from the 1st Circuit and the 3rd Circuit in *Griffin* and *Stinson,* but also from more recent cases. In 2016 in *Stein v. Cortes*, the District Court declined to grant Jill Stein's request to a recount because, quote, it would well insure that no Pennsylvania vote counts, which would be outrageous and unnecessary. Just this cycle, in *Donald J. Trump for President v. Boockvar* the Plaintiffs sought to invalidate 7 million mail ballots under the Equal Protection Clause, and the Court explained that it has been

unable to find any case in which a plaintiff has sought such drastic remedy in the contest of an election in terms or the sheer volume of votes asked to be invalidated. The Court also promptly dismissed there.

Just this last Friday in *Law v. Whitmer* in Nevada State Court, which actually would have the ability to hear a contest, found that it would not decertify the election in Nevada. And the list goes on, Your Honor. We could talk about findings in State Court in Arizona on Friday. There have been over 30 challenges to this election that have been repeatedly dismissed since -- basically since election day. Since election day.

So the Court is in good company, and it's not just in company good company nationwide, but it is in good company with the judge right down the hall from here who, just two weeks ago, in a case nearly identical to this one, found a request to disenfranchise nearly 1 million absentee voters in Georgia to be extraordinary. Judge Grimberg explained that to prevent Georgia certification of the votes cast in the general election after millions of people have lawfully cast their ballots, to interfere with the results of an election that has already concluded would be unprecedented and harm the public and in countless ways. Granting injunctive relief here would breed confusion, undermine the public's trust in the election, and potentially disenfranchise over 1 million Georgia voters.

Viewed in comparison to the lack of any demonstrable harm, this Court finds no basis in fact or law to grant Plaintiff the relief he seeks.

That same reasoning applies here. And in fact, it applies here even more because most of the claims that were brought in front of Judge Grimberg are the same, but the amount of votes that Plaintiffs here seek to decertify are far greater in scope.

On this last point, Your Honor, about the inability of the Court to order the remedy, I wanted to respond to something that Plaintiffs raised in their brief last night. In their brief last night they react to the briefing on mootness that we included in our TRO and note that this Court -- this case would not be moot because the Court can decertify an election. And that *Wood v. Raffensperger* that came out by the 11th Circuit didn't discuss decertification of the election, only halting certification.

And I would just like to point out that if this Court were to decertify the election and specifically to point a new slate of electors, which is what is asked, that in and of itself would also violate the law. The U.S. Constitution empowers State Legislatures to choose the manner of appointing presidential electors, and that is the Electors Clause that Plaintiffs actually challenge. And pursuant to that clause, the Georgia General Assembly has chosen to appoint electors

according to popular vote. Those are certified by the governor through certificate of ascertainment. That popular vote has already taken place, Your Honor, and if this Court were to order a new slate of electors to be appointed, that would -- that would violate the Electors Clause.

In addition, Congress has also provided that electors shall be appointed in each and every state on the Tuesday next after the first Monday in November in every 4th year as also known as Election Day, which this year took place on November 3rd. Georgia has held that election on Election Day, and if this Court were to now, months after the -- over a month after the election, to go and order that a new slate be appointed, it would be violating that statute as well. So for the very reasons that the Plaintiffs -- the very relief that Plaintiffs ask is actually what prevents this Court from issuing any relief in this case, and precisely why it should be dismissed.

THE COURT: All right. Thank you. All right, I will hear from the Plaintiffs.

MS. POWELL: May it please the Court. Sidney Powell and Harry MacDougald for the Plaintiffs. We are here on a motion to dismiss which requires the Court to view the pleadings and all the facts alleged in the light most favorable to the Plaintiff. In my multiple decades of practice I have never seen a more specifically pled complaint

of fraud, and replete with evidence of it, both mathematical, statistical, computer, expert, testimonial, video, and multiple other means that show abject fraud committed throughout the State of Georgia.

Forget that this machine and its systems originated in Venezuela to ensure the election of Hugo Chavez and that it was designed for that purpose. Look just at what happened in Georgia. Let's start, for example, with the language, "the insularity of the Defendants' and Dominion's stance here in evaluation and management of the security and vulnerability of the system does not benefit the public or citizens' confident exercise of the franchise. The stealth vote alteration or operational interference risk posed by malware that can be effectively invisible to detection, whether intentionally seeded or not, are high once implanted, if equipment and software systems are not properly protected, implemented, and audited. The modality of the system's capacity to deprive voters of their cast votes without burden, long wait times, and insecurity regarding how their votes are actually cast and recorded in the unverified QR code makes the potential constitutional deprivation less transparently visible as well; at least until any portions of the system implode because of system breach, breakdown, or crashes" -- all of which the State of Georgia experienced -- "the operational shortcuts now in setting up or running election equipment or software

creates other risks that can adversely impact the voting process."

THE COURT: You don't have to get into any of the evidence or any of the statements or averments of the complaint because I have read it. And all these statements, I am assuming that every word of it is true. My question -- the first question I have for you, for the Plaintiffs in the case, is why -- first of all, whether you can or cannot pursue these claims in State Court, specifically in Georgia Superior Courts. Just the question is, can you?

MS. POWELL: No, Your Honor, we can't. These are exclusively Federal claims with the exception of the election contest allegation. They are predominantly Federal claims, they are brought in Federal Court for that purpose. We have a constitutional right to be here under the Election and Electors Clause. I was not reading evidence. What I was reading to the Court was the opinion of Judge Totenberg that was just issued on 10-11-20 which defeats any allegation of laches or lack of concern over the voting machines. This has been apparent to everyone who has looked at these machines or discussed them in any meaningful way or examined them in any meaningful way, beginning with Carolyn Maloney, a Democratic Representative to Congress back in 2006 who objected to them being approved by CFIUS. Judge Totenberg went on to say that "the Plaintiffs' national cybersecurity experts convincingly

present evidence that it's not a question of might this actually ever happen but, quote, when will it happen, especially if further protective measures are not taken. Given the masking nature of malware in the current systems described here, if the State and Dominion simply stand by and say we have never seen it, the future does not bode well." And sure enough, exactly the fears articulated in her 147 page opinion, and all the means and mechanisms and problems discussed in that three day hearing she held have now manifested themselves within the State of Georgia in the most extreme way possible.

THE COURT: She did not address the question before the Court today though as to the propriety of bringing this suit in this Court, did she?

MS. POWELL: There is no other place to bring this suit of Federal Equal Protection claims and the electors.

THE COURT: You couldn't bring all of these claims in State Court? Is that your position?

MS. POWELL: We are entitled to bring these claims in Federal Court, Your Honor. They are Federal constitutional claims.

THE COURT: What do you do with the 11th Circuit's holding in *Wood* on Saturday that we cannot turn back the clock and create a world in which the 2020 election results are not certified?

MS. POWELL: Actually we can, but we don't need to because we are asking the Court to decertify.

THE COURT: Where does that exist?

MS. POWELL: *Bush v. Gore*. *Bush v. Gore* was a decertification case. There are other cases we've cited in our brief that allow the Court the decertify. And at the very minimum this Court should order a preliminary injunction to allow discovery and allow us to examine the forensics of the machines. For example, we know that already in Ware County, which is a very small precinct, there were 37 votes that were admittedly flipped by the machines from Mr. Trump to Mr. Biden. That is a 74 vote swing. That equates to approximately the algorithm, our experts also believe, was run across the State that weighed Biden votes more heavily than it did Trump votes. That is a systemic indication of fraud that Judge Totenberg was expressing concern about in her decision just weeks before the election. We have witness after witness who have explained how the fraud can occur within the machines. We know for example that there were crashes, just like she feared in the decision, and everybody expressed concern about. We know machines were connected to the internet which is a violation of their certification requirements and Federal law itself. We could not have acted more quickly. In fact, the certification issue wasn't even ripe until it was actually certified.

THE COURT: But you weren't limited in your remedies to attacking the certification, you could have attacked the machines months ago.

MS. POWELL: That is what happened in the Totenberg decision, and that is why I read it to the Court. The machines were attacked by parties, and the election was allowed to go forward. And we have come forward with our claims as fast as is humanly possible. This is a massive case, and of great concern not just to the nation and to Georgia, but to the entire world, because it is imperative that we have a voting system that people can trust.

They talk about disenfranchising voters, well there are over a million voters here in Georgia that will be disenfranchised by the counting of illegal ballots that render theirs useless. It's every legal vote that must be counted. Here we have scads of evidence. And the vote count here is narrow. I mean, the disparity now is just a little over 10,000 votes. Just any one of our categories of that we have identified require decertification. For example, 20,311 nonresidents voted illegally. Between 16,000 and 22,000 unrequested absentee ballots were sent in in violation of the legislative scheme. Between 21,000 and 38,000 absentee ballots were returned by voters but never counted. 32,347 votes in Fulton County were identified to be statistically anomalous. And the vote spike for Mr. Biden, that is

completely a mathematical impossibility, according to multiple expert affidavits we provided, shows that it was like 120,000 Biden votes all of a sudden magically appear after midnight on election night. That happens to coincide with the time we have video of the Fulton County election workers running the same stack of rather pristine-looking ballots through the machine multiple times. And as for the recounts, that makes no difference because if you recount the same fake ballots, you achieve -- in the same machines, you achieve the same results. That is why the hand count in Ware County that revealed the 74 swing is so important and indicative of the systemic machine fraud that our experts have identified, and why it is so important that we at least get access for the Department of Defense even, or our own experts, or jointly, to examine the machines in Fulton County and the ten counties that we requested in our protective order, or our motion for --

THE COURT: How is this whole case not moot from the standpoint of even if you were to win, and win Georgia, could Mr. Trump win the election?

MS. POWELL: Well fraud, Your Honor, can't be allowed by a Court of Law to stand --

THE COURT: That is not what I am asking. I am not saying that there may not be other issues that need to be addressed, and that there might not be questions that need to

be investigated, I am asking, as a practical matter, in this particular election, can Mr. Trump even win the election even if he wins Georgia?

MS. POWELL: Yes, he can win the election.

THE COURT: How would that happen?

MS. POWELL: Because there are other states that are still in litigation that have even more serious fraud than we have in Georgia. It is nowhere near over. And it doesn't affect just the presidential election. This fraud affects senate seats, congressional seats, gubernatorial seats, it affects even local elections. Another huge statistic that is enough by itself to change the result is the at least 96,000 absentee ballots that were voted but are not reflected as being returned. All of these instances are violations of Federal law, as well as Georgia law. And in addition, Mr. Ramsland's report finds that the ballot marking machine appears to have abnormally influenced election results and fraudulently and erroneously attributed between thirteen thousand seven hundred and twenty-five thousand and the 136,908 votes to Mr. Biden just in Georgia. We have multiple witnesses who just saw masses of pristine ballots appearing to be computer marked, not hand marked, and those were repeatedly run through machines until votes were injected in the system that night without being observed by lawfully required observers in violation of Georgia and Federal law that

resulted in the mass shoot-up spike of votes for Mr. Biden. Mr. Favorito's affidavit is particularly important. He talks about the Ware County Waycross City Commission candidate who reported that the Ware County hand audit is flipped those 74 votes. That is a statistically significant swing for a precinct that small, and there is no explaining for it other than the machine did it. We have testimony of witnesses who saw that their vote did not come out the same way it was. Mr. Favorito is a computer tech expert. He said that the vote flipping malware was resident on the county election management system of possibly one or more precinct or scanners. There was also an instance where it came out of the Arlo system changed, and there was no way to verify the votes coming out of the individual precincts versus coming out of Arlo because apparently they didn't keep the individual results so that they can be compared. So there was a vote swapping incident through the Arlo process also.

There was a misalignment of results, according to Mr. Favorito, among all three presidential candidates. Rather than just a swapping of the results for two candidates, in other words, they would sometimes put votes into a third-party candidate and take those out and put them in Mr. Biden's pile. The system itself according to its own technological handbook explains that it allows for votes to be put in, it can scan to set or overlook anything it wants to overlook, put those in an

adjudication pile, and then in the adjudication process, which apparently was conducted in top secret at the English Street warehouse, where all kinds of strange things were going on, were just thrown out. They could just literally drag and drop thousands of votes and throw them out. That is why it is so important that we at least get temporary relief to examine the systems and to hold off the certification or decertify or ask the Court to halt the proceedings continuing right now until we can have a few days to examine the machines and get the actual evidence off the machines and look at the ballots themselves, because we know there were a number of counterfeit ballots that were used in the Fulton County count that night. It would be a simple matter to examine 100,000 or so ballots and look at which ones are fake. It is possible to determine that with relative ease.

This is not about who or which government officials knew anything was wrong with the machine. It's entirely possible that many people did not know anything was wrong with them. But it is about ensuring the integrity of the vote and the confidence of the people that the will they expressed in their vote is what actually determines the election. Very few people in this country have any confidence in that level right now. Very few.

The standard is only preponderance of the evidence. We have shown more than enough for a prima facie case to get

to -- meet the standard required -- this Court is required to apply. It is crucial that we decertify and stop the vote. We need to have discovery. It's so important to the American people, particularly in a country that is built on the rule of law, to know that their election system is fair and honest.

THE COURT: But that rule of law limits where these suits can be filed and who can bring them. Specifically on the standing issue, how does your -- how do your clients survive the motion to dismiss with respect to the standing issue if I don't follow the 8th Circuit's case opinion in *Carson*?

MS. POWELL: Even the Court's decision in *Wood* is so distinguishable it should make clear electors have standing. In that case, for example, the State could not even say who did have standing. But under the Constitution, electors clearly do.

THE COURT: But Georgia, unlike Minnesota, differentiates between candidates and Presidential electors. Right?

MS. POWELL: I am not sure about that. But we also have the Cobb County Republican Party official who is suing, and the electors themselves are part of the Constitutional Clause that entitles them to standing.

THE COURT: I just think you have a pretty glib response to what the 11th Circuit has held regarding these

cases. I mean, the 11th Circuit has basically said, you know, we are not -- the Federal Courts are courts of limited jurisdiction and we are not open 24/7 to remedy every freewheeling constitutional issue that comes up. They have made it clear, the Appellate Courts have made it clear, they don't want District Courts handling this matter, they want State Courts handling State election disputes, even regarding in Federal elections. The Federal Government has nothing to do with the State election and how it is conducted. As you said, it is the Secretary of State who is the chief election officer, and decides it. Why shouldn't the State of Georgia investigate this? Why should it be a Federal judge?

MS. POWELL: Because we raise Federal constitutional issues that are paramount to --

THE COURT: They raised Federal constitutional issues in *Wood*.

MS. POWELL: -- to equal protection. He did not request decertification. That is one of the things that distinguished that case. He was not an elector or representative of a county. He was simply an individual. And I am not sure that decision is correct because, in that case, they were also wondering who could challenge it. Well obviously the Federal Equal Protection Clause and the constitutional issues we have raised here give this Court Federal question jurisdiction. This Court's one of the

primary checks and balances on the level of fraud that we are experiencing here. It is extremely important that this Court exercise its jurisdiction as a gatekeeper on these issues. There were numerous departures from the State statute, including the early processing of votes, and the de facto abolition of signature matches that give rise to Federal Equal Protection claims.

THE COURT: Well, back to the standing question. You know, the Plaintiffs allege that their interests are the same, basically one in the same, as any Georgia voters. In Paragraph 156 of the complaint they aver that Defendants diluted the lawful ballots of Plaintiffs and of other Georgia voters and electors. Further, Defendants allege that -- the Plaintiffs allege that Defendants further violated Georgia voters's rights, and they allege, the Plaintiffs, that quote, all candidates, political parties, voters, including without limitation Plaintiffs, have a vested interest. It doesn't sound like your clients are special, that they have some unique status that they enjoy that allows them to bring this suit instead of anyone else. How do they have standing?

MS. POWELL: They have the unique status of being the Presidential electors selected to vote for Donald Trump at the electoral college. They were not certified as -- and decertification is required to make sure they can do their jobs that they were selected to do.

THE COURT: Under the 3rd Circuit case, does your theory survive?

MS. POWELL: Our theory is -- I think the 3rd Circuit decision is wrong, the 8th Circuit decision is correct. There is no circumstance in which a Federal elector should not be able to seek relief in Federal Court, thanks to our Constitution. It is one of our most important principles.

There were multiple means of fraud committed here. We have also the military intelligence proof of interference in the election, the Ware County 37 votes being flipped, the video of the Fulton City vote count, they lied about the water leak, they ran off observers, they brought in unusually packaged ballots from underneath a table. One person is seen scanning the same QR code three different times in the machine and big batch of ballots which would explain why the same number of ballots gets injected repeated into the system. That corresponds with the math and the algorithms showing a spike of 26,000 Biden votes at that time. After Trump's lead of 103,997 votes there were mysteriously 4800 votes injected into the system here in Georgia multiple times, the same number, 4800 repeatedly. That simply doesn't happen in the absence of fraud. All of the facts we have laid out in our well-pleaded complaint require that this Court decertify the election results or at least, at the very least, stop the process now in a timely fashion and give us an opportunity to

examine the machines in ten counties and get further discovery, particularly of what happened in Fulton County. Those things need to be resolved before any citizen of Georgia can have any confidence in the results of this election.

Allowing voters to cast ballots that are solely counted based on their voting designations and not on an unencrypted humanly unverifiable QR code that can be subject to external manipulation and does not allow proper voter verification and ballot vote auditing cannot withstand the scrutiny of a Federal Court and cannot pass muster as a legitimate voting system in the United States of America. For those reasons, we request the Court to deny the motion to dismiss, allow us a few days, perhaps even just five, to conduct an examination of the machines that we have requested from the beginning, and find out exactly what went on and give the Court further evidence it might want to rule in our favor, because the fraud that has happened here has destroyed any public confidence that the will of the people is reflected in their vote, and just simply cannot stand.

THE COURT: Thank you, ma'am. All right, rebuttal? This is Josh Belinfante.

MR. BELINFANTE: Just briefly, Your Honor. Your Honor, just a few points. One, I want the get back to *Colorado River* abstention. There was a means and a process to do that. You had asked earlier about their response. I did

go back and check. The *Siegel* case they rely on cites to only *Burford* and *Pullman* abstention, not *Colorado River*. It is appropriate in this case, and as the Michigan Court concluded, the *Moses Cone* case which establishes it says that there is really not a reason not to do so when you have concurrent jurisdiction.

And that is one of the problems with the Plaintiffs' argument. They keep telling you that they can't go to State Court because they have Federal constitutional claims. Those can be litigated in State Court pursuant to 1983. They also say on laches that -- it is interesting, they have cited to you and read to you numerous aspects of the *Curling* case, and they say that going back to 2006 somebody thought that there was something wrong with these machines. Well if that's the case, then it makes the laches argument even stronger. These are the arguments that they are about the machines. They certainly could have been litigated prior to after the certification of the election.

The other big problem that they raise is that the *Curling* case, everything that was read was stayed by the 11th Circuit, presuming that it is reading the part of the opinion that I think it is. If it is going back to a prior opinion, that is about old machines which aren't even used anymore. And then in Ware County, that was provided in an affidavit that was new as part of the reply brief, it should not be

counted. There is authority for that, *Sharpe v. Global Security International* from the Southern District of Alabama, from 2011. But even still, that can be brought in the State Court under the challenge mechanisms set.

You asked what is the authority for decertifying the election. The citation was *Bush v. Gore*. *Bush v. Gore* stayed a Florida recount, it did not decertify the election. But most importantly, what *Bush v. Gore* said is, when there is a State process, the Elections Clause says that has to continue. And they have not shown you that the State process is insufficient, invalid, whatsoever. On standing, they find themselves in a bind. If they are candidates as electors, the State election code says you can bring a challenge under 21-2-522. If they are not candidates and the 3rd Circuit reasoning applies, then the 11th Circuit in *Wood* would apply too, and say that when you are not a candidate you don't have standing. So either way, they find themselves out of Federal jurisdiction on these arguments.

Just a few points on closing. They tell you that the voters lack confidence in the election system. Well, since 2018 candidates that were not successful have tried to overturn the rule of voters in the Courts. Since 2018 courts have stayed with the State of Georgia and upheld Georgia's election laws and Georgia's election machines. This Court should do the same. The State is doing what it can to enhance

public confidence. That is why we went the extra step of a hand count, not that pushes ballots through a machine, but that looks at what the ballot says, and when the voter had access to that ballot they could see too. And if they voted for Donald Trump it will show it on the ballot; if they voted for Joe Biden it will show it on the ballot. And if not, they can correct it right there. That is the actions that instill confidence, not this. And if they want to challenge those election results, the State Courts are open for them to do it, there are hearings scheduled now, and those hearings should proceed and not this one. Thank you.

THE COURT: Thank you, sir. Ms. Callais, did you have anything else?

MS. CALLAIS: No, Your Honor.

THE COURT: All right. Thank you very much. I have considered the entire record in the case and I find that, even accepting as true every averment of the complaint, I find that this Court must grant the Defendants' motions to dismiss, both of the motions to dismiss, beginning with the proposition that Federal Courts are courts of limited jurisdiction; they are not the legal equivalent to medical hospitals which have emergency rooms that are open 24/7 to all comers. On the contrary, the 11th Circuit has specifically held that Federal Courts don't entertain post election contests about vote counting and misconduct that may properly be filed in the

State courts. So whether the Defendants have been subjected to a Federal claim, which is Equal Protection, Due Process, Elections Clause and Electors Clause, it does not matter. The 11th Circuit has said these claims in this circuit must be brought in State court. There is no question that Georgia has a statute that explicitly directs that election contests be filed in Georgia Superior Courts, and that is what our Federal Courts have said in this circuit, it is that is exactly right.

Sometimes Federal judges are criticized for committing the sin of judicial activism. The appellate courts have responded to that and said enough is enough is right. In fact, enough is too much. And the courts have convincingly held that these types of cases are not properly before Federal Courts, that they are State elections, State courts should evaluate these proceedings from start to finish.

Moreover, the Plaintiffs simply do not have standing to bring these claims. This Court rejects the 8th Circuit's nonbinding persuasive-value-only holding in *Carson vs Simon* and I find that the Defendants -- excuse me -- the Plaintiffs don't have standing, because anyone could have brought this suit and raised the exact same arguments and made the exact same allegations that the Plaintiffs have made in their complaint. The Plaintiffs have essentially alleged in their pleading that their interests are one and the same as any Georgia voter. I do not believe that the 11th Circuit would

follow the reasoning of the 8th circuit in *Carson*.

Additionally, I find that the Plaintiffs waited too late to file this suit. Their primary complaint involves the Dominion ballot marking devices. They say that those machines are susceptible to fraud. There is no reason they could not have followed the Administrative Procedure Act and objected to the rule-making authority that had been exercised by the Secretary of State. This suit could have been filed months ago at the time the machines were adopted. Instead, the Plaintiffs waited until over three weeks after the election to file the suit. There is no question in my mind that if I were to deny the motions to dismiss, the matter would be brought before the 11th Circuit and the 11th Circuit would reverse me. The relief that the Plaintiffs seek, this Court cannot grant. They ask the Court to order the Secretary of State to decertify the election results as if such a mechanism even exists, and I find that it does not. The 11th Circuit said as much in the *Wood* case on Saturday.

Finally, in their complaint, the Plaintiffs essentially ask the Court for perhaps the most extraordinary relief ever sought in any Federal Court in connection with an election. They want this Court to substitute its judgment for that of two-and-a-half million Georgia voters who voted for Joe Biden, and this I am unwilling to do.

The motion for temporary restraining order that was

entered on November 29 is dissolved. The motions to dismiss are granted. And we are adjourned.

(end of hearing at 11:07 a.m.)

* * * * *

REPORTER'S CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

_____
Lori Burgess
Official Court Reporter
United States District Court
Northern District of Georgia

Date: December 8, 2020

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

MOTION TO INTERVENE AND INCORPORATED BRIEF IN SUPPORT

COME NOW THE DEMOCRATIC PARTY OF GEORGIA, INC., the DSCC, and the DCCC (collectively, the "Democratic Political Party Committees" or "Proposed Intervenors") by and through their undersigned counsel of record, and file this *Motion to Intervene and Incorporated Brief in Support* in the above-referenced matter. Intervention is appropriate under Federal Rule of Civil Procedure 24(a) and (b) for the following reasons.

I. INTRODUCTION

On November 20, 2020, Governor Brian Kemp and Secretary of State Brad Raffensperger certified the election results showing that former Vice President Joe Biden—the Democratic Party's nominee for President—won the presidential race in Georgia. This certification followed an unprecedented hand recount in Georgia which "upheld and reaffirmed" President-Elect Biden's victory.[1] Georgia officials are also currently recounting the ballots again in a machine recount at the request of President Trump's reelection campaign.

Plaintiffs ask this Court to disregard the will of the voters—whose votes will be counted at least *three times*—and enter an extraordinary order decertifying the

[1] *See Historic results of first statewide audit of paper ballots upholds result of presidential race*, Ga. Sec'y of State, https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race (Nov. 19, 2020).

results showing that President-Elect Biden won the state of Georgia and unilaterally "requiring Governor Kemp to transmit certified election results that state that President Donald Trump is the winner of the election." Compl. ¶ 211(3). Plaintiffs' Complaint was filed more than three weeks *after* the general election, and five days *after* Georgia certified the results.

In support of their unprecedented request to overturn a certified election that will be fully counted at least three times, Plaintiffs proffer debunked conspiracy theories, wild speculation, and unsupported allegations of procedural improprieties recycled from other unsuccessful lawsuits. The Democratic Political Party Committees—whose candidates and voters will both be severely and irreparably injured if the election results are discarded as Plaintiffs request—have an undeniable interest in this litigation and should be granted intervention.

II. BACKGROUND

On November 3, 2020, Georgians voted in one of the most scrutinized elections in recent history, one that yielded record turnout amid an ongoing pandemic. The election followed nearly a month and a half of absentee early voting. After all the votes were counted, President-Elect Joe Biden was declared to have won the presidential election in the state of Georgia by approximately 13,500 votes.

On November 11, the Secretary announced that for the first time, Georgia would conduct a statewide, hand recount of the presidential election. On November 19, the Secretary announced that the recount reaffirmed President-Elect Biden's victory, with the final tally only shifting by under 1,300 votes. The next day, the Secretary and the Governor certified the election results. On November 24, Georgia began to count its ballots for a third time at the request of the Trump campaign, this time in a machine recount. Results from the machine recount are due December 2, 2020.

Despite widespread acknowledgement that no fraud occurred, *see, e.g.*, Nick Corasaniti et al., *The Times Called Officials in Every State: No Evidence of Voter Fraud*, N.Y. Times (Nov. 10, 2020), https://www.nytimes.com/2020/11/10/us/politics/voting-fraud.html, various lawsuits have been filed in around the country and in Georgia in an attempt to sow confusion and cast doubt on the legitimacy of the election.[2] Some of the counsel

[2] *See also Secretary Raffensperger announces completion of voting machine audit using forensic techniques: no sign of foul play*, Ga. Sec'y of State, https://sos.ga.gov/index.php/elections/secretary_raffensperger_announces_completion_of_voting_machine_audit_using_forensic_techniques_no_sign_of_foul_play (Nov. 17, 2020); *Joint statement from elections infrastructure government coordinating council & the election infrastructure sector coordinating executive committees*, Cybersecurity & Infrastructure Sec. Agency, https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-

representing the Plaintiffs in this case have also filed a nearly identical federal lawsuit in Michigan. *See King et al. v. Whitmer et al.*, 20-cv-13134 (E.D. Mich. Nov. 25, 2020). Additionally, a lawsuit alleging similar improprieties and conspiracy theories (in which one of Plaintiffs' counsel here, L. Lin Wood, Jr., was the named plaintiff) was filed more than two weeks ago here in the Northern District of Georgia, in which the court denied the plaintiff's motion for a Temporary Restraining Order. *See* Op. & Order, *Wood v. Raffensperger et al.*, No. 20-cv-04651, ECF No. 54 at 37 (N.D. Ga. Nov. 19, 2020) (denying plaintiff L. Lin Wood, Jr.'s claim for emergency injunctive relief in part because plaintiff "cannot show a likelihood of success on the merits").

Plaintiffs seek to revive these rejected claims in this case, including once again challenging a March 6, 2020 Settlement Agreement between the Democratic Political Party Committees and the Secretary and members of the State Board of Elections (the "Board"), pursuant to which the Secretary and the Board engaged in official rulemaking and issued guidance intended to increase uniformity in processing absentee ballot signatures, as well as notice and cure procedures.[3]

government-coordinating-council-election (Nov. 12, 2020) ("There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.").

[3] *See* Compl. ¶¶ 51–54, 59 (mentioning Settlement Agreement); *see also* ¶¶ 18, 167, 181, 191, 211(7), 211(9) (discussing signature requirements generally).

Plaintiffs' claims have been further embellished, however, with an even grander alleged conspiracy spanning the globe from all corners of the United States to China, Iran, Pakistan, Serbia, and Venezuela.[4] Plaintiffs apparently do not notice the irony inherent in their Complaint: while failing to provide evidence of a massive conspiracy to disenfranchise millions of Americans, their suggested remedy would explicitly disenfranchise millions of their fellow Georgians who voted in November. *See* Compl. ¶ 211(3) (requesting the Court ignore Georgia's election results and unilaterally order Governor Kemp declare Donald Trump "the winner of the election").

The Democratic Political Party Committees are entitled to intervene as of right. The Democratic Party of Georgia is the Democratic Party's official state party committee for the State of Georgia, and its mission is to elect Democratic Party candidates to offices across Georgia, up and down the ballot. The DSCC and the DCCC are the national party committees dedicated to electing candidates of the Democratic Party to the U.S. Congress, including specifically in and from Georgia. Both the candidates that the Democratic Political Party Committees support and the voters among their membership and with whom they affiliate will be irreparably and

[4] Nearly half of Plaintiffs' exhibits here are largely or completed copied from *Wood*. *See* ECF Nos. 1-1, 1-7, 1-10, 1-11, 1-12, 1-14, 1-15, 1-16, 1-17, 1-18, 1-19, 1-20, 1-22, 1-25.

severely injured if the election is not certified or the results are discarded. Moreover, the Settlement Agreement that Plaintiffs now challenge was the result of litigation brought by the Democratic Political Parties themselves. As a result, they easily meet the criteria for intervention.

III. ARGUMENT

A. This Court should grant the motion to intervene as of right.

The Democratic Political Party Committees qualify for intervention as of right. Intervention as of right must be granted when (1) the motion to intervene is timely; (2) the proposed intervenors possess an interest in the subject matter of the action; (3) denial of the motion to intervene would affect or impair the proposed intervenors' ability to protect their interests; and (4) the proposed intervenors' interests are not adequately represented by the existing parties to the lawsuit. Fed. R. Civ. P. 24(a)(2); *Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d 1242, 1250 (11th Cir. 2002). The Democratic Political Party Committees satisfy each of these factors.

1. The motion to intervene is timely.

The Democratic Political Party Committees' motion is timely. Plaintiffs filed their Complaint on November 25, 2020, and an Emergency Motion for Declaratory Relief on November 27, 2020. *See* ECF Nos. 1, 6. This motion follows within days

after the filing of the Complaint, before any significant public action on the merits on either the Complaint or the Emergency Motion has occurred in the case. As there has been no delay, there is no risk of prejudice. *See Chiles v. Thornburgh*, 865 F.2d 1197, 1213 (11th Cir. 1989). The Democratic Political Party Committees have read and are prepared to comply with the briefing schedules the Court set in its November 29 temporary restraining order concerning forensic inspection of Dominion voting machines (ECF No. 14) and its November 30 order concerning the claims in Plaintiff's complaint (ECF No. 17), and to participate in the hearing scheduled for December 4 (or any others scheduled), without delay.

While there will be no prejudice to the existing parties if intervention is granted, the Democratic Political Party Committees will be *severely* prejudiced if not allowed to intervene. Not only will their candidates and voters suffer irreparable harm, the Democratic Political Party Committees were signatories to the Settlement Agreement that Plaintiffs now attempt to collaterally attack. As such, they will suffer prejudice if their request to intervene is denied because they will be unable to protect their own interests in the Settlement Agreement or that of their constituents, members, or candidates. *See id.* (analyzing whether a motion to intervene is timely and considering "the extent of prejudice to the [proposed intervenors] if their motion is denied").

2. The Democratic Political Party Committees have a strong interest in this litigation.

The Democratic Political Party Committees have significant and cognizable interests in intervening in this case. Among other unprecedented relief sought, Plaintiffs ask this Court to either (1) invalidate all 1.3 million absentee votes in the November 3, 2020 election, or (2) order the Governor, the Secretary, and the Board to decertify the results of the presidential election—disenfranchising all of the voters who cast ballots of any kind—and declare, by judicial fiat, their preferred candidate is the winner of the election. *See* Compl. ¶¶ 210–11. Should Plaintiffs be granted their requested relief, the Democratic Political Party Committees' supported candidates would lose lawfully cast votes and their members would be disenfranchised. They have a clear interest in avoiding this result.

"The right to vote includes the right to have the ballot counted," *Reynolds v. Sims*, 377 U.S. 533, 555 n.29 (1964), and courts have repeatedly held that where proposed relief carries with it the prospect of disenfranchising a political party's members, the party has a legally cognizable interest at stake. *See, e.g.*, Minute Entry, *Wood*, No. 20-cv-04651, ECF No. 52 (granting Proposed Intervenors' motion to intervene in factually similar lawsuit); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 189 n.7 (2008) (agreeing with unanimous view of the Seventh Circuit that the Indiana Democratic Party had standing to challenge a voter identification law

that risked disenfranchising its members); *Ne. Ohio Coal. for the Homeless v. Husted*, 696 F.3d 580 (6th Cir. 2012) (Ohio Democratic Party allowed to intervene in case where challenged practice would lead to disenfranchisement of its voters); *Stoddard v. Winfrey*, No. 20-014604-cz (Mich. Cir. Ct. Nov. 6, 2020) (granting intervention to Democratic National Committee in a lawsuit seeking to stop counting ballots in Detroit); Order, *Donald J. Trump for President, Inc. v. Boockvar*, No. 20-cv-2078 (M.D. Pa. Nov. 12, 2020), ECF No. 72 (granting intervention to Democratic National Committee in lawsuit seeking to invalidate ballots in Pennsylvania); Order, *Constantino v. City of Detroit*, No. 20-014789-AW (Mich. Cir. Ct. Nov. 13, 2020) (granting Michigan Democratic Party's motion to intervene).[5]

[5] While standing is not a separate consideration on a motion to intervene, courts have consistently recognized that political party committees have standing to advance claims to avoid the disenfranchisement of their members, thus recognizing their legitimate and cognizable interest in such claims. *See, e.g.*, *Crittenden*, 347 F. Supp. 3d at 1337 (holding Democratic Party of Georgia had standing to sue on behalf of its members to challenge the state's rejection of absentee ballots); *Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565, 573–74 (6th Cir. 2004) (holding Ohio Democratic Party, among other local party organizations, had standing to sue on behalf of members who would vote in the upcoming election and whose provisional ballots may be rejected); *Fla. Democratic Party v. Hood*, 342 F. Supp. 2d 1073, 1079 (N.D. Fla. 2004) (holding Florida Democratic Party "has standing to assert, at least, the rights of its members who will vote in the November 2004 election"); *Fla. Democratic Party v. Scott*, 215 F. Supp. 3d 1250, 1254 (N.D. Fla. 2016) (holding Florida Democratic Party had standing to assert the rights of voters "who intended to register as Democrats and will be barred from voting" given the state's closure of voter registration); *Texas Democratic Party et al. v. Hughs*, No. SA-20-CV-08-OG,

The Democratic Political Party Committees, whose candidate is the certified winner of the presidential election in Georgia, have an interest in ensuring that the results of the election are not decertified. *See Texas Democratic Party v. Benkiser*, 459 F.3d 582, 588 (5th Cir. 2006) ("[A]fter the primary election, a candidate steps into the shoes of his party, and their interests are identical.").

Finally, because this litigation also purports to attack the Settlement Agreement, the Democratic Political Party Committees are quintessential "real parties in interest in the transaction which is the subject of the proceeding." *Chiles*, 865 F.2d at 1214. A decision by the Court directly holding the Settlement Agreement is unconstitutional or indirectly invalidating the Settlement Agreement will indisputably impede the ability of the Democratic Political Party Committees to realize their interest in that agreement. *See Turn Key Gaming, Inc. v. Oglala Sioux Tribe*, 164 F.3d 1080, 1081–82 (8th Cir. 1999) (finding interest requirement "easily satisfie[d]" where "[t]he disposition of the lawsuit . . . may require resolution of legal and factual issues bearing on the validity of [] agreements" in which proposed

2020 WL 4218227, at *4–5 (W.D. Tex. July 22, 2020) (at the motion to dismiss stage, holding Texas Democratic Party, DCCC, and DSCC had adequately alleged associational standing on behalf of their members who will be registering to vote); *DSCC and DCCC v. Simon*, No. 62-CV-20-585, Dkt. No. 83 at *18 (Minn. Dist. Ct. July 28, 2020) (at motion to dismiss stage, holding DSCC and DCCC had adequately pled associational standing on behalf of their "members, constituents, canvassers, and volunteers" who wished to engage in voter assistance).

intervenor had interests); *see also Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d at 1258 (granting intervention where proposed intervenor had a contractual interest in the dispute and "[b]ecause a final ruling in this case may adversely impact [proposed intervenor's] ongoing lawsuit against" defendant); *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1246 (11th Cir. 2006) (intervention is proper where proposed intervenor "anchor[s] its request in the dispute giving rise to the pending lawsuit . . . [and] demonstrate[s] 'an interest relating to the property or transaction which is the subject of the action.'" (citation and emphasis omitted)).

3. Disposition of this matter would impair the Democratic Political Party Committees' ability to protect their interests as a practical matter.

The Democratic Political Party Committees' legally-cognizable interests will also be impaired by the disposition of this lawsuit if intervention is not granted, for at least four reasons.

First, the Democratic Political Party Committees have an interest in preventing the infringement of millions of their members' constitutional right to vote. Plaintiffs seek to decertify or reverse the election via judicial fiat, which threatens the Democratic Political Party Committees' members right to vote. "[T]o refuse to count and return the vote as cast [is] as much an infringement of that

personal right as to exclude the voter from the polling place." *United States v. Saylor*, 322 U.S. 385, 387–88 (1944).

Second, the disruptive and potentially disenfranchising effects of Plaintiffs' action would require Proposed Intervenors to divert resources to safeguard the certified statewide results, thus implicating another of their protected interests. *See, e.g.*, *Husted*, 837 F.3d at 624 (finding concrete, particularized harm where organization had to "redirect its focus" and divert its "limited resources" due to election laws); *Crawford v. Marion Cnty. Election Bd.*, 472 F.3d 949, 951 (7th Cir. 2007) (concluding that electoral change "injure[d] the Democratic Party by compelling the party to devote resources" that it would not have needed to devote absent new law), *aff'd*, 553 U.S. 181 (2008); *Democratic Nat'l Comm. v. Reagan*, 329 F. Supp. 3d 824, 841 (D. Ariz. 2018) (finding standing where law "require[d] Democratic organizations . . . to retool their [get-out-the-vote] strategies and divert [] resources"), *rev'd on other grounds sub nom. Democratic Nat'l Comm. v. Hobbs*, 948 F.3d 989 (9th Cir. 2020) (en banc); *see also Issa v. Newsom*, No. 20-cv-01044-MCE-CKD, 2020 WL 3074351, at *3 (June 10, 2020) (granting intervention and citing this protected interest). The Democratic Political Party Committees have spent millions of dollars getting out the vote and supporting their candidates in the 2020

general election; overturning the election's results will undermine and undo all of that work and investment.

Third, Plaintiffs seek to disrupt the certification of lawfully cast ballots and cast doubt on the legitimacy of the election of Proposed Intervenors' candidates. Courts have often concluded that such interference with a political party's electoral prospects constitutes a legally cognizable injury. *See, e.g.*, *Benkiser*, 459 F.3d at 586–87 (recognizing that "harm to [] election prospects" constitutes "a concrete and particularized injury"); *Owen v. Mulligan*, 640 F.2d 1130, 1132 (9th Cir. 1981) (holding that "the potential loss of an election" is sufficient injury to confer Article III standing). In circumstances where political parties have faced even lesser risks of harm to their electoral prospects and mission, courts have routinely granted intervention. *See, e.g.*, Order, *Democratic Party of Ga., Inc. v. Crittenden*, No. 18-cv-5181 (N.D. Ga. Nov. 14, 2018), ECF No. 40 (granting intervention to political party in voting rights lawsuit); Order, *Parnell v. Allegheny Bd. of Elections*, No. 20-cv-01570 (W.D. Pa. Oct. 22, 2020), ECF No. 34 (granting intervention to DCCC in lawsuit regarding processing of ballots); Order, *Paher v. Cegavske*, No. 20-cv-00243-MMD-WGC, 2020 WL 2042365, at *4 (D. Nev. Apr. 28, 2020), ECF No. 39 (granting DNC intervention in election case brought by conservative interest group); *Donald J. Trump for President, Inc. v. Murphy*, No. 20-cv-10753 (MAS) (ZNQ),

2020 WL 5229209, at *1 (D. N.J. Sept. 1, 2020) (granting DCCC intervention in lawsuit by Republican candidate and party entities); *Cook Cnty. Republican Party v. Pritzker*, No. 20-cv-4676 (N.D. Ill. Aug. 28, 2020), ECF No. 37 (granting DCCC intervention in lawsuit by Republican party entity); *Issa*, 2020 WL 3074351, at *3 (granting DCCC and California Democratic Party intervention in lawsuit by Republican congressional candidate); Order, *Donald J. Trump for President v. Bullock*, No. 20-cv-66 (D. Mont. Sept. 08, 2020), ECF No. 35 (granting DCCC, DSCC, and Montana Democratic Party intervention in lawsuit by four Republican party entities); *cf. DCCC v. Ziriax*, No. 20-CV-211-JED-JFJ, 2020 WL 5569576, at *2 (N.D. Okla. Sept. 17, 2020) ("DCCC and the Democratic candidates it supports . . . have an interest in ensuring that Democratic voters in Oklahoma have an opportunity to express their will regarding Democratic Party candidates running for elections."); *Owen*, 640 F.2d at 1132 (holding "the potential loss of an election" is sufficient injury to confer Article III standing).

Fourth, as noted above, Plaintiffs' requested relief threatens to overturn an agreement to which the Democratic Political Party Committees are parties, impairing their ability to realize their interest in that agreement. *See supra* at 4–5, 7, 10–11.

Here, the requested remedy and harm is extreme—Plaintiffs seek relief that would not just burden the Democratic Political Party Committees' voters but would completely disenfranchise them by overturning the results of an election in which their preferred candidate has been certified as the winner.

4. The Democratic Political Party Committees' interests are not adequately represented by the existing parties.

While the Governor, Secretary, and election officials have undeniable interests in defending the state's laws and their exercises of authority pursuant to those laws, the Democratic Political Party Committees have different focuses: ensuring that they and their members' fundamental rights are protected, and that their members' eligible and legally cast votes are counted.

Although a would-be intervenor has some burden to establish that its interest is not adequately protected by the existing parties to the action, "the burden of making that showing should be treated as minimal," and it is sufficient "if the applicant shows that representation of his interest 'may be' inadequate." *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n. 10 (1972) (citing 3B J. Moore, Federal Practice 24.09—1 (4) (1969)); *Chiles*, 865 F.2d at 1214. Especially where one of the parties to the suit is a government entity whose "views are necessarily colored by its view of the public welfare rather than the more parochial views of a

proposed intervenor whose interest is personal to it," courts have found that "the burden [of establishing inadequacy of representation] is comparatively light." *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 972 (3d Cir. 1998) (citing *Conservation Law Found. of New Eng., Inc. v. Mosbacher*, 966 F.2d 39, 44 (1st Cir. 1992), and *Mausolf v. Babbitt*, 85 F.3d 1295, 1303 (8th Cir. 1996)); *see also Meek v. Metro. Dade Cnty., Fla.,* 985 F.2d 1471, 1478 (11th Cir. 1993), *abrogated on other grounds by Dillard v. Chilton Cnty. Comm'n*, 495 F.3d 1324 (11th Cir. 2007) ("Any doubt concerning the propriety of allowing intervention should be resolved in favor of the proposed intervenors because it allows the court to resolve all related disputes in a single action.").

Here, while Defendants have an interest in defending the actions of state officials, the Democratic Political Party Committees have different objectives: ensuring that the valid ballot of every Democratic voter in Georgia is counted and safeguarding the election of Democratic candidates. Courts have "often concluded that governmental entities do not adequately represent the interests of aspiring intervenors." *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003); *accord Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 899 (9th Cir. 2011) ("[T]he government's representation of the public interest may not be 'identical to the individual parochial interest' of a particular group just because 'both

entities occupy the same posture in the litigation.'" (quoting *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 996 (10th Cir. 2009))). That is the case here. Proposed Intervenors have specific interests and concerns—from their overall electoral prospects to the most efficient use of their limited resources—that neither Defendants nor any other party in this lawsuit share. *See Paher*, 2020 WL 2042365, at *3 (concluding that "Proposed Intervenors . . . have demonstrated entitlement to intervene as a matter of right" where they "may present arguments about the need to safeguard [the] right to vote that are distinct from [state defendants'] arguments").

The fact that Defendants cannot represent the interests of the Democratic Political Party Committees is underscored by the fact that many of the Defendants were their direct adversaries in the Settlement Agreement. The Settlement Agreement was the product of a lawsuit brought by the Democratic Political Party Committees against the Secretary, Board members, and others. It was the result of arms-length negotiations and a balancing of the parties' distinct interests. Where a "case is disposed of by settlement rather than by litigation, what the state perceives as being in its interest may diverge substantially from" the interests of proposed intervenors. *Mille Lacs Band of Chippewa Indians v. State of Minn.*, 989 F.2d 994, 1001 (8th Cir. 1993). As one court recently explained while granting intervention under similar circumstances:

> Although Defendants and the Proposed Intervenors fall on the same side of the [present] dispute, Defendants' interests in the implementation of the [challenged law] differ from those of the Proposed Intervenors. While Defendants' arguments turn on their inherent authority as state executives and their responsibility to properly administer election laws, the Proposed Intervenors are concerned with ensuring their party members and the voters they represent have the opportunity to vote in the upcoming federal election … and allocating their limited resources to inform voters about the election procedures. As a result, the parties' interests are neither "identical" nor "the same."

Issa, 2020 WL 3074351, at *3 (citation omitted). Such is the case here.

Because the particular interests of the Democratic Political Party Committees are not shared by the present parties, they cannot rely on Defendants or anyone else to provide adequate representation. They have thus satisfied the four requirements for intervention as of right under Rule 24(a)(2). *See id.* at *3–4; *Issa*, 2020 WL 3074351, at *4.

B. Proposed Intervenors are also entitled to permissive intervention.

If the Court does not grant intervention as a matter of right, the Democratic Political Party Committees respectfully request that the Court exercise its discretion to allow them to intervene under Rule 24(b). The Court has broad discretion to grant a motion for permissive intervention when it determines that: (1) the proposed intervenors' claim or defense and the main action have a question of law or fact in common, and (2) the intervention will not unduly delay or prejudice the adjudication

of the original parties' rights. *See* Fed. R. Civ. P. 24(b)(1)(B) and (b)(3); *Chiles*, 865 F.2d at 1213; *Ga. Aquarium, Inc. v. Pritzker*, 309 F.R.D. 680, 690 (N.D. Ga. 2014). Even where courts find intervention as of right may be denied, permissive intervention may nonetheless be proper or warranted. Moreover, "the claim or defense clause of Rule 24(b)(2) is generally given a liberal construction." *Id*. The Democratic Political Party Committees easily meet these requirements.

First, the Democratic Political Party Committees' claims and defenses will inevitably raise common questions of law and fact because they seek to defend the constitutional right to vote of all the eligible voters who cast valid ballots in the November 3 general election. *See Franconia Minerals (US) LLC v. United States*, 319 F.R.D. 261, 268 (D. Minn. 2017) ("Thus, applicant['s] claims and the main action obviously share many common questions of law and perhaps of fact."); *see also supra* at 8, 11.

Second, for the reasons set forth above, the motion to intervene is timely, and given the early stage of this litigation, intervention will not unduly delay or prejudice the adjudication of the rights of the original parties. The Democratic Political Party Committees are prepared to proceed in accordance with the schedule this Court determines, and intervention will only serve to contribute to the complete development of the factual and legal issues before the Court.

IV. CONCLUSION

For these reasons, the Democratic Political Party Committees respectfully request that the Court grant their motion to intervene.

Dated: November 30, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000

khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

**Pro Hac Vice Application Forthcoming*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: November 30, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: November 30, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

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

CORECO JA'QAN PEARSON, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	1:20-cv-4809-TCB
	)	
BRIAN KEMP, *et al.*,	)	
	)	
Defendants.	)	

NOTICE OF APPEARANCE

COMES NOW Russell D. Willard, Senior Assistant Attorney General, and hereby makes an entry of appearance in the above-styled action on behalf of Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and State Election Board Members Rebecca Sullivan, David Worley, Matthew Mashburn, and Anh Le (collectively, "State Defendants"). Please direct all further pleadings, notices, orders, and other matters to him at the following:

Office of the Attorney General
40 Capitol Square, SW
Atlanta, Georgia 30334
Telephone: (404) 458-3316
E-Mail: rwillard@law.ga.gov

Respectfully submitted, this 30th day of November, 2020.

/s/ *Russell D. Willard*
RUSSELL D. WILLARD 760280
Senior Assistant Attorney General

Office of the Georgia Attorney General
40 Capitol Square SW
Atlanta, GA 30334
rwillard@law.ga.gov
Tel: (404) 458-3316
Fax: 404-651-9325

Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been formatted using Times New Roman font in 14-point type in compliance with Local Rule 7.1(D).

/s/ Russell D. Willard
Russell D. Willard
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **NOTICE OF APPEARANCE** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for the parties of record via electronic notification.

Dated: November 30, 2020.

/s/ Russell D. Willard
Russell D. Willard
Assistant Attorney General

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

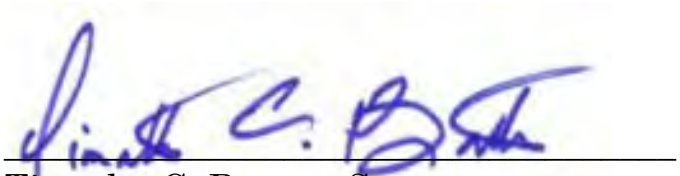
NO. 1:20-cv-4809-TCB

O R D E R

The Court finds that its November 29 order partially granting Plaintiffs' motion for a temporary restraining order involves a controlling question of law as to which there is substantial ground for

difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation. 28 U.S.C.A. § 1292(b).

IT IS SO ORDERED this 30th day of November, 2020.



Timothy C. Batten, Sr.
United States District Judge

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

Coreco Jaqan Pearson, et al., Plaintiff(s)

V.

Brian Kemp, et al., Defendant(s)

Case No. 1:20-CV-4809-TCB

NOTICE OF FILING OF OFFICIAL TRANSCRIPT

Notice is hereby given that an official transcript of a proceeding has been filed by the court reporter/transcriber in the above-captioned matter. Counsel/Parties have twenty-one (21) days from the date of delivery of the transcript to the Clerk to file with the Court a Request for Redaction of this transcript. If no Request for Redaction is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days.

Any counsel or party needing a copy of the transcript to review for redaction purposes may purchase a copy from the court reporter/transcriber or view the document at the Clerk's Office public terminal.

11/30/2020 — Date

Lori Burgess — Court Reporter

VERIFICATION OF FINANCIAL ARRANGEMENTS

Proceeding Type: Motions Hearing

Proceeding Date: 11/29/2020

Volume Number:

Notice is hereby given that financial arrangements for a copy of the transcript have been made with the following individual(s): Sidney Powell, L. Lin Wood Jr., Howard Kleinhendler, Harry MacDougald, Russell Willard, Charlene McGowan

as counsel/party in this case. He/She is to be provided with remote access to the transcript via CM/ECF and PACER.

11/30/2020 — Date

Lori Burgess — Court Reporter

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

PROPOSED INTERVENORS' CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Proposed Intervenor-Defendants, DEMOCRATIC PARTY OF GEORGIA, INC., the DSCC, and the DCCC (collectively, the "Democratic Political Party Committees"), through their undersigned attorneys, hereby submit the following statement of their corporate interests pursuant to Rule 7.1 of the Federal Rules of Civil Procedure and Local Rule 3.3, NDGa.

(1) The undersigned counsel of record for a party to this action certifies that the following is a full and complete list of all parties to this action, including any parent corporation and any publicly held corporation that owns 10% or more of the stock of a party:

- The Democratic Party of Georgia, Inc. (Proposed Intervenor-Defendant), which has no parent corporation, nor does a publicly held company own any interest in it;
- The DSCC (Proposed Intervenor-Defendant), which has no parent corporation, nor does a publicly held company own any interest in it;
- The DCCC (Proposed Intervenor-Defendant), which has no parent corporation, nor does a publicly held company own any interest in it;
- Brian Kemp, in his official capacity (Defendant);
- Brad Raffensperger, in his official capacity (Defendant);
- Rebecca N. Sullivan, in her official capacity (Defendant);
- David J. Worley, in his official capacity (Defendant);

- Matthew Mashburn, in his official capacity (Defendant);
- Anh Le, in her official capacity (Defendant);
- Coreco Ja'qan Pearson (Plaintiff);
- Vikki Townsend Consiglio (Plaintiff);
- Gloria Kay Godwin (Plaintiff);
- James Kenneth Carroll (Plaintiff);
- Carolyn Hall Fisher (Plaintiff);
- Cathleen Alston Latham (Plaintiff); and
- Brian Jay Van Gundy (Plaintiff).

(2) The undersigned further certifies that the following is a full and complete list of all other persons, associations, firms, partnerships, or corporations having either a financial interest in or other interest which could be substantially affected by the outcome of this particular case:

- None known.

(3) The undersigned further certifies that the following is a full and complete list of all persons serving as attorneys for the parties in this proceeding:

Proposed Intervenor-Defendants:

- Halsey G. Knapp, Jr. of Krevolin & Horst, LLC;
- Joyce Gist Lewis of Krevolin & Horst, LLC;
- Susan P. Coppedge of Krevolin & Horst, LLC;

- Adam M. Sparks of Krevolin & Horst, LLC;
- Marc E. Elias of Perkins Coie LLP;
- Amanda R. Callais of Perkins Coie LLP;
- Kevin J. Hamilton of Perkins Coie LLP;
- Amanda J. Beane of Perkins Coie LLP; and
- Matthew Mertens of Perkins Coie LLP;

Defendants

- Charlene S. McGowan, Assistant Attorney General, Office of the Georgia Attorney General; and
- Russell D. Willard, Senior Assistant Attorney General, Office of the Georgia Attorney General.

Plaintiffs

- Harry W. McDougald of Caldwell Propst & DeLoach, LLP;
- Sidney Powell of Sidney Powell PC;
- L. Lin Wood, Jr. of L. Lin Wood, P.C.;
- Howard Kleinhendler of Howard Kleinhendler Esquire; and
- Julia Z. Haller.

Dated: December 1, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000

khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000

Counsel for Proposed Intervenors-Defendants

**Pro Hac Vice Application Pending*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: December 1, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 1, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

Exh. 21

DECLARATION OF RONALD WATKINS

I, Ronald Watkins, hereby state the following:

1. I am a United States citizen currently residing in Japan.

2. I am an adult of sound mind. All statements in this declaration are based on my personal knowledge and are true and correct.

3. I am making this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive, anything in exchange for my testimony and giving this statement. I have no expectation of any profit or reward and understand that there are those who may seek to harm me for what I say in this statement.

4. I want to alert the public and let the world know the truth about actual voting tabulation software designed, whether with malicious intent or plain incompetence, in such a way so as to facilitate digital ballot stuffing via simple vote result manipulation and abuse of the digital adjudication manual review system. The Dominion Democracy Suite may both enable voter fraud by unethical officials out to undermine the will of the people, and honest officials making simple, nearly untraceable, mistakes. Voting is a fundamental manifestation of our First Amendment right to free speech and under no circumstance shall we allow a conspiracy of people and companies to subvert and destroy one of our most sacred rights.

5. I am a network and information security expert with nine years of experience as a network and information defense analyst and a network security engineer. In my nine years of network and information security experience, I have successfully defended large websites and networks against major and powerful cyberattacks.

6. The ImageCast Central system is a software and hardware workstation system designed to work with just a common "Windows 10 Pro"[1][2] computer paired via data cable [3] to an off-the-shelf document scanner [4] "for high speed scanning and counting of paper ballots.[5]"

7. When bulk ballot scanning and tabulation begins, the "ImageCast Central" workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning

procedure within the software menu [6]. The scanner then begins to scan the ballots which were loaded into the feed tray while the "ImageCast Central" software application tabulates votes in real-time. Information about scanned ballots can be tracked inside the "ImageCast Central" software application [7].

8. After all of the ballots loaded into the scanner's feed tray have been through the scanner, the "ImageCast Central" operator will remove the ballots from the tray then have the option to "Accept Batch" on the scanning menu [8]. Accepting the batch saves the results into the local file system within the "Windows 10 Pro" machine [9]. Any "problem ballots" that may need to be examined or adjudicated at a later time can be found as ballot scans saved as image files into a standard Windows folder named "NotCastImages" [9]. These "problem ballots" are automatically detected during the scanning phase and digitally set aside for manual review based on exception criteria [10]. Examples of exceptions may include: overvotes, undervotes, blank contests, blank ballots, write-in selections, and marginal marks [11]. “Customizable outstack conditions and marginal mark detection lets [Dominion’s Customers] decide which ballots are sent for Adjudication. [12]”

9. During the ballot scanning process, the "ImageCast Central" software will detect how much of a percent coverage of the oval was filled in by the voter [13]. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote [14][15]. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a "problem ballot" and may be set aside into a folder named "NotCastImages" [9]. “The ImageCast Central's advanced settings allow for adjustment of the scanning properties” to “[set] the clarity levels at which the ballot should be scanned at. Levels can be set as a combination of brightness and contrast values, or as a gamma value. [16]”

10. Through creatively tweaking the oval coverage threshold settings, and advanced settings on the ImageCast Central scanners, it may be possible to set thresholds in such a way that a non-trivial amount of ballots are marked "problem ballots" and sent to the "NotCastImages" folder.

11. The administrator of the ImageCast Central work station may view all images of scanned ballots which were deemed “problem ballots” by simply navigating via the standard "Windows File Explorer" to the folder named "NotCastImages" which holds ballot scans of "problem ballots" [17][18]. It may be possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system.

12. Adjudication is “the process of examining voted ballots to determine, and, in the judicial sense, adjudicate voter intent. [19]” A biased poll worker without sufficient honest oversight could abuse the adjudication system to fraudulently switch votes for a specific candidate.

13. After the tabulation process, the ImageCast Central software saves a copy of the tabulation results locally to the "Windows 10 Pro" machine's internal storage. The results data is located in an easy-to-find path which is designed to easily facilitate the uploading of tabulation results to flash memory cards. The upload process is just a simple copying of a "Results" folder containing vote tallies to a flash memory card connected to the "Windows 10 Pro" machine. The copy process uses the standard drag-n-drop or copy/paste mechanisms within the ubiquitous "Windows File Explorer" [20]. While a simple procedure, the report results process may be error prone and is very vulnerable to malicious administrators. Before delivering final tabulation results to the county, it is within the realm of possibility to mistakenly copy the wrong "Results" folder or even maliciously copy a false "Results" folder, which may contain a manipulated data set, to the flash memory card.

References:

[1] Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, p3, [online document], https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf (Accessed November 23, 2020) https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf [archive]

[2] Georgia State Certification Testing, *Dominion Voting Systems D-Suite 5.5-A Voting System*, p5, table 2-1, [online document] https://sos.ga.gov/admin/uploads/Dominion_Test_Cert_Report.pdf (accessed November, 23, 2020), https://web.archive.org/web/20201106055006/https://sos.ga.gov/admin/uploads/Dominion_Test_Cert_Report.pdf [archive]

[3] Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, p2, s2.1, [online document, https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/ documentation/UG-ICC-UserGuide-5-11-CO.pdf (Accessed November 23, 2020) https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf [archive]

[4] Michigan.gov, *DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117*, p6, 1.1.E.1, [online document],

https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020), https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive]

[5] Commonwealth of Pennsylvania Department of State, *Report Concerning the Examination Results of Dominion Voting Systems Democracy Suite 5.5A* p6, s2.4, [online document], https://www.dos.pa.gov/VotingElections/Documents/Voting%20Systems/Dominion%20Democracy%20Suite%205.5-A/Dominion%20Democracy%20Suite%20Final%20Report%20scanned%20with%20signature%20011819.pdf (accessed November 23, 2020), https://web.archive.org/web/20201016161321/https://www.dos.pa.gov/VotingElections/Documents/Voting%20Systems/Dominion%20Democracy%20Suite%205.5-A/Dominion%20Democracy%20Suite%20Final%20Report%20scanned%20with%20signature%20011819.pdf [archive]

[6] Dominion Voting, *ImageCast Central*, p2, [online document], https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf (accessed November 23, 2020) https://web.archive.org/web/20201017175507/https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf [archive]

[7] Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, p25, s4.1.2, [online document], https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf (Accessed November 23, 2020), https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf [archive]

[8] Dominion Voting, *ImageCast Central*, [website], https://www.dominionvoting.com/imagecast-central/ (Accessed November 23, 2020) https://web.archive.org/web/20201101203418/https://www.dominionvoting.com/imagecast-central/ [archive]

[9] Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, p25, s4.1.2, [online document], https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf (Accessed November 23, 2020),

https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf [archive]

[10] Michigan.gov, *DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117*, p21, 1.3.B.6, [online document],

https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020), https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive]

[11] *MASTER SOLUTION PURCHASE AND SERVICES AGREEMENT BY AND BETWEEN DOMINION VOTING SYSTEMS, INC. as Contractor, and SECRETARY OF STATE OF THE STATE OF GEORGIA as State, p*52, s1.3, [online document], https://georgiaelections.weebly.com/uploads/1/0/8/5/108591015/contract.pdf (Accessed November 23, 2020), https://web.archive.org/web/20201122213728/https://georgiaelections.weebly.com/uploads/1/0/8/5/108591015/contract.pdf [archive]

[12] Dominion Voting, *ImageCast Central*, [website], https://www.dominionvoting.com/imagecast-central/ (Accessed November 23, 2020) https://web.archive.org/web/20201101203418/https://www.dominionvoting.com/imagecast-central/ [archive]

[13] Michigan.gov, *DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117*, p3, 1.1.A.22, [online document],

https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020), https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive]

[14] Calhoun County, MI, *ImageCast Central (ICC) 5.5 Operations,* p19, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020), https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive]

[15] *IMAGECAST® CENTRAL Brochure,* [website], https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf (accessed November 23, 2020), https://web.archive.org/web/20201017175507/https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf [archive]

[16] Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, pp20-21, s3.22, [online document], https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf (Accessed November 23, 2020), https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf [archive]

[17] Dominion Voting, *Democracy Suite® Use Procedures,* p433, F.3.11, [online document] https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf (Accessed November 23, 2020), https://web.archive.org/web/20201101173723/https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf [archive]

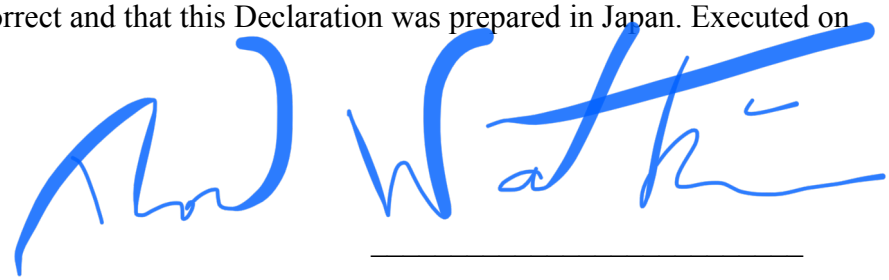
[18] Calhoun County, MI, *ImageCast Central (ICC) 5.5 Operations,* p27, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020), https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive]

[19] Dominion Voting, *Democracy Suite® Use Procedures,* p9, [online document] https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf (Accessed November 23, 2020), https://web.archive.org/web/20201101173723/https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf [archive]

[20] Calhoun County, MI, *ImageCast Central (ICC) 5.5 Operations,* pp25-28, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020),

https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was prepared in Japan. Executed on November 23, 2020.



RONALD WATKINS

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N.SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF FILING

Come Now the Plaintiffs and submit this Notice of Filing of Exhibit 21, the Declaration of Ronald Watkins.

Respectfully submitted, this 1st day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300

Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Notice of Filing with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N.SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF EMERGENCY INTERLOCUTORY APPEAL AS OF RIGHT

Plaintiffs Coreco Ja'Qan Pearson, et al., hereby file an emergency appeal to the United States Court of Appeals for the Eleventh Circuit from this Court's interlocutory order of November 29, 2020 (Doc.14) to the extent it denies the full relief Plaintiffs requested in their motion for a temporary restraining order. *See Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225 (11th Cir. 2005) ("Although we ordinarily do not have jurisdiction over

appeals from orders granting or denying temporary restraining orders, in circumstances such as these, 'when a grant or denial of a TRO might have a serious, perhaps irreparable, consequence, and can be effectively challenged only by immediate appeal, we may exercise appellate jurisdiction." (quoting *Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995)).[1]

Plaintiffs respectfully ask that this Court immediately transmit this notice of appeal to the Eleventh Circuit today so that that court may docket the matter, thus enabling Plaintiffs to file a motion for an expedited briefing schedule pursuant to which Plaintiffs propose to file their brief by midnight December 2, 2020, and Appellee's brief by December 4, 2020.

Moreover, this Notice of Appeal as of right should divest the district court of jurisdiction. If not, Plaintiffs would request a stay of the hearing currently scheduled in the district court for December 4, 2020, until this Court has ruled on the questions raised by the appeal, including whether Plaintiffs must add to the suit each of the 600-plus county election officials in

---

[1] While this Court, pursuant to 42 U.S.C. §1292(b), has certified its order as involving a "controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation," (Doc.15), Plaintiffs would seek permission to appeal under §1292(b) only in the alternative, if the Eleventh Circuit deems that necessary. Plaintiffs file this notice, however, as a matter of right, pursuant to *Schiavo*. ("In these circumstances we treat temporary restraining orders as equivalent to preliminary injunctions or final judgments, either of which are appealable.") *Schiavo*, 403 F.3d at 1225 (citing 28 U.S.C. §§1291, 1292(a)(1).

addition to the Secretary of State for Georgia, who by law is responsible for Georgia elections and spent $107 million taxpayer dollars to purchase Dominion voting systems for the entire state.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice forthcoming

/s Howard Kleinhendler
NEW YORK BAR NO. 2657120
Howard Kleinhendler Esquire
369 Lexington Avenue, 12th Floor
New York, New York 10017
Office (917) 793-1188
Mobile (347) 840-2188
howard@kleinhendler.com
www.kleinhendler.com
(Admitted pro hac vice)

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing **NOTICE OF EMERGENCY INTERLOCUTORY APPEAL AS OF RIGHT** with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

This 1st day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3361

JAMES N. HATTEN
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

December 1, 2020

Clerk of Court
U.S. Court of Appeals, Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

U.S.D.C. No.: 1:20-cv-4809-TCB
U.S.C.A. No.: 00-00000-00
In re: Coreco Jaqan Pearson et al v. Brian Kemp et al

Enclosed are documents regarding an appeal in this matter. Please acknowledge receipt on the enclosed copy of this letter.

X **Certified Notice of Appeal, Docket Sheet, Judgment and/or Order appealed enclosed.**

_____ This is not the first notice of appeal. Other notices were filed on: .

_____ There is no transcript.

X **The court reporter is Lori Burgess.**

_____ There is sealed material as described below: .

_____ Other: .

X **Fee paid electronically on 12/1/20. (Receipt# AGANDC-10432999)**

_____ Appellant has been leave to appeal *in forma pauperis*.

_____ This is a bankruptcy appeal. The Bankruptcy Judge is .

_____ The Magistrate Judge is .

X **The District Judge is Timothy C. Batten, Sr.**

_____ This is a **DEATH PENALTY** appeal.

Sincerely,

James N. Hatten
District Court Executive
and Clerk of Court

By: /s/P. McClam
Deputy Clerk

Enclosures

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3361

JAMES N. HATTEN
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

December 1, 2020

Clerk of Court
U.S. Court of Appeals, Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

U.S.D.C. No.: 1:20-cv-4809-TCB
U.S.C.A. No.: 00-00000-00
In re: Coreco Jaqan Pearson et al v. Brian Kemp et al

Enclosed are documents regarding an appeal in this matter. Please acknowledge receipt on the enclosed copy of this letter.

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____ Other: .

X **Fee paid electronically on 12/1/20. (Receipt# AGANDC-10432999)**

____ Appellant has been leave to appeal *in forma pauperis*.

____ This is a bankruptcy appeal. The Bankruptcy Judge is .

____ The Magistrate Judge is .

X **The District Judge is Timothy C. Batten, Sr.**

____ This is a **DEATH PENALTY** appeal.

Sincerely,

James N. Hatten
District Court Executive
and Clerk of Court

By: /s/P. McClam
Deputy Clerk

Enclosures

4months,APPEAL,SUBMDJ

U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:20−cv−04809−TCB

Pearson et al v. Kemp et al
Assigned to: Judge Timothy C. Batten, Sr.
Cause: 42:1983 Civil Rights Act

Date Filed: 11/25/2020
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

Plaintiff

Coreco Jaqan Pearson

represented by **Harry W. MacDougald**
Caldwell Propst & DeLoach, LLP
Suite 1600
Two Ravina Dr.
Atlanta, GA 30346
404−843−1956
Fax: 404−843−2737
Email: hmacdougald@cpdlawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
Howard Kleinhendler Esquire
369 Lexington Avenue
12th Floor
New York, NY 10017
917−793−1188
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
Defending the Republic
601 Pennsylvania Ave, NW
South Building
Ste 900
Washington, DC 20004
561−888−3166
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
L. Lin Wood, P.C.
P.O. Box 52584
Atlanta, GA 30355−0584
404−891−1402
Fax: 404−506−9111
Email: lwood@linwoodlaw.com

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Vikki Townsend Consiglio represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Gloria Kay Godwin represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

James Kenneth Carroll represented by

Harry W. MacDougald
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Carolyn Hall Fisher represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Cathleen Alston Latham represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Brian Jay Van Gundy represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Brian Kemp
in his official capacity as Governor of Georgia represented by **Charlene S McGowan**
Office of the Georgia Attorney General
Assistant Attorney General
40 Capitol Square SW
Atlanta, GA 30334
404−458−3658
Email: cmcgowan@law.ga.gov
ATTORNEY TO BE NOTICED

Russell D. Willard
Attorney General's Office−Atl
Department of Law
40 Capitol Square, SW
Atlanta, GA 30334
404−656−3300
Email: rwillard@law.ga.gov
ATTORNEY TO BE NOTICED

Defendant

Brad Raffensperger
in his official capacity as Secretary of State and Chair of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

David J. Worley
in his official capacity as a member of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Rebecca N. Sullivan
in her official capacity as a member of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Matthew Mashburn
in his official capacity as a member of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Anh Le
in her official capacity as a member of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

V.

Intervenor Defendant

Democratic Party of Georgia, Inc. represented by **Adam Martin Sparks**
Krevolin & Horst, LLC
One Atlantic Center, Ste 3250
1201 West Peachtree St., NW
Atlanta, GA 30309
404−888−9700
Email: sparks@khlawfirm.com
ATTORNEY TO BE NOTICED

Intervenor Defendant

DSCC represented by **Adam Martin Sparks**
(See above for address)
ATTORNEY TO BE NOTICED

Intervenor Defendant

DCCC represented by **Adam Martin Sparks**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
11/25/2020	1		COMPLAINT for Declaratory, Emergency, and Permanent Injunctive Relief, filed by Gloria Kay Godwin, Vikki Townsend Consiglio, Coreco Jaqan Pearson, James Kenneth Carroll, Carolyn Hall Fisher, Cathleen Alston Latham, Brian Jay Van Gundy. (Filing fee $400, receipt number AGANDC−10418604) (Attachments: # 1 Exhibit Affidavit Exh. 1, Report of William Briggs, # 2 Exhibit Affidavit Redacted Affidavit, # 3 Exhibit Affidavit of Anna Mercedes Diaz Cardozo, # 4 Exhibit Affidavit Declaration of Harri Hursti, # 5 Exhibit Affidavit Embedded Declaration of Harri Hursti, # 6 Exhibit Exhibit SoS Certification of Dominion Voting Systems Democracy Suite 5.5−A, # 7 Exhibit Exhibit Pro V&V Test Report, # 8 Exhibit Exhibit Study "Ballot−Marking Devices (BMDs) Cannot Assure the Will of the, # 9 Exhibit Affidavit Redacted Affidavit of Cyber−Security Expert, # 10 Exhibit Affidavit Affidavit of Russell Ramsland, # 11 Exhibit Affidavit of Mayra Romera, # 12 Exhibit Affidavit of Maria Diedrich, # 13 Exhibit Affidavit of Maria Diedrich, # 14 Exhibit Affidavit of Ursula Wolf, # 15 Exhibit Affidavit of Nicholas J. Zeher, # 16 Exhibit Affidavit of Susan Voyles, # 17 Exhibit Affidavit of Ibrahim Reyes, # 18 Exhibit Affidavit of Consetta Johnson, # 19 Exhibit Affidavit of Carlos Silva, # 20 Exhibit Affidavit of Andrea O'Neal, # 21 Exhibit Affidavit of Deborah Fisher, # 22 Exhibit Affidavit of Kevin Peterford, # 23 Exhibit Report of Texas Secretary of State Rejecting Dominion Voting Systems, # 24 Exhibit Letter of

			Rep. Maloney to Smarmatic, # 25 Exhibit Affidavit of Juan Carlos Cobucci, # 26 Exhibit Senator Warren et al letter re: Dominion Voting Systems, # 27 Exhibit Affidavit of of Eric Quinnell, # 28 Exhibit Affidavit of Mitchell Harrison, # 29 Exhibit Affidavit of Michelle Branton, # 30 Civil Cover Sheet)(rvb) Please visit our website at http://www.gand.uscourts.gov/commonly−used−forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. Modified on 11/27/2020 to add relief text (rvb). (Entered: 11/27/2020)
11/27/2020	2		EIGHTH AMENDMENT TO GENERAL ORDER 20−01 RE: COURT OPERATIONS UNDER THE EXIGENT CIRCUMSTANCES CREATED BY COVID−19 AND RELATED CORONAVIRUS. Signed by Judge Thomas W. Thrash, Jr. on 09/28/2020. (rvb) (Entered: 11/27/2020)
11/27/2020			Submission of 1 Complaint, to District Judge Timothy C. Batten Sr. (rvb) (Entered: 11/27/2020)
11/27/2020	3		PROPOSED SUMMONS filed by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Summons Proposed Summons for Anh Le, # 2 Summons Proposed Summons for Matthew Mashburn, # 3 Summons Proposed Summons for Brad Raffensberger, # 4 Summons Proposed Summons for Rebecca N. Sullivan, # 5 Summons Proposed Summons for David J. Worley, # 6 Summons Proposed Summons for Brian Kemp)(MacDougald, Harry) (Entered: 11/27/2020)
11/27/2020	4		Certificate of Interested Persons by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) (Entered: 11/27/2020)
11/27/2020	5		MOTION for Leave to File Matters Under Seal re: 1 Complaint,,,,,,,, with Brief In Support by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (Attachments: # 1 Exhibit Redacted Exh. 2 from Complaint, # 2 Exhibit Redacted Exh.8 from the Complaint, # 3 Exhibit Exh. A, Joint Cybersecurity Advisory Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data, # 4 Text of Proposed Order Proposed Order)(MacDougald, Harry) (Entered: 11/27/2020)
11/27/2020	6		MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED, MOTION for Preliminary Injunction with Brief In Support by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (Attachments: # 1 Affidavit Declaration of Dr. Shiva Ayyadurai, # 2 Exhibit Joint CyberSecurity Advisory Exhibit, # 3 Text of Proposed Order)(MacDougald, Harry) (Entered: 11/27/2020)
11/29/2020	7		NOTICE Of Filing Emergency Injunctive Relief by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy re 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED MOTION for Preliminary Injunction (Attachments: # 1 Affidavit Redacted

			Declaration)(MacDougald, Harry) (Entered: 11/29/2020)
11/29/2020	8		Electronic Summons Issued as to Rebecca N. Sullivan. (rsh) (Entered: 11/29/2020)
11/29/2020	9		Electronic Summons Issued as to Matthew Mashburn. (rsh) (Entered: 11/29/2020)
11/29/2020	10		Electronic Summons Issued as to David J. Worley. (rsh) (Entered: 11/29/2020)
11/29/2020	11		Electronic Summons Issued as to Brian Kemp. (rsh) (Entered: 11/29/2020)
11/29/2020	12		Electronic Summons Issued as to Brad Raffensperger. (rsh) (Entered: 11/29/2020)
11/29/2020	13		Electronic Summons Issued as to Anh Le. (rsh) (Entered: 11/29/2020)
11/29/2020	14		ORDER. Please see Order for further specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/29/2020. (usw) (Entered: 11/29/2020)
11/29/2020	18		Minute Entry for proceedings held before Judge Timothy C. Batten, Sr.: Telephone Conference via ZOOM held on 11/29/2020 re briefing, scheduling, and Plaintiff's request to forensically inspect county voting machines. (Court Reporter Lori Burgess)(dmb) (Entered: 11/30/2020)
11/30/2020	15		1292(b) ORDER − Please see order for specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (usw) (Entered: 11/30/2020)
11/30/2020	16		NOTICE of Appearance by Charlene S McGowan on behalf of Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (McGowan, Charlene) (Entered: 11/30/2020)
11/30/2020	17		ORDER Setting Hearing on Motion 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED and MOTION for Preliminary Injunction : Motion Hearing set for 12/4/2020 at 10:00 AM in ATLA Courtroom 2106 before Judge Timothy C. Batten Sr. The Court sets the following schedule: Defendants' brief in opposition to the claims in Plaintiffs' complaint will be due on 12/2/2020, by 5:00 p.m. EST. Any reply brief will be due 12/3/2020 by 5:00 p.m. EST. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (dmb) (Entered: 11/30/2020)
11/30/2020	19		APPLICATION for Admission of Howard Kleinhendler Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10426686).by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) Documents for this entry are not available for viewing outside the courthouse. (Entered: 11/30/2020)
11/30/2020			APPROVAL by Clerks Office re: 19 APPLICATION for Admission of Howard Kleinhendler Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10426686).. Attorney Howard Kleinhendler added appearing on behalf of James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (nmb) (Entered: 11/30/2020)
11/30/2020	20		MOTION to Intervene with Brief In Support by Democratic Party of Georgia, Inc., DSCC, DCCC. (Attachments: # 1 Exhibit A: Proposed Intervenors'

			Proposed Motion to Dismiss, # 2 Exhibit B: Proposed Intervenors' Brief in Support of Proposed Motion to Dismiss, # 3 Exhibit C: Proposed Intervenors' Proposed Answer to Complaint)(Sparks, Adam) (Entered: 11/30/2020)
11/30/2020	21		NOTICE of Appearance by Russell D. Willard on behalf of Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (Willard, Russell) (Entered: 11/30/2020)
11/30/2020	22		AMENDED 1292(b) ORDER − Please see order for specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (dmb) (Entered: 11/30/2020)
11/30/2020			MINUTE ORDER granting Howard Kleinhendler's 19 Application for Admission Pro Hac Vice. Entered by CRD at the direction of Judge Timothy C. Batten, Sr. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(usw) (Entered: 11/30/2020)
11/30/2020			Clerks Notation re 4 Certificate of Interested Persons. Reviewed and approved by Judge Timothy C. Batten, Sr. (usw) (Entered: 11/30/2020)
11/30/2020	23		TRANSCRIPT of Proceedings held on 11/29/2020, before Judge Timothy C. Batten, Sr.. Court Reporter/Transcriber Lori Burgess. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory−court−reporters. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/21/2020. Redacted Transcript Deadline set for 12/31/2020. Release of Transcript Restriction set for 3/1/2021. (Attachments: # 1 Notice of Filing Transcript) (llb) (Entered: 11/30/2020)
11/30/2020	24		APPLICATION for Admission of Julia Z. Haller Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10429766).by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) Documents for this entry are not available for viewing outside the courthouse. (Entered: 11/30/2020)
12/01/2020	25		Certificate of Interested Persons by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) (Entered: 12/01/2020)
12/01/2020			Clerks Notation re 25 Certificate of Interested Persons. Reviewed and approved by Judge Timothy C. Batten, Sr. (usw) (Entered: 12/01/2020)
12/01/2020	26		APPLICATION for Admission of Amanda J. Beane Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432164).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	27		APPLICATION for Admission of Amanda R. Callais Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432211).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)

12/01/2020	28		APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432219).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	29		APPLICATION for Admission of Marc E. Elias Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432230).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	30		APPLICATION for Admission of Matthew Mertens Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432239).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020			APPROVAL by Clerks Office re: 24 APPLICATION for Admission of Julia Z. Haller Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10429766).. Attorney Julia Z. Haller added appearing on behalf of James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (nmb) (Entered: 12/01/2020)
12/01/2020	31		NOTICE Of Filing by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Affidavit Declaration of Ronald Watkins)(MacDougald, Harry) (Entered: 12/01/2020)
12/01/2020	32		NOTICE OF APPEAL as to 14 Order by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. Filing fee $ 507, receipt number AGANDC−10432999. Transcript Order Form due on 12/15/2020 (MacDougald, Harry) (Entered: 12/01/2020)
12/01/2020	33		NOTICE Of Filing NOA Transmittal Letter re: 32 Notice of Appeal. (pjm) (Entered: 12/01/2020)

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

O R D E R

Plaintiffs have filed an emergency motion [6] for temporary injunctive relief. In their motion, Plaintiffs seek an order directing Defendants to allow Plaintiffs' expert(s) to inspect the Dominion voting

machines in Cobb, Gwinnett, and Cherokee Counties. The Court conducted a Zoom hearing at 7:45 p.m. EST to consider Plaintiffs' motion.

During the hearing, Defendants' counsel argued that the secretary of state has no lawful authority over county election officials, citing *Jacobson v. Florida Secretary of State*, 974 F.3d 1236, 1256–58 (11th Cir. 2020). Plaintiffs' counsel responded that Plaintiffs could amend their complaint to add the elections officials in Cobb, Gwinnett, and Cherokee Counties, thus obviating the issue of whether the proper officials had been named as Defendants to this case.

Defendants' counsel also argued that allowing such forensic inspections would pose substantial security and proprietary/trade secret risks to Defendants. Plaintiffs' counsel responded that Defendants' concerns could be alleviated by an order from the Court (1) allowing Defendants' own expert(s) to participate in the requested inspections, which would be video-recorded, and (2) directing the experts to provide whatever information they obtain to the Court—and no one else—for an *in camera* inspection.

After considering the parties' email submissions today and the arguments advanced at the Zoom hearing, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1.

Defendants shall have until Wednesday, December 2, at 5:00 p.m. EST, to file a brief setting forth in detail the factual bases they have, if any, against allowing the three forensic inspections. The brief should be accompanied and supported by affidavit or other evidence, if appropriate.

2.

Defendants are hereby ENJOINED and RESTRAINED from altering, destroying, or erasing, or allowing the alteration, destruction, or erasure of, any software or data on any Dominion voting machine in Cobb, Gwinnett, and Cherokee Counties.

3.

Defendants are ORDERED to promptly produce to Plaintiffs a copy of the contract between the State and Dominion.

4.

This temporary restraining order shall remain in effect for ten days, or until further order of the Court, whichever comes first.

IT IS SO ORDERED this 29th day of November, 2020, at 10:10 p.m. EST.



Timothy C. Batten, Sr.
United States District Judge

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N.SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF EMERGENCY INTERLOCUTORY APPEAL AS OF RIGHT

Plaintiffs Coreco Ja'Qan Pearson, et al., hereby file an emergency appeal to the United States Court of Appeals for the Eleventh Circuit from this Court's interlocutory order of November 29, 2020 (Doc.14) to the extent it denies the full relief Plaintiffs requested in their motion for a temporary restraining order. *See Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225 (11th Cir. 2005) ("Although we ordinarily do not have jurisdiction over

appeals from orders granting or denying temporary restraining orders, in circumstances such as these, 'when a grant or denial of a TRO might have a serious, perhaps irreparable, consequence, and can be effectively challenged only by immediate appeal, we may exercise appellate jurisdiction." (quoting *Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995)).[1]

Plaintiffs respectfully ask that this Court immediately transmit this notice of appeal to the Eleventh Circuit today so that that court may docket the matter, thus enabling Plaintiffs to file a motion for an expedited briefing schedule pursuant to which Plaintiffs propose to file their brief by midnight December 2, 2020, and Appellee's brief by December 4, 2020.

Moreover, this Notice of Appeal as of right should divest the district court of jurisdiction. If not, Plaintiffs would request a stay of the hearing currently scheduled in the district court for December 4, 2020, until this Court has ruled on the questions raised by the appeal, including whether Plaintiffs must add to the suit each of the 600-plus county election officials in

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[1] While this Court, pursuant to 42 U.S.C. §1292(b), has certified its order as involving a "controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation," (Doc.15), Plaintiffs would seek permission to appeal under §1292(b) only in the alternative, if the Eleventh Circuit deems that necessary. Plaintiffs file this notice, however, as a matter of right, pursuant to *Schiavo*. ("In these circumstances we treat temporary restraining orders as equivalent to preliminary injunctions or final judgments, either of which are appealable.") *Schiavo*, 403 F.3d at 1225 (citing 28 U.S.C. §§1291, 1292(a)(1).

addition to the Secretary of State for Georgia, who by law is responsible for Georgia elections and spent $107 million taxpayer dollars to purchase Dominion voting systems for the entire state.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice forthcoming

/s Howard Kleinhendler
NEW YORK BAR NO. 2657120
Howard Kleinhendler Esquire
369 Lexington Avenue, 12th Floor
New York, New York 10017
Office (917) 793-1188
Mobile (347) 840-2188
howard@kleinhendler.com
www.kleinhendler.com
(Admitted pro hac vice)

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing **NOTICE OF EMERGENCY INTERLOCUTORY APPEAL AS OF RIGHT** with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

This 1st day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

PROPOSED INTERVENOR-DEFENDANTS' AMENDED PROPOSED ANSWER TO PLAINTIFFS' AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Proposed Intervenor-Defendants, the Democratic Party of Georgia, Inc. ("DPG"), the DSCC, and the DCCC (collectively, the "Political Party Committees") by and through their attorneys, answer Plaintiffs' Amended Complaint for declaratory and injunctive relief (hereafter, "Plaintiffs' Complaint") as set forth below. Unless expressly admitted, each allegation in the complaint is denied, and the Political Party Committees demand strict proof thereof.

NATURE OF THE ACTION

Responding to the unnumbered introductory paragraph and the footnote referenced therein, the Political Party Committees deny the allegations.

1. Paragraph 1 of Plaintiffs' Complaint states:

> As a civil action, the Plaintiffs' burden of proof is a "preponderance of the evidence" to show, as the Georgia Supreme Court has made clear that, *"[i] was not incumbent upon [Plaintiff] to show how the [] voters would have voted if their [absentee] ballots had been regular. [Plaintiff] only had to show that there were enough irregular ballots to place in doubt the result."* *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (2004) (*citing Howell v. Fears*, 275 Ga. 627, 571 S.E.2d 392 (2002).

Answer: The Political Party Committees admit that the quoted language is from *Mead*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

2. Paragraph 2 of Plaintiffs' Complaint states:

The scheme and artifice to defraud was for the purpose of illegally and fraudulently manipulating the vote count to make certain the election of Joe Biden as President of the United States.

Answer: Denied.

3. Paragraph 3 of Plaintiffs' Complaint states:

The fraud was executed by many means, but the most fundamentally troubling, insidious, and egregious is the systemic adaptation of old-fashioned "ballot-stuffing." It has now been amplified and rendered virtually invisible by computer software created and run by domestic and foreign actors for that very purpose. Mathematical and statistical anomalies rising to the level of impossibilities, as shown by affidavits of multiple witnesses, documentation, and expert testimony evince this scheme across the state of Georgia. Especially egregious conduct arose in Forsyth, Paulding, Cherokee, Hall, and Barrow County. This scheme and artifice to defraud affected tens of thousands of votes in Georgia alone and "rigged" the election in Georgia for Joe Biden.

Answer: Denied.

4. Paragraph 4 of Plaintiffs' Complaint states:

The massive fraud begins with the election software and hardware from Dominion Voting Systems Corporation ("Dominion") only recently purchased and rushed into use by Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and the Georgia Board of Elections. Sequoia voting machines were used in 16 states and the District of Colombia in 2006. Smartmatic, which has revenue of about $100 million, focuses on Venezuela and other markets outside the U.S. After selling Sequoia, Smartmatic's chief executive, Anthony Mugica. Mr. Mugica said, he hoped Smartmatic would work with Sequoia on projects in the U.S., though Smartmatic wouldn't take an equity stake." *Id.*

Answer: The Political Party Committees deny that any fraud occurred with respect to the Dominion Voting Systems Corporation ("Dominion") election

software and hardware. The Political Party Committees lack sufficient information to admit or deny the remaining allegations in Paragraph 4 of Plaintiffs' Complaint and on that basis deny the same.

5. Paragraph 5 of Plaintiffs' Complaint states:

> Smartmatic and Dominion were founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election. (*See* Redacted whistleblower affiant, *attached as Exh. 2*) Notably, Chavez "won" every election thereafter.

Answer: Denied.

6. Paragraph 6 of Plaintiffs' Complaint states:

> As set forth in the accompanying whistleblower affidavit, the Smartmatic software was designed to manipulate Venezuelan elections in favor of dictator Hugo Chavez:
>
> Smartmatic's electoral technology was called "Sistema de Gestión Electoral" (the "Electoral Management System"). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter's ballot. The voter's thumbprint was linked to a computerized record of that voter's identity. Smartmatic created and operated the entire system.

Answer: The Political Party Committees admit that the quoted language is from the affidavit attached to Plaintiffs' Complaint. The Political Party Committees lack knowledge and information sufficient to form a belief about

the truth of the substance of the quoted language or any other or different allegation in Paragraph 6 and, on that basis, deny the same.

7. Paragraph 7 of Plaintiffs' Complaint states:

> A core *requirement* of the Smartmatic software design was the *software's ability to hide its manipulation of votes from any audit*. As the whistleblower explains:
>
> Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted, but that voter would not be tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that accomplished that result for President Chavez. (See *Id.*, see also Exh. 3, Aff. Cardozo, attached hereto)).

Answer: The Political Party Committees admit that the quoted language is from the affidavit attached to Plaintiffs' Complaint. The Political Party Committees lack knowledge and information sufficient to form a belief as to the truth of the substance of the quoted language and of each and every other allegation in Paragraph 7 and, on that basis, deny the same.

8. Paragraph 8 of Plaintiffs' Complaint states:

The design and features *of* the Dominion software do not permit a simple audit to reveal its misallocation, redistribution, or deletion of votes. First, the system's central accumulator does not include a protected real-time audit log that maintains the date and time stamps of all significant election events. Key components of the system utilize unprotected logs. Essentially this allows an unauthorized user the opportunity to arbitrarily add, modify, or remove log entries, causing the machine to log election events that do not reflect actual voting tabulations—or more specifically, do not reflect the actual votes of or the will of the people. (*See* Hursti August 2019 Declaration, attached hereto as Exh. 4, at pars. 45-48; and attached hereto, as Exh. 4B, October 2019 Declaration in Document 959-4, at p. 18, par. 28).

Answer: The Political Party Committees lack sufficient information to admit or deny the allegations in Paragraph 8 of Plaintiffs' Complaint and on that basis deny the same.

9. Paragraph 9 of Plaintiffs' Complaint states:

Indeed, under the professional standards within the industry in auditing and forensic analysis, when a log is unprotected, and can be altered, it can no longer serve the purpose of an audit log. There is incontrovertible physical evidence that the standards of physical security of the voting machines and the software were breached, and machines were connected to the internet in violation of professional standards and state and federal laws. (*See Id*.)

Answer: The Political Party Committees deny that there is any physical evidence, much less incontrovertible physical evidence, that the standards of physical security of the voting machines and the software were breached. The Political Party Committees lack sufficient information to admit or deny the

remaining allegations in Paragraph 9 of Plaintiffs' Complaint and on that basis deny the same.

10. Paragraph 10 of Plaintiffs' Complaint states:

> Moreover, lies and conduct of Fulton County election workers about a delay in voting at State Farm Arena and the reasons for it evince the fraud.

Answer: Denied.

11. Paragraph 11 of Plaintiffs' Complaint states:

> Specifically, video from the State Farm Arena in Fulton County shows that on November 3rd after the polls closed, election workers falsely claimed a water leak required the facility to close. All poll workers and challengers were evacuated for several hours at about 10:00 PM. However, several election workers remained unsupervised and unchallenged working at the computers for the voting tabulation machines until after 1:00 AM.

Answer: The Political Party Committees admit that news reports reported that a pipe burst at the State Farm Arena at approximately 6:00 AM on November 3. The Political Party Committees deny they have knowledge that election workers falsely claimed that such a water leak occurred. The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 11 and, on that basis, deny the same.

12. Paragraph 12 of Plaintiffs' Complaint states:

Defendants Kemp and Raffensperger rushed through the purchase of Dominion voting machines and software in 2019 for the 2020 Presidential Election. A certificate from the Secretary of State was awarded to Dominion Voting Systems but is undated. (*See* attached hereto Exh. 5, copy Certification for Dominion Voting Systems from Secretary of State). Similarly a test report is signed by Michael Walker as Project Manager but is also undated. (See Exh. 6, Test Report for Dominion Voting Systems, Democracy Suite 5-4-A)

Answer: The Political Party Committees admit that the copy of the Certificate for Dominion Voting Systems in Plaintiffs' Exhibit 5 and the copy of the test report in Plaintiffs' Exhibit 6 are undated. The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 12 and, on that basis, deny the same.

13. Paragraph 13 of Plaintiffs' Complaint states:

Defendants Kemp and Raffensperger disregarded all the concerns that caused Dominion software to be rejected by the Texas Board of Elections in 2018, namely that it was vulnerable to undetected and non-auditable manipulation. An industry expert, Dr. Andrew Appel, Princeton Professor of Computer Science and Election Security Expert has recently observed, with reference to Dominion Voting machines: "I figured out how to make a slightly different computer program that just before the polls were closed, it switches some votes around from one candidate to another. I wrote that computer program into a memory chip and now to hack a voting machine you just need 7 minutes alone with it and a screwdriver." (Attached hereto Exh. 7, Study, Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters by Andrew W. Appel Princeton University, Richard A. DeMillo, Georgia Tech Philip B. Stark, for the Univ. of California, Berkeley, December 27, 2019).

Answer: The Political Party Committees deny that the quoted language is from Plaintiffs' Exhibit 7. The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13 and, on that basis, deny the same.

14. Paragraph 14 of Plaintiffs' Complaint states:

> As explained and demonstrated in the accompanying redacted declaration of a former electronic intelligence analyst under 305th Military Intelligence with experience gathering SAM missile system electronic intelligence, the Dominion software was accessed by agents acting on behalf of China and Iran in order to monitor and manipulate elections, including the most recent US general election in 2020. This Declaration further includes a copy of the patent records for Dominion Systems in which Eric Coomer is listed as the first of the inventors of Dominion Voting Systems. (See Attached hereto as Exh. 8, copy of redacted witness affidavit, 17 pages, November 23, 2020).

Answer: The Political Party Committees admit that the copy of the patent records for Dominion Systems in Exhibit 8 (erroneously labeled by Plaintiffs as Exhibit 7) list Eric Coomer as the first of the inventors of the ballot security features patent assigned by Dominion Voting Systems Corporation and deny the remaining allegations in Paragraph 14.

15. Paragraph 15 of Plaintiffs' Complaint states:

> Expert Navid Keshavarez-Nia explains that US intelligence services had developed tools to infiltrate foreign voting systems including Dominion. He states that Dominion's software is vulnerable to data manipulation by unauthorized means and permitted election data to be altered in all battleground states. He concludes that hundreds of thousands of votes that

were cast for President Trump in the 2020 general election were transferred to former Vice-President Biden. (Exh. 26).

Answer: Denied.

16. Paragraph 16 of Plaintiffs' Complaint states:

Additionally, incontrovertible evidence Board of Elections records demonstrates that at least 96,600 absentee ballots were requested and counted but were never recorded as being returned to county election boards by the voter. *Thus, at a minimum, 96,600 votes must be disregarded*. (See Attached hereto, Exh. 9, R. Ramsland Aff.).

Answer: Denied.

17. Paragraph 17 of Plaintiffs' Complaint states:

The Dominion system used in Georgia erodes and undermines the reconciliation of the number of voters and the number of ballots cast, such that these figures are permitted to be unreconciled, opening the door to ballot stuffing and fraud. The collapse of reconciliation was seen in Georgia's primary and runoff elections this year, and in the November election, where it was discovered during the hand audit that 3,300 votes were found on memory sticks that were not uploaded on election night, plus in Floyd county, another 2,600 absentee ballots had not been scanned. These "found votes" reduced Biden's lead over Donald Trump.

Answer: The Political Party Committees admit that recounts discovered previously uncounted votes and deny every remaining allegation in Paragraph 17.

18. Paragraph 18 of Plaintiffs' Complaint states:

Georgia's election officials and poll workers exacerbated and helped, whether knowingly or unknowingly, the Dominion system carry out massive

voter manipulation by refusing to observe statutory safeguards for absentee ballots. Election officials failed to verify signatures and check security envelopes. They barred challengers from observing the count, which also facilitated the fraud.

Answer: Denied.

19. Paragraph 19 of Plaintiffs' Complaint states:

Expert analysis of the actual vote set forth below demonstrates that at least 96,600 votes were illegally counted during the Georgia 2020 general election. All of the evidence and allegation herein is more than sufficient to place the result of the election in doubt. More evidence arrives by the day and discovery should be ordered immediately.

Answer: Denied.

20. Paragraph 20 of Plaintiffs' Complaint states:

Georgia law, (OCGA 21-5-552) provides for a contest of an election where:

(1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result; . . . (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result; (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

Answer: The Political Party Committees affirmatively state that the quoted language is from O.C.G.A. § 21-2-522 and deny each other or different allegation.

21. Paragraph 21 of Plaintiffs' Complaint states:

As further set forth below, all of the above grounds have been satisfied and compel this Court to set aside the 2020 General Election results which fraudulently concluded that Mr. Biden defeated President Trump by 12,670 votes.

Answer: Denied.

22. Paragraph 22 of Plaintiffs' Complaint states:

Separately, and independently, there are sufficient Constitutional grounds to set aside the election results due to the Defendants' failure to observe statutory requirements for the processing and counting of absentee ballots which led to the tabulation of more than fifty thousand illegal ballots.

Answer: Denied.

THE PARTIES

23. Paragraph 23 of Plaintiffs' Complaint states:

Plaintiff Coreco Ja'Qan ("CJ") Pearson, is a registered voter who resides in Augusta, Georgia. He is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia. He has standing to bring this action under *Carson v. Simon*, 2020 US App Lexis 34184 (8th Cir. Oct. 29, 2020). He brings this action to set aside and decertify the election results for the Office of President of the United States that was certified by the Georgia Secretary of State on November 20, 2020. The certified results showed a plurality of 12,670 votes in favor of former Vice-President Joe Biden over President Trump.

Answer: The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 23. The Political Party Committees admit that Plaintiff Coreco Ja'Qan Pearson is listed as a nominee of the Republican Party to be a

Presidential Elector on the Georgia Secretary of State's website. The Political Party Committees deny that Plaintiff Coreco has Article III standing to bring this action. The Political Party Committees admit the last sentence of Paragraph 23.

24. Paragraph 24 of Plaintiffs' Complaint states:

> Plaintiff Vikki Townsend Consiglio, is a registered voter who resides in Henry County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 24. The Political Party Committees admit that Plaintiff Vikki Townsend Consiglio is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

25. Paragraph 25 of Plaintiffs' Complaint states:

> Plaintiff Gloria Kay Godwin, is a registered voter who resides in Pierece County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 25. The Political Party Committees admit that Plaintiff Gloria

Kay Godwin is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

26. Paragraph 26 of Plaintiffs' Complaint states:

> Plaintiff James Kenneth Carroll, is a registered voter who resides in Dodge County, Georgia. He is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 26. The Political Party Committees admit that Plaintiff James Kenneth Carroll is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

27. Paragraph 27 of Plaintiffs' Complaint states:

> Plaintiff Carolyn Hall Fisher, is a registered voter who resides in Forsyth County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 27. The Political Party Committees admit that Plaintiff Carolyn Hall Fisher is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

28. Paragraph 28 of Plaintiffs' Complaint states:

> Plaintiff Cathleen Alston Latham, is a registered voter who resides in Coffee County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 28. The Political Party Committees admit that Plaintiff Cathleen Alston Latham is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

29. Paragraph 29 of Plaintiffs' Complaint states:

> Plaintiff Jason M. Shepherd is the Chairman of the Cobb County Republican Party and brings this action in his official capacity on behalf of the Cobb County Republican Party.

Answer: The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff Jason M. Shepherd's status as the Chairman of the Cobb County Republican Party. These allegations are therefore denied.

30. Paragraph 30 of Plaintiffs' Complaint states:

> Plaintiff Brian Jay Van Gundy is registered voter in Gwinnett County, Georgia. He is the Assistant Secretary of the Georgia Republican Party.

Answer: The Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff

Brian Jay Van Gundy's residence, voter registration status, or status as the Assistant Secretary of the Georgia Republican Party. These allegations are therefore denied.

31. Paragraph 31 of Plaintiffs' Complaint states:

> Defendant Governor Brian Kemp (Governor of Georgia) is named herein in his official capacity as Governor of the State of Georgia. On or about June 9, 2019, Governor Kemp bought the new Dominion Voting Systems for Georgia, budgeting 150 million dollars for the machines. Critics are quoted, "Led by Abrams, Democrats fought the legislation and pointed to cybersecurity experts who warned it would leave Georgia's elections susceptible to hacking and tampering." And "Just this week, the Fair Fight voting rights group started by [Stacy] Abrams launched a television ad critical of the bill. In a statement Thursday, the group called it "corruption at its worst" and a waste of money on "hackable voting machines."

Answer: The Political Party Committees admit that Brian Kemp is the Governor of Georgia. The Political Party Committees lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 31 and therefore deny the same.

32. Paragraph 32 of Plaintiffs' Complaint states:

> Defendant Brad Raffensperger ("Secretary Raffensperger") is named herein in his official capacity as Secretary of State of the State of Georgia and the Chief Election Official for the State of Georgia pursuant to Georgia's Election Code and O.C.G.A. § 21-2-50. Secretary Raffensperger is a state official subject to suit in his official capacity because his office "imbues him with the responsibility to enforce the [election laws]." *Grizzle v. Kemp*, 634 F.3d 1314, 1319 (11th Cir. 2011). Secretary Raffensperger serves as the

Chairperson of Georgia's State Election Board, which promulgates and enforces rules and regulations to (i) obtain uniformity in the practices and proceedings of election officials as well as legality and purity in all primaries and general elections, and (ii) be conducive to the fair, legal, and orderly conduct of primaries and general elections. *See* O.C.G.A. §§ 21-2-30(d), 21-2-31, 21-2-33.1. Secretary Raffensperger, as Georgia's chief elections officer, is further responsible for the administration of the state laws affecting voting, including the absentee voting system. *See* O.C.G.A. § 21-2-50(b).

Answer: The Political Party Committees admit that Brad Raffensperger is the Secretary of State of Georgia with certain responsibilities as described by law. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases and statutory provisions, the Political Party Committees deny the allegations. To the extent a response is otherwise required, the Political Party Committees deny the allegations.

33. Paragraph 33 of Plaintiffs' Complaint states:

Defendants Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Le (hereinafter the "State Election Board") are members of the State Election Board in Georgia, responsible for "formulating, adopting, and promulgating such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections." O.C.G.A. § 21-2-31(2). Further, the State Election Board "promulgate[s] rules and regulations to define uniform and nondiscriminatory standards concerning what constitutes a vote and what will be counted as a vote for each category of voting system" in Georgia. O.C.G.A. § 21-2-31(7). The State Election Board, personally and through the conduct of the Board's employees, officers, agents, and servants, acted under color of state law at

all times relevant to this action and are sued for emergency declaratory and injunctive relief in their official capacities.

Answer: The Political Party Committees admit that Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Lee are members of the State Election Board in Georgia with certain responsibilities as defined by law. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statutory provisions, the Political Party Committees deny the allegations. To the extent a response is otherwise required, the Political Party Committees deny the allegations.

JURISDICTION AND VENUE

34. Paragraph 34 of Plaintiffs' Complaint states:

This Court has subject matter jurisdiction under 28 U.S.C. 1331 which provides, "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

Answer: The Political Party Committees deny that this Court has subject-matter jurisdiction.

35. Paragraph 35 of Plaintiffs' Complaint states:

This Court also has subject matter jurisdiction under 28 U.S.C. 1343 because this action involves a federal election for President of the United States. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush v. Gore*, 531 U.S. 98, 113 (2000) (Rehnquist, C.J., concurring); *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

Answer: The Political Party Committees deny that this Court has subject-matter jurisdiction. The Political Party Committees admit that the Plaintiff has quoted *Bush v. Gore* and deny each other or different allegation.

36. Paragraph 36 of Plaintiffs' Complaint states:

> The jurisdiction of the Court to grant declaratory relief is conferred by 28 U.S.C. 2201 and 2202 and by Rule 57 and 65, Fed. R. Civ. P. 7.

Answer: Denied because the Court lacks subject-matter jurisdiction.

37. Paragraph 37 of Plaintiffs' Complaint states:

> This Court has jurisdiction over the related Georgia Constitutional claims and State law claims under 28 U.S.C. 1367.

Answer: Denied because the Court lacks subject-matter jurisdiction.

38. Paragraph 38 of Plaintiffs' Complaint states:

> In Georgia, the "legislature" is the General Assembly. See Ga. Const. Art. III, § I, Para. I.

Answer: The Political Party Committees admit that the General Assembly is granted "legislative power" by Ga. Const. Art. III, § I, Para. 1, and deny each other or different allegation.

39. Paragraph 39 of Plaintiffs' Complaint states:

> Because the United States Constitution reserves for state legislatures the power to set the time, place, and manner of holding elections for Congress and the President, state executive officers, including but not limited to

Secretary Raffensperger, have no authority to exercise that power unilaterally, much less flout existing legislation or the Constitution itself.

Answer: Paragraph 39 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Political Party Committees deny the allegations.

STATEMENT OF FACTS

40. Paragraph 40 of Plaintiffs' Complaint states:

Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988, and under Georgia law, O.C.G.A. § 21-2-522 to remedy deprivations of rights, privileges, or immunities secured by the Constitution and laws of the United States and to contest the election results.

Answer: The Political Party Committees admit that Plaintiffs' are asserting claims under 42 U.S.C. §§ 1983 and 1988 and under O.C.G.A. § 21-2-522. The Political Party Committees deny that Plaintiffs have established a cognizable claim under any of these provisions.

41. Paragraph 41 of Plaintiffs' Complaint states:

The United States Constitution sets forth the authority to regulate federal elections, the Constitution provides:

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations,

except as to the Places of choosing Senators. U.S. CONST. art. I, § 4 ("Elections Clause").

Answer: The Political Party Committees admit that the quoted language is from U.S. Const. Art. I, section 4 and deny each other or different allegation in Paragraph 42.

42. Paragraph 42 of Plaintiffs' Complaint states:

With respect to the appointment of presidential electors, the Constitution 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. U.S. CONST. art. II, § 1 ("Electors Clause").

Answer: The Political Party Committees admit that the quoted language is from U.S. Const. art. II, § 1 and deny each other or different allegation in Paragraph 43.

43. Paragraph 43 of Plaintiffs' Complaint states:

Neither Defendant is a "Legislature" as required under the Elections Clause or Electors Clause. The Legislature is "'the representative body which ma[kes] the laws of the people.'" *Smiley* 285 U.S. 365. Regulations of congressional and presidential elections, thus, "must be in accordance with the method which the state has prescribed for legislative enactments." Id. at 367; *see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 135 S. Ct. 2652, 2668 (U.S. 2015).

Answer: The Political Party Committees admit the quoted language is from *Smiley* and deny each other or different allegation. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

44. Paragraph 44 of Plaintiffs' Complaint states:

> While the Elections Clause "was not adopted to diminish a State's authority to determine its own lawmaking processes," *Ariz. State Legislature*, 135 S. Ct. at 2677, it does hold states accountable to their chosen processes when it comes to regulating federal elections, *id.* at 2668. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush*, 531 U.S. at 113 (Rehnquist, C.J., concurring); *Smiley*, 285 U.S. at 365.

Answer: The Political Party Committees admit the quoted language is from *Ariz. State Legislature* and *Bush* and deny each other or different allegation. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

45. Paragraph 45 of Plaintiffs' Complaint states:

> Plaintiffs also bring this action under Georgia law, O.C.G.A. § 21-2-522, Grounds for Contest:
>
> > A result of a primary or election may be contested on one or more of the following grounds:
> > (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;

> (2) When the defendant is ineligible for the nomination or office in dispute;
> (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;
> (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or
> (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

O.C.G.A. § 21-2-522.

Answer: Paragraph 45 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Political Party Committees deny the allegations.

46. Paragraph 46 of Plaintiffs' Complaint states:

Under O.C.G.A. § 21-2-10, Presidential Electors are elected.

Answer: Admitted.

47. Paragraph 47 of Plaintiffs' Complaint states:

Under O.C.G.A. § 21-2-386(a)(l)(B), the Georgia Legislature instructed the county registrars and clerks (the "County Officials") to handle the absentee ballots as directed therein. The Georgia Legislature set forth the procedures to be used by each municipality for appointing the absentee ballot clerks to ensure that such clerks would "perform the duties set forth in this Article." *See* O.C.G.A. § 21-2-380.1.

Answer: The Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). Paragraph 47 of Plaintiffs' Complaint otherwise contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Political Party Committees deny the allegations.

48. Paragraph 48 of Plaintiffs' Complaint states:

The Georgia Election Code instructs those who handle absentee ballots to follow a clear procedure:

> Upon receipt of each [absentee] ballot, a registrar or clerk ***shall*** write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk ***shall*** then compare the identifying information on the oath with the information on file in his or her office, ***shall*** compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absentee elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application, and ***shall***, if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct.

O.C.G.A. § 21-2-386(a)(l)(B) (emphasis added).

Answer: The Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). To the extent Plaintiffs' characterization

and interpretation of the cited law differs from the text of the cited statute, the Political Party Committees deny the allegations. The Political Party Committees deny each other or different allegation.

49. Paragraph 49 of Plaintiffs' Complaint states:

> Under O.C.G.A. § 21-2-386(a)(l)(C), the Georgia Legislature also established a clear and efficient process to be used by County Officials if they determine that an elector has failed to sign the oath on the outside envelope enclosing the ballot or that the signature does not conform with the signature on file in the registrar's or clerk's office (a "defective absentee ballot").

Answer: The Political Party Committees admit that O.C.G.A. § 21-2-386(a)(l)(C) relates to signatures on absentee ballot oaths. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Political Party Committees deny the allegations.

50. Paragraph 50 of Plaintiffs' Complaint states:

> The Georgia Legislature also provided for the steps to be followed by County Officials with respect to defective absentee ballots:
>
> > ***If the elector has failed to sign the oath, or if the signature does not appear to be valid***, or if the elector has failed to furnish required information ***or information so furnished does not conform with that on file in the registrar's or clerk's office***, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope "Rejected," giving the reason therefor. The board of registrars or absentee ballot clerk *shall* promptly ***notify the elector of such rejection***, a copy of which notification ***shall*** be retained in the

> files of the board of registrars or absentee ballot clerk for at least one year.

O.C.G.A. § 21-2 -386(a) (l)(C) (emphasis added).

Answer: The Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2 -386(a)(l)(C). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Political Party Committees deny the allegations.

I. DEFENDANTS' UNAUTHORIZED ACTIONS VIOLATED THE GEORGIA ELECTION CODE AND CAUSED THE PROCESSING OF DEFECTIVE ABSENTEE BALLOTS

51. Paragraph 51 of Plaintiffs' Complaint states:

> Notwithstanding the clarity of the applicable statutes and the constitutional authority for the Georgia Legislature's actions, on March 6, 2020, the Secretary of State of the State of Georgia, Secretary Raffensperger, and the State Election Board, who administer the state elections (the "Administrators") entered into a "Compromise and Settlement Agreement and Release" (the "Litigation Settlement") with the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee (collectively, the "Democrat Party Agencies"), setting forth different standards to be followed by the clerks and registrars in processing absentee ballots in the State of Georgia.

Answer: The Political Party Committees admit that on March 6, 2020, Secretary Raffensperger, the state Election Board, Democratic Party of

Georgia, DSCC, and DCCC entered into a settlement agreement. The Political Party Committees deny each other or different allegation.

52. Paragraph 52 of Plaintiffs' Complaint states:

Under the Settlement, however, the Administrators agreed to change the statutorily prescribed manner of handling absentee ballots in a manner that is not consistent with the laws promulgated by the Georgia Legislature for elections in this state.

Answer: Denied.

53. Paragraph 53 of Plaintiffs' Complaint states:

The Settlement provides that the Secretary of State would issue an "Official Election Bulletin" to county Administrators overriding the statutory procedures prescribed for those officials. That power, however, does not belong to the Secretary of State under the United States Constitution.

Answer: Denied.

54. Paragraph 54 of Plaintiffs' Complaint states:

The Settlement also changed the signature requirement reducing it to a broad process with discretion, rather than enforcement of the signature requirement as statutorily required under O.C.G.A. 21-2-386(a)(l).

Answer: Denied.

55. Paragraph 55 of Plaintiffs' Complaint states:

The Georgia Legislature instructed county registers and clerks (the "County Officials") regarding the handling of absentee ballots in O.C.G.A. S 21-2-386(a)(1)(B), 21-2-380.1. The Georgia Election Code instructs those who handle absentee ballots to follow a clear procedure:

> Upon receipt of each absentee ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absent elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application, and shall, if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath …

O.C.G.A. S 21-2-386(a)(1)(B).

Answer: The Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Political Party Committees deny the allegations. The Political Party Committees deny each other or different allegation.

56. Paragraph 56 of Plaintiffs' Complaint states:

> The Georgia Legislature prescribed procedures to ensure that any request for an absentee ballot must be accompanied by sufficient identification of the elector's identity. *See* O.C.G.A. § 21-2-38 l(b)(1) (providing, in pertinent part, "In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417 ... ").

Answer: The Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-38l(b)(1). To the extent Plaintiffs' characterization and

interpretation of the cited law differs from the text of the cited statute, the Political Party Committees deny the allegations. The Political Party Committees deny each other or different allegation.

57. Paragraph 57 of Plaintiffs' Complaint states:

> An Affiant testified, under oath, that "It was also of particular interest to me to see that signatures were not being verified and that there were no corresponding envelopes seen in site." (Attached hereto as Exh. 10, Mayra Romera, at par. 7).

Answer: The Political Party Committees admit that the quoted language is from Exhibit 10, Paragraph 7 to Plaintiffs' Complaint. The Political Party Committees deny each other or different allegation.

58. Paragraph 58 of Plaintiffs' Complaint states:

> To reflect the very reason for process, it was documented that in the primary election, prior to the November 3, 2020 Presidential election, many ballots got to voters after the election. Further it was confirmed that "Untold thousands of absentee ballot requests went unfulfilled, and tens of thousands of mailed ballots were rejected for multiple reasons including arriving too late to be counted. *See* the Associated Press, Vote-by-Mail worries: A leaky pipeline in many states, August 8, 2020.

Answer: Political Party Committees admit the quote comes from the referenced Associated Press article. Political Party Committees are without sufficient information to understand the "very reason for the process" being alleged in the first sentence of Paragraph 58 and therefore deny the same.

59. Paragraph 59 of Plaintiffs' Complaint states:

> Pursuant to the Settlement, the Administrators delegated their responsibilities for determining when there was a signature mismatch by considering in good faith only partisan-based training - "additional guidance and training materials" drafted by the Democrat Party Agencies' representatives contradicting O.C.G.A. § 21-2-31.

Answer: Denied.

UNLAWFUL EARLY PROCESSING OF ABSENTEE BALLOTS

60. Paragraph 60 of Plaintiffs' Complaint states:

> In April 2020, the State Election Board adopted on a purportedly "Emergency Basis" Secretary of State Rule 183-1-14-0.9-.15, Processing Ballots Prior to Election Day. Under this rule, county election officials are authorized to begin processing absentee ballots up to three weeks befoe [sic] election day. Thus, the rule provides in part that "(1) Beginning at 8:00 AM on the third Monday prior to Election Day, the county election superintendent **shall be authorized to open the outer envelope of accepted absentee ballots** …" (Emphasis added).

Answer: The Political Party Committees admit that the quoted language is from SEB Rule 183-1-14-0.9-.15. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited rule, the Political Party Committees deny the allegations. The Political Party Committees deny each other or different allegation in Paragraph 60.

61. Paragraph 61 of Plaintiffs' Complaint states:

Rule 183-1-14-0.9-.15 is in direct and irreconcilable conflict with O.C.G.A. § 21-2-386(a)(2), which prohibits the opening of absentee ballots until election day:

> **After the opening of the polls** on the day of the primary, election, or runoff, the registrars or absentee ballot clerks **shall be authorized to open the outer envelope** on which is printed the oath of the elector in such a manner as not to destroy the oath printed thereon; provided, however, that the registrars or absentee ballot clerk shall not be authorized to remove the contents of such outer envelope or to open the inner envelope marked "Official Absentee Ballot," except as otherwise provided in this Code section.

(Emphasis added).

Answer: The Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(2). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations. The Political Party Committees deny each other or different allegation in Paragraph 61.

62. Paragraph 62 of Plaintiffs' Complaint states:

In plain terms, the statute clearly prohibits opening absentee ballots prior to election day, while the rule authorizes doing so three weeks before election day. There is no reconciling this conflict. The State Election Board has authority under O.C.G.A. § 21-2-31 to adopt lawful and legal rules and regulations, but no authority to promulgate a regulation that is directly contrary to an unambiguous statute. Rule 183-1-14-0.9-.15 is therefore plainly and indisputably unlawful.

Answer: Denied.

63. Paragraph 63 of Plaintiffs' Complaint states:

The State Election Board re-adopted Rule 183-1-14-0.9-.15 on November 23, 2020 for the upcoming January 2021 runoff election.

Answer: Denied.

UNLAWFUL AUDIT PROCEDURES

64. Paragraph 64 of Plaintiffs' Complaint states:

According to Secretary Raffensperger, in the presidential general election, 2,457,880 votes were cast in Georgia for President Donald J. Trump, and 2,472,002 votes were cast for Joseph R. Biden, which narrowed in Donald Trump's favor after the most recent recount.

Answer: The Political Party Committees admit that President-Elect Joe Biden had more votes cast for him during the 2020 General Election in Georgia than President Donald Trump. The Political Party Committees deny each other or different allegation in Paragraph 64.

65. Paragraph 65 of Plaintiffs' Complaint states:

Secretary Raffensperger declared that for the Hand Recount:

> Per the instructions given to counties as they conduct their audit triggered full hand recounts, designated monitors will be given complete access to observe the process from the beginning. While the audit triggered recount must be open to the public and media, designated monitors will be able to observe more closely. The general public and the press will be restricted to a public viewing area. Designated monitors will be able to watch the recount while standing close to the elections' workers conducting the recount.
>
> Political parties are allowed to designate a minimum of two monitors per county at a ratio of one monitor per party for every ten audit boards in a county... Beyond being able to watch to ensure the recount

> is conducted fairly and securely, the two-person audit boards conducting the hand recount call out the votes as they are recounted , providing monitors and the public an additional way to keep tabs on the process.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 65 and, on that basis, deny the same.

66. Paragraph 66 of Plaintiffs' Complaint states:

> The audit was conducted O.C.G.A. § 21-2-498 [sic]. This code section requires that audits be completed "in public view" and authorizes the State Board of Elections to promulgate regulations to administer an audit "to ensure that collection of validly cast ballots is complete, accurate and trustworthy throughout the audit."

Answer: Paragraph 66 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Political Party Committees deny the allegations. The Political Party Committees deny each other or different allegation in Paragraph 66.

67. Paragraph 67 of Plaintiffs' Complaint states:

> Plaintiffs can show that Democrat-majority counties provided political parties and candidates, including the Trump Campaign, no meaningful

access or actual opportunity to review and assess the validity of mail-in ballots during the pre-canvassing meetings. While in the audit or recount, they witnessed Trump votes being put into Biden piles.

Answer: Denied.

68. Paragraph 68 of Plaintiffs' Complaint states:

Non-parties Amanda Coleman and Maria Diedrich are two individuals who volunteered to serve as designated monitors for the Donald J. Trump Presidential Campaign, Inc. (the "Trump Campaign") on behalf of the Georgia Republican Party (the "Republican Party") at the Hand Recount. (Attached hereto and incorporated herein as Exhibits 2 and 3), respectively, are true and correct copies of (1) the Affidavit of Amanda Coleman in Support of Plaintiffs' Motion for Temporary Restraining Order (the "Coleman Affidavit"), and (2) the Affidavit of Maria Diedrich in Support of Plaintiffs' Motion for Temporary Restraining Order (the "Diedrich Affidavit"). (See Exh. 11, Coleman Aff.,2; Exh. 12, Diedrich Aff., 2.)

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegations in Paragraph 68 and, on that basis, deny the same.

69. Paragraph 69 of Plaintiffs' Complaint states:

The Affidavits set forth various conduct amounting to federal crimes, clear improprieties, insufficiencies, and improper handling of ballots by County Officials and their employees that Ms. Coleman and Ms. Diedrich personally observed while monitoring the Hand Recount. (See Exh. 11, Coleman Aff., 3-10; Exh. 12, Diedrich Aff., 4-14.)

Answer: Denied.

70. Paragraph 70 of Plaintiffs' Complaint states:

As a result of her observations of the Hand Recount as a Republican Party monitor, Ms. Diedrich declared, "There had been no meaningful way to review or audit any activity" at the Hand Recount. (See Exh. 12, Diedrich Aff.,14.)

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 70 and, on that basis, deny the same.

71. Paragraph 71 of Plaintiffs' Complaint states:

As a result of their observations of the Hand Recount as Republican Party monitors, Ms. Coleman likewise declared, "There was no way to tell if any counting was accurate or if the activity was proper." (See Exh. 12, Coleman Aff.,10).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 71 and, on that basis, deny the same.

72. Paragraph 72 of Plaintiffs' Complaint states:

On Election Day, when the Republican poll watchers were, for a limited time, present and allowed to observe in various polling locations, they observed and reported numerous instances of election workers failing to follow the statutory mandates relating to two critical requirements, among other issues:

(1) a voter's right to spoil their mail-in ballot at their polling place on election day and to then vote in-person, and

(2) the ability for voters to vote provisionally on election day when a mail-in ballot has already been received for them, but when they did not cast those mail-in ballots, who sought to vote in person during early voting but was told she already voted; she emphasized that she had not. The clerk told her he would add her manually with no explanation as to who or how someone voted using her name. (Attached hereto as Exh. 13, Aff. Ursula Wolf)

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 72 and, on that basis, deny the same.

73. Paragraph 73 of Plaintiffs' Complaint states:

Another observer for the ballot recount testified that "*at no time did I witness any Recounter or individual participate in the recount verifying signatures [on mail-in ballots]*." (Attached hereto as Exh. 14, Nicholas Zeher Aff).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 73 and, on that basis, deny the same.

74. Paragraph 74 of Plaintiffs' Complaint states:

In some counties, there was no actual "hand" recounting of the ballots during the Hand Recount, but rather, County Officials and their employees simply

conducted another machine count of the same ballots. (See. Exh. 9, 10). That will not reveal the massive fraud of which plaintiffs complain.

Answer: Denied.

75. Paragraph 75 of Plaintiffs' Complaint states:

A large number of ballots were identical and likely fraudulent. An Affiant explains that she observed a batch of utterly pristine ballots:

> 14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper - it was if they were intended for absentee use but had not been used for that purposes. There was a difference in the feel.
>
> 15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had com~ from, or where they had been processed. These stood out.
>
> 16. In my 20 years of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joe Biden. I only observed two of these ballots as votes for President Donald J. Trump." (See Exh. 15 Attached hereto).

Answer: The Political Party Committees deny that a "large number" of ballots were "likely fraudulent." The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 75 and, on that basis, deny the same.

76. Paragraph 76 of Plaintiffs' Complaint states:

The same Affiant further testified specifically to the breach of the chain of custody of the voting machines the night before the election stating:

> we typically receive the machines, the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. **In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 AM in the morning on Election Day.**

The Milton precinct received its machines at 1:00 AM in the morning on Election Day. This is unacceptable and voting machines should [not] be out of custody prior to an Election Day. *Id*.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 76 and, on that basis, deny the same.

77. Paragraph 77 of Plaintiffs' Complaint states:

The stunning pattern of the nature and acts of fraud demonstrate an absence of mistake.

Answer: Denied.

78. Paragraph 78 of Plaintiffs' Complaint states:

The same Affiant further explained, in sworn testimony, that the breach included: "when we did receive the machines, they were not sealed or

locked, the serial numbers were not what were reflected on the related documentation…" *See Id*.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 78 and, on that basis, deny the same.

79. Paragraph 79 of Plaintiffs' Complaint states:

An affiant testified that "While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden, I witnessed this happen at table "A".' (See Exh. 14, par. 27).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 79 and, on that basis, deny the same.

80. Paragraph 80 of Plaintiffs' Complaint states:

The Affiant further testified, that "when this was brought to Ms. Pitts attention, it was met with extreme hostility. At no time did I witness any ballot cast for Joseph Biden be placed in the pile for Donald Trump. (See Exh. 14, par. 28).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted

language or any other allegation in Paragraph 80 and, on that basis, deny the same.

81. Paragraph 81 of Plaintiffs' Complaint states:

> Another Affiant in the mail-in ballot and absentee ballot recounting process, testified in her sworn affidavit, that "on November 16, 2020 … It was also of particular interest to me to see that signatures were not being verified and there were no corresponding envelopes seen in sight." (See Exh. 10, at Par. 7).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 81 and, on that basis, deny the same.

82. Paragraph 82 of Plaintiffs' Complaint states:

> Yet another Affiant, in the recount process, testified that he received push back and a lack of any cooperation and was even threatened as if he did something wrong, when he pointed out the failure to follow the rules with the observers while open mail-in ballot re-counting was occurring, stating:
>
> > "However, as an observer, I observed that the precinct had twelve (12) counting tables, but only one (1) monitor from the Republican Party. I brought it up to Erica Johnston since the recount rules provided for one (1) monitor from each Party per ten (10) tables or part thereof…"
>
> (See Attached hereto, Exh. 16, Ibrahim Reyes Aff.)

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted

language or any other allegation in Paragraph 82 and, on that basis, deny the same.

83. Paragraph 83 of Plaintiffs' Complaint states:

> Another Affiant explains a pattern of behavior that is alarming, in his position as an observer in the recount on absentee ballots with barcodes, he testified:
>
> > ***I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray***. I also witnessed the same two poll workers putting the already separated paper receipt ballots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray, They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet.
>
> (*See* Attached hereto, Exh.17, pars. 4-5, Aff. of Consetta Johson).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 83 and, on that basis, deny the same.

84. Paragraph 84 of Plaintiffs' Complaint states:

> Another Affiant, a Democrat, testified in his sworn affidavit, that before he was forced to move back to where he could not see, he had in fact seen "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times". (See attached hereto, Exh. 18 at Par. 12, Aff. of Carlos Silva).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 84 and, on that basis, deny the same. The Political Party Committees deny each other allegation in Paragraph 84.

85. Paragraph 85 of Plaintiffs' Complaint states:

> Yet another Affiant testified about the lack of process and the hostility only towards the Republican party, which is a violation of the Equal Protection Clause. He testified:
>
> > I also observed throughout my three days in Atlanta, not once did anyone verify these ballots. In fact, there was no authentication process in place and no envelopes were observed or allowed to be observed. I saw hostility towards Republican observers but never towards Democrat observers. Both were identified by badges.
>
> (*See Id*., at pars. 13-14).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 85 and, on that basis, deny the same.

86. Paragraph 86 of Plaintiffs' Complaint states:

> Another Affiant explained that his ballot was not only not processed in accordance with Election law, he witnessed people reviewing his ballot to decide where to place it, which violated the privacy of his ballot, and when

he tried to report it to a voter fraud line, he never received any contact or cooperation stating:

> "I voted early on October 12 at the precinct at Lynwood Park … Because of irregularities at the polling location, I called the voter fraud line to ask why persons were discussing my ballot and reviewing it to decide where to place it. When I called the state fraud line, I was directed to a worker in the office of the Secretary of State…"

(See Attached hereto, Exh. 19, Andrea ONeal Aff, at par. 3).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 86 and, on that basis, deny the same.

87. Paragraph 87 of Plaintiffs' Complaint states:

He further testified that when he was an Observer at the Lithonia location, he saw many irregularities, and specifically "saw an auditor sort Biden votes that he collected and sorted into ten ballot stacks, which [the auditor] did not show anyone." Id. at p. 8.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 87 and, on that basis, deny the same.

88. Paragraph 88 of Plaintiffs' Complaint states:

Another Affiant testified about the use of different paper for ballots, that would constitute fraud stating:

> I noticed that almost all of the ballots I reviewed were for Biden. Many batches went 100% for Biden. I also observed that the watermark on at least 3 ballots were solid gray instead of transparent, leading me to believe the ballot was counterfeit. I challenged this and the Elections Director said it was a legitimate ballot and was due to the use of different printers. Many ballots had markings for Biden only, and no markings on the rest of the ballot.

(See Attached hereto, Exh. 20, Aff of Debra J. Fisher, at pars. 4, 5, 6).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 88 and, on that basis, deny the same.

89. Paragraph 89 of Plaintiffs' Complaint states:

An Affiant testified, that while at the Audit, '**While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table "A"**'. (*See* attached hereto as Exh. 22, Kevin Peterford, at par. 29). Another Affiant testified, that "I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray. I also witnessed the same two poll workers putting the already separated paper receipt abllots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray, They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet. (See Exh. 17, Johnson, pars. 4-5).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 89 and, on that basis, deny the same.

90. Paragraph 90 of Plaintiffs' Complaint states:

> Another Affiant, a Democrat, testified in his sworn affidavit, before he was forced to move back to where he could not see, he had in fact seen, "***I also saw absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times***". (See Exh. 18, Par. 12).

Answer: The Political Party Committees admit that the quoted language is from Exhibit 18 to the Plaintiffs' Complaint. The Political Party Committees deny each other or different allegation in Paragraph 90.

91. Paragraph 91 of Plaintiffs' Complaint states:

> A Republican National Committee monitor in Georgia's election recount, Hale Soucie, told an undercover journalist there are individuals counting ballots who have made continuous errors," writes O'Keefe. Project Veritas, Watch: Latest Project Veritas Video reveals "Multiple Ballots Meant for Trump Went to Biden in Georgia.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 91 and, on that basis, deny the same.

92. Paragraph 92 of Plaintiffs' Complaint states:

> These violations of federal and state laws impacted the election of November 3, 2020 and set the predicate for the evidence of deliberate fraudulent conduct, manipulation, and lack of mistake that follows. The commonality and statewide nature of these legal violations renders certification of the legal vote untenable and warrants immediate impoundment of voting machines and software used throughout Georgia for expert inspection and retrieval of the software.

Answer: Denied.

93. Paragraph 93 of Plaintiffs' Complaint states:

> An Affiant, who is a network & information cyber-security expert, under sworn testimony explains that after studying the user manual for Dominion Voting Systems Democracy software, he learned that the information about scanned **ballots can be tracked inside the software system for Dominion**:
>
> > (a) When bulk ballot scanning and tabulation begins, the "ImageCast Central" workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning procedure within the software menu. The scanner then begins to scan the ballots which were loaded into the feed tray while the "ImageCast Central" software application tabulates votes in real-time. Information about scanned ballots can be tracked inside the "ImageCast Central" software application.
>
> (*See* attached hereto Exh 22, Declaration of Ronald Watkins, at par. 11).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 93 and, on that basis, deny the same.

94. Paragraph 94 of Plaintiffs' Complaint states:

> **Affiant further explains that the central operator can remove or discard batches of votes**. "After all of the ballots loaded into the scanner's feed tray have been through the scanner, the "ImageCast Central" operator will remove the ballots from the tray then have the option to either "Accept Batch" or "Discard Batch" on the scanning menu …. "(Id. at par. 8).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 94 and, on that basis, deny the same.

95. Paragraph 95 of Plaintiffs' Complaint states:

> Affiant further testifies that the Dominion/ Smartmatic user manual itself makes clear that the system allows for threshold settings to be set to mark all ballots as "problem ballots" for *discretionary determinations* on where the vote goes. It states:
>
> *During the scanning process, the "ImageCast Central" software will detect how much of a percent coverage of the oval was filled in by the voter. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a "problem ballot" and may be set aside into a folder named "NotCastImages". Through creatively tweaking the oval coverage threshold settings it should be possible to set thresholds in such a way that a non-trivial amount of ballots are marked "problem ballots" and sent to the "NotCastImages" folder. It is possible for an administrator of the ImageCast Central work station to view all images of scanned ballots which were deemed "problem ballots" by simply navigating via the standard "Windows File Explorer" to the folder named*

"NotCastImages" which holds ballot scans of "problem ballots". It is possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system.

Id. at pars. 9-10.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 95 and, on that basis, deny the same.

96. Paragraph 96 of Plaintiffs' Complaint states:

The Affiant further explains the vulnerabilities in the system when the copy of the selected ballots that are approved in the Results folder are made to a flash memory card – and that is connected to a Windows computer stating:

It is possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system. ... The upload process is just a simple copying of a "Results" folder containing vote tallies to a flash memory card connected to the "Windows 10 Pro" machine. The copy process uses the standard drag-n-drop or copy/paste mechanisms within the ubiquitous "Windows File Explorer". While a simple procedure, this process may be error prone and ***is very vulnerable to malicious administrators***.

Id. at par. 11-13 (emphasis supplied).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted

language or any other or different allegation in Paragraph 96 and, on that basis, deny the same.

97. Paragraph 97 of Plaintiffs' Complaint states:

> It was announced on "Monday, [July 29, 2019], [that] Governor Kemp awarded a contract for 30,000 new voting machines to Dominion Voting Systems, scrapping the state's 17-year-old electronic voting equipment and replacing it with touchscreens that print out paper ballots."12 Critics are quoted: "Led by Abrams, Democrats fought the legislation and pointed to cybersecurity experts who warned it would leave Georgia's elections susceptible to hacking and tampering." And "Just this week, the Fair Fight voting rights group started by [Stacy] Abrams launched a television ad critical of the bill. In a statement Thursday, the group called it "corruption at its worst" and a waste of money on "hackable voting machines."

Answer: The Political Party Committees admit that Georgia awarded Dominion Voting Systems a contract for voting machines and these machines have touchscreens. The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 97 and, on that basis, deny the same.

98. Paragraph 98 of Plaintiffs' Complaint states:

> It was further reported in 2019 that the new Dominion Voting Machines in Georgia "[w]ith Georgia's current voting system, there's **no way to guarantee that electronic ballots accurately reflect the choices of voters because there's no paper backup to verify results**, with it being reported that:

(a) Recounts are meaningless on the direct-recording electronic voting machines because they simply reproduce the same numbers they originally generated.

(b) But paper ballots alone won't protect the sanctity of elections on the new touchscreens, called ballot-marking devices.

(c) The new election system depends on voters to verify the printed text of their choices on their ballots, a step that many voters might not take. The State Election Board hasn't yet created regulations for how recounts and audits will be conducted. And paper ballots embed selections in bar codes that are only readable by scanning machines, leaving Georgians uncertain whether the bar codes match their votes.

> *i. As part of the scheme and artifice to defraud the plaintiffs, the candidates and the voters of undiminished and unaltered voting results in a free and legal election, the Defendants and other persons known and unknown committed the following violations of law:*

50 U.S.C. § 20701 requires the retention and preservation of records and papers by officers of elections under penalty of fine and imprisonment:

> **§ 20701. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation**
>
> Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, **all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election**, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place,

> then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

50 U.S.C.§ 20701.

Answer: The Political Party Committees admit that the quoted statutory language is from 52 U.S.C. § 20701. As to the 2019 report regarding Dominion machines, the Political Party Committees lack knowledge and information sufficient to form a belief about the truth of these allegations and, on that basis, deny the same. Political Party Committees deny each other or different allegation.

99. Paragraph 99 of Plaintiffs' Complaint states:

> In the primaries it was confirmed that, "The rapid introduction of new technologies and processes in state voting systems heightens the risk of foreign interference and insider tampering. That's true even if simple human error or local maneuvering for political advantage are more likely threats.

Answer: The Political Party Committees admit that the quoted language is from the cited articles and deny each other or different allegation.

100. Paragraph 100 of Plaintiffs' Complaint states:

> A Penn Wharton Study from 2016 concluded that "Voters and their representatives in government, often prompted by news of high-profile voting problems, also have raised concerns about the reliability and integrity

of the voting process, and have increasingly called for the use of modern technology such as laptops and tablets to improve convenience."

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegation in Paragraph 100 and, on that basis, deny the same.

101. Paragraph 101 of Plaintiffs' Complaint states:

As evidence of the defects or features of the Dominion Democracy Suite, as described above, the same Dominion Democracy Suite was denied certification in Texas by the Secretary of State on January 24, 2020 specifically because of a **lack of evidence of efficiency and accuracy and to be safe from fraud or unauthorized manipulation**.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegations in Paragraph 101 and, on that basis, deny the same.

102. Paragraph 102 of Plaintiffs' Complaint states:

Plaintiffs have since learned that the "glitches" in the Dominion system–that have the uniform effect of taking votes from Trump and shifting them to Biden—have been widely reported in the press and confirmed by the analysis of independent experts.

Answer: Denied.

103. Paragraph 103 of Plaintiffs' Complaint states:

Plaintiffs can show, through expert and fact witnesses that:

c. Dominion/ Smartmatic Systems Have Massive End User Vulnerabilities.

> 1. Users on the ground have full admin privileges to machines and software. Having been created to "rig" elections, the Dominion system is designed to facilitate vulnerability and allow a select few to determine which votes will be counted in any election. Workers were responsible for moving ballot data from polling place to the collector's office and inputting it into the correct folder. Any anomaly, such as pen drips or bleeds, results in a ballot being rejected. It is then handed over to a poll worker to analyze and decide if it should count. This creates massive opportunity for purely discretionary and improper vote "adjudication."
>
> 2. Affiant witness (name redacted for security reasons), in his sworn testimony explains he was selected for the national security guard detail of the President of Venezuela, and that he witnessed the creation of Smartmatic for the purpose of election vote manipulation to insure Venezuelan dictator Hugo Chavez never lost an election and he saw it work. Id.
>
> "The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes against persons running the Venezuelan government to votes in their favor in order to maintain control of the government."

(See Exh. 2, pars. 6, 9, 10).

Answer: Denied.

104. Paragraph 104 of Plaintiffs' Complaint states:

Smartmatic's incorporators and inventors have backgrounds evidencing their foreign connections, including Venezuela and Serbia, specifically its identified inventors:

> Applicant: SMARTMATIC, CORP.

> Inventors: Lino Iglesias, Roger Pinate, Antonio Mugica, Paul Babic, Jeffrey Naveda, Dany Farina, Rodrigo Meneses, Salvador Ponticelli, Gisela Goncalves, Yrem Caruso.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 104 and, on that basis, deny the same.

105. Paragraph 105 of Plaintiffs' Complaint states:

> The presence of Smartmatic in the United States—owned by foreign nationals, and Dominion, a Canadian company with its offices such as the Office of General Counsel in Germany, would have to be approved by CFIUS. CFIUS was created in 1988 by the Exon-Florio Amendment to the Defense Production Act of 1950. CFIUS' authorizing statute was amended by the Foreign Investment and National Security Act of 2007 (FINSA).
>
> > As amended, section 721 of the DPA directs "the President, acting through [CFIUS]," to review a "**covered transaction to determine the effects of the transaction on the national security of the United States**." 50 U.S.C. app. § 2170(b)(1)(A). Section 721 defines a covered transaction as "any merger, acquisition, or takeover …, by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States." Id. § 2170(a)(3). *Ralls Corp. v. Comm. on Foreign Inv*., 758 F.3d 296, 302, 411 U.S. App. D.C. 105, 111, (2014). Review of covered transactions under section 721 begins with CFIUS. As noted, CFIUS is chaired by the Treasury Secretary and its members include the heads of various federal agencies and other high-ranking Government officials with foreign policy, national security and economic responsibilities.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the apparently quoted language or any other or different allegation in Paragraph 105 and, on that basis, deny the same.

106. Paragraph 106 of Plaintiffs' Complaint states:

> Then Congresswoman Carolyn Maloney wrote October 6, 2006 to the Secretary of Treasury, Henry M. Paulson, Jr., Objecting to approval of Dominion/Smartmatic by CFIUS because of its corrupt Venezuelan origination, ownership and control. (See attached hereto as Exh. 24, Carolyn Maloney Letter of October 6, 2006). Our own government has long known of this foreign interference on our most important right to vote, and it had either responded with incompetence, negligence, willful blindness, or abject corruption. In every CFIUS case, there are two TS/SCI reports generated. One by the ODNI on the threat and one by DHS on risk to critical infrastructure. Smartmatic was a known problem when it was nonetheless approved by CFIUS.

Answer: The Political Party Committees admit that Exhibit 24 is a letter sent by Congresswoman Maloney to Secretary Paulson and deny each other or different allegation in paragraph 106 of Plaintiffs' complaint.

107. Paragraph 107 of Plaintiffs' Complaint states:

> The Wall Street Journal in 2006 did an investigative piece and found that, "Smartmatic came to prominence in 2004 when its machines were used in an election to recall President Chávez, which Mr. Chávez won handily -- and which the Venezuelan opposition said was riddled with fraud. Smartmatic put together a consortium to conduct the recall elections, including a company called Bizta Corp., in which Smartmatic owners had a large stake.

For a time, the Venezuelan government had a 28% stake in Bizta in exchange for a loan.' …"Bizta paid off the loan in 2004, and Smartmatic bought the company the following year. But accusations of Chávez government control of Smartmatic never ended, especially since Smartmatic scrapped a simple corporate structure, in which it was based in the U.S. with a Venezuelan subsidiary, for a far more complex arrangement. The company said it made the change for tax reasons, but critics, including Rep. Carolyn Maloney (D., N.Y.) and TV journalist Lou Dobbs, pounded the company for alleged links to the Chávez regime. *Id*. Since its purchase by Smartmatic, Sequoia's sales have risen sharply to a projected $200 million in 2006, said Smartmatic's chief executive, Anthony Mugica." *Id*.

Answer: The Political Party Committees admit that the quoted language is from a Wall Street article but lack knowledge and information sufficient to form a belief about the truth of the substance of the language and, on that basis, deny the same. The Political Party Committees deny each other or different allegation in Paragraph 107.

108. Paragraph 108 of Plaintiffs' Complaint states:

Indeed, Mr. Cobucci testified, through his sworn affidavit, that he born in Venezuela, is cousins with Antonio ('Anthony') Mugica, and he has personal knowledge of the fact that Anthony Mugica incorporated Smartmatic in the U.S. in 2000 with other family members in Venezuela listed as owners. He also has personal knowledge that Anthony Mugica manipulated Smartmatic to ensure the election for Chavez in the 2004 Referendum in Venezuela. He also testified, through his sworn affidavit, that Anthony Mugica received tens of millions of dollars from 2003- 2015 from the Venezuelan government to ensure Smartmatic technology would be implemented around the world, including in the U.S. (See attached hereto, Exh. 25, Juan Carlos Cobucci Aff.)

Answer: The Political Party Committees admit that the referenced allegations are from Exhibit 25 of Plaintiffs' complaint but lack knowledge and information sufficient to form a belief about the truth of the substance of the allegations, on that basis, deny the same. The Political Party Committees deny each other or different allegation in Paragraph 108.

109. Paragraph 109 of Plaintiffs' Complaint states:

> Another Affiant witness testifies that in Venezuela, she was in an official position related to elections and witnessed manipulations of petitions to prevent a removal of President Chavez and because she protested, she was summarily dismissed. Corroborating the testimony of our secret witness, and our witness Mr. Cobucci, cousin of Anthony Mugica, who began Smartmatic, and this witness explains the vulnerabilities of the electronic voting system and Smartmatica to such manipulations. (See Exh. 3, Diaz Cardozo Aff).

Answer: The Political Party Committees admit that the referenced allegations are from Exhibit 3 of Plaintiffs' complaint but lack knowledge and information sufficient to form a belief about the truth of the substance of the allegations, on that basis, deny the same. The Political Party Committees deny each other or different allegation in Paragraph 109.

110. Paragraph 110 of Plaintiffs' Complaint states:

> Specific vulnerabilities of the systems in question that have been documented or reported include:

a. Barcodes can override the voters' vote: As one University of California, Berkeley study shows, "In all three of these machines [including Dominion Voting Systems] the ballot marking printer is in the same paper path as the mechanism to deposit marked ballots into an attached ballot box. This opens up a very serious security vulnerability: the voting machine can make the paper ballot (to add votes or spoil already-cast votes) after the last time the voter sees the paper, and then deposit that marked ballot into the ballot box without the possibility of detection." (See Exh. 7).

b. Voting machines were able to be connected to the internet by way of laptops that were obviously internet accessible. If one laptop was connected to the internet, the entire precinct was compromised.

c. We … discovered that at least some jurisdictions were not aware that their systems were online," said Kevin Skoglund, an independent security consultant who conducted the research with nine others, all of them long-time security professionals and academics with expertise in election security. Vice. August 2019.

d. October 6, 2006 – Congresswoman Carolyn Maloney called on Secretary of Treasury Henry Paulson to conduct an investigation into Smartmatic based on its foreign ownership and ties to Venezuela. (See Exh. 24)

e. Congresswoman Maloney wrote that "It is undisputed that Smartmatic is foreign owned and it has acquired Sequoia … Smartmatica now acknowledged that Antonio Mugica, a Venezuelan businessman has a controlling interest in Smartmatica, but the company has not revealed who all other Smartmatic owners are." *Id*.

f. Dominion "got into trouble" with several subsidiaries it used over alleged cases of fraud. One subsidiary is Smartmatic, a company "that has played a significant role in the U.S. market over the last decade," according to a report published by UK-based AccessWire.

g. Litigation over Smartmatic "glitches" alleges they impacted the 2010 and 2013 mid-term elections in the Philippines, raising questions of cheating and fraud. An independent review of the source codes used in the machines found multiple problems, which concluded, "The software inventory provided by Smartmatic is inadequate, … which brings into question the software credibility…"

h. Dominion acquired Sequoia Voting Systems as well as Premier Election Solutions (formerly part of Diebold, which sold Premier to ES&S in 2009, until antitrust issues forced ES&S to sell Premier, which then was acquired by Dominion).

i. Dominion entered into a 2009 contract with Smartmatic and provided Smartmatic with the PCOS machines (optical scanners) that were used in the 2010 Philippine election—the biggest automated election run by a private company. The international community hailed the automation of that first election in the Philippines. The results' transmission reached 90% of votes four hours after polls closed and Filipinos knew for the first time who would be their new president on Election Day. In keeping with local election law requirements, Smartmatic and Dominion were required to provide the source code of the voting machines prior to elections so that it could be independently verified.

j. In late December of 2019, three Democrat Senators, Warren, Klobuchar, Wyden, and House Member Mark Pocan wrote about their ***'particularized concerns that secretive & "trouble -plagued companies"' "have long skimped on security in favor of convenience,"*** in the context of how they described the voting machine systems that three large vendors – Election Systems & Software, Dominion Voting Systems, & Hart InterCivic – collectively provide voting machines & software that facilitate voting for over 90% of all eligible voters in the U.S." (See attached hereto as Exh. 26, copy of Senator Warren, Klobuchar, Wyden's December 6, 2019 letter).

> k. Senator Ron Wyden (D-Oregon) said the findings [insecurity of voting systems] are "yet another damning indictment of the profiteering election vendors, who care more about the bottom line than protecting our democracy." It's also an indictment, he said, "of the notion that important cybersecurity decisions should be left entirely to county election offices, many of whom do not employ a single cybersecurity specialist."

Answer: The Political Party Committees admit that Plaintiffs have cited various studies, news articles, and letters, but lack knowledge and information sufficient to form a belief about the truth of the of the allegations in Paragraph 110 and, on that basis, deny the same.

111. Paragraph 111 of Plaintiffs' Complaint states:

> An analysis of the Dominion software system by a former US Military Intelligence expert concludes that the system and software have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees conected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, Dominion neglectfully allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. (See Exh. 7).

Answer: The Political Party Committees admit that the referenced allegations are from an exhibit to Plaintiffs' Complaint. The Political Party Committees deny each other or different allegation in Paragraph 111.

112. Paragraph 112 of Plaintiffs' Complaint states:

An expert witness in pending litigation in the United States District Court, Northern District Court of Georgia, Atlanta Div., 17-cv-02989 specifically testified to the acute security vulnerabilities, among other facts, by declaration filed on October 4, 2020, (See Exh. 4B, Document 959-4 attached hereto, paragraph. 18 and 20 of p. 28, Exh. 4, Hursti Declaration). wherein he testified or found:

1) The failure of the Dominion software "*to meet the methods and processes for national standards for managing voting system problems and should not be accepted for use in a public election under any circumstances*."

2) In Hursti's declaration he explained that "There is evidence of remote access and remote troubleshooting which presents a grave security implication and certified identified vulnerabilities should be considered an "extreme security risk." *Id*. Hari Hursti also explained that USB drives with vote tally information were observed to be removed from the presence of poll watchers during a recent election. *Id*. The fact that there are no controls of the USB drives was seen recently seen the lack of physical security and compliance with professional standards, " in one Georgia County, where it is reported that 3,300 votes were found on memory sticks not loaded plus in Floyd county, another 2,600 were unscanned, and the "found votes" reduced Biden's lead over Donald Trump.

(a) In the prior case against Dominion, supra, further implicating the secrecy behind the software used in Dominion Systems, Dr. Eric Coomer, a Vice President of Dominion Voting Systems, testified that even he was not sure of what testing solutions were available to test problems or how that was done, "*I have got to be honest, we might be a little bit out of my bounds of understanding the rules and regulations*… and in response to a question on testing for voting systems problems in relation to issues identified in 2 counties, he explained that "*Your Honor, I'm not sure of the complete test plan… Again Pro V&V themselves determine what test plan in necessary based on their analysis of the code itself*." (*Id*. at Document 959-4, pages 53, 62 L.25- p. 63 L3).

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the apparently quoted language or any other or different allegation in Paragraph 112 and, on that basis, deny the same.

113. Paragraph 113 of Plaintiffs' Complaint states:

Hursti stated within said Declaration:

"The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential remote access are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system."

(See Paragraph 49 of Hursti Declaration).

Answer: The Political Party Committees admit that the quoted language is from the Exhibit 4, paragraph 49. The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 113 and, on that basis, deny the same.

114. Paragraph 114 of Plaintiffs' Complaint states:

Rather than engaging in an open and transparent process to give credibility to Georgia's brand-new voting system, the election processes were hidden during the receipt, review, opening, and tabulation of those votes in direct contravention of Georgia's Election Code and federal law.

Answer: Denied.

115. Paragraph 115 of Plaintiffs' Complaint states:

The House of Representatives passed H.R. 2722 in an attempt to address these very risks identified by Hursti, on June 27, 2019:

> *This bill addresses election security through grant programs and requirements for voting systems and paper ballots.*
>
> *The bill establishes requirements for voting systems, including that systems (1) use individual, durable, voter-verified paper ballots; (2) make a voter's marked ballot available for inspection and verification by the voter before the vote is cast; (3) ensure that individuals with disabilities are given an equivalent opportunity to vote, including with privacy and independence, in a manner that produces a voter-verified paper ballot; (4) be manufactured in the United States; and (5) meet specified cybersecurity requirements, including the prohibition of the connection of a voting system to the internet.*

Answer: The Political Party Committees admit that the quoted language is from Congressional Research Service's bill summary for H.R. 2722 and deny each other or different allegation in Paragraph 115.

116. Paragraph 116 of Plaintiffs' Complaint states:

On November 4, 2020, the Georgia GOP Chairman issued the following statement:

> *"Let me repeat. Fulton County elections officials told the media and our observers that they were shutting down the tabulation center at State Farm Arena at 10:30 p.m. on election night to continue counting ballots in secret until 1:00 a.m.*

Answer: The Political Party Committees admit that the quoted language is from a statement of the Georgia GOP Chairman and deny each other or different allegation in Paragraph 116.

117. Paragraph 117 of Plaintiffs' Complaint states:

> It was widely reported that "As of 7 p.m. on Wednesday Fulton County Elections officials said 30,000 absentee ballots were not processed due to a pipe burst." Officials reassured voters that none of the ballots were damaged and the water was quickly cleaned up. But the emergency delayed officials from processing ballots between 5:30 a.m. and 9:30 a.m. Officials say they continued to count beginning at 8:30 a.m. Wednesday. The statement from Fulton County continues:
>
> > "Tonight, Fulton County will report results for approximately 86,000 absentee ballots, as well as Election Day and Early Voting results. These represent the vast majority of ballots cast within Fulton County.
> >
> > "As planned, Fulton County will continue to tabulate the remainder of absentee ballots over the next two days. Absentee ballot processing requires that each ballot is opened, signatures verified, and ballots scanned. This is a labor-intensive process that takes longer to tabulate than other forms of voting. Fulton County did not anticipate having all absentee ballots processed on Election Day." Officials said they will work to ensure every vote is counted and all laws and regulations are followed.

Answer: The Political Party Committees admit that the quoted language appears in the cited news articles and deny each other or different allegation in Paragraph 117.

118. Paragraph 118 of Plaintiffs' Complaint states:

Plaintiffs have learned that the representation about "a water leak affecting the room where absentee ballots were counted" was not true. The only water leak that needed repairs at State Farm Arena from November 3 – November 5 was a toilet overflow that occurred earlier on November 3. It had nothing to do with a room with ballot counting, but the false water break representation led to "everyone being sent home." Nonetheless, first six (6) people, then three (3) people stayed until 1:05 a.m. working on the computers.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 118 and, on that basis, deny the same. The Political Party Committees deny each other or different allegation in Paragraph 118.

119. Paragraph 119 of Plaintiffs' Complaint states:

An Affiant recounts how she was present at State Farm Arena on November 3, and saw election workers remaining behind after people were told to leave. (See Exh. 28, Affidavit of Mitchell Harrison; Exh. 29, Affid. of Michelle Branton)

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegations in Paragraph 119 and, on that basis, deny the same.

120. Paragraph 120 of Plaintiffs' Complaint states:

Plaintiffs have also learned through several reports that in 2010 Eric Coomer joined Dominion as Vice President of U.S. Engineering. According to his bio, Coomer graduated from the University of California, Berkeley with a

Ph.D. in Nuclear Physics. Eric Coomer was later promoted to Voting Systems Officer of Strategy and Security although Coomer has since been removed from the Dominion page of directors. Dominion altered its website after Colorado resident Joe Oltmann disclosed that as a reporter he infiltrated ANTIFA, a domestic terrorist organization where he recorded Eric Coomer representing: "Don't worry. Trump won't win the election, we fixed that." – as well as social media posts with violence threatened against President Trump. (See Joe Oltmann interview with Michelle Malkin dated November 13, 2020 which contains copies of Eric Coomer's recording and tweets).

Answer: The Political Party Committees lack information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 120 and, on that basis, deny the same.

121. Paragraph 121 of Plaintiffs' Complaint states:

While the bedrock of American elections has been transparency, almost every crucial aspect of Georgia's November 3, 2020, General Election was shrouded in secrecy, rife with "errors," and permeated with anomalies so egregious as to render the results incapable of certification:

Answer: Denied.

122. Paragraph 122 of Plaintiffs' Complaint states:

As evidenced by numerous public reports, expert reports, and witness statements, Defendants egregious misconduct has included ignoring legislative mandates concerning mail-in and ordinary ballots and led to disenfranchisement of an enormous number of Georgia voters. Plaintiffs experts can show that, consistent with the above specific misrepresentations, analysis of voting data reveals the following:

(a) Regarding uncounted mail ballots, based on evidence gathered by Matt Braynard in the form of recorded calls and declarations of voters, and analyzed by Plaintiff's expert, Williams M. Briggs, PhD, shows, based on a

statistically significant sample, **that the total number of mail ballots that voters mailed in, but were never counted, have a 95% likelihood of falling between 31,559 and 38,886 total lost votes**. This range exceeds the margin of loss of President Trump of 12,670 votes by at least 18,889 lost votes and by as many as 26,196 lost votes. (See Exh. 1, Dr. Briggs' Report, with attachments).

(b) Plaintiff's expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an absentee ballot that they did not request ranges from 16,938 to 22,771. **This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.** *Id.*

(c) This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. **These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud down ballot as well.**

(d) **Further, as calculated by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state.** (See Id., attachment to report). Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

(e) Applying pro-rata the above calculations separately to Cobb County based on the number of unreturned ballots, a range of 1,255 and 1,687 ballots ordered by 3rd parties and a range of 2,338 and 2,897 lost mail ballots, plus 10,684 voters documented in the NCOA as having moved, **for a**

combined minimum of 14,276 missing and unlawful ballots, and maximum of 15,250 missing and unlawful ballots, which exceeds the statewide Presidential race total margin by a range of as few as 1,606 ballots and as many as 2,580 in the County of Cobb alone impacting the Cobb County Republican Party ("Cobb County Republicans").

Answer: Denied.

123. Paragraph 123 of Plaintiffs' Complaint states:

As seen from the expert analysis of Eric Quinnell, mathematical anomalies further support these findings, when in various districts within Fulton County such as vote gains that exceed reasonable expectations when compared to 2016, and a failure of gains to be normally distributed but instead shifting substantially toward the tail of the distribution in what is known as a platykurtic distribution. Dr. Quinell identifies numerous anomalies such as votes to Biden in excess of 2016 exceed the registrations that are in excess of 2016. Ultimately, he identifies the counties in order of their excess performance over what would have fit in a normal distribution of voting gains, revealing a list of the most anomalous counties down to the least. These various anomalies provide evidence of voting irregularities. (See Exh.27, Declaration of Eric Quinnell, with attachments).

Answer: The Political Party Committees admit that Eric Quinnell makes the referenced allegations but deny the substance of those allegations and any other or different allegation in paragraph 123.

124. Paragraph 124 of Plaintiffs' Complaint states:

In sum, with the expert analysis of William M. Briggs PhD based on recorded calls and declarations, the extent of missing AND unlawfully requested ballots create substantial evidence that the mail ballot system has fundamentally failed to provide a fair voting mechanism. In short, tens of thousands of votes did not count while the pattern of fraud makes clear that

tens of thousands were improperly counted. This margin of victory in the election for Mr. Biden was only 12,670 and cannot withstand most of these criticisms individually and certainly not in aggregate.

Answer: The Political Party Committees admit that Joseph R. Biden won the presidential election and deny any other or different allegation in paragraph 124.

125. Paragraph 125 of Plaintiffs' Complaint states:

Cobb county, based on lost votes, unlawfully requested votes and NCOA data on these facts alone would consume more than the entire margin of the statewide difference in the Presidential race. These election results must be reversed.

Answer: Denied.

126. Paragraph 126 of Plaintiffs' Complaint states:

Applying *pro-rata* the above calculations separately to Cobb County based on the number of unreturned ballots, a range of 1,255 and 1,687 ballots ordered by 3rd parties and a range of 2,338 and 2,897 lost mail ballots, plus 10,684 voters documented in the NCOA as having moved, **for a combined minimum of 14,276 missing and unlawful ballots, and maximum of 15,250 missing and unlawful ballots, which exceeds the statewide Presidential race total margin by a range of as few as 1,606 ballots and as many as 2,580 in the County of Cobb alone impacting the Cobb County Republican Party ("Cobb County Republicans").** (See Exh. 1).

Answer: Denied.

127. Paragraph 127 of Plaintiffs' Complaint states:

Mr. Braynard also found a pattern in Georgia of voters registered at totally fraudulent residence addresses, including shopping centers, mail drop stores and other non-residential facilities.

Answer: The Political Party Committees t deny the substance of the referenced findings and any other or different allegation in paragraph 127.

128. Paragraph 128 of Plaintiffs' Complaint states:

In sum, with the expert analysis of William M. Briggs PhD based on extensive investigation, recorded calls and declarations collected by Matt Braynard, (See attachments to Exh. 1, Briggs' report) the extent of missing and unlawfully requested ballots create substantial evidence that the mail ballot system has fundamentally failed to provide a fair voting mechanism. In short, tens of thousands of votes did not count while the pattern of fraud and mathematical anomalies that are impossible absent malign human agency makes clear that tens of thousands were improperly counted. This margin of victory in the election for Mr. Biden was only 12,670 and cannot withstand most of these criticisms individually and certainly not in aggregate.

Answer: Denied.

129. Paragraph 129 of Plaintiffs' Complaint states:

Cobb county, based on lost votes, unlawfully requested votes and NCOA data on these facts alone would consume more than the entire margin of the statewide difference in the Presidential race.

Answer: Denied.

130. Paragraph 130 of Plaintiffs' Complaint states:

Russell Ramsland confirms that data breaches in the Dominion software permitted rogue actors to penetrate and manipulate the software during the

recent general election. He further concludes that at least 96,600 mail-in ballots were illegally counted as they were not cast by legal voters.

Answer: The Political Party Committees admit that Exhibit makes these allegations about Dominion software but deny the substance of those allegations and any other or different allegations in Paragraph 130.

131. Paragraph 131 of Plaintiffs' Complaint states:

In sum, as set forth above, for a host of independent reasons, the Georgia certified election results concluding that Joe Biden received 12,670 more votes that President Donald Trump must be set aside.

Answer: Denied.

COUNT I

DEFENDANTS VIOLATED THE ELECTIONS CLAUSE AND 42 U.S.C. § 1983

132. Paragraph 132 of Plaintiffs' Complaint states:

Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

Answer: The Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

133. Paragraph 133 of Plaintiffs' Complaint states:

The Electors Clause states that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" for President. Art. II, § 1, cl. 2 (emphasis added). Likewise, the Elections Clause of the U.S. Constitution states that "[t]he Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." Art. I, § 4, cl. 1 (emphasis added).

Answer: The Political Party Committees admit that the quoted language is from U.S. Const. Art. II § 1, cl. 2 and Art. I § 4, cl. 1 and deny each other or different allegation in Paragraph 43.

134. Paragraph 134 of Plaintiffs' Complaint states:

> The Legislature is "'the representative body which ma[kes] the laws of the people.'" *Smiley*, 285 U.S. at 193. Regulations of congressional and presidential elections, thus, "must be in accordance with the method which the state has prescribed for legislative enactments." *Id. at 367; see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2668 (2015).

Answer: The Political Party Committees admit that the quoted language is from *Smiley*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

135. Paragraph 135 of Plaintiffs' Complaint states:

> Defendants are not part of the General Assembly and cannot exercise legislative power. Rather, Defendants' power is limited to "tak[ing] care that the laws be faithfully executed." Pa. Const. Art. IV, § 2. Because the United States Constitution reserves for the General Assembly the power to set the time, place, and manner of holding elections for the President and Congress, county boards of elections and state executive officers have no authority to unilaterally exercise that power, much less to hold them in ways that conflict with existing legislation.

Answer: The Political Party Committees admit that the Defendants are not part of the General Assembly. The Political Party Committees further admit

that Article IV § 2 of the Pennsylvania Constitution charges the Governor of that state with "tak[ing] care that the laws be faithfully executed" but denies that this provision of the Pennsylvania Constitution limits Defendants' power or is otherwise relevant to this case. The remaining allegations of Paragraph 135 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required the Political Party Committees deny the same.

136. Paragraph 136 of Plaintiffs' Complaint states:

> Defendants are not the legislature, and their unilateral decision to create a "cure procedure" violates the Electors and Elections Clauses of the United States Constitution.

Answer: The Political Party Committees admit that the Defendants are not the legislature. The remaining allegations of Paragraph 136 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, the Political Party Committees deny the same.

137. Paragraph 137 of Plaintiffs' Complaint states:

> The Secretary of State and the State Election Board are not the legislature, and their decision to permit early processing of absentee ballots in direct violation of the unambiguous requirements of O.C.G.A. § 21-2-386(a)(2) violates the Electors and Elections Clauses of the United States Constitution.

Answer: The Political Party Committees admit that the Secretary of State and the State Election Board are not the legislature. The remaining allegations of Paragraph 137 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, the Political Party Committees deny the same.

138. Paragraph 138 of Plaintiffs' Complaint states:

> Many Affiants testified to many legal infractions in the voting process, including specifically switching absentee ballots or mail-in ballots for Trump to Biden. Even a Democrat testified in his sworn affidavit that before he was forced to move back to where he could not see, he had in fact seen, "*I also saw absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times"*. (See Exh. 18, Par. 12).

Answer: The Political Party Committees admit that the quoted language is from Exhibit 18, Paragraph 12 to Plaintiffs' Complaint. The Political Party Committees deny the substance of the quoted language and further deny each other or different allegation in Paragraph 138.

139. Paragraph 139 of Plaintiffs' Complaint states:

> Plaintiffs' expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1, Dr. Briggs' Report). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an absentee ballot that they did not request one ranges from 16,938 to 22,771. This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.

Answer: The Political Party Committees admit that the data in Paragraph 139 is from Exhibit 1 to Plaintiffs' Complaint. Plaintiffs lack information or knowledge sufficient to form a belief as to the truth of each other or different allegation in Paragraph 139 and, on that basis, deny the same.

140. Paragraph 140 of Plaintiffs' Complaint states:

> This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud.

Answer: Denied.

141. Paragraph 141 of Plaintiffs' Complaint states:

> Further, as shown by data collected by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

Answer: Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 141 and, on that basis, deny the same

142. Paragraph 142 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted. Defendants have acted and, unless enjoined, will act under color of state law to violate the Elections Clauses of the Constitution. Accordingly, the results for President and Congress in the November 3, 2020 election must be set aside. The results are infected with Constitutional violations.

Answer: Denied.

COUNT II

THE SECRETARY OF STATE AND GEORGIA COUNTIES VIOLATED THE FOURTEENTH AMENDMENT U.S. CONST. AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF EQUAL PROTECTION

INVALID ENACTMENT OF REGULATIONS AFFECTING OBSERVATION AND MONITORING OF THE ELECTION

143. Paragraph 143 of Plaintiffs' Complaint states:

Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: The Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

144. Paragraph 144 of Plaintiffs' Complaint states:

The Fourteenth Amendment of the United States Constitution provides "nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. *See also Bush v. Gore*, 531 U.S. 98, 104

(2000)(having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over the value of another's). *Harper v. Virginia Board of Elections*, 383 U.S. 663, 665 (1966) ("Once the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment.").

Answer: The Political Party Committees admit that the quoted language is from the Fourteenth Amendment of the United States Constitution and *Harper*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provision and cases, the Political Party Committees deny the allegations.

145. Paragraph 145 of Plaintiffs' Complaint states:

The Court has held that to ensure equal protection, a "problem inheres in the absence of specific standards to ensure its equal application. The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude, necessary." *Bush v. Gore*, 531 U.S. 98, 106, 121 S. Ct. 525, 530, 148 L. Ed. 2d 388 (2000).

Answer: The Political Party Committees admit that the quoted language is from *Bush*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited case, the Political Party Committees deny the allegations.

146. Paragraph 146 of Plaintiffs' Complaint states:

The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights. The requirement of equal protection is

particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

Answer: Paragraph 146 of Plaintiffs' Complaint contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here, the Political Party Committees deny the same.

147. Paragraph 147 of Plaintiffs' Complaint states:

In statewide and federal elections conducted in the State of Georgia, including without limitation the November 3, 2020, General Election, all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process in each County to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: Denied.

148. Paragraph 148 of Plaintiffs' Complaint states:

Moreover, through its provisions involving watchers and representatives, the Georgia Election Code ensures that all candidates and political parties in each County, including the Trump Campaign, have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent. *See*, *e.g.* In plain terms, the statute clearly prohibits opening absentee ballots prior to election day, while the rule authorizes doing so three weeks before election day. There is no reconciling this conflict. The State Election Board has authority under O.C.G.A. § 21-2-31 to adopt lawful and legal rules and regulations, but no authority to promulgate a regulation that is directly contrary to an unambiguous statute. Rule 183-1-14-0.9-.15 is

therefore plainly and indisputably unlawful. Plaintiffs also bring this action under Georgia law, O.C.G.A. § 21-2-522, Grounds for Contest:

Answer: The Political Party Committees admit that Plaintiffs bring claims under O.C.G.A. § 21-2-522. The Political Party Committees deny that Plaintiffs have established cognizable claims under this provision. The remaining allegations of Paragraph 148 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Political Party Committees deny the same.

149. Paragraph 149 of Plaintiffs' Complaint states:

A result of a primary or election may be contested on one or more of the following grounds:

Answer: Admitted.

150. Paragraph 150 of Plaintiffs' Complaint states:

(1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;

(2) When the defendant is ineligible for the nomination or office in dispute;

(3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;

(4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or

(5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election. O.C.G.A. § 21-2-522.

Answer: The Political Party Committees admit that the Plaintiffs' quoted language is from O.C.G.A. § 21-2-522. To the extent Plaintiffs' characterization of the statute is inaccurate or intended to apply to the claims here, the Political Party Committees deny the same.

151. Paragraph 151 of Plaintiffs' Complaint states:

Several affiants testified to the improper procedures with absentee ballots processing, with the lack of auditable procedures with the logs in the computer systems, which violates Georgia law, and federal election law. See also, 50 U.S.C. § 20701 requires the retention and preservation of records and papers by officers of elections under penalty of fine and imprisonment.

Answer: The Political Party Committees deny the first sentence of Paragraph 151. The remaining allegations of Paragraph 151 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, the Political Party Committees deny the same.

152. Paragraph 152 of Plaintiffs' Complaint states:

The State Election Board re-adopted Rule 183-1-14-0.9-.15 on November 23, 2020 for the upcoming January 2021 runoff election.

Answer: Admitted.

153. Paragraph 153 of Plaintiffs' Complaint states:

A large number of ballots were identical and likely fraudulent. An Affiant explains that she observed a batch of utterly pristine ballots:

14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper - it was if they were intended for absentee use but had not been used for that purposes. There was a difference in the feel.

15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had com~ from, or where they had been processed. These stood out.

16. In my 20 years of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joe Biden. I only observed two of these ballots as votes for President Donald J. Trump." (See Exh. 15).

Answer: The Political Party Committees deny that a large number of ballots were identical and likely fraudulent. The Political Party Committees admit that the quoted language is from Exhibit 15 to Plaintiffs' Complaint and deny each other or different allegation.

154. Paragraph 154 of Plaintiffs' Complaint states:

The same Affiant further testified specifically to the breach of the chain of custody of the voting machines the night before the election stating:

> we typically receive the machines, the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. **In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 AM in the morning on Election Day**. The Milton precinct received its machines at 1:00 AM in the morning on Election Day. This is unacceptable and voting machines should [not] be out of custody prior to an Election Day. *Id*.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 154 and, on that basis, deny the same.

155. Paragraph 155 of Plaintiffs' Complaint states:

> Defendants have a duty to treat the voting citizens in each County in the same manner as the citizens in other counties in Georgia.

Answer: Paragraph 155 contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Political Party Committees deny the same.

156. Paragraph 156 of Plaintiffs' Complaint states:

As set forth in Count I above, Defendants failed to comply with the requirements of the Georgia Election Code and thereby diluted the lawful ballots of the Plaintiffs and of other Georgia voters and electors in violation of the United States Constitution guarantee of Equal Protection.

Answer: Denied.

157. Paragraph 157 of Plaintiffs' Complaint states:

Specifically, Defendants denied the plaintiffs equal protection of the law and their equal rights to meaningful access to observe and monitor the electoral process enjoyed by citizens in other Georgia Counties by:

(a) mandating that representatives at the pre-canvass and canvass of all absentee and mail-ballots be either Georgia barred attorneys or qualified registered electors of the county in which they sought to observe and monitor;

(b) not allowing watchers and representatives to visibly see and review all envelopes containing official absentee and mail-in ballots either at or before they were opened and/or when such ballots were counted and recorded; and

(c) allowing the use of Dominion Democracy Suite software and devices, which failed to meet the Dominion Certification Report's conditions for certification.

Answer: Denied.

158. Paragraph 158 of Plaintiffs' Complaint states:

Instead, Defendants refused to credential all of the Trump Republican's submitted watchers and representatives and/or kept Trump Campaign's watchers and representatives by security and metal barricades from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. Consequently, Defendants created a system whereby it was physically impossible for the candidates and political parties to view the ballots and verify that illegally cast ballots were not opened and counted

Answer: Denied.

159. Paragraph 159 of Plaintiffs' Complaint states:

> Many Affiants testified to switching absentee ballots or mail-in ballots for Trump to Biden, including a Democrat. He testified in his sworn affidavit, that before he was forced to move back to where he could not see, he had in fact seen, "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times". (See Exh. 18, Par. 12).

Answer: The Political Party Committees admit that the quoted language is from Exhibit 18 to the Plaintiffs' Complaint. The Political Party Committees deny each other or different allegation in Paragraph 159.

160. Paragraph 160 of Plaintiffs' Complaint states:

> Other Georgia county boards of elections provided watchers and representatives of candidates and political parties, including without limitation watchers and representatives of the Republicans and the Trump Campaign, with appropriate access to view the absentee and mail-in ballots being pre-canvassed and canvassed by those county election boards and without restricting representatives by any county residency or Georgia bar licensure requirements.

Answer: The Political Party Committees lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 160 and, on that basis, deny the same.

161. Paragraph 161 of Plaintiffs' Complaint states:

> Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by

Defendants, depriving them of the equal protection of those state laws enjoyed by citizens in other Counties.

Answer: Denied.

162. Paragraph 162 of Plaintiffs' Complaint states:

Defendants have acted and will continue to act under color of state law to violate Plaintiffs' right to be present and have actual observation and access to the electoral process as secured by the Equal Protection Clause of the United States Constitution.

Answer: Denied.

163. Paragraph 163 of Plaintiffs' Complaint states:

Defendants further violated Georgia voters' rights to equal protection insofar as Defendants allowed the Georgia counties to process and count ballots in a manner that allowed ineligible ballots to be counted, and through the use of Dominion Democracy Suite, allowed eligible ballots for Trump and McCormick to be switched to Biden or lost altogether. Defendants thus failed to conduct the general election in a uniform manner as required by the Equal Protection Clause of the Fourteenth Amendment and the Georgia Election Code.

Answer: Denied.

164. Paragraph 164 of Plaintiffs' Complaint states:

Plaintiffs seek declaratory and injunctive relief holding that the election, under these circumstances, was improperly certified and that the Governor be enjoined from transmitting Georgia's certified Presidential election results to the Electoral College. Georgia law forbids certifying a tally that includes any ballots that were not legally cast, or that were switched from Trump to Biden, through the unlawful use of Dominion Democracy Suite software and devices.

Answer: The Political Party Committees admit that Plaintiffs seek the declaratory and injunctive relief described in Paragraph 164 and deny that Plaintiffs have established cognizable claims entitling them to such relief. The remaining allegations in Paragraph 164 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Political Party Committees deny the same.

165. Paragraph 165 of Plaintiffs' Complaint states:

> Alternatively, Plaintiffs seek declaratory and injunctive relief holding that the election, under these circumstances, was improperly certified and that the Governor be required to recertify the results declaring that Donald Trump has won the election and transmitting Georgia's certified Presidential election result in favor of President Trump.

Answer: The Political Party Committees admit that Plaintiffs seek the declaratory and injunctive relief described in Paragraph 165 and deny that Plaintiffs have established cognizable claims entitling them to such relief.

166. Paragraph 166 of Plaintiffs' Complaint states:

> Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the declaratory and injunctive relief requested herein is granted. Indeed, the setting aside of an election in which the people have chosen their representative is a drastic remedy that should not be undertaken lightly, but instead should be reserved for cases in which a person

challenging an election has clearly established a violation of election procedures and has demonstrated that the violation has placed the result of the election in doubt. Georgia law allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately. O.C.G.A. § 21-2-520 et seq.

Answer: Denied.

167. Paragraph 167 of Plaintiffs' Complaint states:

In addition to the alternative requests for relief in the preceding paragraphs, hereby restated, Plaintiffs seek a permanent injunction requiring the County Election Boards to invalidate ballots cast by: 1) voters whose signatures on their registrations have not been matched with ballot, envelope and voter registration check; 2) all "dead votes"; and 4) all 900 military ballots in Fulton county that supposedly were 100% for Joe Biden.

Answer: The Political Party Committees admit that Plaintiffs seek the injunctive relief described in Paragraph 167 and deny that Plaintiffs have established cognizable claims entitling them to such relief.

COUNT III

FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE U.S. CONST. AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF DUE PROCESS

DISPARATE TREATMENT OF ABSENTEE/MAIL-IN VOTERS AMONG DIFFERENT COUNTIES

168. Paragraph 168 of Plaintiffs' Complaint states:

Plaintiffs incorporate each of the prior allegations in this Complaint.

Voting is a fundamental right protected by the Fourteenth Amendment to the United States Constitution. The Fourteenth Amendment protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin*, 570 F.2d at 1077-78. "[H]aving once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05.

Answer: The Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein. The Political Party Committees admit that voting is a fundamental right protected by the Fourteenth Amendment to the United States Constitution, including from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. The Political Party Committees further admit that the quoted language is from *Bush*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provision and case, the Political Party Committees deny the allegations.

169. Paragraph 169 of Plaintiffs' Complaint states:

Defendants are not part of the General Assembly and cannot exercise legislative power. Rather, Defendants' power is limited to executing the laws as passed by the legislature. Although the Georgia General Assembly may enact laws governing the conduct of elections, "no legislative enactment may contravene the requirements of the Georgia or United States Constitutions." *Shankey*, 257 A. 2d at 898.

Answer: The Political Party Committees admit that the Defendants are not part of the General Assembly. The Political Party Committees further admit that the quoted language is from *Shankey*, except that *Shankey* refers to the requirements of the Pennsylvania Constitution, not the Georgia Constitution. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of *Shankey*, the Political Party Committees deny the allegations. The remainder of the allegations in Paragraph 169 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Political Party Committees deny the same.

170. Paragraph 170 of Plaintiffs' Complaint states:

> Federal courts "possess broad discretion to fashion an equitable remedy." *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 781 F.3d 1271, 1290 (11th Cir. 2015); *Castle v. Sangamo Weston, Inc*., 837 F.2d 1550, 1563 (11th Cir. 1988) ("The decision whether to grant equitable relief, and, if granted, what form it shall take, lies in the discretion of the district court.").

Answer: Admitted.

171. Paragraph 171 of Plaintiffs' Complaint states:

> Moreover, "[t]o the extent that a voter is at risk for having his or her ballot rejected due to minor errors made in contravention of those requirements, …

the decision to provide a 'notice and opportunity to cure' procedure to alleviate that risk is one best suited for the Legislature[,] . . . particularly in light of the open policy questions attendant to that decision, including what the precise contours of the procedure would be, how the concomitant burdens would be addressed, and how the procedure would impact the confidentiality and counting of ballots, all of which are best left to the legislative branch of Georgia's government." *Id*.

Answer: The Political Party Committees deny that the quoted language is from any of the cases cited in Paragraph 170 or from a case involving Georgia law or elections and further deny that the quoted language is accurate. The Political Party Committees affirmatively state that the quoted language is from *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345, 374 (Pa. 2020), which involves "Pennsylvania's government," not, as Plaintiffs allege and misquote, Georgia's government. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of *Boockvar*, the Political Party Committees deny the allegations.

172. Paragraph 172 of Plaintiffs' Complaint states:

The disparate treatment of Georgia voters, in subjecting one class of voters to greater burdens or scrutiny than another, violates Equal Protection guarantees because "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 555. *Rice v. McAlister*, 268 Ore. 125, 128, 519 P.2d 1263, 1265 (1975); *Heitman v. Brown Grp., Inc*., 638 S.W.2d 316, 319, 1982 Mo. App. LEXIS 3159, at *4 (Mo. Ct. App. 1982); *Prince v. Bear River Mut. Ins. Co*., 2002 UT 68, ¶ 41, 56 P.3d 524, 536-37 (Utah 2002).

Answer: The Political Party Committees admit that the quoted language is from *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

173. Paragraph 173 of Plaintiffs' Complaint states:

> Defendants are not the legislature, and their unilateral decision to create and implement a cure procedure for some but not all absentee and mail-in voters in this State violates the Due Process Clause of the United States Constitution. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

Answer: The Political Party Committees admit that the Defendants are not the legislature. The Political Party Committees deny each other or different allegation in Paragraph 173.

COUNT IV

FOURTEENTH AMENDMENT, U.S. CONST. ART. I § 4, CL. 1; ART. II § 1, CL. 2; AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF DUE PROCESS ON THE RIGHT TO VOTE

174. Paragraph 174 of Plaintiffs' Complaint states:

> Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: The Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

175. Paragraph 175 of Plaintiffs' Complaint states:

> The right of qualified citizens to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution. *Harper*, 383 U.S. at See also *Reynolds*, 377 U.S. at 554 (The Fourteenth Amendment protects the "the right of all qualified citizens to vote, in state as well as in federal elections."). Indeed, ever since the Slaughter-House Cases, 83 U.S. 36 (1873), the United States Supreme Court has held that the Privileges or Immunities Clause of the Fourteenth Amendment protects certain rights of federal citizenship from state interference, including the right of citizens to directly elect members of Congress. *See Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (*citing Ex parte Yarbrough*, 110 U.S. 651, 663-64 (1884)). *See also Oregon v. Mitchell*, 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting cases).

Answer: Admitted.

176. Paragraph 176 of Plaintiffs' Complaint states:

> The fundamental right to vote protected by the Fourteenth Amendment is cherished in our nation because it "is preservative of other basic civil and political rights." *Reynolds*, 377 U.S. at 562. Voters have a "right to cast a ballot in an election free from the taint of intimidation and fraud," Burson v. Freeman, 504 U.S. 191, 211 (1992), and "[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

Answer: The Political Party Committees admit that the quoted language is from *Reynolds*, *Burson*, and *Purcell*. To the extent Plaintiffs' characterization

and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

177. Paragraph 177 of Plaintiffs' Complaint states:

"Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted" if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315 (1941). "[T]he right to have the vote counted" means counted "at full value without dilution or discount." *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

Answer: The Political Party Committees admit that the quoted language is from *Classic* and *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

178. Paragraph 178 of Plaintiffs' Complaint states:

"Every voter in a federal . . . election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes." *Anderson v. United States*, 417 U.S. 211, 227 (1974); see also *Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes "debase[]" and "dilute" the weight of each validly cast vote. *See Anderson*, 417 U.S. at 227.

Answer: The Political Party Committees admit that the quoted language is from *Anderson*. To the extent Plaintiffs' characterization and interpretation of

the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

179. Paragraph 179 of Plaintiffs' Complaint states:

> The right to an honest [count] is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States." *Anderson*, 417 U.S. at 226 (quoting *Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff'd due to absence of quorum*, 339 U.S. 974 (1950)).

Answer: The Political Party Committees admit that the quoted language is from *Anderson*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Political Party Committees deny the allegations.

180. Paragraph 180 of Plaintiffs' Complaint states:

> Practices that promote the casting of illegal or unreliable ballots or fail to contain basic minimum guarantees against such conduct, can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots. *See Reynolds*, 377 U.S. at 555 ("[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.").

Answer: The Political Party Committees admit that the quoted language is from *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited case, the Political Party Committees deny the allegations.

181. Paragraph 181 of Plaintiffs' Complaint states:

> In Georgia, the signature verification requirement is a dead letter. The signature rejection rate for the most recent election announced by the Secretary of State was 0.15%. The signature rejection rate for absentee ballot applications was .00167% - only 30 statewide. Hancock County, Georgia, population 8,348, rejected nine absentee ballot applications for signature mismatch. Fulton County rejected eight. No other metropolitan county in Georgia rejected even a single absentee ballot application for signature mismatch. The state of Colorado, which has run voting by mail for a number of years, has a signature rejection rate of between .52% and .66%.35 The State of Oregon had a rejection rate of 0.86% in 2016.36 The State of Washington has a rejection rate of between 1% and 2%.37If Georgia rejected absentee ballots at a rate of .52% instead of the actual .15%, approximately 4,600 more absentee ballots would have been rejected.

Answer: The Political Party Committees deny that Georgia's signature verification requirement is a "dead letter." The Political Party Committees lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 181 and, on that basis, deny the same.

COUNT V

THERE WAS WIDE-SPREAD BALLOT FRAUD.

O.C.G.A. § 21-2-522

182. Paragraph 182 of Plaintiffs' Complaint states:

> Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

183. Paragraph 183 of Plaintiffs' Complaint states:

> Plaintiffs contest the results of Georgia's election, with Standing conferred under pursuant to O.G.C.A. 21-2-521.

Answer: The Political Party Committees admit that Plaintiffs contest the results of Georgia's election and deny that Plaintiffs have established a valid basis for doing so. The Political Party Committees further deny that Plaintiffs have standing.

184. Paragraph 184 of Plaintiffs' Complaint states:

> Therefore, pursuant to O.G.C.A. 21-2-522, for misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result. The foundational principle that Georgia law "nonetheless allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately." *Martin v. Fulton County Bd. of Registration & Elections*, 307 Ga. 193, 194, 835 S.E.2d 245, 248 (2019). The Georgia Supreme Court has made clear that Plaintiffs need not show how the [] voters would have voted if their [absentee] ballots had been regular. [] only had to show that there were enough irregular ballots to place in doubt the result." See OCGA § 21-2-520 et seq., *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (1994) the Supreme Court invalidated an election, and ordered a new election because it found that,
>
> Thus, [i]t was not incumbent upon [the Plaintiff] to show how the [481] voters would have voted if their [absentee] ballots had been regular. He only had to show that there were enough irregular ballots to place in doubt the result. He succeeded in that task.

Id. at 271 (citing *Howell v. Fears*, 275 Ga. 627, 571 SE2d 392, (2002) (primary results invalid where ballot in one precinct omitted names of both qualified candidates).

Answer: The Political Party Committees admit that the quoted language is from *Martin* and *Mead*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Political Party Committees deny the allegations.

185. Paragraph 185 of Plaintiffs' Complaint states:

The "glitches" in the Dominion system—that seem to have the uniform effect of hurting Trump and helping Biden have been widely reported in the press and confirmed by the analysis of independent experts.

Answer: Denied.

186. Paragraph 186 of Plaintiffs' Complaint states:

Prima facie evidence in multiple affidavits shows specific fraudulent acts, which directly resulted in the flipping of the race at issue:

a) votes being switched in Biden's favor away from Trump during the recount;

b) the lack of procedures in place to follow the election code, and the purchase and use, Dominion Voting System despite evidence of serious vulnerabilities;

c) a demonstration that misrepresentations were made about a pipe burst that sent everyone home, while first six, then three, unknown individuals were left alone until the morning hours working on the machines;

d) further a failure to demonstrate compliance with the Georgia's Election Codes, in maintaining logs on the Voting system for a genuine and sound

audit, other than voluntary editable logs that prevent genuine audits. While the bedrock of this Democratic Republic rests on citizens' confidence in the validity of our elections and a transparent process, Georgia's November 3, 2020 General Election remains under a pall of corruption and irregularity that reflects a pattern of the absence of mistake. At best, the evidence so far shows ignorance of the truth; at worst, it proves a knowing intent to defraud.

Answer: Denied.

187. Paragraph 187 of Plaintiffs' Complaint states:

Plaintiffs' expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1, Dr. Briggs' Report). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an **absentee ballot that they did not request ranges from 16,938 to 22,771**. This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.

Answer: The Political Party Committees admit that the data in Paragraph 139 is from Exhibit 1 to Plaintiffs' Complaint. Plaintiffs lack information or knowledge sufficient to form a belief as to the truth of each other or different allegation in Paragraph 139 and, on that basis, deny the same.

188. Paragraph 188 of Plaintiffs' Complaint states:

This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522.

These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud.

Answer: Denied.

189. Paragraph 189 of Plaintiffs' Complaint states:

Further, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

Answer: Denied.

190. Paragraph 190 of Plaintiffs' Complaint states:

Plaintiffs' expert Russell Ramsland concludes that at least 96,600 mail-in ballots were fraudulently cast. He further concludes that up to 136,098 ballots were illegally counted as a result of improper manipulation of the Dominion software. (Ramsland Aff).

Answer: The Political Party Committees admit that the data in Paragraph 190 is from Exhibit 9 to Plaintiffs' Complaint. The Political Party Committees deny the truth of that data and the substance of the allegations in Paragraph 190.

191. Paragraph 191 of Plaintiffs' Complaint states:

The very existence of absentee mail in ballots created a heightened opportunity for fraud. The population of unreturned ballots analyzed by

William Briggs, PhD, reveals the probability that a far greater number of mail ballots were requested by 3rd parties or sent erroneously to persons and voted fraudulently, undetected by a failed system of signature verification. The recipients may have voted in the name of another person, may have not had the legal right to vote and voted anyway, or may have not received the ballot at the proper address and then found that they were unable to vote at the polls, except provisionally, due to a ballot outstanding in their name.

Answer: Denied.

192. Paragraph 192 of Plaintiffs' Complaint states:

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin of votes between the presidential candidates in the state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote.

Answer: Denied.

193. Paragraph 193 of Plaintiffs' Complaint states:

The right to vote includes not just the right to cast a ballot, but also the right to have it fairly counted if it is legally cast. The right to vote is infringed if a vote is cancelled or diluted by a fraudulent or illegal vote, including without limitation when a single person votes multiple times. The Supreme Court of the United States has made this clear in case after case. See, e.g., *Gray v. Sanders*, 372 U.S. 368, 380 (1963) (every vote must be "protected from the diluting effect of illegal ballots."); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (plurality op. of Stevens, J.) ("There is no question about the legitimacy or importance of the State's interest in counting only

the votes of eligible voters."); *accord Reynolds v. Sims*, 377 U.S. 533, 554-55 & n.29 (1964).

Answer: The Political Party Committees admit that the quoted language is from *Gray* and *Crawford*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases or Plaintiffs allege that this law applies here, the Political Party Committees deny the allegations.

194. Paragraph 194 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law. As seen from the expert analysis of William Higgs, PhD, based on actual voter data, tens of thousands of votes did not count, and tens of thousands of votes were unlawfully requested.

Answer: Denied.

195. Paragraph 195 of Plaintiffs' Complaint states:

The Fourteenth Amendment Due Process Clause protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin v. Burns*, 570 F.2d 1065, 1077-78 (1st Cir. 1978).

Answer: Admitted.

196. Paragraph 196 of Plaintiffs' Complaint states:

Separate from the Equal Protection Clause, the Fourteenth Amendment's due process clause protects the fundamental right to vote against "the disenfranchisement of a state electorate." *Duncan v. Poythress*, 657 F.2d 691, 702 (5th Cir. 1981). "When an election process 'reaches the point of

patent and fundamental unfairness,' there is a due process violation." *Florida State Conference of* N.A.A.C.P. *v. Browning*, 522 F.3d 1153, 1183-84 (11th Cir. 2008) (*quoting Roe v. Alabama*, 43 F.3d 574, 580 (11th Cir.1995) (*citing Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir.1986))). See also *Griffin*, 570 F.2d at 1077 ("If the election process itself reaches the point of patent and fundamental unfairness, a violation of the due process clause may be indicated and relief under § 1983 therefore in order."); *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994) (enjoining winning state senate candidate from exercising official authority where absentee ballots were obtained and cast illegally).

Answer: The Political Party Committees admit that the quoted language is from *Duncan*, *Florida State Conference of N.A.A.C.P.*, and *Griffin*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Political Party Committees deny the allegations.

197. Paragraph 197 of Plaintiffs' Complaint states:

Part of courts' justification for such a ruling is the Supreme Court's recognition that the right to vote and to free and fair elections is one that is preservative of other basic civil and political rights. *See Black*, 209 F.Supp.2d at 900 (quoting *Reynolds*, 377 U.S. at 561-62 ("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.")); see also *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) ("the political franchise of voting … is regarded as a fundamental political right, because [sic] preservative of all rights.").

Answer: The Political Party Committees admit that the quoted language is from *Reynolds* and *Yick Wo*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Political Party Committees deny the allegations.

198. Paragraph 198 of Plaintiffs' Complaint states:

> "[T]he right to vote, the right to have one's vote counted, and the right to have ones vote given equal weight are basic and fundamental constitutional rights incorporated in the due process clause of the Fourteenth Amendment to the Constitution of the United States." Black, 209 F. Supp. 2d at 900 (a state law that allows local election officials to impose different voting schemes upon some portions of the electorate and not others violates due process). "Just as the equal protection clause of the Fourteenth Amendment prohibits state officials from improperly diluting the right to vote, the due process clause of the Fourteenth amendment forbids state officials from unlawfully eliminating that fundamental right." *Duncan*, 657 F.2d at 704. "Having once granted the right to vote on equal terms,[Defendants] may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05.

Answer: The Political Party Committees admit that the quoted language is from *Black*, *Duncan*, and *Bush*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Political Party Committees deny the allegations.

199. Paragraph 199 of Plaintiffs' Complaint states:

> In statewide and federal elections conducted in the State of Georgia, including without limitation the November 3, 2020 General Election, all candidates, political parties, and voters, including without limitation

Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: Denied.

200. Paragraph 200 of Plaintiffs' Complaint states:

Moreover, through its provisions involving watchers and representatives, the Georgia Election Code ensures that all candidates and political parties, including without limitation Plaintiff, Republicans, and the Trump Campaign, shall be "present" and have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: The allegations of Paragraph 200 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Political Party Committees deny the same.

201. Paragraph 201 of Plaintiffs' Complaint states:

Defendants have a duty to guard against deprivation of the right to vote through the dilution of validly cast ballots by ballot fraud or election tampering. Rather than heeding these mandates and duties, Defendants arbitrarily and capriciously denied the Trump Campaign and Republicans meaningful access to observe and monitor the electoral process by: (a) mandating that representatives at the pre- canvass and canvass of all absentee and mail-ballots be either Georgia barred attorneys or qualified registered electors of the county in which they sought to observe and monitor; and (b) not allowing watchers and representatives to visibly see and

review all envelopes containing official absentee and mail-in ballots either at the time or before they were opened and/or when such ballots were counted and recorded. Instead, Defendants refused to credential all of the Trump Campaign's submitted watchers and representatives and/or kept Trump Campaign's watchers and representatives by security and metal barricades from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. The lack of meaningful access with actual access to see the ballots invited further fraud and cast doubt of the validity of the proceedings.

Answer: Denied.

202. Paragraph 202 of Plaintiffs' Complaint states:

Consequently, Defendants created a system whereby it was physically impossible for the candidates and political parties to view the ballots and verify that illegally cast ballots were not opened and counted.

Answer: Denied.

203. Paragraph 203 of Plaintiffs' Complaint states:

Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants, and included the unlawfully not counting and including uncounted mail ballots, and that they failed to follow absentee ballot requirements when thousands of **voters received ballots that they never requested**. Defendants have acted and will continue to act under color of state law to violate the right to vote and due process as secured by the Fourteenth Amendment to the United States Constitution.

Answer: Denied.

204. Paragraph 204 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

Answer: Denied.

205. Paragraph 205 of Plaintiffs' Complaint states:

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin in the state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote.

Answer: Denied.

206. Paragraph 206 of Plaintiffs' Complaint states:

Relief sought is the elimination of the mail ballots from counting in the 2020 election. Alternatively, the Presidential electors for the state of Georgia should be disqualified from counting toward the 2020 election.

Answer: The Political Party Committees admit that the Plaintiffs seek the relief described in Paragraph 206 but deny that the Plaintiffs have established any cognizable claim entitling them to such relief.

207. Paragraph 207 of Plaintiffs' Complaint states:

The United States Code (3 U.S.C. 5) provides that,

"[i]f any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the

> electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned. 3 USCS § 5.

Answer: The Political Party Committees admit that the quoted language is from 3 U.S.C. § 5 and deny each other or different allegations.

REQUEST FOR RELIEF

Answer: The Political Party Committees deny that the Plaintiffs are entitled to any of the requested relief set forth in the Prayer for Relief section of Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

The Political Party Committees assert the following affirmative defenses without accepting any burdens regarding them.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because this Court lacks jurisdiction to adjudicate Plaintiffs' claims.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs lack standing to assert their claims.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' Compliant fails, in whole or in part, to state a claim upon which relief can be granted.

The Political Party Committees reserve the right to assert any further defenses that may become evident during the pendency of this matter.

PROPOSED INTERVENORS' REQUEST FOR RELIEF

Having answered Plaintiffs' Complaint, the Political Party Committees request that the Court:

1. Deny Plaintiffs are entitled to any relief;
2. Dismiss Plaintiffs' Complaint with prejudice;
3. Award the Political Party Committees their costs and attorneys' fees incurred in defending against Plaintiffs' claims in accordance with 42 U.S.C. § 1988; and
4. Grant such other and further relief as this Court deems just and proper.

Dated: November 30, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis

Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000
khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP

1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

**Pro Hac Vice Application Pending*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: December 1, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 1, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 01, 2020

Julia Z. Haller
Defending the Republic
601 PENNSYLVANIA AVE NW S BLDG STE 900
WASHINGTON, DC 20004

Howard Kleinhendler
Law Office of Howard Kleinhendler, Esq.
369 LEXINGTON AVE 12TH FL
NEW YORK, NY 10017

Harry Woodward MacDougald
Caldwell Propst & DeLoach, LLP
2 RAVINIA DR STE 1600
ATLANTA, GA 30346

Sidney K. Powell
Law Office of Sidney Powell
2911 TURTLE CREEK BLVD STE 300
DALLAS, TX 75219

L. Lin Wood
L. Lin Wood, PC
PO BOX 52584
ATLANTA, GA 30355-0584

Appeal Number: 20-14480-RR
Case Style: Coreco Pearson, et al v. Governor of the State of Georg, et al
District Court Docket No: 1:20-cv-04809-TCB

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov.

The referenced case has been docketed in this court. Please use the appellate docket number noted above when making inquiries.

Eleventh Circuit Rule 31-1 requires that APPELLANT'S BRIEF BE SERVED AND FILED ON OR BEFORE January 11, 2021. APPELLANT'S APPENDIX MUST BE SERVED AND FILED NO LATER THAN 7 DAYS AFTER FILING OF THE APPELLANT'S BRIEF. INCARCERATED PRO SE PARTIES ARE NOT REQUIRED TO FILE AN APPENDIX.

This is the only notice you will receive concerning the due date for filing briefs and appendices. See Fed.R.App.P. 28, 30, 31, 32, the corresponding circuit rules, General Order 39 and the Guide to Electronic Filing for further information. Pro se parties who are incarcerated are not required to file an appendix. (In cross-appeals pursuant to Fed.R.App.P. 28.1(b), the party who first files a notice of appeal is the appellant unless the parties otherwise agree.)

Every motion, petition, brief, answer, response and reply filed must contain a Certificate of Interested Persons and Corporate Disclosure Statement (CIP). Appellants/Petitioners must file a CIP within 14 days after the date the case or appeal is docketed in this court; Appellees/Respondents/Intervenors/Other Parties must file a CIP within 28 days after the case or appeal is docketed in this court, regardless of whether appellants/petitioners have filed a CIP. See FRAP 26.1 and 11th Cir. R. 26.1-1.

On the same day a party or amicus curiae first files its paper or e-filed CIP, that filer must also complete the court's web-based CIP at the Web-Based CIP link on the court's website. Pro se filers (except attorneys appearing in particular cases as pro se parties) are **not required or authorized** to complete the web-based CIP.

Attorneys who wish to participate in this appeal must be admitted to the bar of this Court, admitted for this particular proceeding pursuant to 11th Cir. R. 46-3, or admitted pro hac vice pursuant to 11th Cir. R. 46-4. In addition, all attorneys (except court-appointed counsel) who wish to participate in this appeal must file an Appearance of Counsel form within 14 days. The Application for Admission to the Bar and Appearance of Counsel Form are available at www.ca11.uscourts.gov. The clerk generally may not process filings from an attorney until that attorney files an appearance form. See 11th Cir. R. 46-6(b).

11th Cir. R. 33-1(a) requires appellant to file a Civil Appeal Statement in most civil appeals. You must file a completed Civil Appeal Statement, with service on all other parties, within 14 days from the date of this letter. Civil Appeal Statement forms are available on the Internet at www.ca11.uscourts.gov, and as provided by 11th Cir. R. 33-1(a).

MEDIATION. If a Civil Appeal Statement is required to be filed, your appeal and all related matters will be considered for mediation by the Kinnard Mediation Center. The mediation services are free and the mediation process is confidential. You may confidentially request mediation by calling the Kinnard Mediation Center at 404-335-6260 (Atlanta) or 305-714-1900 (Miami). See 11th Cir. R. 33-1.

Attorneys must file briefs electronically using the ECF system. Use of ECF does not modify the requirements of the circuit rules that counsel must also provide seven (7) paper copies of a brief to the court, nor does it modify the requirements of the circuit rules for the filing of appendices in a particular case.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Regina A. Veals-Gillis, RR/csg.
Phone #: (404) 335-6163

DKT-7CIV Civil Early Briefing

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

O R D E R

On November 29, the Court entered an order [14] granting modest injunctive relief in order to preserve the status quo. This afternoon, Plaintiffs filed a notice of appeal [32] with respect to that order.

However, this Court's November 29 order is a temporary restraining order, not a preliminary injunction because, inter alia, it is of a limited duration—ten days.[1] And generally, temporary restraining orders are not directly appealable. *See, e.g., Mitsubishi Int'l Corp. v. Cardinal Textile Sales, Inc.*, 14 F.3d 1507, 1515 (11th Cir. 1994). Although Plaintiffs cite *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225 (11th Cir. 2005), in their notice of appeal, this Court is of the opinion that its November 29 order is not within the scope of *Schiavo*'s exception to the unappealable nature of a temporary restraining order.

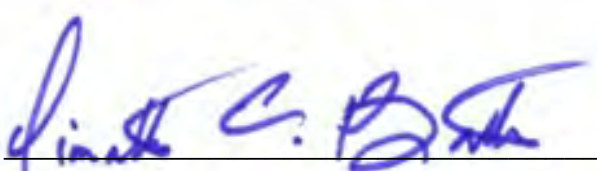
Plaintiffs' notice of appeal states that it divests this Court of jurisdiction. If the circuit court disagrees with Plaintiffs, it will dismiss their appeal, whereupon this Court will probably need to reschedule the hearing presently set for Friday, December 4 (since the parties' briefs, due tomorrow and Thursday, probably will have not been filed). Any delay in conducting the hearing on the claims in Plaintiffs' complaint

[1] Moreover, the scope of relief sought in Plaintiffs' motion [6] for emergency relief is narrower than the scope of Plaintiffs' complaint.

would be attributable to Plaintiffs—not this Court—since Plaintiffs are the ones who filed the notice of appeal.[2]

Accordingly, the scheduling order [17] docketed November 30 is hereby stayed, subject to further order of the Court if Plaintiffs' appeal is dismissed.

IT IS SO ORDERED this 1st day of December, 2020.



Timothy C. Batten, Sr.
United States District Judge

[2] The Court's November 30 order [22] certifying the November 29 order for immediate appellate review pursuant to 28 U.S.C.A. § 1292(b) does not render the November 29 order directly appealable. This is because the court of appeals has not, as of this time, granted Plaintiffs permission to appeal.

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

PLAINTIFFS' RESPONSE TO MOTION TO INTERVENE OF THE DEMOCRATIC PARTY OF GEORGIA, INC., THE DSCC, AND THE DCCC

Come now the Plaintiffs and submit the following response to the motion to intervene of the Democratic Party of Georgia, Inc., the DSCC and the DCCC (collectively, the "Proposed Intervenors").

The motion to intervene should be denied because the Proposed Intervenors do not have a significantly protectable interest under the

particular circumstances of this case, because their interests are adequately represented by the State Defendants, and because their entry in this case as parties is intended to delay its resolution until it is moot.

I. INTERVENTION AS OF RIGHT

1. CLAIMED INTEREST TO INTERVENE

The Proposed Intervenors cite authority for the proposition that political parties and party organizations have a legally cognizable interest based upon their associational standing to challenge registration and election laws and regulations they claim disenfranchise their voters. *See* Motion and Brief of Proposed Intervenors, at pp. 8-10. This case is distinct from those relied upon by the Proposed Intervenors because several of the Plaintiffs here are presidential electors and have clear standing to challenge fraud and illegality in the presidential election under *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020), in which presidential electors were the plaintiffs. Regarding the injury-in-fact requirement, the Eighth Circuit held:

> As candidates, the Electors argue that they have a cognizable interest in ensuring that the final vote tally accurately reflects the legally valid votes cast. An inaccurate vote tally is a concrete and particularized injury to candidates such as the Electors. The Secretary's use of the consent decree makes the Electors' injury certainly-impending, because the former necessarily departs from the Legislature's mandates. Thus, the Electors meet the injury-in-fact requirement.

Id. at 1058. The Eighth Circuit held the Elector plaintiffs also met the causation and redressability requirements of standing:

> Next, the Electors meet the causal-connection requirement because the injury flows from the challenged conduct (the Secretary's policy). And, even though the Secretary and the Alliance do not appear to challenge the redressability requirement, it is likely that the requested relief (an injunction) will redress the injury (an inaccurate vote tally) because the former will mitigate the latter.

Id. Therefore, the Elector plaintiffs had constitutional standing and were found to have prudential standing as well.

The Proposed Intervenors are not presidential Electors and therefore do not meet the injury-in-fact, causation, or redressability elements of standing to be considered under Rule 24 intervention standards. *Chiles v. Thornburgh*, 865 F.2d 1197, 1212–13 (11th Cir. 1989), *citing, inter alia*, *Donaldson v. United States*, 400 U.S. 517, 531, 91 S.Ct. 534, 542, 27 L.Ed.2d 580 (1971); *Howard v. McLucas*, 782 F.2d 956, 959 (11th Cir.1986); *Athens Lumber Co., Inc. v. Federal Election Commission*, 690 F.2d 1364, 1366 (11th Cir.1982) ("[an interest under Rule 24(a)(2) means a "significantly protectable interest . . . for an intervenor's interest must be a particularized interest rather than a general grievance that requires evaluation of standing cases. . . that are relevant to help define the type of interest that the intervenor must assert."). Here, the Proposed Intervenors have not demonstrated that their interests would be substantially impaired if they were not permitted to intervene.

The DSCC is the Democratic Senatorial Campaign Committee and the DCCC is the Democratic Congressional Campaign Committee. They are the Proposed Intervenors under a variant of the Willie Sutton Rule - that's where the money is. Yet having the money to finance a litigation war across the United States does not without more establish a concrete interest sufficient to support standing. This litigation concerns a presidential election. The Proposed Intervenors did not nominate former Vice President Joe Biden for President. That was the Democratic Party of the United States, which is not a Proposed Intervenor. *Jacobson v. Florida Secretary of State*, 974 F.3d 1236, 1250-1252 (11th Cir 2020).

Finally, the authorities that the Proposed Intervenors cite to in their Motion all deal with future elections and the effect of election laws and procedures on their prospects in such elections. This case stands on a different footing and should be analyzed according to its particular circumstances. *See e.g. Hunt v. Washington State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977)("[if] the association seeks a declaration, injunction, or some other form of prospective relief, it can reasonably be supposed that the remedy, if granted, will inure to the benefit of those members of the association actually injured."). Unlike the *prospective* relief sought in the cases cited by the Proposed Intervenors, the relief sought in this case is *retrospective*. The candidates and their parties have finished campaigning

and their voters have voted. Therefore, the Proposed Intervenors' associational standing analysis no longer pertains. *See e.g. Donald J. Trump for President, Inc. v. Cegavske*, No. 220CV1445JCMVCF, 2020 WL 5626974, at *4 (D. Nev. Sept. 18, 2020)(relief sought on behalf of an association's member voters that "no more directly and tangibly benefits [them] than it does the public at large" insufficient to confer standing).

The Proposed Intervenors obviously have a strong rooting interest in the outcome of the presidential election, but no matter how ardent their interest may be in promoting their preferred candidate, it is not enough to establish the significantly protectable interest required to warrant intervention in this case under Rule 24. *Jacobson*, *id*.

The certification of statewide presidential election results lies with the Secretary of State and the Governor. The litigation over the propriety of this act also lies with them. Not everyone in the country who cares about the outcome, or even an association of such partisans, is entitled to intervene in this case.

2. TIMELINESS

Given the short time that has passed since the filing of the Complaint and the motion to intervene, the timeliness element of the intervention analysis under Rule 19 would normally be satisfied. However, as Einstein postulated, time is relative. This case is operating on an extraordinarily short

timeframe because of the constitutionally imposed deadlines for the formal vote of the Electoral College on December 14, 2020, and for the inauguration of the President on January 20, 2021. What would certainly have been timely in any other case is not timely here, despite the speed with which the Proposed Intervenors have moved, because time is so short in this case.

3. PREJUDICE TO THE PLAINTIFFS

Proposed Intervenors make a related claim that Plaintiffs would suffer no prejudice from the proposed intervention. This is almost certainly not true, as it will be in the overwhelming interests of the Proposed Intervenors to employ imaginative stratagems of delay and obstruction in order to run out an already incredibly short clock.

4. IMPAIRMENT OF INTERESTS

The Proposed Intervenors wax indignant at the possibility that millions of their supporters might be disenfranchised "by judicial fiat" if the Court grants Plaintiffs the relief they seek. But the Court would only invalidate the election and order de-certification if it were convinced by the evidence that the election was so corrupted by fraud and illegality as to be repugnant to the laws of Georgia and the Constitution of the United States. In that event, the Proposed Intervenors could have no legitimate or legally cognizable interest in imposing upon the Plaintiffs, the State of Georgia, or anyone else in America an election result that was infected by fraud and corruption.

The Proposed Intervenors also contend that absent intervention they might be forced to "divert resources to safeguard the certified statewide results, thus implicating another of their protected interests." The only possible way they can divert resources to this purpose at this point is by paying the six lawyers who have filed entries of appearance in this case to intervene on their behalf. "[N]either [DSCC] nor [DCCC] explained what activities the [they] would divert resources away from in order to spend additional resources on … as precedent requires." *Jacobson* at p. 1250 (collecting cases).

The election campaign is over and there is no more political campaigning to be done. Citing cases about campaign expenses is beside the point. Both political parties have spent vast sums on their respective campaigns. One of them is going to lose. Fearing that money might go to waste if one loses is not a legally cognizable interest to support intervention. Fearing that money might be lost if the election were set aside for fraud and illegality is not a legally protectible interest either. As the 11th Circuit held in *Jacobsen*, partisan interest alone is not enough to confer standing:

> An organization's general interest in its preferred candidates winning as many elections as possible is still a "generalized partisan preference[ ]" that federal courts are "not responsible for vindicating," no less than when individual voters assert an interest in their preferred candidates winning elections. *Gill*, 138 S. Ct. at 1933; *see also id*. at 1932 (rejecting a voter's "hope of achieving a Democratic majority in the legislature" as "a collective political

> interest" that cannot establish standing). Harm to an organization's generalized partisan preferences describes only "a setback to [its] abstract social interests," which is insufficient to establish a concrete injury in fact. *Havens Realty*, 455 U.S. at 379, 102 S.Ct. 1114; see also *1251 *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1342 (11th Cir. 2014) (requiring "a concrete and demonstrable injury, not an abstract social interest" for organizational standing (alteration adopted) (internal quotation marks omitted)).

974 F.3d at 1250-1251.

5. ADEQUATE REPRESENTATION

Proposed Intervenors claim their interests would not be adequately protected unless they are permitted to intervene. The State Defendants have certified the election results. They are vigorously defending that decision through highly capable and experienced attorneys from the State Attorney General's office. The Proposed Intervenors and their counsel should know, because that office has beaten them before. *See, e.g. Anderson v. Raffensperger*, ___ F.Supp.3d ___ (2020 WL 60480248 N.D. Ga.).

The cases cited to support the right to intervene in this case largely relate once again to upcoming elections, rather than a challenge to a concluded election. A rooting interest is not sufficient.

II. PERMISSIVE INTERVENTION

The Proposed Intervenors next argue in the alternative for permissive intervention. Despite the usual liberal construction of permissive intervention, the risk of prejudice to the Plaintiffs from delays instituted by the Proposed Intervenors is excessive. If their claimed interest is no more

than "to defend the constitutional right to vote of all of the *eligible voters* who cast *valid ballots* in the November 3 general election," brief, p. 19 (emphasis added), they should intervene on the side of the Plaintiffs, because that is all we seek as well. Unfortunately, the evidence shows strongly and clearly that at a *minimum* tens of thousands of flagrantly illegal and fraudulent absentee ballots were cast and counted, that the signature match requirement was abolished de facto, and that enormous statistical anomalies are present in the results that are almost impossible absent malign intervention through ballot stuffing or hacking of the election system computers. Moreover, there is evidence of illegal after-hours non-public counting of ballots at State Farm Arena that further taints this election beyond redemption. The evidence shows illegal and fraudulent ballots were counted in sufficient numbers to place the outcome of the election in question. The election should therefore be invalidated according to the most basic principles of election law. Why the Proposed Intervenors want to prevent correction of this wrongdoing is obvious but of course left unsaid in a fog of lofty rhetoric.

Lastly, that the Proposed Intervenors desire to defend the Settlement Agreement challenged in this case does not provide a sufficient nexus to the claims of fraud and illegality in the gathering and tabulation of Presidential votes to warrant their intrusion into the litigation of those claims. *See SOSS2, Inc. v. United States Army Corps of Engineers*, 403 F. Supp. 3d 1233,

1240 (M.D. Fla. 2019) (the claimed interest to justify intervention must "be one which substantive law recognizes as belonging to or being owned by the [intervenor]."). Even if the Court were to accept the Proposed Intervenors' interest as a party to the Settlement Agreement as one in which permissive joinder might be appropriate, intervention should be limited to the issues concerning the validity of the Settlement Agreement rather than an open door to dog-pile its resources upon the Plaintiffs in aid of the Defendants that actually hold the legally cognizable interest in resisting the Plaintiffs' other claims. *See United States v. S. Fla. Water Mgmt. Dist.*, 922 F.2d 704, 707 (11th Cir. 1991) ("A nonparty may have a sufficient interest for some issues in a case but not others, and the court may limit intervention accordingly."); *Howard v. McLucas,* 782 F.2d 956, 960–61 (11th Cir.1986) (restricting intervenors to participation in the single, remedial issue for which they had "standing").

CONCLUSION

Wherefore, Plaintiffs respectfully request that the Motion to Intervene of the Georgia Democratic Party, Inc., the Democratic Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee be denied. In the alternative, Plaintiffs request that the Court limit intervention to issues concerning the validity of the Settlement Agreement at issue in this case.

Respectfully submitted, this 2nd day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

/s Howard Kleinhendler
NEW YORK BAR NO. 2657120
Howard Kleinhendler Esquire
369 Lexington Avenue, 12th Floor
New York, New York 10017
Office (917) 793-1188
Mobile (347) 840-2188
howard@kleinhendler.com
www.kleinhendler.com
(Admitted pro hac vice)

CALDWELL, PROPST & DELOACH, LLP

/s Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

/s Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Plaintiffs' Response to Motion to Intervene of the Democratic Party Of Georgia, the DSCC, and the DCCC with the Clerk of Court using the CM/ECF system which causes electronic service to be made upon all counsel of record.

This 2nd day of December 2020.

/s Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-14480-RR

CORECO JA'QAN PEARSON,
VIKKI TOWNSEND CONSIGLIO,
GLORIA KAY GODWIN,
JAMES KENNETH CARROLL,
CAROLYN HALL FISHER,
CATHLEEN ALSTON LATHAM,
BRIAN JAY VAN GUNDY,

Plaintiffs - Appellants,

versus

GOVERNOR OF THE STATE OF GEORGIA,
in his official capacity,
SECRETARY OF STATE FOR THE STATE OF GEORGIA,
in his official capacity as Secretary of State and
Chair of the Georgia State Election Board,
DAVID J. WORLEY,
in his official capacity as a member of the Georgia
State Election Board,
REBECCA N. SULLIVAN,
in her official capacity as a member of the Georgia
State Election Board,
MATTHEW MASHBURN,
in his official capacity as a member of the Georgia
State Election Board,
ANH LE,
in her official capacity as a member of the Georgia
State Election Board,

Defendants - Appellees.

On Appeal from the United States
District Court for the Northern District of Georgia

ORDER:

Appellants' "Emergency Motion for Expedited Briefing Schedule and Review" is GRANTED as follows:

The Appellants' initial brief is due by midnight tonight, December 2, 2020, with an appendix due on December 3, 2020. The Appellees' response brief is due by midnight on December 4, 2020. Appellants' reply brief, if any, is due by midnight on December 6, 2020.

The Court also issues the attached Jurisdictional Question. The parties' responses to the Jurisdictional Question are due December 3, 2020. For the purposes of the briefing schedule, the postponement provision of 11th Cir. R. 31-1(d) ("Unless otherwise ordered by the court, the due date for filing appellee's or appellee-cross-appellant's brief shall be postponed until the court determines that the appeal or cross-appeal shall proceed or directs the parties to address the jurisdictional question(s) in their briefs on the merits.") is suspended.

DAVID J. SMITH
Clerk of the United States Court of
Appeals for the Eleventh Circuit

ENTERED FOR THE COURT – BY DIRECTION

No. 20-14480

JURISDICTIONAL QUESTION

Please address whether, or the extent to which, the district court's November 29, 2020, order is immediately appealable. *See* 28 U.S.C. § 1292(a)(1) (granting the courts of appeals jurisdiction over interlocutory orders "granting, continuing, modifying, refusing or dissolving injunctions"); *AT&T Broadband v. Tech Commc'ns, Inc.*, 381 F.3d 1309, 1314 (11th Cir. 2004) (a temporary restraining order ("TRO") ruling may be appealable as an interlocutory injunction order when "three conditions are satisfied: (1) the duration of the relief sought or granted exceeds that allowed by a TRO ([14] days), (2) the notice and hearing sought or afforded suggest that the relief sought was a preliminary injunction, and (3) the requested relief seeks to change the status quo"); *see also Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225 (11th Cir. 2005) ("[W]hen a grant or denial of a [TRO] might have a serious, perhaps irreparable, consequence, and can be effectually challenged only by immediate appeal, we may exercise appellate jurisdiction." (quotation marks omitted)); *Ingram v. Ault*, 50 F.3d 898, 899–900 (11th Cir. 1995) ("TRO rulings, however, are subject to appeal as interlocutory injunction orders if the appellant can disprove the general presumption that no irreparable harm exists."); *McDougald v. Jenson*, 786 F.2d 1465, 1473 (11th Cir. 1986) ("[I]t has been suggested that if the TRO goes beyond simply preserving the opportunity to grant affirmative relief and actually grants affirmative relief, an appeal may be taken." (quotation marks omitted)).

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

CORECO JAQUAN PEARSON,

et al.,

Plaintiffs,

v.

BRIAN KEMP, et al.,
Defendants.

CIVIL ACTION FILE
No. 1:20-cv-4809-TCB

O R D E R

In light of the Eleventh Circuit Court of Appeals' order today, this Court's December 4 hearing is postponed, pending further order of the Court.

IT IS SO ORDERED this 2d day of December, 2020.

Timothy C. Batten, Sr.
United States District Judge

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

EMERGENCY REQUEST TO GRANT INTERVENTION

Plaintiffs filed a Complaint on Friday, November 25, 2020 and a Motion for a Temporary Restraining Order two days later. *See* ECF Nos. 1, 6. The Court held a hearing on the evening of November 29, and it issued an order the same night setting an expedited briefing schedule and partially granting Plaintiffs' Motion. *See* ECF No. 14. The next day, the Democratic Party of Georgia, Inc., the DSCC, and the DCCC (collectively, the "Democratic Political Party Committees") filed a Motion to Intervene and Brief in Support of the same. *See* ECF No. 20. On December 1, before the Court could rule on the Democratic Political Party Committees' motion or Plaintiffs responded to the motion, Plaintiffs filed an appeal. *See* ECF. No. 32. For the reasons stated in their Motion to Intervene, the Democratic Political Party Committees respectfully request that the Court immediately grant their Motion to Intervene so they can fully participate in the appeal.

The Court may grant the Motion to Intervene. An interlocutory appeal of an order on a motion requesting injunctive relief does not necessarily divest the Court of jurisdiction. *Rau v. Moats*, No. 4:18-CV-0154-HLM, 2018 WL 11233237, at *1 (N.D. Ga. Aug. 31, 2018). Although filing a notice of appeal ordinarily divests the district court of jurisdiction over issues decided in the order being appealed, jurisdiction is retained when the appeal is from an order regarding injunctive relief. *See id*. Indeed, circuit courts are aligned in the view that an interlocutory appeal does

not automatically stay all district court proceedings. *See, e.g., West Pub. Co. v. Mead Data Cent., Inc.*, 799 F.2d 1219, 1229 (8th Cir. 1986) (In affirming a preliminary injunction, the court voiced the hope that the case would be soon tried, and noted: "Indeed, so far as any requirements of law are concerned, it could have been tried already: the pendency of an interlocutory appeal . . . does not wholly divest the District Court of jurisdiction over the entire case."); *U.S. v. Price*, 688 F.2d 204, 215 (3d Cir. 1982) (district court erred in staying all proceedings during the pendency of an interlocutory appeal because an appeal from the grant or denial of injunctive relief does not divest the court of jurisdiction); *U.S. v. Lynd*, 321 F.2d 26, 28 (5th Cir. 1963) (there is a "general proposition that an appeal from the denial or granting of a preliminary injunction should not ordinarily delay the final trial of the case on its merits").

Because the Democratic Political Party Committees' pending motion to intervene was not an issue decided in this Court's November 29 order (ECF No. 14), Plaintiffs' appeal of the latter does not divest the Court of jurisdiction to decide the former.

Dated: December 2, 2020.

Respectfully submitted,

/s/ *Amanda Callais*
Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000
khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

**Pro Hac Vice*

Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times

New Roman and a point size of 14.

Dated: December 2, 2020.

/s/ *Amanda Callais*
Counsel for Proposed Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 2, 2020.

/s/ *Amanda Callais*
Counsel for Proposed Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

O R D E R

The Democratic Party of Georgia, the DSCC, and the DCCC's motion [20] to intervene and emergency motion [41] to intervene are

hereby granted.[1] The Clerk is directed to add these entities as parties and to docket their proposed motion to dismiss [20-1], brief in support of motion to dismiss [20-2], and answer [20-3].

IT IS SO ORDERED this 3d day of December, 2020.

Timothy C. Batten, Sr.
United States District Jud

[1] Because the motion to intervene involves a collateral matter not involved in the appeal, the Court retains jurisdiction over the motion.

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

BRIEF IN SUPPORT OF MOTION TO DISMISS

I. INTRODUCTION

Since the 2020 general election, various groups and individuals—unwilling to accept President-elect Biden's victory—have filed baseless lawsuits attacking the election's legitimacy.[1] Plaintiffs' current suit, alleging a "scheme and artifice to defraud [] for the purpose of illegally and fraudulently manipulating the vote count to make certain the election of Joe Biden as President of the United States," doubles down on the unfounded conspiracy theories animating these post-election challenges. Compl. for Declaratory, Emergency & Permanent Injunctive Relief ("Compl."), ECF No. 1, ¶ 2. Plaintiffs' requested relief is both unprecedented and unbelievable—they ask the Court to invalidate *all* mail-in ballots, instruct Georgia officials to "de-certify" the election results, and order the Governor to certify results "that state that President Donald Trump, is the winner of the election." Compl. ¶¶

[1] Federal courts have soundly rejected every effort to challenge President-elect Biden's victory in cases raising similar claims. *See generally, e.g.*, *Donald J. Trump for President, Inc. v. Boockvar*, No. 4:20-CV-02078, 2020 WL 6821992 (M.D. Pa. Nov. 21, 2020), *aff'd*, No. 20-3371, ECF No. 91 (3d Cir. Nov. 27, 2020) (affirming district court's refusal to enjoin Pennsylvania from certifying election results based on similar equal protection claims); *Bognet v. Sec'y of Commonwealth*, No. 20-3214, 2020 WL 6686120 (3d Cir. Nov. 13, 2020) (affirming denial of preliminary relief based on equal protection claim premised on vote dilution by purportedly illegal ballots); *Wood v. Raffensperger*, No. 1:20-cv-04561-SDG, ECF No. 54 (N.D. Ga. Nov. 20, 2020) (rejecting plaintiffs' motion to enjoin Georgia from certifying election results based on similar equal protection claims).

210-11. As the Third Circuit observed three days ago in affirming dismissal of another lawsuit seeking to throw out a state's certified election results, "Voters, not lawyers, choose the President. Ballots, not briefs, decide elections." *Donald J. Trump for President, Inc. v. Secretary Commonwealth of Pennsylvania*, No. 20-3371, at 20 (3d Cir. Nov. 27, 2020). This Court should reject Plaintiffs' request to disenfranchise five million Georgians based on implausible allegations of electoral malfeasance. In fact, this suit advances the same contorted legal theories and thin (in some instances verbatim) factual foundations that this Court swiftly dismissed only days ago. Op. & Order, *Wood v. Raffensperger*, No. 1:20-cv-04561, ECF No. 54 at 12-15 (N.D. Ga. Nov. 20, 2020) (Grimberg, J.).

The Court should dismiss this case on multiple grounds. Plaintiffs lack Article III standing to bring their claims, and further lack prudential standing to assert the Georgia General Assembly's interests. Georgia law is clear that Plaintiffs' claim for an election contest cannot be heard in federal court. And Plaintiffs' extraordinary delay in bringing suit additionally means laches bars their claims. Any of these jurisdictional bars independently precludes this Court's adjudication of Plaintiffs' suit.

Even if this Court had jurisdiction, Plaintiffs' claims fail as a matter of law. Their allegations fall far short of federal pleading standards and fail to articulate any

constitutional or statutory violation. Finally, Plaintiffs' requested relief—an extraordinary judicial override of the State's democratic process—would violate the constitutional rights of millions of Georgians. Every other court confronted with similar efforts has promptly and properly rejected them. This Court should do the same.

II. BACKGROUND

A. The General Election

Nearly five million Georgians cast ballots in the November election. On November 11, Secretary of State Brad Raffensperger (the "Secretary") announced that an audit by statewide hand recount of the presidential election would take place. This audit confirmed the outcome of the presidential election in favor of President-elect Biden, and on November 20, the Secretary certified that President-elect Biden prevailed over President Trump by a margin of 12,670 votes. Compl. ¶ 23.

On November 22, President Trump requested a *third* count by machine, which is currently underway.[2] This recount should be completed by December 2.[3]

[2] Kate Brumback, *Georgia counties set to start recount requested by Trump*, Associated Press (November 23, 2020), https://apnews.com/article/election-2020-joe-biden-donald-trump-georgia-state-elections-352e729f14a243b98fdefda94ff164ce.

[3] *Id.*

B. Prior and Ongoing Litigation

Less than three weeks ago, Lin Wood (who represents Plaintiffs in this lawsuit) filed his *own* lawsuit in this Court, asserting claims that bear a striking resemblance to those Plaintiffs press here. *Wood v. Raffensperger et al*., Case No. 1:20-cv-04651-SDG, ECF No. 5. In that case, Wood contends that the Secretary and the State Election Board performed their roles in an unconstitutional manner by entering into a settlement agreement with Proposed Intervenors in a separate federal litigation over eight months ago (the "Settlement Agreement"). *Id.* at 24, 29. The Settlement Agreement articulated uniform, statewide procedures for matching signatures on absentee ballot envelopes and curing deficiencies on the same. *See* ECF No. 5-1 at 2-4 (setting forth substantive terms of agreement between Proposed Intervenors and Defendants). Its dictates were the subject of an extended and public notice and comment process.[4] Wood also contends the Secretary and the State Election Board violated the due process rights of Republican election monitors during the hand recount. *Id.* at 32.

[4] *See* Ga. Comp. R. & Regs. 183-1-14-.13 (amended March 22, 2020); Ga. Comp. R. & Regs. 183-1-14-.13 (May 21, 2020); Ga. Comp. R. & Regs. 183-1-14-.13 (Aug. 31, 2020).

On November 20, the Hon. Steven D. Grimberg resoundingly rejected Wood's request for a temporary restraining order, finding that he lacked standing to assert these claims, ECF No. 54 at 12-19; his claims were barred by the doctrine of laches, *id.* at 19-23; and he failed to carry his burden on even one of the four requisite factors necessary to justify the temporary restraining order he sought, *id.* at 24-38. Wood appealed the denial, and the matter remains ongoing.

A separate lawsuit was filed on November 25 in Fulton County Superior Court by a John Wood, styled as an election contest, and raising many of the same claims regarding the Settlement Agreement, absentee voting, and purported inclusion of illegal votes, in addition to unsupported conspiracy claims regarding funds from a non-profit to certain counties to assist with voting. *See Wood v. Raffensperger et al.,* Pet. Election Contest, Fulton County Civil Action No. 2020CV342959 (November 25, 2020). The lawsuit names the Secretary and Governor as defendants. *Id.*

C. Plaintiffs' Lawsuit

In a transparent attempt to sidestep Wood's first failed bite at this apple, and on the same day the election contest was filed in Fulton County, Plaintiffs filed this Complaint on November 25—over three weeks after the general election and five days after Georgia officials certified the election results. Plaintiffs' 100-page complaint is disjointed, but its gist is that Georgia election officials are engaged in

an elaborate international conspiracy to "fraudulently manipulat[e] the vote count to make certain the election of Joe Biden as President of the United States." Compl. ¶ 2.

The Complaint borrows heavily from the "factual" allegations that this Court found inadequate in *Wood*, re-filing eleven affidavits from that case. It complains, again, about the constitutionality of the Settlement Agreement (*see, e.g., id.* ¶ 136) and about lack of adequate access during the hand recount of the presidential election results (*see, e.g., id.* ¶ 157). Plaintiffs additionally "support" the Complaint with "expert" declarations written for other lawsuits, concerning entirely different issues, often in different states. *See id*. ¶¶ 8, 10, 147-148*; see also* ¶ 2 n.1.

From these incredible factual allegations, Plaintiffs allege various causes of action: ostensible violations of the Elections and Electors Clauses, Compl. ¶¶ 132-142, Equal Protection Clause, *id.* ¶¶ 143-167, Due Process Clause, *id.* ¶¶ 168-181, and "wide-spread ballot fraud", *id.* ¶¶ 182-207. Among many other requests, Plaintiffs ask this Court to order Defendants to "decertify" the election for President-elect Biden and to affirmatively certify results "in favor of President Donald Trump." *Id*. ¶ 208-211.

III. LEGAL STANDARD

"The doctrine of standing asks whether a litigant is entitled to have a federal court resolve his grievance. This inquiry involves 'both constitutional limitations on federal-court jurisdiction and prudential limitations on its exercise.'" *Kowalski v. Tesmer*, 543 U.S. 125, 128-29 (2004) (quoting *Warth v. Seldin*, 422 U.S. 490, 498 (1975)). For a party to have standing, it must have "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Muransky v. Godiva Chocolatier, Inc.*, No. 16-16486 & 16-16783, 2020 WL 6305084, at *4 (11th Cir. Oct. 28, 2020). Prudential considerations require "that a party '[]must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties.'" *Kowalski*, 543 U.S. at 129.

To survive a 12(b)(6) motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is "plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "Plausibility is the key, as the well-pled allegations must nudge the claim across the line from conceivable to plausible." *Jacobs v. Tempur-Pedic Int'l, Inc.*, 626 F.3d 1327, 1333 (11th Cir. 2010) (internal quotations omitted). Where a complaint expressly alleges "fraud," Rule 9(b) requires pleading with "particularity." This pleading standard requires at a

minimum that a plaintiff alleges "facts as to time, place, and substance of the defendant's alleged fraud, specifically the details of the defendants' allegedly fraudulent acts, when they occurred, and who engaged in them.'" *U.S. ex rel. Matheny v. Medco Health Sols., Inc.*, 671 F.3d 1217, 1222 (11th Cir. 2012).

IV. LEGAL ARGUMENT

A. Plaintiffs lack standing.

Plaintiffs lack Article III standing to bring any of their constitutional claims and further lack prudential standing to bring their Elections and Electors Clause claim.

1. Plaintiffs lack standing to assert Elections and Electors Clause claims (Count I).

Plaintiffs lack standing to bring a claim under the Elections and Electors Clause. Their recurring grievance is that Defendants allegedly did not follow Georgia law regarding absentee ballot signature verification, ballot cure, and timing requirements for processing absentee ballots. *See, e.g.,* ¶¶ 51-52, 62, 133-142. But "[t]his injury is precisely the kind of undifferentiated, generalized grievance about

the conduct of government that [courts] have refused to countenance in the past." *Lance*, 549 U.S. at 442.[5]

Plaintiffs mistakenly contend that they have standing under *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020), which held that Minnesota's presidential electors were "candidates" in the general election and thus could bring an Electors Clause challenge to the validity of a Minnesota election-related consent decree. But Georgia, unlike Minnesota, differentiates between "candidates" and "presidential electors." *See, e.g.,* O.C.G.A. § 21-2-499(b) (describing the Secretary's certification of election results for the *candidates* for state and federal public office, on the one hand, and election results for the *slate of presidential electors*, on the other).

And in any event, *Carson* is a lone outlier and not binding on this Court. Other federal courts have repeatedly held that even candidates for office lack Article III standing to challenge alleged violations of state law under the Elections Clause. *See*

[5] Courts have routinely found that the Electors Clause and Elections Clause share "considerable similarity" and may be interpreted in the same manner. *Ariz. State Leg. v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 839 (2015) (Roberts, C.J., dissenting); *Bognet*, 2020 WL 6686120, at *7 (applying same test for standing under both Elections Clause and Electors Clause); *Donald J. Trump for President, Inc. v. Bullock*, No. CV 20-66-H-DLC, 2020 WL 5810556, at *11 (D. Mont. Sept. 30, 2020) ("As an initial matter, the Court finds no need to distinguish between the term 'Legislature' as it is used in the Elections Clause as opposed to the Electors Clause."). *Wood v. Raffensperger*, No. 1:20-cv-04561, ECF No. 54 at 15 n.24 (N.D. Ga. Nov. 20, 2020).

e.g., *Bognet*, 2020 WL 6686120, at *6-7 (finding that voters and candidate lacked Article III standing to bring claims under Elections and Electors Clauses); *Hotze v. Hollins*, No. 4:20-CV-03709, 2020 WL 6437668 at *2 (S.D. Tex. Nov. 2, 2020) (holding candidate lacked standing under Elections Clause and concluding that Supreme Court's cases "stand[s] for the proposition that only the state legislature (or a majority of the members thereof) have standing to assert a violation of the Elections Clause.").

Plaintiffs also lack prudential standing to bring their Elections and Electors Clauses claim. "Even if an injury in fact is demonstrated, the usual rule"—applicable here—"is that a party may assert only a violation of its own rights." *Virginia v. Am. Booksellers Ass'n*, 484 U.S. 383, 392 (1988). Plaintiffs' Count I, by contrast, "rest[s] . . . on the legal rights or interests of third parties,'" *Kowalski v. Tesmer*, 543 U.S. 125, 129 (2009). Plaintiffs' Elections and Electors Clause claims "belong, if they belong to anyone, only to the [Georgia] General Assembly." *Bognet*, 2020 WL 6686120, at *7; *see* Compl. ¶ 135 (alleging "Defendants are not part of the General Assembly and cannot exercise legislative power"). Plaintiffs have no authority to assert the rights of the General Assembly.

2. Plaintiffs lack standing to assert an equal protection claim (Counts II and III).

Plaintiffs have not stated plausible equal protection claims. Plaintiffs allege they are harmed by violations of Georgia law that "diluted" their votes. *See* Compl. ¶ 156. But this purported injury of vote-dilution-through-unlawful balloting has been repeatedly rejected as a viable basis for standing, and for good reason: any purported vote dilution somehow caused by counting allegedly improper votes would affect *all* Georgia voters and candidates, not just Plaintiffs, and therefore constitutes a generalized grievance insufficient for standing. *See, e.g.*, *Bognet*, 2020 WL 6686120, at *11–14 (rejecting identical theory for standing and explaining that "[t]his conceptualization of vote dilution—state actors counting ballots in violation of state election law—is not a concrete harm under the Equal Protection Clause of the Fourteenth Amendment"); *Moore v. Circosta*, No. 1:20-cv-911, 2020 WL 6063332, a *14 (M.D.N.C. Oct. 14, 2020) ("[T]he notion that a single person's vote will be less valuable as a result of unlawful or invalid ballots being cast is not a concrete and particularized injury in fact necessary for Article III standing."). Indeed, just days ago this Court rejected an identical claim on standing grounds. *See Wood v. Raffensperger,* No. 1:20-cv-04561, ECF No. 54 at 16 (N.D. Ga. Nov. 20, 2020) ("As Wood conceded during oral argument, under his theory any one of

Georgia's more than seven million registered voters would have standing to assert these claims. This is a textbook generalized grievance.").

3. Plaintiffs lack standing to assert a due process claim (Count IV).

For similar reasons, Plaintiffs cannot establish standing on their due process claim, which appears to assert that Georgia elections officials failed to adequately verify signatures on absentee ballots. Compl. ¶¶ 180-181. Plaintiffs' objection, in other words, is that Defendants failed to follow Georgia election law. This is once again a generalized grievance insufficient to satisfy Article III. *Lance*, 549 U.S. at 440–41; *see also Nolles v. State Comm. for Reorganization of Sch. Dists.*, 524 F.3d 892, 900 (8th Cir. 2008) (voters lacked standing to allege substantive due process claim regarding implementation of new election law where they failed to allege particularized injury).

B. The Court lacks jurisdiction over Plaintiffs' election contest claim (Count V).

Plaintiffs' Count V—in which Plaintiffs purport to state a claim under Georgia's election contest statute—cannot proceed in federal court. An election contest "article shall be tried and determined by the superior court of the county where the defendant resides . . ." O.C.G.A. § 21-2-523(a).

C. Plaintiffs' claims are barred by the equitable doctrine of laches.

Plaintiffs' extraordinary delay in filing suit is inexcusable and bars their claims. Laches bars a claim when "(1) there was a delay in asserting a right or a claim, (2) the delay was not excusable, and (3) the delay caused [the defendant] undue prejudice." *United States v. Barfield*, 396 F.3d 1144, 1150 (11th Cir. 2005). Federal courts routinely apply laches to bar untimely claims for injunctive relief in election cases. *See, e.g., Sanders v. Dooly Cnty., Ga.*, 245 F.3d 1289, 1291 (11th Cir. 2001) (concluding "that the district court did not abuse its discretion in deeming the claims seeking injunctive relief to be laches-barred" in elections context). Each element of laches is satisfied here.

First, Plaintiffs delayed considerably in asserting these claims. On March 6, 2020, Proposed Intervenors, the Secretary, and the Board executed the Settlement Agreement, which was entered on the public docket. It has since been in effect for at least three elections. Over eight months later—*after* over one million voters cast their absentee ballots in the general election, *after* Governor Kemp certified the slate of presidential electors, and *after* Wood lost his first attempt at litigating these issues—Plaintiffs now challenge the terms of the Settlement Agreement as unconstitutional, and their equal protection and Elections and Electors Clause-related grievances about Defendants' conduct flow from this document. Plaintiffs

"could have, and should have, filed [their] constitutional challenge much sooner than [they] did, and certainly not two weeks *after* the General Election." *Wood v. Raffensperger,* No. 1:20-cv-04561, ECF No. 54 at 20-21 (N.D. Ga. Nov. 20, 2020). Moreover, Plaintiffs seek to challenge decisions related to voting machines that have been heavily litigated for years, including well before the 2020 general election (*see, e.g., Curling v. Raffensperger*, No. 1:17-CV-2989-AT, 2020 WL 5994029 (N.D. Ga. Oct. 11, 2020)), and signature matches on absentee ballots that were separated from their envelopes weeks ago.[6] Plaintiffs have waited until well past the eleventh hour to challenge the processes of which they now complain.

Second, Plaintiffs have not articulated any reasonable excuse for their prolonged delay. Waiting to file this lawsuit solely because their preferred candidate lost in Georgia, as Plaintiffs appear to have done, is not a valid excuse. *See Wood,*. No. 1:20-cv-04561, ECF No. 54 at 21 ("[Plaintiffs'] claims are constitutional challenges . . . and [even if] valid, these claims should not depend on the outcome

[6] Notably, the Eleventh Circuit stayed even minor changes concerning the use of paper poll books on Election Day and ordered by the District Court weeks in advance. *See Curling v. Sec'y of State for Georgia*, No. 20-13730-RR, 2020 WL 6301847 (11th Cir. Oct. 24, 2020). Certainly, the sweeping requests that Plaintiffs seek *after* the election results have been certified are too late.

of any particular election, to wit, whether [Plaintiffs'] preferred candidates won or lost.").

Third, as this Court has already found in *Wood*, "Defendants, [Proposed] Intervenors, and the public at large would be significantly injured if the Court were to excuse [Plaintiffs'] delay." *Id.* at 22. Plaintiffs' requested relief would further "disenfranchise a substantial portion of the electorate and erode the public's confidence in the electoral process," weighing heavily in favor of laches. *Id.*; *see also Arkansas United v. Thurston*, No. 5:20-cv-5193, 2020 WL 6472651, at *5 (W.D. Ark. Nov. 3, 2020) ("[T]he equities do not favor intervention where the election is already in progress and the requested relief would change the rules of the game mid-play.").The doctrine of laches bars Plaintiff's claims.

D. Plaintiffs fail to state a claim upon which relief can be granted.

Even if this Court had jurisdiction to consider Plaintiffs' claims, their Complaint should be dismissed under Rule 12(b)(6) as they fail to state plausible claims for relief.

1. Plaintiffs' claims are simply not plausible

Under the Federal Rules, plaintiffs must allege "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570. While Rule 8 "does not require 'detailed factual allegations,' [] it demands more than an unadorned, the-

defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 555). The shortcomings in Plaintiffs' Complaint are particularly stark considering Rule 9(b), which applies to allegations of fraud. "In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake." Fed. R. Civ. P. 9(b).

Plaintiffs fail to meet the standards of Rule 8, much less Rule 9(b). Plaintiffs' theory is that a Republican governor and Republican secretary of state, both avowed supporters of President Trump, helped advance a "massive fraud" because they "purchased and rushed into use" voting machines made by Dominion (Compl. ¶ 4), which is a company created exclusively to ensure election-rigging so that "Venezuelan dictator Hugo Chavez never lost another election" (*id.* ¶ 5), which thereby allowed Iran and China to manipulate the general election to ensure President-elect Biden's victory (*id.* ¶ 111), apparently in cahoots with Georgian elections officials who forged "pristine" fraudulent ballots for Biden (*id.* ¶ 153). The Supreme Court has instructed that "[d]etermining whether a complaint states a plausible claim for relief" is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Iqbal*, 556 U.S. at 679. It challenges both experience and common sense to accept Plaintiffs' overarching theory that widespread fraud occurred during the most scrutinized election in

modern history, particularly based on the allegations at bar. Under federal pleading standards, this Court need not credit Plaintiffs' specious inferences and conclusory allegations. Plaintiffs' Complaint should therefore be dismissed.

2. Plaintiffs have not pleaded a claim under the Election and Electors Clause.

Plaintiffs' Elections and Electors Clause claims are similarly unavailing. The Elections and Electors Clause vest authority in "the Legislature" of each state to regulate "[t]he Times, Places, and Manner of holding Elections for Senators and Representatives", U.S. Const. art. I, § 4, cl. 1., and to direct the selection of presidential electors, U.S. Const. art. II, § 1, cl. 2, respectively. The Supreme Court has held, however, that state legislatures can delegate this authority—including to state officials like the Secretary. *See, e.g.*, *Ariz. State Legislature*, 576 U.S. at 807 (noting that Elections Clause does not preclude "the State's choice to include" state officials in lawmaking functions so long as such involvement is "in accordance with the method which the State has prescribed for legislative enactments") (quoting *Smiley v. Holm*, 285 U.S. 355, 367 (1932)).

Pursuant to Georgia law, the Secretary is the chief election official for the State, O.C.G.A § 21-2-50(b); *see also Wood v. Raffensperger,* No. 1:20-cv-04561, ECF No. 54 at 30 (N.D. Ga. Nov. 20, 2020) (Grimberg, J.), and the General Assembly has granted him the power and authority to manage Georgia's election

system, including the absentee voting system. *See Fair Fight Action, Inc. v. Raffensperger*, 413 F.Supp.3d 1251 (N.D. Ga. 2019); Ga. Op. Att'y Gen. No. 2005-3 (Apr. 15, 2005) (recognizing the Secretary's authority to manage Georgia's election system). Additionally, the Secretary is the Chair of the Board, which is the governmental body responsible for uniform election practice in Georgia. O.C.G.A. § 21-2-31; *see also Curling v. Raffensperger*, 403 F. Supp. 3d 1311, 1345 (N.D. Ga. 2019) ("[T]he [] Board is charged with enforcing Georgia's election code under state law."). In both roles, the Secretary has significant statutory authority to set election standards. *See New Georgia Project v. Raffensperger*, No. 1:20-CV-01986-ELR, 2020 WL 5200930, at *8 (N.D. Ga. Aug. 31, 2020).

Plaintiffs fleetingly assert the "cure procedure" created as part of the Settlement Agreement violates the Electors and Elections Clause. *See* Compl. ¶ 136. But Judge Grimberg already rejected that theory. *See Wood*, No. 1:20-cv-04561, ECF No. 54 at 31 (rejecting Wood's Elections and Electors Clause claim because "[t]he Settlement Agreement is a manifestation of Secretary Raffensperger's statutorily granted authority"). Plaintiffs also compile a list of "legal infractions" but fail to tie those alleged infractions in any plausible way back to the Electors and Elections Clause.

3. Plaintiffs have not pleaded an equal protection claim.

Plaintiffs have not stated cognizable equal protection claims. Counts II and III allege that Defendants "failed to comply with the requirements of the Georgia Election Code and thereby diluted the lawful ballots of the Plaintiffs[.]" Compl. ¶ 156 (Count II); *see also id.* ¶ 172 (alleging disparate treatment of Georgia voters results in the dilution of the vote). This is not an equal protection injury. Vote dilution is a viable basis for federal claims only in certain contexts, such as when laws structurally devalue one community's votes over another's. *See, e.g.*, *Bognet*, 2020 WL 6686120, at *11 ("[V]ote dilution under the Equal Protection Clause is concerned with votes being weighed differently."). But Plaintiffs' "conceptualization of vote dilution—state actors counting ballots in violation of state election law—is not a concrete harm under the Equal Protection Clause of the Fourteenth Amendment." *Id.* at *11; *see also Wood*, 2020 WL 6817513, at *8–10 (concluding that vote-dilution injury is not "cognizable in the equal protection framework").

Plaintiffs assert a confusing "disparate treatment" claim, s*ee* Compl. ¶¶ 168-72, predicated on provisions of the Settlement Agreement that set forth "standards to be followed by the clerks and registrars in processing absentee ballots *in the State of Georgia*" as a whole, not across different counties. *Id.* ¶ 52 (emphasis added).

But the promulgation of uniform procedures with which Plaintiffs disagree is not an equal protection violation. As the Third Circuit recently concluded under similar circumstances in determining that the plaintiffs failed to state an equal protection claim because they lacked standing:

> Plaintiffs advance an Equal Protection Clause argument based solely on state officials' alleged violation of state law that does not cause unequal treatment. And if dilution of lawfully cast ballots by the "unlawful" counting of invalidly cast ballots were a true equal-protection problem, then it would transform every violation of state election law (and, actually, every violation of every law) into a potential federal equal-protection claim requiring scrutiny of the government's 'interest' in failing to do more to stop the illegal activity. *That is not how the Equal Protection Clause works.*

Bognet, 2020 WL 6686120, at *11 (internal citations and quotations omitted; emphasis added.) The same reasoning applies here.

Plaintiffs also briefly insinuate an equal protection claim by alleging that Defendants "denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants," Compl. ¶161, but this too lacks merit. Courts have repeatedly held that "there is no individual constitutional right to serve as a poll watcher." *Boockvar*, 2020 WL 5997680, at *67 (quoting *Pa. Democratic Party v. Boockvar*, 238 A.3d 345, 385 (Pa. 2020)). Plaintiffs cite no authority to the contrary.

4. Plaintiffs have not pleaded a due process claim.

In Count IV, Plaintiffs attempt to package their theories of purported illegal voting under Georgia law and fraud into a due process theory, once again alleging such violations of state law diluted their votes. *See* Compl. ¶ 178. But as discussed *supra*, vote dilution is a context-specific theory of constitutional harm premised on the Equal Protection Clause, not the Due Process Clause, and at any rate Plaintiffs have failed to plead a cognizable vote-dilution claim. Even lending Plaintiffs a more charitable reading—by construing the allegations in the complaint as a substantive due process claim—the Complaint would still fall short.

It is well-settled that "[f]ederal courts should not 'involve themselves in garden variety election disputes.'" *Serpentfoot v. Rome City Comm'n*, No. 4:09-CV-0187-HLM, 2010 WL 11507239, at *16 (N.D. Ga. Mar. 3, 2010) (quoting *Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir. 1986) (noting "[o]nly in extraordinary circumstances will a challenge to a state election rise to the level of a constitutional deprivation"). For the substantive Due Process Clause to be implicated, the situation "must go well beyond the ordinary dispute over the counting and marking of ballots." *Curry*, 802 F.2d at 1315.

As Judge Grimberg observed based on much of the (exact) same evidence, the allegedly illegal votes and supposedly improvident behavior, even if true, amount to

little more than these types of "garden variety" disputes that simply do not rise to constitutional violations. *Wood*, ECF No. 54 at 36; *see also, e.g.*, *Serpentfoot v. Rome City Comm'n*, 426 F. App'x 884, 887 (11th Cir. 2011) ("[Plaintiff's] allegations show, at most, a single instance of vote dilution and not an election process that has reached the point of patent and fundamental unfairness indicative of a due process violation.").[7]

Citizens are not constitutionally entitled to an error-free election. The sort of unconstitutional irregularity that courts have entertained under the Due Process Clause consists of widescale disenfranchisement. *See, e.g.*, *Bennett v. Yoshina*, 140 F.3d 1218, 1226-27 (9th Cir. 1998). But Plaintiffs' Complaint does not allege disenfranchisement at all. Rather, it seeks to disenfranchise millions of Georgian voters by "decertifying" the result and declaring their preferred candidate the new winner. Plaintiffs' due process claim must be dismissed.

E. Plaintiffs are not entitled to the relief they seek.

The requested relief is not tailored to the allegations in the Complaint because instead of remedying a constitutional violation, Plaintiffs' requested relief *would*

[7] In contrast, it would violate the constitutional rights of the millions of voters who relied on many of the procedures challenged now, after the election. *See e.g.*, *Griffin v. Burns*, 570 F.2d 1065, 1079 (1st Cir. 1978) (finding disenfranchisement of electorate who voted by absentee ballot a violation of substantive due process).

create one. *See, e.g.*, Compl. ¶ 210; *see also Stein v. Cortés*¸ 223 F.Supp.3d 423, 442 (E.D. Pa 2016) (granting relief that "could well ensure that no Pennsylvania vote counts . . . would be both outrageous and completely unnecessary"). As another federal court stated this past week when the Trump Campaign sought similar relief in Pennsylvania, "[t]his Court has been unable to find any case in which a plaintiff has sought such a drastic remedy in the contest of an election, in terms of the sheer volume of votes asked to be invalidated." *Donald J. Trump for President, Inc. v. Boockvar*, No. 4:20-CV-02078, 2020 WL 6821992, at *1 (M.D. Pa. Nov. 21, 2020), *aff'd*, No. 20-3371 (3d Cir. Nov. 27, 2020).

"Voters, not lawyers, choose the President. Ballots, not briefs, decide elections." *Trump for President*, No. 20-3371, ECF No. 91 at 20. The same should be true in Georgia.

V. CONCLUSION

For the foregoing reasons, Proposed Intervenor-Defendants respectfully request that the Court dismiss Plaintiffs' complaint.

[signature block on following page]

Dated: November 30, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000

khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

**Pro Hac Vice Application Pending*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: November 30, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants

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MOTION TO DISMISS

COME NOW THE DEMOCRATIC PARTY OF GEORGIA, INC., the DSCC, and the DCCC (collectively, the "Democratic Political Party Committees"), by and through their attorneys, and file this Proposed Motion to Dismiss pursuant to the Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

The basis for the motion is more fully set forth in the Democratic Political Party Committees' accompanying Brief in Support of Proposed Motion to Dismiss.

Dated: November 30, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP

700 Thirteenth Street NW, Suite 800
Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000
khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

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Counsel for Proposed Intervenor-Defendants

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Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

INTERVENOR-DEFENDANTS' ANSWER TO PLAINTIFFS' AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Proposed Intervenor-Defendants, the Democratic Party of Georgia, Inc. ("DPG"), the DSCC, and the DCCC (collectively, the "Democratic Political Party Committees") by and through their attorneys, answer Plaintiffs' Amended Complaint for declaratory and injunctive relief (hereafter, "Plaintiffs' Complaint") as set forth below. Unless expressly admitted, each allegation in the complaint is denied, and the Democratic Political Party Committees demand strict proof thereof.

NATURE OF THE ACTION

Responding to the unnumbered introductory paragraph and the footnote referenced therein, the Democratic Political Party Committees deny the allegations.

1. Paragraph 1 of Plaintiffs' Complaint states:

> As a civil action, the Plaintiffs' burden of proof is a "preponderance of the evidence" to show, as the Georgia Supreme Court has made clear that, *"[i] was not incumbent upon [Plaintiff] to show how the [] voters would have voted if their [absentee] ballots had been regular. [Plaintiff] only had to show that there were enough irregular ballots to place in doubt the result."* *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (2004) (*citing Howell v. Fears*, 275 Ga. 627, 571 S.E.2d 392 (2002).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Mead*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

2. Paragraph 2 of Plaintiffs' Complaint states:

The scheme and artifice to defraud was for the purpose of illegally and fraudulently manipulating the vote count to make certain the election of Joe Biden as President of the United States.

Answer: Denied.

3. Paragraph 3 of Plaintiffs' Complaint states:

The fraud was executed by many means, but the most fundamentally troubling, insidious, and egregious is the systemic adaptation of old-fashioned "ballot-stuffing." It has now been amplified and rendered virtually invisible by computer software created and run by domestic and foreign actors for that very purpose. Mathematical and statistical anomalies rising to the level of impossibilities, as shown by affidavits of multiple witnesses, documentation, and expert testimony evince this scheme across the state of Georgia. Especially egregious conduct arose in Forsyth, Paulding, Cherokee, Hall, and Barrow County. This scheme and artifice to defraud affected tens of thousands of votes in Georgia alone and "rigged" the election in Georgia for Joe Biden.

Answer: Denied.

4. Paragraph 4 of Plaintiffs' Complaint states:

The massive fraud begins with the election software and hardware from Dominion Voting Systems Corporation ("Dominion") only recently purchased and rushed into use by Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and the Georgia Board of Elections. Sequoia voting machines were used in 16 states and the District of Colombia in 2006. Smartmatic, which has revenue of about $100 million, focuses on Venezuela and other markets outside the U.S. After selling Sequoia, Smartmatic's chief executive, Anthony Mugica. Mr. Mugica said, he hoped Smartmatic would work with Sequoia on projects in the U.S., though Smartmatic wouldn't take an equity stake." *Id.*

Answer: The Democratic Political Party Committees deny that any fraud occurred with respect to the Dominion Voting Systems Corporation ("Dominion") election software and hardware. The Democratic Political Party Committees lack sufficient information to admit or deny the remaining allegations in Paragraph 4 of Plaintiffs' Complaint and on that basis deny the same.

5. Paragraph 5 of Plaintiffs' Complaint states:

> Smartmatic and Dominion were founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election. (*See* Redacted whistleblower affiant, *attached as Exh. 2*) Notably, Chavez "won" every election thereafter.

Answer: Denied.

6. Paragraph 6 of Plaintiffs' Complaint states:

> As set forth in the accompanying whistleblower affidavit, the Smartmatic software was designed to manipulate Venezuelan elections in favor of dictator Hugo Chavez:
>
> Smartmatic's electoral technology was called "Sistema de Gestión Electoral" (the "Electoral Management System"). Smartmatic was a pioneer in this area of computing systems. Their system provided for transmission of voting data over the internet to a computerized central tabulating center. The voting machines themselves had a digital display, fingerprint recognition feature to identify the voter, and printed out the voter's ballot. The voter's thumbprint was linked to a computerized record of that voter's identity. Smartmatic created and operated the entire system.

Answer: The Democratic Political Party Committees admit that the quoted language is from the affidavit attached to Plaintiffs' Complaint. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 6 and, on that basis, deny the same.

7. Paragraph 7 of Plaintiffs' Complaint states:

> A core *requirement* of the Smartmatic software design was the *software's ability to hide its manipulation of votes from any audit*. As the whistleblower explains:
>
> Chavez was most insistent that Smartmatic design the system in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumb print or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted, but that voter would not be tracked to the changed vote. He made it clear that the system would have to be setup to not leave any evidence of the changed vote for a specific voter and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumb print was going with a changed vote. Smartmatic agreed to create such a system and produced the software and hardware that accomplished that result for President Chavez. (See *Id.*, see also Exh. 3, Aff. Cardozo, attached hereto)).

Answer: The Democratic Political Party Committees admit that the quoted language is from the affidavit attached to Plaintiffs' Complaint. The Democratic Political Party Committees lack knowledge and information

sufficient to form a belief as to the truth of the substance of the quoted language and of each and every other allegation in Paragraph 7 and, on that basis, deny the same.

8. Paragraph 8 of Plaintiffs' Complaint states:

> The design and features *of* the Dominion software do not permit a simple audit to reveal its misallocation, redistribution, or deletion of votes. First, the system's central accumulator does not include a protected real-time audit log that maintains the date and time stamps of all significant election events. Key components of the system utilize unprotected logs. Essentially this allows an unauthorized user the opportunity to arbitrarily add, modify, or remove log entries, causing the machine to log election events that do not reflect actual voting tabulations—or more specifically, do not reflect the actual votes of or the will of the people. (*See* Hursti August 2019 Declaration, attached hereto as Exh. 4, at pars. 45-48; and attached hereto, as Exh. 4B, October 2019 Declaration in Document 959-4, at p. 18, par. 28).

Answer: The Democratic Political Party Committees lack sufficient information to admit or deny the allegations in Paragraph 8 of Plaintiffs' Complaint and on that basis deny the same.

9. Paragraph 9 of Plaintiffs' Complaint states:

> Indeed, under the professional standards within the industry in auditing and forensic analysis, when a log is unprotected, and can be altered, it can no longer serve the purpose of an audit log. There is incontrovertible physical evidence that the standards of physical security of the voting machines and the software were breached, and machines were connected to the internet in violation of professional standards and state and federal laws. (*See Id*.)

Answer: The Democratic Political Party Committees deny that there is any physical evidence, much less incontrovertible physical evidence, that the standards of physical security of the voting machines and the software were breached and that machines were connected to the internet in violation of professional standards and state and federal laws. The Democratic Political Party Committees lack sufficient information to admit or deny the remaining allegations in Paragraph 9 of Plaintiffs' Complaint and on that basis deny the same.

10. Paragraph 10 of Plaintiffs' Complaint states:

> Moreover, lies and conduct of Fulton County election workers about a delay in voting at State Farm Arena and the reasons for it evince the fraud.

Answer: Denied.

11. Paragraph 11 of Plaintiffs' Complaint states:

> Specifically, video from the State Farm Arena in Fulton County shows that on November 3rd after the polls closed, election workers falsely claimed a water leak required the facility to close. All poll workers and challengers were evacuated for several hours at about 10:00 PM. However, several election workers remained unsupervised and unchallenged working at the computers for the voting tabulation machines until after 1:00 AM.

Answer: The Democratic Political Party Committees admit that election workers were evacuated from the State Farm Arena in Fulton County for several hours starting at approximately 10:00 PM on November 3, 2020. The

Democratic Political Party Committees deny that election workers falsely claimed that such a water leak occurred. The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 11 and, on that basis, deny the same.

12. Paragraph 12 of Plaintiffs' Complaint states:

> Defendants Kemp and Raffensperger rushed through the purchase of Dominion voting machines and software in 2019 for the 2020 Presidential Election. A certificate from the Secretary of State was awarded to Dominion Voting Systems but is undated. (*See* attached hereto Exh. 5, copy Certification for Dominion Voting Systems from Secretary of State). Similarly a test report is signed by Michael Walker as Project Manager but is also undated. (See Exh. 6, Test Report for Dominion Voting Systems, Democracy Suite 5-4-A)

Answer: The Democratic Political Party Committees admit that the copy of the Certificate for Dominion Voting Systems in Plaintiffs' Exhibit 5 and the copy of the test report in Plaintiffs' Exhibit 6 do not contain signatures. The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 12 and, on that basis, deny the same.

13. Paragraph 13 of Plaintiffs' Complaint states:

> Defendants Kemp and Raffensperger disregarded all the concerns that caused Dominion software to be rejected by the Texas Board of Elections in

2018, namely that it was vulnerable to undetected and non-auditable manipulation. An industry expert, Dr. Andrew Appel, Princeton Professor of Computer Science and Election Security Expert has recently observed, with reference to Dominion Voting machines: "I figured out how to make a slightly different computer program that just before the polls were closed, it switches some votes around from one candidate to another. I wrote that computer program into a memory chip and now to hack a voting machine you just need 7 minutes alone with it and a screwdriver." (Attached hereto Exh. 7, Study, Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters by Andrew W. Appel Princeton University, Richard A. DeMillo, Georgia Tech Philip B. Stark, for the Univ. of California, Berkeley, December 27, 2019).

Answer: The Democratic Political Party Committees admit that the quoted language is from Plaintiffs' Exhibit 7. The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13 and, on that basis, deny the same.

14. Paragraph 14 of Plaintiffs' Complaint states:

As explained and demonstrated in the accompanying redacted declaration of a former electronic intelligence analyst under 305th Military Intelligence with experience gathering SAM missile system electronic intelligence, the Dominion software was accessed by agents acting on behalf of China and Iran in order to monitor and manipulate elections, including the most recent US general election in 2020. This Declaration further includes a copy of the patent records for Dominion Systems in which Eric Coomer is listed as the first of the inventors of Dominion Voting Systems. (See Attached hereto as Exh. 8, copy of redacted witness affidavit, 17 pages, November 23, 2020).

Answer: The Democratic Political Party Committees admit that the copy of the patent records for Dominion Systems in Exhibit 8 list Eric Coomer as the first of the inventors of Dominion Voting Systems and deny the remaining allegations in Paragraph 14.

15. Paragraph 15 of Plaintiffs' Complaint states:

> Expert Navid Keshavarez-Nia explains that US intelligence services had developed tools to infiltrate foreign voting systems including Dominion. He states that Dominion's software is vulnerable to data manipulation by unauthorized means and permitted election data to be altered in all battleground states. He concludes that hundreds of thousands of votes that were cast for President Trump in the 2020 general election were transferred to former Vice-President Biden. (Exh. 26).

Answer: The Democratic Political Party Committees admit that Exhibit 26 to Plaintiffs' Complaint makes the same allegations as Paragraph 15 and deny the substance of those allegations and any other or different allegations in Paragraph 15.

16. Paragraph 16 of Plaintiffs' Complaint states:

> Additionally, incontrovertible evidence Board of Elections records demonstrates that at least 96,600 absentee ballots were requested and counted but were never recorded as being returned to county election boards by the voter. *Thus, at a minimum, 96,600 votes must be disregarded*. (See Attached hereto, Exh. 9, R. Ramsland Aff.).

Answer: Denied.

17. Paragraph 17 of Plaintiffs' Complaint states:

> The Dominion system used in Georgia erodes and undermines the reconciliation of the number of voters and the number of ballots cast, such that these figures are permitted to be unreconciled, opening the door to ballot stuffing and fraud. The collapse of reconciliation was seen in Georgia's primary and runoff elections this year, and in the November election, where it was discovered during the hand audit that 3,300 votes were found on memory sticks that were not uploaded on election night, plus in Floyd county, another 2,600 absentee ballots had not been scanned. These "found votes" reduced Biden's lead over Donald Trump.

Answer: The Democratic Political Party Committees admit that recounts discovered some previously uncounted votes and deny every remaining allegation in Paragraph 17.

18. Paragraph 18 of Plaintiffs' Complaint states:

> Georgia's election officials and poll workers exacerbated and helped, whether knowingly or unknowingly, the Dominion system carry out massive voter manipulation by refusing to observe statutory safeguards for absentee ballots. Election officials failed to verify signatures and check security envelopes. They barred challengers from observing the count, which also facilitated the fraud.

Answer: Denied.

19. Paragraph 19 of Plaintiffs' Complaint states:

> Expert analysis of the actual vote set forth below demonstrates that at least 96,600 votes were illegally counted during the Georgia 2020 general election. All of the evidence and allegation herein is more than sufficient to place the result of the election in doubt. More evidence arrives by the day and discovery should be ordered immediately.

Answer: Denied.

20. Paragraph 20 of Plaintiffs' Complaint states:

Georgia law, (OCGA 21-5-552) [sic] provides for a contest of an election where:

(1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result; . . . (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result; (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-5-522 and deny each other or different allegation.

21. Paragraph 21 of Plaintiffs' Complaint states:

As further set forth below, all of the above grounds have been satisfied and compel this Court to set aside the 2020 General Election results which fraudulently concluded that Mr. Biden defeated President Trump by 12,670 votes.

Answer: Denied.

22. Paragraph 22 of Plaintiffs' Complaint states:

Separately, and independently, there are sufficient Constitutional grounds to set aside the election results due to the Defendants' failure to observe statutory requirements for the processing and counting of absentee ballots which led to the tabulation of more than fifty thousand illegal ballots.

Answer: Denied.

THE PARTIES

23. Paragraph 23 of Plaintiffs' Complaint states:

> Plaintiff Coreco Ja'Qan ("CJ") Pearson, is a registered voter who resides in Augusta, Georgia. He is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia. He has standing to bring this action under *Carson v. Simon*, 2020 US App Lexis 34184 (8th Cir. Oct. 29, 2020). He brings this action to set aside and decertify the election results for the Office of President of the United States that was certified by the Georgia Secretary of State on November 20, 2020. The certified results showed a plurality of 12,670 votes in favor of former Vice-President Joe Biden over President Trump.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 23. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Coreco Ja'Qan Pearson is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website. The Democratic Political Party Committees deny that Plaintiff Pearson has Article III standing to bring this action. The Democratic Political Party Committees admit the last sentence of Paragraph 23.

24. Paragraph 24 of Plaintiffs' Complaint states:

Plaintiff Vikki Townsend Consiglio, is a registered voter who resides in Henry County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 24. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Vikki Townsend Consiglio is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

25. Paragraph 25 of Plaintiffs' Complaint states:

Plaintiff Gloria Kay Godwin, is a registered voter who resides in Pierece County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 25. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Gloria Kay Godwin is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

26. Paragraph 26 of Plaintiffs' Complaint states:

Plaintiff James Kenneth Carroll, is a registered voter who resides in Dodge County, Georgia. He is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 26. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff James Kenneth Carroll is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

27. Paragraph 27 of Plaintiffs' Complaint states:

Plaintiff Carolyn Hall Fisher, is a registered voter who resides in Forsyth County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 27. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Carolyn Hall Fisher is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

28. Paragraph 28 of Plaintiffs' Complaint states:

> Plaintiff Cathleen Alston Latham, is a registered voter who resides in Coffee County, Georgia. She is a nominee of the Republican Party to be a Presidential Elector on behalf of the State of Georgia.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 28. These allegations are therefore denied. The Democratic Political Party Committees admit that Plaintiff Cathleen Alston Latham is listed as a nominee of the Republican Party to be a Presidential Elector on the Georgia Secretary of State's website.

29. Paragraph 29 of Plaintiffs' Complaint states:

> Plaintiff Jason M. Shepherd is the Chairman of the Cobb County Republican Party and brings this action in his official capacity on behalf of the Cobb County Republican Party.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff Jason M. Shepherd's status as the Chairman of the Cobb County Republican Party. These allegations are therefore denied.

30. Paragraph 30 of Plaintiffs' Complaint states:

> Plaintiff Brian Jay Van Gundy is registered voter in Gwinnett County, Georgia. He is the Assistant Secretary of the Georgia Republican Party.

Answer: The Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff Brian Jay Van Gundy's residence, voter registration status, or status as the Assistant Secretary of the Georgia Republican Party. These allegations are therefore denied.

31. Paragraph 31 of Plaintiffs' Complaint states:

> Defendant Governor Brian Kemp (Governor of Georgia) is named herein in his official capacity as Governor of the State of Georgia. On or about June 9, 2019, Governor Kemp bought the new Dominion Voting Systems for Georgia, budgeting 150 million dollars for the machines. Critics are quoted, "Led by Abrams, Democrats fought the legislation and pointed to cybersecurity experts who warned it would leave Georgia's elections susceptible to hacking and tampering." And "Just this week, the Fair Fight voting rights group started by [Stacy] Abrams launched a television ad critical of the bill. In a statement Thursday, the group called it "corruption at its worst" and a waste of money on "hackable voting machines."

Answer: The Democratic Political Party Committees admit that Brian Kemp is the Governor of Georgia. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 31 and therefore deny the same.

32. Paragraph 32 of Plaintiffs' Complaint states:

> Defendant Brad Raffensperger ("Secretary Raffensperger") is named herein in his official capacity as Secretary of State of the State of Georgia and the Chief Election Official for the State of Georgia pursuant to Georgia's Election Code and O.C.G.A. § 21-2-50. Secretary Raffensperger is a state

official subject to suit in his official capacity because his office "imbues him with the responsibility to enforce the [election laws]." *Grizzle v. Kemp*, 634 F.3d 1314, 1319 (11th Cir. 2011). Secretary Raffensperger serves as the Chairperson of Georgia's State Election Board, which promulgates and enforces rules and regulations to (i) obtain uniformity in the practices and proceedings of election officials as well as legality and purity in all primaries and general elections, and (ii) be conducive to the fair, legal, and orderly conduct of primaries and general elections. *See* O.C.G.A. §§ 21-2-30(d), 21-2-31, 21-2-33.1. Secretary Raffensperger, as Georgia's chief elections officer, is further responsible for the administration of the state laws affecting voting, including the absentee voting system. *See* O.C.G.A. § 21-2-50(b).

Answer: The Democratic Political Party Committees admit that Brad Raffensperger is the Secretary of State of Georgia with certain responsibilities as described by law. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases and statutory provisions, the Democratic Political Party Committees deny the allegations. To the extent a response is otherwise required, the Democratic Political Party Committees deny the allegations.

33. Paragraph 33 of Plaintiffs' Complaint states:

Defendants Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Le (hereinafter the "State Election Board") are members of the State Election Board in Georgia, responsible for "formulating, adopting, and promulgating such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections." O.C.G.A. § 21-2-31(2). Further, the State Election Board "promulgate[s] rules and regulations to define uniform and nondiscriminatory standards

concerning what constitutes a vote and what will be counted as a vote for each category of voting system" in Georgia. O.C.G.A. § 21-2-31(7). The State Election Board, personally and through the conduct of the Board's employees, officers, agents, and servants, acted under color of state law at all times relevant to this action and are sued for emergency declaratory and injunctive relief in their official capacities.

Answer: The Democratic Political Party Committees admit that Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Lee are members of the State Election Board in Georgia with certain responsibilities as defined by law. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statutory provisions, the Democratic Political Party Committees deny the allegations. To the extent a response is otherwise required, the Democratic Political Party Committees deny the allegations.

JURISDICTION AND VENUE

34. Paragraph 34 of Plaintiffs' Complaint states:

This Court has subject matter jurisdiction under 28 U.S.C. 1331 which provides, "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

Answer: The Democratic Political Party Committees deny that this Court has subject-matter jurisdiction.

35. Paragraph 35 of Plaintiffs' Complaint states:

This Court also has subject matter jurisdiction under 28 U.S.C. 1343 because this action involves a federal election for President of the United States. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush v. Gore*, 531 U.S. 98, 113 (2000) (Rehnquist, C.J., concurring); *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

Answer: The Democratic Political Party Committees deny that this Court has subject-matter jurisdiction. The Democratic Political Party Committees admit that the Plaintiff has quoted *Bush v. Gore* and deny each other or different allegation.

36. Paragraph 36 of Plaintiffs' Complaint states:

The jurisdiction of the Court to grant declaratory relief is conferred by 28 U.S.C. 2201 and 2202 and by Rule 57 and 65, Fed. R. Civ. P. 7.

Answer: Denied because the Court lacks subject-matter jurisdiction.

37. Paragraph 37 of Plaintiffs' Complaint states:

This Court has jurisdiction over the related Georgia Constitutional claims and State law claims under 28 U.S.C. 1367.

Answer: Denied because the Court lacks subject-matter jurisdiction.

38. Paragraph 38 of Plaintiffs' Complaint states:

In Georgia, the "legislature" is the General Assembly. See Ga. Const. Art. III, § I, Para. I.

Answer: The Democratic Political Party Committees admit that the General Assembly is granted "legislative power" by Ga. Const. Art. I, § I, Para. 1, and deny each other or different allegation.

39. Paragraph 39 of Plaintiffs' Complaint states:

> Because the United States Constitution reserves for state legislatures the power to set the time, place, and manner of holding elections for Congress and the President, state executive officers, including but not limited to Secretary Raffensperger, have no authority to exercise that power unilaterally, much less flout existing legislation or the Constitution itself.

Answer: Paragraph 39 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Democratic Political Party Committees deny the allegations.

STATEMENT OF FACTS

40. Paragraph 40 of Plaintiffs' Complaint states:

> Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988, and under Georgia law, O.C.G.A. § 21-2-522 to remedy deprivations of rights, privileges, or immunities secured by the Constitution and laws of the United States and to contest the election results.

Answer: The Democratic Political Party Committees admit that Plaintiffs' are asserting claims under 42 U.S.C. §§ 1983 and 1988 and under O.C.G.A. § 21-

2-522. The Democratic Political Party Committees deny that Plaintiffs have established a cognizable claim under any of these provisions.

41. Paragraph 41 of Plaintiffs' Complaint states:

> The United States Constitution sets forth the authority to regulate federal elections, the Constitution provides:
>
> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators. U.S. CONST. art. I, § 4 ("Elections Clause").

Answer: The Democratic Political Party Committees admit that the quoted language is from U.S. Const. Art. I, section 4 and deny each other or different allegation in Paragraph 41.

42. Paragraph 42 of Plaintiffs' Complaint states:

> With respect to the appointment of presidential electors, the Constitution 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. U.S. CONST. art. II, § 1 ("Electors Clause").

Answer: The Democratic Political Party Committees admit that the quoted language is from U.S. Const. art. II, § 1 and deny each other or different allegation in Paragraph 42.

43. Paragraph 43 of Plaintiffs' Complaint states:

> Neither Defendant is a "Legislature" as required under the Elections Clause or Electors Clause. The Legislature is "'the representative body which ma[kes] the laws of the people.'" *Smiley* 285 U.S. 365. Regulations of congressional and presidential elections, thus, "must be in accordance with the method which the state has prescribed for legislative enactments." Id. at 367; *see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 135 S. Ct. 2652, 2668 (U.S. 2015).

Answer: The Democratic Political Party Committees admit the quoted language is from *Smiley* and deny each other or different allegation. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

44. Paragraph 44 of Plaintiffs' Complaint states:

> While the Elections Clause "was not adopted to diminish a State's authority to determine its own lawmaking processes," *Ariz. State Legislature*, 135 S. Ct. at 2677, it does hold states accountable to their chosen processes when it comes to regulating federal elections, *id.* at 2668. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush*, 531 U.S. at 113 (Rehnquist, C.J., concurring); *Smiley*, 285 U.S. at 365.

Answer: The Democratic Political Party Committees admit the quoted language is from *Ariz. State Legislature*, *Bush*, and *Smiley* and deny each other or different allegation. To the extent Plaintiffs' characterization and

interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

45. Paragraph 45 of Plaintiffs' Complaint states:

Plaintiffs also bring this action under Georgia law, O.C.G.A. § 21-2-522, Grounds for Contest:

> A result of a primary or election may be contested on one or more of the following grounds:
> (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;
> (2) When the defendant is ineligible for the nomination or office in dispute;
> (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;
> (4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or
> (5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.

O.C.G.A. § 21-2-522.

Answer: Paragraph 45 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Democratic Political Party Committees deny the allegations.

46. Paragraph 46 of Plaintiffs' Complaint states:

Under O.C.G.A. § 21-2-10, Presidential Electors are elected.

Answer: Admitted.

47. Paragraph 47 of Plaintiffs' Complaint states:

> Under O.C.G.A. § 21-2-386(a)(l)(B), the Georgia Legislature instructed the county registrars and clerks (the "County Officials") to handle the absentee ballots as directed therein. The Georgia Legislature set forth the procedures to be used by each municipality for appointing the absentee ballot clerks to ensure that such clerks would "perform the duties set forth in this Article." *See* O.C.G.A. § 21-2-380.1.

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). Paragraph 45 of Plaintiffs' Complaint otherwise contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations.

48. Paragraph 48 of Plaintiffs' Complaint states:

> The Georgia Election Code instructs those who handle absentee ballots to follow a clear procedure:
>
> > Upon receipt of each [absentee] ballot, a registrar or clerk ***shall*** write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk ***shall*** then compare the identifying information on the oath with the information on file in his or her office, ***shall*** compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absentee elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application, and ***shall***, if the information and signature appear to be

> valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct.

O.C.G.A. § 21-2-386(a)(l)(B) (emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation.

49. Paragraph 49 of Plaintiffs' Complaint states:

> Under O.C.G.A. § 21-2-386(a)(l)(C), the Georgia Legislature also established a clear and efficient process to be used by County Officials if they determine that an elector has failed to sign the oath on the outside envelope enclosing the ballot or that the signature does not conform with the signature on file in the registrar's or clerk's office (a "defective absentee ballot").

Answer: The Democratic Political Party Committees admit that O.C.G.A. § 21-2-386(a)(l)(C) relates to signature matching. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations.

50. Paragraph 50 of Plaintiffs' Complaint states:

> The Georgia Legislature also provided for the steps to be followed by County Officials with respect to defective absentee ballots:
>
> > ***If the elector has failed to sign the oath, or if the signature does not appear to be valid***, or if the elector has failed to furnish required information ***or information so furnished does not conform with that on file in the registrar's or clerk's office***, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope "Rejected," giving the reason therefor. The board of registrars or absentee ballot clerk *shall* promptly ***notify the elector of such rejection***, a copy of which notification ***shall*** be retained in the files of the board of registrars or absentee ballot clerk for at least one year.
>
> O.C.G.A. § 21-2 -386(a) (l)(C) (emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2 -386(a)(l)(C). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations.

I. DEFENDANTS' UNAUTHORIZED ACTIONS VIOLATED THE GEORGIA ELECTION CODE AND CAUSED THE PROCESSING OF DEFECTIVE ABSENTEE BALLOTS

51. Paragraph 51 of Plaintiffs' Complaint states:

> Notwithstanding the clarity of the applicable statutes and the constitutional authority for the Georgia Legislature's actions, on March 6, 2020, the Secretary of State of the State of Georgia, Secretary Raffensperger, and the State Election Board, who administer the state elections (the "Administrators") entered into a "Compromise and Settlement Agreement

and Release" (the "Litigation Settlement") with the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee (collectively, the "Democrat Party Agencies"), setting forth different standards to be followed by the clerks and registrars in processing absentee ballots in the State of Georgia.

Answer: The Democratic Political Party Committees admit that on March 6, 2020, Secretary Raffensperger, the state Election Board, Democratic Party of Georgia, DSCC, and DCCC entered into a settlement agreement. The Democratic Political Party Committees deny each other or different allegation.

52. Paragraph 52 of Plaintiffs' Complaint states:

Under the Settlement, however, the Administrators agreed to change the statutorily prescribed manner of handling absentee ballots in a manner that is not consistent with the laws promulgated by the Georgia Legislature for elections in this state.

Answer: Denied.

53. Paragraph 53 of Plaintiffs' Complaint states:

The Settlement provides that the Secretary of State would issue an "Official Election Bulletin" to county Administrators overriding the statutory procedures prescribed for those officials. That power, however, does not belong to the Secretary of State under the United States Constitution.

Answer: Denied.

54. Paragraph 54 of Plaintiffs' Complaint states:

The Settlement also changed the signature requirement reducing it to a broad process with discretion, rather than enforcement of the signature requirement as statutorily required under O.C.G.A. 21-2-386(a)(l).

Answer: Denied.

55. Paragraph 55 of Plaintiffs' Complaint states:

The Georgia Legislature instructed county registers and clerks (the "County Officials") regarding the handling of absentee ballots in O.C.G.A. S 21-2-386(a)(1)(B), 21-2-380.1. The Georgia Election Code instructs those who handle absentee ballots to follow a clear procedure:

> Upon receipt of each absentee ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absent elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application, and shall, if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath …

O.C.G.A. S 21-2-386(a)(1)(B).

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(l)(B). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations.

The Democratic Political Party Committees deny each other or different allegation in Paragraph 55.

56. Paragraph 56 of Plaintiffs' Complaint states:

> The Georgia Legislature prescribed procedures to ensure that any request for an absentee ballot must be accompanied by sufficient identification of the elector's identity. *See* O.C.G.A. § 21-2-38 l(b)(1) (providing, in pertinent part, "In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417 ... ").

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-38l(b)(1). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited statute, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation in Paragraph 56.

57. Paragraph 57 of Plaintiffs' Complaint states:

> An Affiant testified, under oath, that "It was also of particular interest to me to see that signatures were not being verified and that there were no corresponding envelopes seen in site." (Attached hereto as Exh. 10, Mayra Romera, at par. 7).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 10, Paragraph 7 to Plaintiffs' Complaint. The

Democratic Political Party Committees deny each other or different allegation.

58. Paragraph 58 of Plaintiffs' Complaint states:

> To reflect the very reason for process, it was documented that in the primary election, prior to the November 3, 2020 Presidential election, many ballots got to voters after the election. Further it was confirmed that "Untold thousands of absentee ballot requests went unfulfilled, and tens of thousands of mailed ballots were rejected for multiple reasons including arriving too late to be counted. *See* the Associated Press, Vote-by-Mail worries: A leaky pipeline in many states, August 8, 2020.

Answer: Democratic Political Party Committees admit the quote comes from the referenced Associated Press article. Democratic Political Party Committees are without sufficient information to form a belief regarding the "very reason for the process" being alleged in the first sentence of Paragraph 58 and therefore deny the same.

59. Paragraph 59 of Plaintiffs' Complaint states:

> Pursuant to the Settlement, the Administrators delegated their responsibilities for determining when there was a signature mismatch by considering in good faith only partisan-based training - "additional guidance and training materials" drafted by the Democrat Party Agencies' representatives contradicting O.C.G.A. § 21-2-31.

Answer: Denied.

UNLAWFUL EARLY PROCESSING OF ABSENTEE BALLOTS

60. Paragraph 60 of Plaintiffs' Complaint states:

In April 2020, the State Election Board adopted on a purportedly "Emergency Basis" Secretary of State Rule 183-1-14-0.9-.15, Processing Ballots Prior to Election Day. Under this rule, county election officials are authorized to begin processing absentee ballots up to three weeks befoe [sic] election day. Thus, the rule provides in part that "(1) Beginning at 8:00 AM on the third Monday prior to Election Day, the county election superintendent **shall be authorized to open the outer envelope of accepted absentee ballots** …" (Emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from SEB Rule 183-1-14-0.9-.15. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited rule, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation in Paragraph 60.

61. Paragraph 61 of Plaintiffs' Complaint states:

Rule 183-1-14-0.9-.15 is in direct and irreconcilable conflict with O.C.G.A. § 21-2-386(a)(2), which prohibits the opening of absentee ballots until election day:

> **After the opening of the polls** on the day of the primary, election, or runoff, the registrars or absentee ballot clerks **shall be authorized to open the outer envelope** on which is printed the oath of the elector in such a manner as not to destroy the oath printed thereon; provided, however, that the registrars or absentee ballot clerk shall not be authorized to remove the contents of such outer envelope or to open the inner envelope marked "Official Absentee Ballot," except as otherwise provided in this Code section.

(Emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from O.C.G.A. § 21-2-386(a)(2). To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation in Paragraph 61.

62. Paragraph 62 of Plaintiffs' Complaint states:

> In plain terms, the statute clearly prohibits opening absentee ballots prior to election day, while the rule authorizes doing so three weeks before election day. There is no reconciling this conflict. The State Election Board has authority under O.C.G.A. § 21-2-31 to adopt lawful and legal rules and regulations, but no authority to promulgate a regulation that is directly contrary to an unambiguous statute. Rule 183-1-14-0.9-.15 is therefore plainly and indisputably unlawful.

Answer: Denied.

63. Paragraph 63 of Plaintiffs' Complaint states:

> The State Election Board re-adopted Rule 183-1-14-0.9-.15 on November 23, 2020 for the upcoming January 2021 runoff election.

Answer: Denied.

UNLAWFUL AUDIT PROCEDURES

64. Paragraph 64 of Plaintiffs' Complaint states:

> According to Secretary Raffensperger, in the presidential general election, 2,457,880 votes were cast in Georgia for President Donald J. Trump, and

2,472,002 votes were cast for Joseph R. Biden, which narrowed in Donald Trump's favor after the most recent recount.

Answer: The Democratic Political Party Committees admit that President-Elect Joe Biden had more votes cast for him during the 2020 General Election in Georgia than President Donald Trump. The Democratic Political Party Committees deny each other or different allegation in Paragraph 64.

65. Paragraph 65 of Plaintiffs' Complaint states:

Secretary Raffensperger declared that for the Hand Recount:

> Per the instructions given to counties as they conduct their audit triggered full hand recounts, designated monitors will be given complete access to observe the process from the beginning. While the audit triggered recount must be open to the public and media, designated monitors will be able to observe more closely. The general public and the press will be restricted to a public viewing area. Designated monitors will be able to watch the recount while standing close to the elections' workers conducting the recount.
>
> Political parties are allowed to designate a minimum of two monitors per county at a ratio of one monitor per party for every ten audit boards in a county... Beyond being able to watch to ensure the recount is conducted fairly and securely, the two-person audit boards conducting the hand recount call out the votes as they are recounted , providing monitors and the public an additional way to keep tabs on the process.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 65 and, on that basis, deny the same.

66. Paragraph 66 of Plaintiffs' Complaint states:

> The audit was conducted O.C.G.A. § 21-2-498 [sic]. This code section requires that audits be completed "in public view" and authorizes the State Board of Elections to promulgate regulations to administer an audit "to ensure that collection of validly cast ballots is complete, accurate and trustworthy throughout the audit."

Answer: Paragraph 66 of Plaintiffs' Complaint contains legal contentions, characterizations, and opinions to which no response is required. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provisions, the Democratic Political Party Committees deny the allegations. The Democratic Political Party Committees deny each other or different allegation in Paragraph 66.

67. Paragraph 67 of Plaintiffs' Complaint states:

> Plaintiffs can show that Democrat-majority counties provided political parties and candidates, including the Trump Campaign, no meaningful access or actual opportunity to review and assess the validity of mail-in ballots during the pre-canvassing meetings. While in the audit or recount, they witnessed Trump votes being put into Biden piles.

Answer: Denied.

68. Paragraph 68 of Plaintiffs' Complaint states:

> Non-parties Amanda Coleman and Maria Diedrich are two individuals who volunteered to serve as designated monitors for the Donald J. Trump Presidential Campaign, Inc. (the "Trump Campaign") on behalf of the Georgia Republican Party (the "Republican Party") at the Hand Recount. (Attached hereto and incorporated herein as Exhibits 2 and 3), respectively,

are true and correct copies of (1) the Affidavit of Amanda Coleman in Support of Plaintiffs' Motion for Temporary Restraining Order (the "Coleman Affidavit"), and (2) the Affidavit of Maria Diedrich in Support of Plaintiffs' Motion for Temporary Restraining Order (the "Diedrich Affidavit"). (See Exh. 11, Coleman Aff.,2; Exh. 12, Diedrich Aff., 2.)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegations in Paragraph 68 and, on that basis, deny the same.

69. Paragraph 69 of Plaintiffs' Complaint states:

The Affidavits set forth various conduct amounting to federal crimes, clear improprieties, insufficiencies, and improper handling of ballots by County Officials and their employees that Ms. Coleman and Ms. Diedrich personally observed while monitoring the Hand Recount. (See Exh. 11, Coleman Aff., 3-10; Exh. 12, Diedrich Aff., 4-14.)

Answer: Denied.

70. Paragraph 70 of Plaintiffs' Complaint states:

As a result of her observations of the Hand Recount as a Republican Party monitor, Ms. Diedrich declared, "There had been no meaningful way to review or audit any activity" at the Hand Recount. (See Exh. 12, Diedrich Aff.,14.)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 70 and, on that basis, deny the same.

71. Paragraph 71 of Plaintiffs' Complaint states:

As a result of their observations of the Hand Recount as Republican Party monitors, Ms. Coleman likewise declared, "There was no way to tell if any counting was accurate or if the activity was proper." (See Exh. 12, Coleman Aff.,10).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 71 and, on that basis, deny the same.

72. Paragraph 72 of Plaintiffs' Complaint states:

On Election Day, when the Republican poll watchers were, for a limited time, present and allowed to observe in various polling locations, they observed and reported numerous instances of election workers failing to follow the statutory mandates relating to two critical requirements, among other issues:

(1) a voter's right to spoil their mail-in ballot at their polling place on election day and to then vote in-person, and

(2) the ability for voters to vote provisionally on election day when a mail-in ballot has already been received for them, but when they did not cast those mail-in ballots, who sought to vote in person during early voting but was told she already voted; she emphasized that she had not. The clerk told her he would add her manually with no explanation as to who or how someone voted using her name. (Attached hereto as Exh. 13, Aff. Ursula Wolf)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the

quoted language or any other allegation in Paragraph 71 and, on that basis, deny the same.

73. Paragraph 73 of Plaintiffs' Complaint states:

> Another observer for the ballot recount testified that "*at no time did I witness any Recounter or individual participate in the recount verifying signatures [on mail-in ballots]*." (Attached hereto as Exh. 14, Nicholas Zeher Aff).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 73 and, on that basis, deny the same.

74. Paragraph 74 of Plaintiffs' Complaint states:

> In some counties, there was no actual "hand" recounting of the ballots during the Hand Recount, but rather, County Officials and their employees simply conducted another machine count of the same ballots. (See. Exh. 9, 10). That will not reveal the massive fraud of which plaintiffs complain.

Answer: Denied.

75. Paragraph 75 of Plaintiffs' Complaint states:

> A large number of ballots were identical and likely fraudulent. An Affiant explains that she observed a batch of utterly pristine ballots:
>
> > 14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper - it was if they were intended for

absentee use but had not been used for that purposes. There was a difference in the feel.

15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had com~ from, or where they had been processed. These stood out.

16. In my 20 years of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joe Biden. I only observed two of these ballots as votes for President Donald J. Trump." (See Exh. 15 Attached hereto).

Answer: The Democratic Political Party Committees deny that a "large number" of ballots were "likely fraudulent." The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 75 and, on that basis, deny the same.

76. Paragraph 76 of Plaintiffs' Complaint states:

The same Affiant further testified specifically to the breach of the chain of custody of the voting machines the night before the election stating:

> we typically receive the machines, the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. **In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 AM in the morning on Election Day.**

> The Milton precinct received its machines at 1:00 AM in the morning on Election Day. This is unacceptable and voting machines should [not] be out of custody prior to an Election Day. *Id*.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 76 and, on that basis, deny the same.

77. Paragraph 77 of Plaintiffs' Complaint states:

> The stunning pattern of the nature and acts of fraud demonstrate an absence of mistake.

Answer: Denied.

78. Paragraph 78 of Plaintiffs' Complaint states:

> The same Affiant further explained, in sworn testimony, that the breach included: "when we did receive the machines, they were not sealed or locked, the serial numbers were not what were reflected on the related documentation…" *See Id*.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 78 and, on that basis, deny the same.

79. Paragraph 79 of Plaintiffs' Complaint states:

An affiant testified that "While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden, I witnessed this happen at table "A".' (See Exh. 14, par. 27).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 79 and, on that basis, deny the same.

80. Paragraph 80 of Plaintiffs' Complaint states:

The Affiant further testified, that "when this was brought to Ms. Pitts attention, it was met with extreme hostility. At no time did I witness any ballot cast for Joseph Biden be placed in the pile for Donald Trump. (See Exh. 14, par. 28).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 80 and, on that basis, deny the same.

81. Paragraph 81 of Plaintiffs' Complaint states:

Another Affiant in the mail-in ballot and absentee ballot recounting process, testified in her sworn affidavit, that "on November 16, 2020 … It was also of particular interest to me to see that signatures were not being verified and there were no corresponding envelopes seen in sight." (See Exh. 10, at Par. 7).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 81 and, on that basis, deny the same.

82. Paragraph 82 of Plaintiffs' Complaint states:

> Yet another Affiant, in the recount process, testified that he received push back and a lack of any cooperation and was even threatened as if he did something wrong, when he pointed out the failure to follow the rules with the observers while open mail-in ballot re-counting was occurring, stating:
>
> > "However, as an observer, I observed that the precinct had twelve (12) counting tables, but only one (1) monitor from the Republican Party. I brought it up to Erica Johnston since the recount rules provided for one (1) monitor from each Party per ten (10) tables or part thereof…"
>
> (See Attached hereto, Exh. 16, Ibrahim Reyes Aff.)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 82 and, on that basis, deny the same.

83. Paragraph 83 of Plaintiffs' Complaint states:

> Another Affiant explains a pattern of behavior that is alarming, in his position as an observer in the recount on absentee ballots with barcodes, he testified:
>
> > ***I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing***

> ***them in to the Biden tray***. I also witnessed the same two poll workers putting the already separated paper receipt ballots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray, They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet.

(*See* Attached hereto, Exh.17, pars. 4-5, Aff. of Consetta Johson).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 83 and, on that basis, deny the same.

84. Paragraph 84 of Plaintiffs' Complaint states:

> Another Affiant, a Democrat, testified in his sworn affidavit, that before he was forced to move back to where he could not see, he had in fact seen "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times". (See attached hereto, Exh. 18 at Par. 12, Aff. of Carlos Silva).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 84 and, on that basis, deny the same. The Democratic Political Party Committees deny each other allegation in Paragraph 84.

85. Paragraph 85 of Plaintiffs' Complaint states:

Yet another Affiant testified about the lack of process and the hostility only towards the Republican party, which is a violation of the Equal Protection Clause. He testified:

> I also observed throughout my three days in Atlanta, not once did anyone verify these ballots. In fact, there was no authentication process in place and no envelopes were observed or allowed to be observed. I saw hostility towards Republican observers but never towards Democrat observers. Both were identified by badges.

(*See Id*., at pars. 13-14).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 85 and, on that basis, deny the same.

86. Paragraph 86 of Plaintiffs' Complaint states:

Another Affiant explained that his ballot was not only not processed in accordance with Election law, he witnessed people reviewing his ballot to decide where to place it, which violated the privacy of his ballot, and when he tried to report it to a voter fraud line, he never received any contact or cooperation stating:

> "I voted early on October 12 at the precinct at Lynwood Park … Because of irregularities at the polling location, I called the voter fraud line to ask why persons were discussing my ballot and reviewing it to decide where to place it. When I called the state fraud line, I was directed to a worker in the office of the Secretary of State…"

(See Attached hereto, Exh. 19, Andrea ONeal Aff, at par. 3).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 86 and, on that basis, deny the same.

87. Paragraph 87 of Plaintiffs' Complaint states:

> He further testified that when he was an Observer at the Lithonia location, he saw many irregularities, and specifically "saw an auditor sort Biden votes that he collected and sorted into ten ballot stacks, which [the auditor] did not show anyone." Id. at p. 8.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 87 and, on that basis, deny the same.

88. Paragraph 88 of Plaintiffs' Complaint states:

> Another Affiant testified about the use of different paper for ballots, that would constitute fraud stating:
>
> > I noticed that almost all of the ballots I reviewed were for Biden. Many batches went 100% for Biden. I also observed that the watermark on at least 3 ballots were solid gray instead of transparent, leading me to believe the ballot was counterfeit. I challenged this and the Elections Director said it was a legitimate ballot and was due to the use of different printers. Many ballots had markings for Biden only, and no markings on the rest of the ballot.
>
> (See Attached hereto, Exh. 20, Aff of Debra J. Fisher, at pars. 4, 5, 6).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 88 and, on that basis, deny the same.

89. Paragraph 89 of Plaintiffs' Complaint states:

> An Affiant testified, that while at the Audit, '**While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table "A"**'. (*See* attached hereto as Exh. 22, Kevin Peterford, at par. 29). Another Affiant testified, that "I witnessed two poll workers placing already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray. I also witnessed the same two poll workers putting the already separated paper receipt abllots in the "No Vote" and "Jorgensen" tray, and removing them and putting them inside the Biden tray, They then took out all of the ballots out of the Biden tray and stacked them on the table, writing on the count ballot sheet. (See Exh. 17, Johnson, pars. 4-5).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other allegation in Paragraph 89 and, on that basis, deny the same.

90. Paragraph 90 of Plaintiffs' Complaint states:

> Another Affiant, a Democrat, testified in his sworn affidavit, before he was forced to move back to where he could not see, he had in fact seen, "***I also saw absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times***". (See Exh. 18, Par. 12).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 18 to the Plaintiffs' Complaint. The Democratic Political Party Committees deny each other or different allegation in Paragraph 159.

91. Paragraph 91 of Plaintiffs' Complaint states:

> A Republican National Committee monitor in Georgia's election recount, Hale Soucie, told an undercover journalist there are individuals counting ballots who have made continuous errors," writes O'Keefe. Project Veritas, Watch: Latest Project Veritas Video reveals "Multiple Ballots Meant for Trump Went to Biden in Georgia.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 91 and, on that basis, deny the same.

92. Paragraph 92 of Plaintiffs' Complaint states:

> These violations of federal and state laws impacted the election of November 3, 2020 and set the predicate for the evidence of deliberate fraudulent conduct, manipulation, and lack of mistake that follows. The commonality and statewide nature of these legal violations renders certification of the legal vote untenable and warrants immediate impoundment of voting machines and software used throughout Georgia for expert inspection and retrieval of the software.

Answer: Denied.

93. Paragraph 93 of Plaintiffs' Complaint states:

An Affiant, who is a network & information cyber-security expert, under sworn testimony explains that after studying the user manual for Dominion Voting Systems Democracy software, he learned that the information about scanned **ballots can be tracked inside the software system for Dominion**:

> (a) When bulk ballot scanning and tabulation begins, the "ImageCast Central" workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning procedure within the software menu. The scanner then begins to scan the ballots which were loaded into the feed tray while the "ImageCast Central" software application tabulates votes in real-time. Information about scanned ballots can be tracked inside the "ImageCast Central" software application.

(*See* attached hereto Exh 22, Declaration of Ronald Watkins, at par. 11).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 93 and, on that basis, deny the same.

94. Paragraph 94 of Plaintiffs' Complaint states:

Affiant further explains that the central operator can remove or discard batches of votes. "After all of the ballots loaded into the scanner's feed tray have been through the scanner, the "ImageCast Central" operator will remove the ballots from the tray then have the option to either "Accept Batch" or "Discard Batch" on the scanning menu …. "(Id. at par. 8).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the

quoted language or any other or different allegation in Paragraph 93 and, on that basis, deny the same.

95. Paragraph 95 of Plaintiffs' Complaint states:

> Affiant further testifies that the Dominion/ Smartmatic user manual itself makes clear that the system allows for threshold settings to be set to mark all ballots as "problem ballots" for *discretionary determinations* on where the vote goes. It states:
>
> *During the scanning process, the "ImageCast Central" software will detect how much of a percent coverage of the oval was filled in by the voter. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a "problem ballot" and may be set aside into a folder named "NotCastImages". Through creatively tweaking the oval coverage threshold settings it should be possible to set thresholds in such a way that a non-trivial amount of ballots are marked "problem ballots" and sent to the "NotCastImages" folder. It is possible for an administrator of the ImageCast Central work station to view all images of scanned ballots which were deemed "problem ballots" by simply navigating via the standard "Windows File Explorer" to the folder named "NotCastImages" which holds ballot scans of "problem ballots". It is possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system.*
>
> *Id*. at pars. 9-10.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the

quoted language or any other or different allegation in Paragraph 93 and, on that basis, deny the same.

96. Paragraph 96 of Plaintiffs' Complaint states:

> The Affiant further explains the vulnerabilities in the system when the copy of the selected ballots that are approved in the Results folder are made to a flash memory card – and that is connected to a Windows computer stating:
>
> *It is possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system. … The upload process is just a simple copying of a "Results" folder containing vote tallies to a flash memory card connected to the "Windows 10 Pro" machine. The copy process uses the standard drag-n-drop or copy/paste mechanisms within the ubiquitous "Windows File Explorer". While a simple procedure, this process may be error prone and* ***is very vulnerable to malicious administrators****.*
>
> *Id*. at par. 11-13 (emphasis supplied).

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 96 and, on that basis, deny the same.

97. Paragraph 97 of Plaintiffs' Complaint states:

> It was announced on "Monday, [July 29, 2019], [that] Governor Kemp awarded a contract for 30,000 new voting machines to Dominion Voting Systems, scrapping the state's 17-year-old electronic voting equipment and replacing it with touchscreens that print out paper ballots."12 Critics are quoted: "Led by Abrams, Democrats fought the legislation and pointed to

cybersecurity experts who warned it would leave Georgia's elections susceptible to hacking and tampering." And "Just this week, the Fair Fight voting rights group started by [Stacy] Abrams launched a television ad critical of the bill. In a statement Thursday, the group called it "corruption at its worst" and a waste of money on "hackable voting machines."

Answer: The Democratic Political Party Committees admit that Georgia awarded Dominion Voting Systems a contract for voting machines and these machines have touchscreens. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 97 and, on that basis, deny the same.

98. Paragraph 98 of Plaintiffs' Complaint states:

It was further reported in 2019 that the new Dominion Voting Machines in Georgia "[w]ith Georgia's current voting system, there's **no way to guarantee that electronic ballots accurately reflect the choices of voters because there's no paper backup to verify results**, with it being reported that:

(a) Recounts are meaningless on the direct-recording electronic voting machines because they simply reproduce the same numbers they originally generated.

(b) But paper ballots alone won't protect the sanctity of elections on the new touchscreens, called ballot-marking devices.

(c) The new election system depends on voters to verify the printed text of their choices on their ballots, a step that many voters might not take. The State Election Board hasn't yet created regulations for how recounts and audits will be conducted. And paper ballots embed selections in bar codes

that are only readable by scanning machines, leaving Georgians uncertain whether the bar codes match their votes.

> *i. As part of the scheme and artifice to defraud the plaintiffs, the candidates and the voters of undiminished and unaltered voting results in a free and legal election, the Defendants and other persons known and unknown committed the following violations of law:*

50 U.S.C. § 20701 requires the retention and preservation of records and papers by officers of elections under penalty of fine and imprisonment:

> **§ 20701. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation**
>
> Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, **all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election**, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

50 U.S.C.§ 20701.

Answer: The Democratic Political Party Committees admit that the quoted language is from 52 U.S.C. § 20701. As to the 2019 report regarding

Dominion machines, the Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of these allegations and, on that basis, deny the same. Democratic Political Party Committees deny each other or different allegation.

99. Paragraph 99 of Plaintiffs' Complaint states:

> In the primaries it was confirmed that, "The rapid introduction of new technologies and processes in state voting systems heightens the risk of foreign interference and insider tampering. That's true even if simple human error or local maneuvering for political advantage are more likely threats.

Answer: The Democratic Political Party Committees admit that the quoted language is from the cited article and deny each other or different allegation.

100. Paragraph 100 of Plaintiffs' Complaint states:

> A Penn Wharton Study from 2016 concluded that "Voters and their representatives in government, often prompted by news of high-profile voting problems, also have raised concerns about the reliability and integrity of the voting process, and have increasingly called for the use of modern technology such as laptops and tablets to improve convenience."

Answer: The Democratic Political Party Committees admit that the quoted language is from the cited article and deny each other or different allegation.

101. Paragraph 101 of Plaintiffs' Complaint states:

> As evidence of the defects or features of the Dominion Democracy Suite, as described above, the same Dominion Democracy Suite was denied certification in Texas by the Secretary of State on January 24, 2020

specifically because of a **lack of evidence of efficiency and accuracy and to be safe from fraud or unauthorized manipulation**.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegations in Paragraph 101 and, on that basis, deny the same.

102. Paragraph 102 of Plaintiffs' Complaint states:

Plaintiffs have since learned that the "glitches" in the Dominion system–that have the uniform effect of taking votes from Trump and shifting them to Biden—have been widely reported in the press and confirmed by the analysis of independent experts.

Answer: Denied.

103. Paragraph 103 of Plaintiffs' Complaint states:

Plaintiffs can show, through expert and fact witnesses that:

c. Dominion/ Smartmatic Systems Have Massive End User Vulnerabilities.

1. Users on the ground have full admin privileges to machines and software. Having been created to "rig" elections, the Dominion system is designed to facilitate vulnerability and allow a select few to determine which votes will be counted in any election. Workers were responsible for moving ballot data from polling place to the collector's office and inputting it into the correct folder. Any anomaly, such as pen drips or bleeds, results in a ballot being rejected. It is then handed over to a poll worker to analyze and decide if it should count. This creates massive opportunity for purely discretionary and improper vote "adjudication."

> 2. Affiant witness (name redacted for security reasons), in his sworn testimony explains he was selected for the national security guard detail of the President of Venezuela, and that he witnessed the creation of Smartmatic for the purpose of election vote manipulation to insure Venezuelan dictator Hugo Chavez never lost an election and he saw it work. Id.
>
> "The purpose of this conspiracy was to create and operate a voting system that could change the votes in elections from votes against persons running the Venezuelan government to votes in their favor in order to maintain control of the government."

(See Exh. 2, pars. 6, 9, 10).

Answer: Denied.

104. Paragraph 104 of Plaintiffs' Complaint states:

> Smartmatic's incorporators and inventors have backgrounds evidencing their foreign connections, including Venezuela and Serbia, specifically its identified inventors:
>
> Applicant: SMARTMATIC, CORP.
>
> Inventors: Lino Iglesias, Roger Pinate, Antonio Mugica, Paul Babic, Jeffrey Naveda, Dany Farina, Rodrigo Meneses, Salvador Ponticelli, Gisela Goncalves, Yrem Caruso.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 104 and, on that basis, deny the same.

105. Paragraph 105 of Plaintiffs' Complaint states:

The presence of Smartmatic in the United States—owned by foreign nationals, and Dominion, a Canadian company with its offices such as the Office of General Counsel in Germany, would have to be approved by CFIUS. CFIUS was created in 1988 by the Exon-Florio Amendment to the Defense Production Act of 1950. CFIUS' authorizing statute was amended by the Foreign Investment and National Security Act of 2007 (FINSA).

> As amended, section 721 of the DPA directs "the President, acting through [CFIUS]," to review a "**covered transaction to determine the effects of the transaction on the national security of the United States**." 50 U.S.C. app. § 2170(b)(1)(A). Section 721 defines a covered transaction as "any merger, acquisition, or takeover …, by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States." Id. § 2170(a)(3). *Ralls Corp. v. Comm. on Foreign Inv*., 758 F.3d 296, 302, 411 U.S. App. D.C. 105, 111, (2014). Review of covered transactions under section 721 begins with CFIUS. As noted, CFIUS is chaired by the Treasury Secretary and its members include the heads of various federal agencies and other high-ranking Government officials with foreign policy, national security and economic responsibilities.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the apparently quoted language or any other or different allegation in Paragraph 105 and, on that basis, deny the same.

106. Paragraph 106 of Plaintiffs' Complaint states:

Then Congresswoman Carolyn Maloney wrote October 6, 2006 to the Secretary of Treasury, Henry M. Paulson, Jr., Objecting to approval of Dominion/Smartmatic by CFIUS because of its corrupt Venezuelan origination, ownership and control. (See attached hereto as Exh. 24, Carolyn Maloney Letter of October 6, 2006). Our own government has long known

of this foreign interference on our most important right to vote, and it had either responded with incompetence, negligence, willful blindness, or abject corruption. In every CFIUS case, there are two TS/SCI reports generated. One by the ODNI on the threat and one by DHS on risk to critical infrastructure. Smartmatic was a known problem when it was nonetheless approved by CFIUS.

Answer: The Democratic Political Party Committees admit that Exhibit 24 is a letter sent by Congresswoman Maloney to Secretary Paulson and deny each other or different allegation in paragraph 106 of Plaintiffs' complaint.

107. Paragraph 107 of Plaintiffs' Complaint states:

The Wall Street Journal in 2006 did an investigative piece and found that, "Smartmatic came to prominence in 2004 when its machines were used in an election to recall President Chávez, which Mr. Chávez won handily -- and which the Venezuelan opposition said was riddled with fraud. Smartmatic put together a consortium to conduct the recall elections, including a company called Bizta Corp., in which Smartmatic owners had a large stake. For a time, the Venezuelan government had a 28% stake in Bizta in exchange for a loan.' …"Bizta paid off the loan in 2004, and Smartmatic bought the company the following year. But accusations of Chávez government control of Smartmatic never ended, especially since Smartmatic scrapped a simple corporate structure, in which it was based in the U.S. with a Venezuelan subsidiary, for a far more complex arrangement. The company said it made the change for tax reasons, but critics, including Rep. Carolyn Maloney (D., N.Y.) and TV journalist Lou Dobbs, pounded the company for alleged links to the Chávez regime. *Id*. Since its purchase by Smartmatic, Sequoia's sales have risen sharply to a projected $200 million in 2006, said Smartmatic's chief executive, Anthony Mugica." *Id*.

Answer: The Democratic Political Party Committees admit that the quoted language is from a Wall Street Journal article but lack knowledge and

information sufficient to form a belief about the truth of the substance of the language and, on that basis, deny the same. The Democratic Political Party Committees deny each other or different allegation in Paragraph 107.

108. Paragraph 108 of Plaintiffs' Complaint states:

> Indeed, Mr. Cobucci testified, through his sworn affidavit, that he born in Venezuela, is cousins with Antonio ('Anthony') Mugica, and he has personal knowledge of the fact that Anthony Mugica incorporated Smartmatic in the U.S. in 2000 with other family members in Venezuela listed as owners. He also has personal knowledge that Anthony Mugica manipulated Smartmatic to ensure the election for Chavez in the 2004 Referendum in Venezuela. He also testified, through his sworn affidavit, that Anthony Mugica received tens of millions of dollars from 2003- 2015 from the Venezuelan government to ensure Smartmatic technology would be implemented around the world, including in the U.S. (See attached hereto, Exh. 25, Juan Carlos Cobucci Aff.)

Answer: The Democratic Political Party Committees admit that the referenced allegations are from Exhibit 25 of Plaintiffs' complaint but lack knowledge and information sufficient to form a belief about the truth of the substance of the allegations, and on that basis, deny the same. The Democratic Political Party Committees deny each other or different allegation in Paragraph 108.

109. Paragraph 109 of Plaintiffs' Complaint states:

> Another Affiant witness testifies that in Venezuela, she was in an official position related to elections and witnessed manipulations of petitions to prevent a removal of President Chavez and because she protested, she was

summarily dismissed. Corroborating the testimony of our secret witness, and our witness Mr. Cobucci, cousin of Anthony Mugica, who began Smartmatic, and this witness explains the vulnerabilities of the electronic voting system and Smartmatica to such manipulations. (See Exh. 3, Diaz Cardozo Aff).

Answer: The Democratic Political Party Committees admit that the referenced allegations are from Exhibit 3 of Plaintiffs' complaint but lack knowledge and information sufficient to form a belief about the truth of the substance of the allegations, and on that basis, deny the same. The Democratic Political Party Committees deny each other or different allegation in Paragraph 109.

110. Paragraph 110 of Plaintiffs' Complaint states:

Specific vulnerabilities of the systems in question that have been documented or reported include:

a. Barcodes can override the voters' vote: As one University of California, Berkeley study shows, "In all three of these machines [including Dominion Voting Systems] the ballot marking printer is in the same paper path as the mechanism to deposit marked ballots into an attached ballot box. This opens up a very serious security vulnerability: the voting machine can make the paper ballot (to add votes or spoil already-cast votes) after the last time the voter sees the paper, and then deposit that marked ballot into the ballot box without the possibility of detection." (See Exh. 7).

b. Voting machines were able to be connected to the internet by way of laptops that were obviously internet accessible. If one laptop was connected to the internet, the entire precinct was compromised.

c. We … discovered that at least some jurisdictions were not aware that their systems were online," said Kevin Skoglund, an independent security consultant who conducted the research with nine others, all of them long-time security professionals and academics with expertise in election security. Vice. August 2019.

d. October 6, 2006 – Congresswoman Carolyn Maloney called on Secretary of Treasury Henry Paulson to conduct an investigation into Smartmatic based on its foreign ownership and ties to Venezuela. (See Exh. 24)

e. Congresswoman Maloney wrote that "It is undisputed that Smartmatic is foreign owned and it has acquired Sequoia … Smartmatica now acknowledged that Antonio Mugica, a Venezuelan businessman has a controlling interest in Smartmatica, but the company has not revealed who all other Smartmatic owners are." *Id*.

f. Dominion "got into trouble" with several subsidiaries it used over alleged cases of fraud. One subsidiary is Smartmatic, a company "that has played a significant role in the U.S. market over the last decade," according to a report published by UK-based AccessWire.

g. Litigation over Smartmatic "glitches" alleges they impacted the 2010 and 2013 mid-term elections in the Philippines, raising questions of cheating and fraud. An independent review of the source codes used in the machines found multiple problems, which concluded, "The software inventory provided by Smartmatic is inadequate, … which brings into question the software credibility…"

h. Dominion acquired Sequoia Voting Systems as well as Premier Election Solutions (formerly part of Diebold, which sold Premier to ES&S in 2009, until antitrust issues forced ES&S to sell Premier, which then was acquired by Dominion).

i. Dominion entered into a 2009 contract with Smartmatic and provided Smartmatic with the PCOS machines (optical scanners) that were used in the 2010 Philippine election—the biggest automated

election run by a private company. The international community hailed the automation of that first election in the Philippines. The results' transmission reached 90% of votes four hours after polls closed and Filipinos knew for the first time who would be their new president on Election Day. In keeping with local election law requirements, Smartmatic and Dominion were required to provide the source code of the voting machines prior to elections so that it could be independently verified.

j. In late December of 2019, three Democrat Senators, Warren, Klobuchar, Wyden, and House Member Mark Pocan wrote about their ***'particularized concerns that secretive & "trouble -plagued companies"' "have long skimped on security in favor of convenience,"*** in the context of how they described the voting machine systems that three large vendors – Election Systems & Software, Dominion Voting Systems, & Hart InterCivic – collectively provide voting machines & software that facilitate voting for over 90% of all eligible voters in the U.S." (See attached hereto as Exh. 26, copy of Senator Warren, Klobuchar, Wyden's December 6, 2019 letter).

k. Senator Ron Wyden (D-Oregon) said the findings [insecurity of voting systems] are "yet another damning indictment of the profiteering election vendors, who care more about the bottom line than protecting our democracy." It's also an indictment, he said, "of the notion that important cybersecurity decisions should be left entirely to county election offices, many of whom do not employ a single cybersecurity specialist."

Answer: The Democratic Political Party Committees admit that Plaintiffs have cited various studies, news articles, and letters, but lack knowledge and information sufficient to form a belief about the truth of the of the allegations in Paragraph 110 and, on that basis, deny the same.

111. Paragraph 111 of Plaintiffs' Complaint states:

An analysis of the Dominion software system by a former US Military Intelligence expert concludes that the system and software have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees conected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, Dominion neglectfully allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. (See Exh. 7).

Answer: The Democratic Political Party Committees admit that the referenced allegations are from Exhibit 7 to Plaintiffs' Complaint. The Democratic Political Party Committees deny each other or different allegation in Paragraph 111.

112. Paragraph 112 of Plaintiffs' Complaint states:

An expert witness in pending litigation in the United States District Court, Northern District Court of Georgia, Atlanta Div., 17-cv-02989 specifically testified to the acute security vulnerabilities, among other facts, by declaration filed on October 4, 2020, (See Exh. 4B, Document 959-4 attached hereto, paragraph. 18 and 20 of p. 28, Exh. 4, Hursti Declaration). wherein he testified or found:

1) The failure of the Dominion software "*to meet the methods and processes for national standards for managing voting system problems and should not be accepted for use in a public election under any circumstances*."

2) In Hursti's declaration he explained that "There is evidence of remote access and remote troubleshooting which presents a grave security implication and certified identified vulnerabilities should be considered an "extreme security risk." *Id*. Hari Hursti also explained that USB drives with

vote tally information were observed to be removed from the presence of poll watchers during a recent election. *Id*. The fact that there are no controls of the USB drives was seen recently seen the lack of physical security and compliance with professional standards, " in one Georgia County, where it is reported that 3,300 votes were found on memory sticks not loaded plus in Floyd county, another 2,600 were unscanned, and the "found votes" reduced Biden's lead over Donald Trump.

(a) In the prior case against Dominion, supra, further implicating the secrecy behind the software used in Dominion Systems, Dr. Eric Coomer, a Vice President of Dominion Voting Systems, testified that even he was not sure of what testing solutions were available to test problems or how that was done, "*I have got to be honest, we might be a little bit out of my bounds of understanding the rules and regulations*… and in response to a question on testing for voting systems problems in relation to issues identified in 2 counties, he explained that "*Your Honor, I'm not sure of the complete test plan… Again Pro V&V themselves determine what test plan in necessary based on their analysis of the code itself*." (*Id*. at Document 959-4, pages 53, 62 L.25- p. 63 L3).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 4, paragraphs 18 and 20. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 112 and, on that basis, deny the same.

113. Paragraph 113 of Plaintiffs' Complaint states:

Hursti stated within said Declaration:

"The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential

remote access are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system."

(See Paragraph 49 of Hursti Declaration).

Answer: The Democratic Political Party Committees admit that the quoted language is from the Exhibit 4, paragraph 49. The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 113 and, on that basis, deny the same.

114. Paragraph 114 of Plaintiffs' Complaint states:

Rather than engaging in an open and transparent process to give credibility to Georgia's brand-new voting system, the election processes were hidden during the receipt, review, opening, and tabulation of those votes in direct contravention of Georgia's Election Code and federal law.

Answer: Denied.

115. Paragraph 115 of Plaintiffs' Complaint states:

The House of Representatives passed H.R. 2722 in an attempt to address these very risks identified by Hursti, on June 27, 2019:

> *This bill addresses election security through grant programs and requirements for voting systems and paper ballots.*
>
> *The bill establishes requirements for voting systems, including that systems (1) use individual, durable, voter-verified paper ballots; (2) make a voter's marked ballot available for inspection and verification by the voter before the vote is cast; (3) ensure that individuals with disabilities are given an equivalent opportunity to vote, including with privacy and independence, in a manner that produces a voter-verified*

> *paper ballot; (4) be manufactured in the United States; and (5) meet specified cybersecurity requirements, including the prohibition of the connection of a voting system to the internet.*

Answer: The Democratic Political Party Committees admit that the quoted language is from H.R. 2722 and deny each other or different allegation in Paragraph 115.

116. Paragraph 116 of Plaintiffs' Complaint states:

On November 4, 2020, the Georgia GOP Chairman issued the following statement:

> *"Let me repeat. Fulton County elections officials told the media and our observers that they were shutting down the tabulation center at State Farm Arena at 10:30 p.m. on election night to continue counting ballots in secret until 1:00 a.m.*

Answer: The Democratic Political Party Committees admit that the quoted language is from a statement of the Georgia GOP Chairman and deny each other or different allegation in Paragraph 116.

117. Paragraph 117 of Plaintiffs' Complaint states:

It was widely reported that "As of 7 p.m. on Wednesday Fulton County Elections officials said 30,000 absentee ballots were not processed due to a pipe burst." Officials reassured voters that none of the ballots were damaged and the water was quickly cleaned up. But the emergency delayed officials from processing ballots between 5:30 a.m. and 9:30 a.m. Officials say they continued to count beginning at 8:30 a.m. Wednesday. The statement from Fulton County continues:

> "Tonight, Fulton County will report results for approximately 86,000 absentee ballots, as well as Election Day and Early Voting results. These represent the vast majority of ballots cast within Fulton County.
>
> "As planned, Fulton County will continue to tabulate the remainder of absentee ballots over the next two days. Absentee ballot processing requires that each ballot is opened, signatures verified, and ballots scanned. This is a labor-intensive process that takes longer to tabulate than other forms of voting. Fulton County did not anticipate having all absentee ballots processed on Election Day." Officials said they will work to ensure every vote is counted and all laws and regulations are followed.

Answer: The Democratic Political Party Committees admit that the quoted language appears in the cited news articles and deny each other or different allegation in Paragraph 117.

118. Paragraph 118 of Plaintiffs' Complaint states:

> Plaintiffs have learned that the representation about "a water leak affecting the room where absentee ballots were counted" was not true. The only water leak that needed repairs at State Farm Arena from November 3 – November 5 was a toilet overflow that occurred earlier on November 3. It had nothing to do with a room with ballot counting, but the false water break representation led to "everyone being sent home." Nonetheless, first six (6) people, then three (3) people stayed until 1:05 a.m. working on the computers.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 118 and, on

that basis, deny the same. The Democratic Political Party Committees deny each other or different allegation in Paragraph 118.

119. Paragraph 119 of Plaintiffs' Complaint states:

> An Affiant recounts how she was present at State Farm Arena on November 3, and saw election workers remaining behind after people were told to leave. (See Exh. 28, Affidavit of Mitchell Harrison; Exh. 29, Affid. of Michelle Branton)

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the allegatins in Paragraph 119 and, on that basis, deny the same.

120. Paragraph 120 of Plaintiffs' Complaint states:

> Plaintiffs have also learned through several reports that in 2010 Eric Coomer joined Dominion as Vice President of U.S. Engineering. According to his bio, Coomer graduated from the University of California, Berkeley with a Ph.D. in Nuclear Physics. Eric Coomer was later promoted to Voting Systems Officer of Strategy and Security although Coomer has since been removed from the Dominion page of directors. Dominion altered its website after Colorado resident Joe Oltmann disclosed that as a reporter he infiltrated ANTIFA, a domestic terrorist organization where he recorded Eric Coomer representing: "Don't worry. Trump won't win the election, we fixed that." – as well as social media posts with violence threatened against President Trump. (See Joe Oltmann interview with Michelle Malkin dated November 13, 2020 which contains copies of Eric Coomer's recording and tweets).

Answer: The Democratic Political Party Committees lack information or knowledge sufficient to form a belief as to the truth of each other or different allegation in Paragraph 120 and, on that basis, deny the same.

121. Paragraph 121 of Plaintiffs' Complaint states:

While the bedrock of American elections has been transparency, almost every crucial aspect of Georgia's November 3, 2020, General Election was shrouded in secrecy, rife with "errors," and permeated with anomalies so egregious as to render the results incapable of certification:

Answer: Denied.

122. Paragraph 122 of Plaintiffs' Complaint states:

As evidenced by numerous public reports, expert reports, and witness statements, Defendants egregious misconduct has included ignoring legislative mandates concerning mail-in and ordinary ballots and led to disenfranchisement of an enormous number of Georgia voters. Plaintiffs experts can show that, consistent with the above specific misrepresentations, analysis of voting data reveals the following:

(a) Regarding uncounted mail ballots, based on evidence gathered by Matt Braynard in the form of recorded calls and declarations of voters, and analyzed by Plaintiff's expert, Williams M. Briggs, PhD, shows, based on a statistically significant sample, **that the total number of mail ballots that voters mailed in, but were never counted, have a 95% likelihood of falling between 31,559 and 38,886 total lost votes**. This range exceeds the margin of loss of President Trump of 12,670 votes by at least 18,889 lost votes and by as many as 26,196 lost votes. (See Exh. 1, Dr. Briggs' Report, with attachments).

(b) Plaintiff's expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an absentee ballot that they did not request ranges from 16,938 to 22,771. **This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.** *Id.*

(c) This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. **These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud down ballot as well.**

(d) **Further, as calculated by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state.** (See Id., attachment to report). Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

(e) Applying pro-rata the above calculations separately to Cobb County based on the number of unreturned ballots, a range of 1,255 and 1,687 ballots ordered by 3rd parties and a range of 2,338 and 2,897 lost mail ballots, plus 10,684 voters documented in the NCOA as having moved, **for a combined minimum of 14,276 missing and unlawful ballots, and maximum of 15,250 missing and unlawful ballots, which exceeds the statewide Presidential race total margin by a range of as few as 1,606 ballots and as many as 2,580 in the County of Cobb alone impacting the Cobb County Republican Party ("Cobb County Republicans").**

Answer: Denied.

123. Paragraph 123 of Plaintiffs' Complaint states:

As seen from the expert analysis of Eric Quinnell, mathematical anomalies further support these findings, when in various districts within Fulton County such as vote gains that exceed reasonable expectations when compared to 2016, and a failure of gains to be normally distributed but instead shifting substantially toward the tail of the distribution in what is

known as a platykurtic distribution. Dr. Quinell identifies numerous anomalies such as votes to Biden in excess of 2016 exceed the registrations that are in excess of 2016. Ultimately, he identifies the counties in order of their excess performance over what would have fit in a normal distribution of voting gains, revealing a list of the most anomalous counties down to the least. These various anomalies provide evidence of voting irregularities. (See Exh.27, Declaration of Eric Quinnell, with attachments).

Answer: The Democratic Political Party Committees admit that Eric Quinnell makes the referenced allegations but deny the substance of those allegations and any other or different allegation in paragraph 123.

124. Paragraph 124 of Plaintiffs' Complaint states:

In sum, with the expert analysis of William M. Briggs PhD based on recorded calls and declarations, the extent of missing AND unlawfully requested ballots create substantial evidence that the mail ballot system has fundamentally failed to provide a fair voting mechanism. In short, tens of thousands of votes did not count while the pattern of fraud makes clear that tens of thousands were improperly counted. This margin of victory in the election for Mr. Biden was only 12,670 and cannot withstand most of these criticisms individually and certainly not in aggregate.

Answer: The Democratic Political Party Committees admit that Joe Biden won the presidential election and deny any other or different allegation in paragraph 124.

125. Paragraph 125 of Plaintiffs' Complaint states:

Cobb county, based on lost votes, unlawfully requested votes and NCOA data on these facts alone would consume more than the entire margin of the statewide difference in the Presidential race. These election results must be reversed.

Answer: Denied.

126. Paragraph 126 of Plaintiffs' Complaint states:

Applying *pro-rata* the above calculations separately to Cobb County based on the number of unreturned ballots, a range of 1,255 and 1,687 ballots ordered by 3rd parties and a range of 2,338 and 2,897 lost mail ballots, plus 10,684 voters documented in the NCOA as having moved, **for a combined minimum of 14,276 missing and unlawful ballots, and maximum of 15,250 missing and unlawful ballots, which exceeds the statewide Presidential race total margin by a range of as few as 1,606 ballots and as many as 2,580 in the County of Cobb alone impacting the Cobb County Republican Party ("Cobb County Republicans").** (See Exh. 1).

Answer: Denied.

127. Paragraph 127 of Plaintiffs' Complaint states:

Mr. Braynard also found a pattern in Georgia of voters registered at totally fraudulent residence addresses, including shopping centers, mail drop stores and other non-residential facilities.

Answer: The Democratic Political Party Committees admit that Mr. Braynard made the referenced allegations but deny the substance of those allegations and any other or different allegation in paragraph 127.

128. Paragraph 128 of Plaintiffs' Complaint states:

In sum, with the expert analysis of William M. Briggs PhD based on extensive investigation, recorded calls and declarations collected by Matt Braynard, (See attachments to Exh. 1, Briggs' report) the extent of missing and unlawfully requested ballots create substantial evidence that the mail ballot system has fundamentally failed to provide a fair voting mechanism. In short, tens of thousands of votes did not count while the pattern of fraud and mathematical anomalies that are impossible absent malign human

agency makes clear that tens of thousands were improperly counted. This margin of victory in the election for Mr. Biden was only 12,670 and cannot withstand most of these criticisms individually and certainly not in aggregate.

Answer: Denied.

129. Paragraph 129 of Plaintiffs' Complaint states:

Cobb county, based on lost votes, unlawfully requested votes and NCOA data on these facts alone would consume more than the entire margin of the statewide difference in the Presidential race.

Answer: Denied.

130. Paragraph 130 of Plaintiffs' Complaint states:

Russell Ramsland confirms that data breaches in the Dominion software permitted rogue actors to penetrate and manipulate the software during the recent general election. He further concludes that at least 96,600 mail-in ballots were illegally counted as they were not cast by legal voters.

Answer: The Democratic Political Party Committees admit that Exhibit makes these allegations about Dominion software but deny the substance of those allegations and any other or different allegations in Paragraph 130.

131. Paragraph 131 of Plaintiffs' Complaint states:

In sum, as set forth above, for a host of independent reasons, the Georgia certified election results concluding that Joe Biden received 12,670 more votes that President Donald Trump must be set aside.

Answer: Denied.

COUNT I

DEFENDANTS VIOLATED THE ELECTIONS CLAUSE AND 42 U.S.C. § 1983

132. Paragraph 132 of Plaintiffs' Complaint states:

Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

Answer: The Democratic Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

133. Paragraph 133 of Plaintiffs' Complaint states:

The Electors Clause states that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors" for President. Art. II, § 1, cl. 2 (emphasis added). Likewise, the Elections Clause of the U.S. Constitution states that "[t]he Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." Art. I, § 4, cl. 1 (emphasis added).

Answer: The Democratic Political Party Committees admit that the quoted language is from U.S. Const. Art. II § 1, cl. 2 and Art. I § 4, cl. 1 and deny each other or different allegation in Paragraph 133.

134. Paragraph 134 of Plaintiffs' Complaint states:

The Legislature is "'the representative body which ma[kes] the laws of the people.'" *Smiley*, 285 U.S. at 193. Regulations of congressional and presidential elections, thus, "must be in accordance with the method which the state has prescribed for legislative enactments." *Id. at 367; see also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2668 (2015).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Smiley*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

135. Paragraph 135 of Plaintiffs' Complaint states:

> Defendants are not part of the General Assembly and cannot exercise legislative power. Rather, Defendants' power is limited to "tak[ing] care that the laws be faithfully executed." Pa. Const. Art. IV, § 2. Because the United States Constitution reserves for the General Assembly the power to set the time, place, and manner of holding elections for the President and Congress, county boards of elections and state executive officers have no authority to unilaterally exercise that power, much less to hold them in ways that conflict with existing legislation.

Answer: The Democratic Political Party Committees admit that the Defendants are not part of the General Assembly. The Democratic Political Party Committees further admit that Article IV § 2 of the Pennsylvania Constitution charges the Governor of that state with "tak[ing] care that the laws be faithfully executed" but denies that this provision of the Pennsylvania Constitution limits Defendants' power or is otherwise relevant to this case. The remaining allegations of Paragraph 135 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To

the extent a response is required the Democratic Political Party Committees deny the same.

136. Paragraph 136 of Plaintiffs' Complaint states:

> Defendants are not the legislature, and their unilateral decision to create a "cure procedure" violates the Electors and Elections Clauses of the United States Constitution.

Answer: The Democratic Political Party Committees admit that the Defendants are not the legislature. The remaining allegations of Paragraph 136 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, the Democratic Political Party Committees deny the same.

137. Paragraph 137 of Plaintiffs' Complaint states:

> The Secretary of State and the State Election Board are not the legislature, and their decision to permit early processing of absentee ballots in direct violation of the unambiguous requirements of O.C.G.A. § 21-2-386(a)(2) violates the Electors and Elections Clauses of the United States Constitution.

Answer: The Democratic Political Party Committees admit that the Secretary of State and the State Election Board are not the legislature. The remaining allegations of Paragraph 137 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a

response is required, the Democratic Political Party Committees deny the same.

138. Paragraph 138 of Plaintiffs' Complaint states:

> Many Affiants testified to many legal infractions in the voting process, including specifically switching absentee ballots or mail-in ballots for Trump to Biden. Even a Democrat testified in his sworn affidavit that before he was forced to move back to where he could not see, he had in fact seen, "*I also saw absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times"*. (See Exh. 18, Par. 12).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 18, Paragraph 12 to Plaintiffs' Complaint. The Democratic Political Party Committees deny the substance of the quoted language and further deny each other or different allegation in Paragraph 138.

139. Paragraph 139 of Plaintiffs' Complaint states:

> Plaintiffs' expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1, Dr. Briggs' Report). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an absentee ballot that they did not request one ranges from 16,938 to 22,771. This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.

Answer: The Democratic Political Party Committees admit that the data in Paragraph 139 is from Exhibit 1 to Plaintiffs' Complaint. Plaintiffs lack information or knowledge sufficient to form a belief as to the truth of each

other or different allegation in Paragraph 139 and, on that basis, deny the same.

140. Paragraph 140 of Plaintiffs' Complaint states:

> This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud.

Answer: Denied.

141. Paragraph 141 of Plaintiffs' Complaint states:

> Further, as shown by data collected by Matt Braynard, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

Answer: Democratic Political Party Committees lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 141 and, on that basis, deny the same.

142. Paragraph 142 of Plaintiffs' Complaint states:

> Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

Defendants have acted and, unless enjoined, will act under color of state law to violate the Elections Clauses of the Constitution. Accordingly, the results for President and Congress in the November 3, 2020 election must be set aside. The results are infected with Constitutional violations.

Answer: Denied.

COUNT II

THE SECRETARY OF STATE AND GEORGIA COUNTIES VIOLATED THE FOURTEENTH AMENDMENT U.S. CONST. AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF EQUAL PROTECTION

INVALID ENACTMENT OF REGULATIONS AFFECTING OBSERVATION AND MONITORING OF THE ELECTION

143. Paragraph 143 of Plaintiffs' Complaint states:

Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: The Democratic Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

144. Paragraph 144 of Plaintiffs' Complaint states:

The Fourteenth Amendment of the United States Constitution provides "nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. *See also Bush v. Gore*, 531 U.S. 98, 104 (2000)(having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over the value of another's). *Harper v. Virginia Board of Elections*, 383 U.S. 663, 665 (1966) ("Once the franchise is granted to the electorate, lines may

not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment.").

Answer: The Democratic Political Party Committees admit that the quoted language is from the Fourteenth Amendment of the United States Constitution, *Bush*, and *Harper*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provision and cases, the Democratic Political Party Committees deny the allegations.

145. Paragraph 145 of Plaintiffs' Complaint states:

> The Court has held that to ensure equal protection, a "problem inheres in the absence of specific standards to ensure its equal application. The formulation of uniform rules to determine intent based on these recurring circumstances is practicable and, we conclude, necessary." *Bush v. Gore*, 531 U.S. 98, 106, 121 S. Ct. 525, 530, 148 L. Ed. 2d 388 (2000).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Bush*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited case, the Democratic Political Party Committees deny the allegations.

146. Paragraph 146 of Plaintiffs' Complaint states:

> The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights. The requirement of equal protection is particularly stringently enforced as to laws that affect the exercise of fundamental rights, including the right to vote.

Answer: Paragraph 146 of Plaintiffs' Complaint contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here, the Democratic Political Party Committees deny the same.

147. Paragraph 147 of Plaintiffs' Complaint states:

> In statewide and federal elections conducted in the State of Georgia, including without limitation the November 3, 2020, General Election, all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process in each County to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: Denied.

148. Paragraph 148 of Plaintiffs' Complaint states:

> Moreover, through its provisions involving watchers and representatives, the Georgia Election Code ensures that all candidates and political parties in each County, including the Trump Campaign, have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent. *See*, *e.g.* In plain terms, the statute clearly prohibits opening absentee ballots prior to election day, while the rule authorizes doing so three weeks before election day. There is no reconciling this conflict. The State Election Board has authority under O.C.G.A. § 21-2-31 to adopt lawful and legal rules and regulations, but no authority to promulgate a regulation that is directly contrary to an unambiguous statute. Rule 183-1-14-0.9-.15 is therefore plainly and indisputably unlawful. Plaintiffs also bring this action under Georgia law, O.C.G.A. § 21-2-522, Grounds for Contest:

Answer: The Democratic Political Party Committees admit that Plaintiffs assert claims under O.C.G.A. § 21-2-522. The Democratic Political Party Committees deny that Plaintiffs have established cognizable claims under this provision. The remaining allegations of Paragraph 148 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Democratic Political Party Committees deny the same.

149. Paragraph 149 of Plaintiffs' Complaint states:

> A result of a primary or election may be contested on one or more of the following grounds:

Answer: The Democratic Political Party Committees admit that the Plaintiffs' quoted language is from O.C.G.A. § 21-2-522. To the extent Plaintiffs' characterization of the statute is inaccurate or intended to apply to the claims here, the Democratic Political Party Committees deny the same.

150. Paragraph 150 of Plaintiffs' Complaint states:

> (1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;
>
> (2) When the defendant is ineligible for the nomination or office in dispute;

(3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;

(4) For any error in counting the votes or declaring the result of the primary or election, if such error would change the result; or

(5) For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election. O.C.G.A. § 21-2-522.

Answer: The Democratic Political Party Committees admit that the Plaintiffs' quoted language is from O.C.G.A. § 21-2-522. To the extent Plaintiffs' characterization of the statute is inaccurate or intended to apply to the claims here, the Democratic Political Party Committees deny the same.

151. Paragraph 151 of Plaintiffs' Complaint states:

Several affiants testified to the improper procedures with absentee ballots processing, with the lack of auditable procedures with the logs in the computer systems, which violates Georgia law, and federal election law. See also, 50 U.S.C. § 20701 requires the retention and preservation of records and papers by officers of elections under penalty of fine and imprisonment.

Answer: The Democratic Political Party Committees deny the first sentence of Paragraph 151. The remaining allegations of Paragraph 151 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, the Democratic Political Party Committees deny the same.

152. Paragraph 152 of Plaintiffs' Complaint states:

The State Election Board re-adopted Rule 183-1-14-0.9-.15 on November 23, 2020 for the upcoming January 2021 runoff election.

Answer: Admitted.

153. Paragraph 153 of Plaintiffs' Complaint states:

A large number of ballots were identical and likely fraudulent. An Affiant explains that she observed a batch of utterly pristine ballots:

14. Most of the ballots had already been handled; they had been written on by people, and the edges were worn. They showed obvious use. However, one batch stood out. It was pristine. There was a difference in the texture of the paper - it was if they were intended for absentee use but had not been used for that purposes. There was a difference in the feel.

15. These different ballots included a slight depressed pre-fold so they could be easily folded and unfolded for use in the scanning machines. There were no markings on the ballots to show where they had com~ from, or where they had been processed. These stood out.

16. In my 20 years of experience of handling ballots, I observed that the markings for the candidates on these ballots were unusually uniform, perhaps even with a ballot-marking device. By my estimate in observing these ballots, approximately 98% constituted votes for Joe Biden. I only observed two of these ballots as votes for President Donald J. Trump." (See Exh. 15).

Answer: The Democratic Political Party Committees deny that a large number of ballots were identical and likely fraudulent. The Democratic Political Party Committees admit that the quoted language is from Exhibit 15 to Plaintiffs' Complaint and deny each other or different allegation in Paragraph 153.

154. Paragraph 154 of Plaintiffs' Complaint states:

> The same Affiant further testified specifically to the breach of the chain of custody of the voting machines the night before the election stating:
>
> we typically receive the machines, the ballot marking devices – on the Friday before the election, with a chain of custody letter to be signed on Sunday, indicating that we had received the machines and the counts on the machines when received, and that the machines have been sealed. **In this case, we were asked to sign the chain of custody letter on Sunday, even though the machines were not delivered until 2:00 AM in the morning on Election Day**. The Milton precinct received its machines at 1:00 AM in the morning on Election Day. This is unacceptable and voting machines should [not] be out of custody prior to an Election Day. *Id*.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief about the truth of the substance of the quoted language or any other or different allegation in Paragraph 154 and, on that basis, deny the same.

155. Paragraph 155 of Plaintiffs' Complaint states:

> Defendants have a duty to treat the voting citizens in each County in the same manner as the citizens in other counties in Georgia.

Answer: Paragraph 155 contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Democratic Political Party Committees deny the same.

156. Paragraph 156 of Plaintiffs' Complaint states:

As set forth in Count I above, Defendants failed to comply with the requirements of the Georgia Election Code and thereby diluted the lawful ballots of the Plaintiffs and of other Georgia voters and electors in violation of the United States Constitution guarantee of Equal Protection.

Answer: Denied.

157. Paragraph 157 of Plaintiffs' Complaint states:

Specifically, Defendants denied the plaintiffs equal protection of the law and their equal rights to meaningful access to observe and monitor the electoral process enjoyed by citizens in other Georgia Counties by:

(a) mandating that representatives at the pre-canvass and canvass of all absentee and mail-ballots be either Georgia barred attorneys or qualified registered electors of the county in which they sought to observe and monitor;

(b) not allowing watchers and representatives to visibly see and review all envelopes containing official absentee and mail-in ballots either at or before they were opened and/or when such ballots were counted and recorded; and

(c) allowing the use of Dominion Democracy Suite software and devices, which failed to meet the Dominion Certification Report's conditions for certification.

Answer: Denied.

158. Paragraph 158 of Plaintiffs' Complaint states:

Instead, Defendants refused to credential all of the Trump Republican's submitted watchers and representatives and/or kept Trump Campaign's watchers and representatives by security and metal barricades from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. Consequently, Defendants created a system whereby it

was physically impossible for the candidates and political parties to view the ballots and verify that illegally cast ballots were not opened and counted

Answer: Denied.

159. Paragraph 159 of Plaintiffs' Complaint states:

Many Affiants testified to switching absentee ballots or mail-in ballots for Trump to Biden, including a Democrat. He testified in his sworn affidavit, that before he was forced to move back to where he could not see, he had in fact seen, "absentee ballots for Trump inserted into Biden's stack, and counted as Biden votes. This occurred a few times". (See Exh. 18, Par. 12).

Answer: The Democratic Political Party Committees admit that the quoted language is from Exhibit 18 to the Plaintiffs' Complaint. The Democratic Political Party Committees deny each other or different allegation in Paragraph 159.

160. Paragraph 160 of Plaintiffs' Complaint states:

Other Georgia county boards of elections provided watchers and representatives of candidates and political parties, including without limitation watchers and representatives of the Republicans and the Trump Campaign, with appropriate access to view the absentee and mail-in ballots being pre-canvassed and canvassed by those county election boards and without restricting representatives by any county residency or Georgia bar licensure requirements.

Answer: The Democratic Political Party Committees lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 160 and, on that basis, deny the same.

161. Paragraph 161 of Plaintiffs' Complaint states:

> Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants, depriving them of the equal protection of those state laws enjoyed by citizens in other Counties.

Answer: Denied.

162. Paragraph 162 of Plaintiffs' Complaint states:

> Defendants have acted and will continue to act under color of state law to violate Plaintiffs' right to be present and have actual observation and access to the electoral process as secured by the Equal Protection Clause of the United States Constitution.

Answer: Denied.

163. Paragraph 163 of Plaintiffs' Complaint states:

> Defendants further violated Georgia voters' rights to equal protection insofar as Defendants allowed the Georgia counties to process and count ballots in a manner that allowed ineligible ballots to be counted, and through the use of Dominion Democracy Suite, allowed eligible ballots for Trump and McCormick to be switched to Biden or lost altogether. Defendants thus failed to conduct the general election in a uniform manner as required by the Equal Protection Clause of the Fourteenth Amendment and the Georgia Election Code.

Answer: Denied.

164. Paragraph 164 of Plaintiffs' Complaint states:

> Plaintiffs seek declaratory and injunctive relief holding that the election, under these circumstances, was improperly certified and that the Governor be enjoined from transmitting Georgia's certified Presidential election

results to the Electoral College. Georgia law forbids certifying a tally that includes any ballots that were not legally cast, or that were switched from Trump to Biden, through the unlawful use of Dominion Democracy Suite software and devices.

Answer: The Democratic Political Party Committees admit that Plaintiffs seek the declaratory and injunctive relief described in Paragraph 164 and deny that Plaintiffs have established cognizable claims entitling them to such relief. The remaining allegations in Paragraph 164 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Democratic Political Party Committees deny the same.

165. Paragraph 165 of Plaintiffs' Complaint states:

Alternatively, Plaintiffs seek declaratory and injunctive relief holding that the election, under these circumstances, was improperly certified and that the Governor be required to recertify the results declaring that Donald Trump has won the election and transmitting Georgia's certified Presidential election result in favor of President Trump.

Answer: The Democratic Political Party Committees admit that Plaintiffs seek the declaratory and injunctive relief described in Paragraph 165 and deny that Plaintiffs have established cognizable claims entitling them to such relief.

166. Paragraph 166 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the declaratory and injunctive relief requested herein is granted. Indeed, the setting aside of an election in which the people have chosen their representative is a drastic remedy that should not be undertaken lightly, but instead should be reserved for cases in which a person challenging an election has clearly established a violation of election procedures and has demonstrated that the violation has placed the result of the election in doubt. Georgia law allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately. O.C.G.A. § 21-2-520 et seq.

Answer: Denied.

167. Paragraph 167 of Plaintiffs' Complaint states:

In addition to the alternative requests for relief in the preceding paragraphs, hereby restated, Plaintiffs seek a permanent injunction requiring the County Election Boards to invalidate ballots cast by: 1) voters whose signatures on their registrations have not been matched with ballot, envelope and voter registration check; 2) all "dead votes"; and 4) all 900 military ballots in Fulton county that supposedly were 100% for Joe Biden.

Answer: The Democratic Political Party Committees admit that Plaintiffs seek the injunctive relief described in Paragraph 167 and deny that Plaintiffs have established cognizable claims entitling them to such relief.

COUNT III

FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE U.S. CONST. AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF DUE PROCESS

DISPARATE TREATMENT OF ABSENTEE/MAIL-IN VOTERS AMONG DIFFERENT COUNTIES

168. Paragraph 168 of Plaintiffs' Complaint states:

> Plaintiffs incorporate each of the prior allegations in this Complaint.
>
> Voting is a fundamental right protected by the Fourteenth Amendment to the United States Constitution. The Fourteenth Amendment protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin*, 570 F.2d at 1077-78. "[H]aving once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05.

Answer: The Democratic Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein. The Democratic Political Party Committees admit that voting is a fundamental right protected by the Fourteenth Amendment to the United States Constitution, including from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. The Democratic Political Party Committees further admit that the quoted language is from

Bush. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited provision and case, the Democratic Political Party Committees deny the allegations.

169. Paragraph 169 of Plaintiffs' Complaint states:

> Defendants are not part of the General Assembly and cannot exercise legislative power. Rather, Defendants' power is limited to executing the laws as passed by the legislature. Although the Georgia General Assembly may enact laws governing the conduct of elections, "no legislative enactment may contravene the requirements of the Georgia or United States Constitutions." *Shankey*, 257 A. 2d at 898.

Answer: The Democratic Political Party Committees admit that the Defendants are not part of the General Assembly. The Democratic Political Party Committees further admit that the quoted language is from *Shankey*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of *Shankey*, the Democratic Political Party Committees deny the allegations. The remainder of the allegations in Paragraph 169 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to the claims here or a response is required, the Democratic Political Party Committees deny the same.

170. Paragraph 170 of Plaintiffs' Complaint states:

Federal courts "possess broad discretion to fashion an equitable remedy." *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 781 F.3d 1271, 1290 (11th Cir. 2015); *Castle v. Sangamo Weston, Inc*., 837 F.2d 1550, 1563 (11th Cir. 1988) ("The decision whether to grant equitable relief, and, if granted, what form it shall take, lies in the discretion of the district court.").

Answer: Admitted.

171. Paragraph 171 of Plaintiffs' Complaint states:

Moreover, "[t]o the extent that a voter is at risk for having his or her ballot rejected due to minor errors made in contravention of those requirements, … the decision to provide a 'notice and opportunity to cure' procedure to alleviate that risk is one best suited for the Legislature[,] . . . particularly in light of the open policy questions attendant to that decision, including what the precise contours of the procedure would be, how the concomitant burdens would be addressed, and how the procedure would impact the confidentiality and counting of ballots, all of which are best left to the legislative branch of Georgia's government." *Id*.

Answer: The Democratic Political Party Committees deny that the quoted language is from any of the cases cited in Paragraph 170 or from a case involving Georgia law or elections and further deny that the quoted language is accurate. The Democratic Political Party Committees affirmatively state that the quoted language is from *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345, 374 (Pa. 2020), which involves "Pennsylvania's government," not, as Plaintiffs allege and misquote, Georgia's government. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the

text of *Boockvar*, the Democratic Political Party Committees deny the allegations.

172. Paragraph 172 of Plaintiffs' Complaint states:

> The disparate treatment of Georgia voters, in subjecting one class of voters to greater burdens or scrutiny than another, violates Equal Protection guarantees because "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 555. *Rice v. McAlister*, 268 Ore. 125, 128, 519 P.2d 1263, 1265 (1975); *Heitman v. Brown Grp., Inc*., 638 S.W.2d 316, 319, 1982 Mo. App. LEXIS 3159, at *4 (Mo. Ct. App. 1982); *Prince v. Bear River Mut. Ins. Co*., 2002 UT 68, ¶ 41, 56 P.3d 524, 536-37 (Utah 2002).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

173. Paragraph 173 of Plaintiffs' Complaint states:

> Defendants are not the legislature, and their unilateral decision to create and implement a cure procedure for some but not all absentee and mail-in voters in this State violates the Due Process Clause of the United States Constitution. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

Answer: The Democratic Political Party Committees admit that the Defendants are not the legislature. The Democratic Political Party Committees deny each other or different allegation in Paragraph 173.

COUNT IV

FOURTEENTH AMENDMENT, U.S. CONST. ART. I § 4, CL. 1; ART. II § 1, CL. 2; AMEND. XIV, 42 U.S.C. § 1983

DENIAL OF DUE PROCESS ON THE RIGHT TO VOTE

174. Paragraph 174 of Plaintiffs' Complaint states:

> Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: The Democratic Political Party Committees incorporate the responses to the foregoing paragraphs as if fully set forth herein.

175. Paragraph 175 of Plaintiffs' Complaint states:

> The right of qualified citizens to vote in a state election involving federal candidates is recognized as a fundamental right under the Fourteenth Amendment of the United States Constitution. *Harper*, 383 U.S. at See also *Reynolds*, 377 U.S. at 554 (The Fourteenth Amendment protects the "the right of all qualified citizens to vote, in state as well as in federal elections."). Indeed, ever since the Slaughter-House Cases, 83 U.S. 36 (1873), the United States Supreme Court has held that the Privileges or Immunities Clause of the Fourteenth Amendment protects certain rights of federal citizenship from state interference, including the right of citizens to directly elect members of Congress. *See Twining v. New Jersey*, 211 U.S. 78, 97 (1908) (*citing Ex parte Yarbrough*, 110 U.S. 651, 663-64 (1884)). *See also Oregon v. Mitchell*, 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting cases).

Answer: Admitted.

176. Paragraph 176 of Plaintiffs' Complaint states:

> The fundamental right to vote protected by the Fourteenth Amendment is cherished in our nation because it "is preservative of other basic civil and political rights." *Reynolds*, 377 U.S. at 562. Voters have a "right to cast a ballot in an election free from the taint of intimidation and fraud," Burson v. Freeman, 504 U.S. 191, 211 (1992), and "[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Reynolds*, *Burson*, and *Purcell*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

177. Paragraph 177 of Plaintiffs' Complaint states:

> "Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted" if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315 (1941). "[T]he right to have the vote counted" means counted "at full value without dilution or discount." *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Classic* and *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

178. Paragraph 178 of Plaintiffs' Complaint states:

"Every voter in a federal . . . election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes." *Anderson v. United States*, 417 U.S. 211, 227 (1974); see also *Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes "debase[]" and "dilute" the weight of each validly cast vote. *See Anderson*, 417 U.S. at 227.

Answer: The Democratic Political Party Committees admit that the quoted language is from *Anderson*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

179. Paragraph 179 of Plaintiffs' Complaint states:

The right to an honest [count] is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States." *Anderson*, 417 U.S. at 226 (quoting *Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff'd due to absence of quorum*, 339 U.S. 974 (1950)).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Anderson*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

180. Paragraph 180 of Plaintiffs' Complaint states:

Practices that promote the casting of illegal or unreliable ballots or fail to contain basic minimum guarantees against such conduct, can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots. *See Reynolds*, 377 U.S. at 555 ("[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.").

Answer: The Democratic Political Party Committees admit that the quoted language is from *Reynolds*. To the extent Plaintiffs' characterization and interpretation of the cited law differs from the text of the cited case, the Democratic Political Party Committees deny the allegations.

181. Paragraph 181 of Plaintiffs' Complaint states:

In Georgia, the signature verification requirement is a dead letter. The signature rejection rate for the most recent election announced by the Secretary of State was 0.15%. The signature rejection rate for absentee ballot applications was .00167% - only 30 statewide. Hancock County, Georgia, population 8,348, rejected nine absentee ballot applications for signature mismatch. Fulton County rejected eight. No other metropolitan county in Georgia rejected even a single absentee ballot application for signature mismatch. The state of Colorado, which has run voting by mail for a number of years, has a signature rejection rate of between .52% and .66%.35 The State of Oregon had a rejection rate of 0.86% in 2016.36 The State of Washington has a rejection rate of between 1% and 2%.37If Georgia rejected absentee ballots at a rate of .52% instead of the actual .15%, approximately 4,600 more absentee ballots would have been rejected.

Answer: The Democratic Political Party Committees deny that Georgia's signature verification requirement is a "dead letter." The Democratic Political Party Committees lack knowledge and information sufficient to form a belief

as to the truth of the remaining allegations in Paragraph 181 and, on that basis, deny the same.

COUNT V

THERE WAS WIDE-SPREAD BALLOT FRAUD.

O.C.G.A. § 21-2-522

182. Paragraph 182 of Plaintiffs' Complaint states:

> Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

Answer: Plaintiffs refer to and incorporate by reference each of the prior paragraphs of this Complaint as though the same were repeated at length herein.

183. Paragraph 183 of Plaintiffs' Complaint states:

> Plaintiffs contest the results of Georgia's election, with Standing conferred under pursuant to O.G.C.A. 21-2-521.

Answer: The Democratic Political Party Committees admit that Plaintiffs contest the results of Georgia's election and deny that Plaintiffs have established a valid basis for doing so. The Democratic Political Party Committees further deny that Plaintiffs have standing.

184. Paragraph 184 of Plaintiffs' Complaint states:

> Therefore, pursuant to O.G.C.A. 21-2-522, for misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result. The foundational principle that Georgia

law "nonetheless allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted accurately." *Martin v. Fulton County Bd. of Registration & Elections*, 307 Ga. 193, 194, 835 S.E.2d 245, 248 (2019). The Georgia Supreme Court has made clear that Plaintiffs need not show how the [] voters would have voted if their [absentee] ballots had been regular. [] only had to show that there were enough irregular ballots to place in doubt the result." See OCGA § 21-2-520 et seq., *Mead v. Sheffield*, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (1994) the Supreme Court invalidated an election, and ordered a new election because it found that,

Thus, [i]t was not incumbent upon [the Plaintiff] to show how the [481] voters would have voted if their [absentee] ballots had been regular. He only had to show that there were enough irregular ballots to place in doubt the result. He succeeded in that task.

Id. at 271 (citing *Howell v. Fears*, 275 Ga. 627, 571 SE2d 392, (2002) (primary results invalid where ballot in one precinct omitted names of both qualified candidates).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Martin* and *Mead*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

185. Paragraph 185 of Plaintiffs' Complaint states:

The "glitches" in the Dominion system—that seem to have the uniform effect of hurting Trump and helping Biden have been widely reported in the press and confirmed by the analysis of independent experts.

Answer: Denied.

186. Paragraph 186 of Plaintiffs' Complaint states:

Prima facie evidence in multiple affidavits shows specific fraudulent acts, which directly resulted in the flipping of the race at issue:

a) votes being switched in Biden's favor away from Trump during the recount;

b) the lack of procedures in place to follow the election code, and the purchase and use, Dominion Voting System despite evidence of serious vulnerabilities;

c) a demonstration that misrepresentations were made about a pipe burst that sent everyone home, while first six, then three, unknown individuals were left alone until the morning hours working on the machines;

d) further a failure to demonstrate compliance with the Georgia's Election Codes, in maintaining logs on the Voting system for a genuine and sound audit, other than voluntary editable logs that prevent genuine audits. While the bedrock of this Democratic Republic rests on citizens' confidence in the validity of our elections and a transparent process, Georgia's November 3, 2020 General Election remains under a pall of corruption and irregularity that reflects a pattern of the absence of mistake. At best, the evidence so far shows ignorance of the truth; at worst, it proves a knowing intent to defraud.

Answer: Denied.

187. Paragraph 187 of Plaintiffs' Complaint states:

Plaintiffs' expert also finds that voters received tens of thousands of ballots that they never requested. (See Exh. 1, Dr. Briggs' Report). Specifically, Dr. Briggs found that in the state of Georgia, based on a statistically significant sample, the expected amount of persons that received an **absentee ballot that they did not request ranges from 16,938 to 22,771**. This range exceeds the margin of loss of President Trump by 12,670 votes by at least 4,268 unlawful requests and by as many as 10,101 unlawful requests.

Answer: The Democratic Political Party Committees admit that the data in Paragraph 139 is from Exhibit 1 to Plaintiffs' Complaint. Plaintiffs lack information or knowledge sufficient to form a belief as to the truth of each other or different allegation in Paragraph 139 and, on that basis, deny the same.

188. Paragraph 188 of Plaintiffs' Complaint states:

> This widespread pattern, as reflected within the population of unreturned ballots analyzed by Dr. Briggs, reveals the unavoidable reality that, in addition to the calculations herein, third parties voted an untold number of unlawfully acquired absentee or mail-in ballots, which would not be in the database of unreturned ballots analyzed here. See O.G.C.A. 21-2-522. These unlawfully voted ballots prohibited properly registered persons from voting and reveal a pattern of widespread fraud.

Answer: Denied.

189. Paragraph 189 of Plaintiffs' Complaint states:

> Further, there exists clear evidence of 20,311 absentee or early voters in Georgia that voted while registered as having moved out of state. Specifically, these persons were showing on the National Change of Address Database (NCOA) as having moved, or as having filed subsequent voter registration in another state also as evidence that they moved and even potentially voted in another state. The 20,311 votes by persons documented as having moved exceeds the margin by which Donald Trump lost the election by 7,641 votes.

Answer: Denied.

190. Paragraph 190 of Plaintiffs' Complaint states:

Plaintiffs' expert Russell Ramsland concludes that at least 96,600 mail-in ballots were fraudulently cast. He further concludes that up to 136,098 ballots were illegally counted as a result of improper manipulation of the Dominion software. (Ramsland Aff).

Answer: The Democratic Political Party Committees admit that the data in Paragraph 190 is from Exhibit 9 to Plaintiffs' Complaint. The Democratic Political Party Committees deny the truth of that data and the substance of the allegations in Paragraph 190.

191. Paragraph 191 of Plaintiffs' Complaint states:

The very existence of absentee mail in ballots created a heightened opportunity for fraud. The population of unreturned ballots analyzed by William Briggs, PhD, reveals the probability that a far greater number of mail ballots were requested by 3rd parties or sent erroneously to persons and voted fraudulently, undetected by a failed system of signature verification. The recipients may have voted in the name of another person, may have not had the legal right to vote and voted anyway, or may have not received the ballot at the proper address and then found that they were unable to vote at the polls, except provisionally, due to a ballot outstanding in their name.

Answer: Denied.

192. Paragraph 192 of Plaintiffs' Complaint states:

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin of votes between the presidential candidates in the

state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote.

Answer: Denied.

193. Paragraph 193 of Plaintiffs' Complaint states:

The right to vote includes not just the right to cast a ballot, but also the right to have it fairly counted if it is legally cast. The right to vote is infringed if a vote is cancelled or diluted by a fraudulent or illegal vote, including without limitation when a single person votes multiple times. The Supreme Court of the United States has made this clear in case after case. See, e.g., *Gray v. Sanders*, 372 U.S. 368, 380 (1963) (every vote must be "protected from the diluting effect of illegal ballots."); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 196 (2008) (plurality op. of Stevens, J.) ("There is no question about the legitimacy or importance of the State's interest in counting only the votes of eligible voters."); *accord Reynolds v. Sims*, 377 U.S. 533, 554-55 & n.29 (1964).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Gray* and *Crawford*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases or Plaintiffs allege that this law applies here, the Democratic Political Party Committees deny the allegations.

194. Paragraph 194 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law. As seen from the expert analysis of William Higgs, PhD, based on actual voter data, tens of thousands of votes did not count, and tens of thousands of votes were unlawfully requested.

Answer: Denied.

195. Paragraph 195 of Plaintiffs' Complaint states:

The Fourteenth Amendment Due Process Clause protects the right to vote from conduct by state officials which seriously undermines the fundamental fairness of the electoral process. *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994); *Griffin v. Burns*, 570 F.2d 1065, 1077-78 (1st Cir. 1978).

Answer: Admitted.

196. Paragraph 196 of Plaintiffs' Complaint states:

Separate from the Equal Protection Clause, the Fourteenth Amendment's due process clause protects the fundamental right to vote against "the disenfranchisement of a state electorate." *Duncan v. Poythress*, 657 F.2d 691, 702 (5th Cir. 1981). "When an election process 'reaches the point of patent and fundamental unfairness,' there is a due process violation." *Florida State Conference of* N.A.A.C.P. *v. Browning*, 522 F.3d 1153, 1183-84 (11th Cir. 2008) (*quoting Roe v. Alabama*, 43 F.3d 574, 580 (11th Cir.1995) (*citing Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir.1986))). See also *Griffin*, 570 F.2d at 1077 ("If the election process itself reaches the point of patent and fundamental unfairness, a violation of the due process clause may be indicated and relief under § 1983 therefore in order."); *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994) (enjoining winning state senate candidate from exercising official authority where absentee ballots were obtained and cast illegally).

Answer: The Democratic Political Party Committees admit that the quoted language is from *Duncan*, *Florida State Conference of N.A.A.C.P.*, *Griffin*, and *Marks*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

197. Paragraph 197 of Plaintiffs' Complaint states:

> Part of courts' justification for such a ruling is the Supreme Court's recognition that the right to vote and to free and fair elections is one that is preservative of other basic civil and political rights. *See Black*, 209 F.Supp.2d at 900 (quoting *Reynolds*, 377 U.S. at 561-62 ("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.")); see also *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) ("the political franchise of voting … is regarded as a fundamental political right, because [sic] preservative of all rights.").

Answer: The Democratic Political Party Committees admit that the quoted language is from *Reynolds* and *Yick Wo*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

198. Paragraph 198 of Plaintiffs' Complaint states:

> "[T]he right to vote, the right to have one's vote counted, and the right to have ones vote given equal weight are basic and fundamental constitutional rights incorporated in the due process clause of the Fourteenth Amendment to the Constitution of the United States." Black, 209 F. Supp. 2d at 900 (a state law that allows local election officials to impose different voting schemes upon some portions of the electorate and not others violates due process). "Just as the equal protection clause of the Fourteenth Amendment prohibits state officials from improperly diluting the right to vote, the due process clause of the Fourteenth amendment forbids state officials from unlawfully eliminating that fundamental right." *Duncan*, 657 F.2d at 704. "Having once granted the right to vote on equal terms,[Defendants] may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush*, 531 U.S. at 104-05.

Answer: The Democratic Political Party Committees admit that the quoted language is from *Black*, *Duncan*, and *Bush*. To the extent that Plaintiffs' characterization and interpretation of the law differs from the text of the cited cases, the Democratic Political Party Committees deny the allegations.

199. Paragraph 199 of Plaintiffs' Complaint states:

> In statewide and federal elections conducted in the State of Georgia, including without limitation the November 3, 2020 General Election, all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: Denied.

200. Paragraph 200 of Plaintiffs' Complaint states:

> Moreover, through its provisions involving watchers and representatives, the Georgia Election Code ensures that all candidates and political parties, including without limitation Plaintiff, Republicans, and the Trump Campaign, shall be "present" and have meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and otherwise free, fair, and transparent.

Answer: The allegations of Paragraph 200 contain characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent the characterization of the law is inaccurate or intended to apply to

the claims here or a response is required, the Democratic Political Party Committees deny the same.

201. Paragraph 201 of Plaintiffs' Complaint states:

> Defendants have a duty to guard against deprivation of the right to vote through the dilution of validly cast ballots by ballot fraud or election tampering. Rather than heeding these mandates and duties, Defendants arbitrarily and capriciously denied the Trump Campaign and Republicans meaningful access to observe and monitor the electoral process by: (a) mandating that representatives at the pre- canvass and canvass of all absentee and mail-ballots be either Georgia barred attorneys or qualified registered electors of the county in which they sought to observe and monitor; and (b) not allowing watchers and representatives to visibly see and review all envelopes containing official absentee and mail-in ballots either at the time or before they were opened and/or when such ballots were counted and recorded. Instead, Defendants refused to credential all of the Trump Campaign's submitted watchers and representatives and/or kept Trump Campaign's watchers and representatives by security and metal barricades from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. The lack of meaningful access with actual access to see the ballots invited further fraud and cast doubt of the validity of the proceedings.

Answer: Denied.

202. Paragraph 202 of Plaintiffs' Complaint states:

> Consequently, Defendants created a system whereby it was physically impossible for the candidates and political parties to view the ballots and verify that illegally cast ballots were not opened and counted.

Answer: Denied.

203. Paragraph 203 of Plaintiffs' Complaint states:

Defendants intentionally and/or arbitrarily and capriciously denied Plaintiffs access to and/or obstructed actual observation and monitoring of the absentee and mail-in ballots being pre-canvassed and canvassed by Defendants, and included the unlawfully not counting and including uncounted mail ballots, and that they failed to follow absentee ballot requirements when thousands of **voters received ballots that they never requested**. Defendants have acted and will continue to act under color of state law to violate the right to vote and due process as secured by the Fourteenth Amendment to the United States Constitution.

Answer: Denied.

204. Paragraph 204 of Plaintiffs' Complaint states:

Plaintiffs have no adequate remedy at law and will suffer serious and irreparable harm unless the injunctive relief requested herein is granted.

Answer: Denied.

205. Paragraph 205 of Plaintiffs' Complaint states:

When we consider the harm of these uncounted votes, and ballots not ordered by the voters themselves, and the potential that many of these unordered ballots may in fact have been improperly voted and also prevented proper voting at the polls, the mail ballot system has clearly failed in the state of Georgia and did so on a large scale and widespread basis. The size of the voting failures, whether accidental or intentional, are multiples larger than the margin in the state. For these reasons, Georgia cannot reasonably rely on the results of the mail vote.

Answer: Denied.

206. Paragraph 206 of Plaintiffs' Complaint states:

Relief sought is the elimination of the mail ballots from counting in the 2020 election. Alternatively, the Presidential electors for the state of Georgia should be disqualified from counting toward the 2020 election.

Answer: The Democratic Political Party Committees admit that the Plaintiffs seek the relief described in Paragraph 206 but deny that the Plaintiffs have established any cognizable claim entitling them to such relief.

207. Paragraph 207 of Plaintiffs' Complaint states:

The United States Code (3 U.S.C. 5) provides that,

"[i]f any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned. 3 USCS § 5.

Answer: The Democratic Political Party Committees admit that the quoted language is from 3 U.S.C. § 5 and deny each other or different allegations.

REQUEST FOR RELIEF

Answer: The Democratic Political Party Committees deny that the Plaintiffs are entitled to any of the requested relief set forth in the Prayer for Relief section of Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

The Democratic Political Party Committees assert the following affirmative defenses without accepting any burdens regarding them.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because this Court lacks jurisdiction to adjudicate Plaintiffs' claims.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs lack standing to assert their claims.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' Compliant fails, in whole or in part, to state a claim upon which relief can be granted.

The Democratic Political Party Committees reserve the right to assert any further defenses that may become evident during the pendency of this matter.

PROPOSED INTERVENORS' REQUEST FOR RELIEF

Having answered Plaintiffs' Complaint, the Democratic Political Party Committees request that the Court:

1. Deny Plaintiffs are entitled to any relief;
2. Dismiss Plaintiffs' Complaint with prejudice;

3. Award the Democratic Political Party Committees their costs and attorneys' fees incurred in defending against Plaintiffs' claims in accordance with 42 U.S.C. § 1988; and
4. Grant such other and further relief as this Court deems just and proper.

Dated: November 30, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Susan P. Coppedge
Georgia Bar No. 187251
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800

Washington, DC 20005
Telephone: (202) 654-6200
melias@perkinscoie.com
acallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101
Telephone: (206) 359-8000
khamilton@perkinscoie.com
abeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000
mmartens@perkinscoie.com

Counsel for Proposed Intervenor-Defendants

**Pro Hac Vice Application Pending*

Exh. A

Expert Report of Matthew Braynard

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

JOHN WOOD, AS AGGRIEVED ELECTOR,

CONTESTANT,

v. **CIVIL ACTION NO.:**

SECRETARY OF STATE BRAD RAFFENSBERGER AND GOVERNOR BRIAN KEMP,

DEFENDANT.

EXPERT REPORT OF MATTHEW BRAYNARD

I. INTRODUCTION

I have been retained as an expert witness on behalf of Petitioner in the above captioned proceeding. I expect to testify on the following subject matters: (i) analysis of the database for the November 3, 2020 election for the selection of Presidential Electors in the State of Georgia ("State"); (ii) render opinions regarding whether individuals identified in the State's voter database actually voted; and (iii) render opinions regarding whether individuals identified in the State's voter database were actually qualified to vote on election day.

This is a statement of my relevant opinions and an outline of the factual basis for these opinions. The opinions and facts contained herein are based on the information made available to me in this case prior to preparation of this report, as well as my professional experience as an election data analyst.

I reserve the right to supplement or amend this statement on the basis of further information obtained prior to the time of trial or in order to clarify or correct the information contained herein.

II. DOCUMENTS REVIEWED

I reviewed the following documents in arriving at my opinions.

1. The voter records and election returns as maintained on the State's election database;

2. Records maintained by the National Change of Address Source which is maintained by the United States Postal Service and which is available for licensed users on the internet. I am a licensed member.

3. Records developed by the staff of my call centers and social media researchers; and

4. A national voter database maintained by L2 Political;

5. The US Postal Service's official list of owned and leased facilities.

In addition, I discussed the facts of this matter with Petitioner's attorney Erick G. Kaardal and members of his legal team.

III. PROFESSIONAL QUALIFICATIONS

I have attached hereto as Exhibit 1 a true and correct copy of my resume. As detailed in the resume, I graduated from George Washington University in 2000 with a degree in business administration with a concentration in finance and management information systems. I have been working in the voter data and election administration field since 1996. I have worked building and deploying voter databases for the Republican National Committee, five Presidential campaigns, and no less than one-hundred different campaigns and election-related organizations in all fifty states and the U.S. Virgin Islands. I worked for eight years as a senior analyst at the nation's premier redistricting and election administration firm, Election Data Services, where I worked with states and municipalities on voter databases, delineation, and litigation support related to these matters. Also, while at Election Data Services, I worked under our contract with the US Census Bureau analyzing voting age population. Since 2004, I

have worked for my own business, now known as External Affairs, Inc., providing statistical and data analysis for local, state, and federal candidates and policy organizations in the areas of voter targeting, polling/research, fundraising, branding, and online development and strategy. My firm has worked for over two-hundred candidates from president to town council and over a dozen DC-based policy/advocacy organizations.

With respect to publications I have authored in the last 10 years, I have not authored any publications in the last ten years.

IV. COMPENSATION

I have been retained as an expert witness for Petitioners. I am being compensated for a flat fee of $40,000.

V. PRIOR TESTIMONY

I have not provided testimony as an expert either at trial or in deposition in the last four years.

VI. STATEMENT OF OPINIONS

As set forth above, I have been engaged to provide expert opinions regarding analysis in the November 3, 2020 election of Presidential electors. Based on my review of the documents set forth above, my discussions with statisticians and analysts working with me and at my direction, my discussions with the attorneys representing the Petitioners, I have the following opinions:

1. It is my opinion, to a reasonable degree of scientific certainty, that in the State, the State's database for the November 3, 2020 election show 138,029 voters whom the

state marks as having requested and been sent an absentee ballot did not return it. It is my opinion, to a reasonable degree of scientific certainty, that in my sample of this universe, 18.39% of these absentee voters in the State did not request an absentee ballot.

2. From the State's database for the November 3, 2020 election and our call center results, it is my opinion to a reasonable degree of scientific certainty that 138,029 individuals whom the State's database identifies as having not returned an absentee ballot, that in my sample of this universe, 33.29% of those absentee voters did in fact mail back an absentee ballot to the clerk's office.

3. From the State's database for the November 3, 2020 election, the NCOA database, and our call center results, it is my opinion to a reasonable degree of scientific certainty that out of the 138,221 individuals had changed their address before the election, that in my sample of this universe, 1.53% of those individuals denied casting a ballot.

4. From the State's database for the November 3, 2020 election and the NCOA database and other state's voter databases, it is my opinion to a reasonable degree of scientific certainty, that at least 20,312 absentee or early voters were not residents of the State when they voted.

5. From the State's database for the November 3, 2020 election and comparing that to the USPS Owned and Leased Facilities Reports, it is my opinion that 1,043 early and absentee ballots were cast by voters who were registered with a postal box disgusted as a residential address.

6. From the State's database for the November 3, 2020 election and comparing that data to other states voting data and identifying individuals who cast early/absentee ballots in multiple states, it is my opinion to a reasonable degree of scientific certainty, that at least 234 individuals in the State voted in multiple states.

VII. BASIS AND REASONS SUPPORTING OPINIONS.

It is my opinion that due to the lax controls on absentee voting in the November 3, 2020 election that the current unofficial results of that election include tens of thousands of individuals who were not eligible to vote or failed to record ballots from individuals that were.

First, State maintains a database for the November 3, 2020 election which I obtained from L2 Political and which L2 Political obtained from the State's records on, among other things, voters who applied for an absentee or early voter status. I received this database from L2 Political in a table format with columns and rows which can be searched, sorted and filtered. Each row sets forth data on an individual voter. Each column contained information such as the name of the voter, the voter's address, whether the voter applied for an absentee ballot, whether the voter voted and whether the voter voted indefinitely confined status.

Second, we are able to obtain other data from other sources such as the National Change of Address Database maintained by the United States Postal Service and licensed by L2 Political. This database also in table format shows the name of an individual, the individual's new address, the individual's old address and the date that the change of address became effective.

Third, I conducted randomized surveys of data obtained from the State's database by having my staff or the call center's staff make phone calls to and ask questions of individuals identified on the State's database by certain categories such as absentee voters who did not return a ballot. Our staff, if they talked to any of these individuals, would then ask a series of questions beginning with a confirmation of the individual's name to ensure it matched the name of the voter identified in the State's database. The staff would then ask additional questions of the individuals and record the answers.

Fourth, my team compared the residential addresses of record for early and absentee voters and established

Fifth, attached as Exhibits 2 is my written analysis of the data obtained.

Below are the opinions I rendered and the basis of the reasons for those opinions.

1. It is my opinion, to a reasonable degree of scientific certainty, that in the State, the State's database for the November 3, 2020 election 138,029 individuals applied for and the State sent an absentee ballot but did not return that ballot. It is also my opinion, to a reasonable degree of scientific certainty, that in my sample of this universe, 18.39% of these absentee voters in the State did not request an absentee ballot.

I obtained this data from the State via L2 Political after the November 3, 2020, Election Day. This data identified 138,029 absentee voters who were sent a ballot but who failed to return the absentee ballot.

I then had my staff make phone calls to a sample of this universe. When contacted, I had my staff confirm the individual's identity by name. Once the name was confirmed, I then had staff ask if the person requested an absentee ballot or not. Staff then recorded the number of persons who answered yes. My staff then recorded that of the 722 individuals who answered the question, 630 individuals answered yes to the question whether they requested an absentee ballot. My staff recorded that 142 individuals answered no to the question whether they requested an absentee ballot. Attached as Exhibit 2 is my written analysis containing information from the data above on absentee voters. Paragraph 2 of Exhibit 2 presents this information.

Next, I then had staff ask the individuals who answered yes, they requested an absentee ballot, whether the individual mailed back the absentee ballot or did not mail back the absentee ballot. Staff then recorded that of the 583 individuals who answered the question, 257 individuals answered yes, they mailed back the absentee ballot. Staff

recorded 326 individuals answered no, they did not mail back the absentee ballot. Paragraph 2 of Exhibit 2 presents this information.

Based on these results, 18.39% of our sample of these absentee voters in the State did not request an absentee ballot.

2. From the State's database for the November 3, 2020 election and our call center results, it is my opinion to a reasonable degree of scientific certainty that out of the 138,029 individuals who the State's database identifies as having not returned an absentee ballot, that in my sample of this universe, 33.29% of those absentee voters did in fact mail back an absentee ballot to the clerk's office.

This opinion includes the analysis set forth above. Among the 583 who told our call center that they did request an absentee ballot and answered the second question, 257 told our staff that they mailed the absentee ballot back, which is 33.29% of those whom the State identified as having not returned the absentee ballot the State sent them. Paragraph 2 of Exhibit 2 presents this information.

3. From the State's database for the November 3, 2020 election, the NCOA database, and our call center results, it is my opinion to a reasonable degree of scientific certainty that out of the 138,221 individuals had changed their address before the election, that in my sample of this universe, 1.53% of those individuals denied casting a ballot.

On Exhibit 2, in paragraph 4, I took the State's database of all absentee or early voters and matched those voters to the NCOA database for the day after election day. This data identified 138,221 individuals whose address on the State's database did not match the address on the NCOA database on election day. Next, I had my staff call the persons identified and ask these individuals whether they had voted. My call center staff identified 2,379 individuals who confirmed that they had casted a ballot. My call center

staff identified 37 individuals who denied casting a ballot. Our analysis shows that 1.53% of our sample of these individuals who changed address did not vote despite the State's data recorded that the individuals did vote.

4. From the State's database for the November 3, 2020 election and the NCOA database and other state's voter databases, it is my opinion to a reasonable degree of scientific certainty, that at least 20,312 absentee or early voters were not residents of the State when they voted.

On Exhibit 2, in paragraph 1, I took the State's database of all absentee or early voters and matched those voters to the NCOA database for the day after Election Day. This data identified 15,700 individuals who had moved of the State prior to Election Day. Further, by comparing the other 49 states voter databases to the State's database, I identified 4,926 who registered to vote in a state other than the State subsequent to the date they registered to vote in the State. When merging these two lists and removing the duplicates, and accounting for moves that would not cause an individual to lose their residency and eligibility to vote under State law, these voters total 20,312.

5. From the State's database for the November 3, 2020 election and comparing that to the USPS Owned and Leased Facilities Reports, it is my opinion that 1,043 early and absentee ballots were cast by voters who were registered with a postal box disgusted as a residential address.

For this determination, I had my staff compare the official list of leased and owned postal facilities provided by the United States Postal Service to the list of early and absentee voters. The matches are identified in Exhibit 3.

We identified 1,043 voters that listed a postal facility as their physical address. In many cases these residential addresses disguised their PO box number as an apartment number or suite number (E.G. "Apt 5402," "Suite 305B", "Unit 305A," etc.)

6. From the State's database for the November 3, 2020 election and comparing that data to other states voting data and identifying individuals who cast early/absentee ballots in multiple states, it is my opinion to a reasonable degree of scientific certainty, that at least 395 individuals in the State voted in multiple states.

On Exhibit 2, in paragraph 2, I had my staff compare the State's early and absentee voters to other states voting data and identified individuals who cast early/absentee ballots in multiple states. My staff located 395 individuals who voted in the State and in other states for the November 3, 2020 general election.

VIII. EXHIBITS TO BE USED AT TRIAL TO SUMMARIZE OR EXPLAIN OPINIONS

At the present time, I intend to rely on the documents produced set forth above as possible exhibits.

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SIGNATURE PAGE TO FOLLOW

Dated: 11/20/2020

Matthew Braynard

MATT BRAYNARD

1521 Boyd Pointe Way #3001, Vienna VA 22182 | 202.423.5333 (c) | matt@braynard.com

Matt Braynard is the president of both political consulting firm External Affairs, Inc., and a voter-registration non-profit, Look Ahead America.

CURRENT EMPLOYMENT

External Affairs, Inc.
Principal **2004 – Present**
External Affairs, Inc. works for local, state, and federal candidates and policy organizations in the areas of voter targeting, polling/research, fundraising, branding, and online development and strategy. The firm has worked for over two-hundred candidates from president to town council and over a dozen DC-based policy/advocacy organizations.

Look Ahead America, Inc.
President **March 2017 – Present**
Matt founded LAA, a 501(c)(3), along with over thirty other former Trump campaign staffers with the goal of registering and turning out disaffected, patriotic voters.

PREVIOUS EMPLOYMENT

Donald J. Trump for President, Inc.
Director, Data Division **October 2015 – March 2016**
Matt was responsible for developing the voter contact strategy, building technology infrastructure, managing vendor relationships, recruiting the data division staff, and supporting and auditing state efforts on door-to-door, phone, mail, and email operations.

Election Data Services, Inc.
Senior Analyst **2001-2005**
Matt Braynard was responsible for analyzing and redistricting states and municipal political boundaries, as well as analyzing election result administration data.

Republican National Committee
Political Analyst **1996, 1998-2001**
Matt Braynard worked in the political analysis department developing and deploying voter targeting databases, and directed the precinct election result research project.

Luntz Research Companies
Research Consultant **1997-2001**
Matt Braynard analyzed survey toplines and cross tabulations to create executive presentation materials.

EDUCATION

Columbia University **2018**
Master of Fine Arts
Writing Program

The George Washington University
Bachelors of Business Administration **2000**
Concentrations in Finance and Management Information Systems

Date: November 19, 2020

From: Matt Braynard
External Affairs, Inc.
matt@braynard.com
202.423.5333

Re: Georgia Voter Integrity Project: Illegal Ballots Preliminary Results

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This is an outline of the six analysis methods we have applied to the State of Georgia ("State") and the results we have obtained as of the date set forth above.

1. Residency Violations

We have evaluated early and absentee voters who were matched to the national change of address database (NCOA) or are found to have registered to vote in other states subsequent to their registration in target states (OOSSR), strongly indicating a violation of residency requirements.

	NCOA	OOSSR	Merged
GA	15,700	4,926	20,312

The OOSSR would be much higher, but we limited due to the lack of full dates of birth available to us from many states' voter databases. A full, complete birthdate is necessary for our match process.

2. Double Voting (Early/Absentee ONLY)

We compared the target state early and absentee voters to other states voting data and identified individuals who cast early/absentee ballots in multiple states.

GA: 395

3. Confirmation of "Unreturned" Absentee Ballots

I obtained data from the State via L2 Political after the November 3, 2020, Election Day. This data identified 138,029 voters who were sent an absentee ballot but who failed to return the absentee ballot.

We then called a sample of these voters totaling 772 individuals to ask if they requested the absentee ballot. Of the 772 individuals our call center contacted and spoke with whom the State data identified as having requested an absentee ballot but the data identified as having not returned the ballot, our call center identified 142 individuals who did not request an absentee

ballot. Among those who said they had requested an absentee ballot and answered whether they had mailed the ballot back, 326 individuals told our call center that they returned a ballot

State	Did Not Request	Percentage of 2,114 Sample
Georgia	142	18.39%

State	Returned	Percentage of 2,114 Sample
Georgia	257	33.29%

4. Confirmation of National Change of Address Voters

We contacted individuals who have been recorded having voted but filed a national change of address to confirm that they did indeed cast a ballot. Once again, our call center staff contacted a random sample of 2,379 individuals from the State data. From these calls, our staff identified 2,379 individuals who told our call center staff they did cast a ballot and 18 individuals who told our call center staff they did cast a ballot. The following counts and percent of people we reached by phone told us they did NOT cast an early or absentee ballot despite the state recording such a ballot.

State	Total	Percentage of Sample
Georgia	37	1.53%

5. Confirmation of Low Propensity in Heavy Turnout Precincts

We reached out to Individuals who were marked as having voted despite never voting, not voting in many years, or just recently registered. We concentrated this in precincts with unusually high turnout.

State	Total	Percentage of Sample
Georgia	24	0.85%

Postal Company	County	Voter Registration #	Last Name	First Name	Middle Name	Suffix	Street #	Street Name	Apt/Unit	City	State	Zip Code	Application Status	Ballot Status	Status Reason	Application Date	Ballot Issued Date	Ballot Return Date	Ballot Style
UPS	BIBB	4876129	FIGUEROA	DEBORAH	ANN		4339	HARTLEY BRIDGE RD	AP 102	MACON	GA	31216	A	A		9/24/2020	9/25/2020	10/26/2020	MAILED
UPS	BIBB	8746353	RUCKER	ERICA	ANIK		3780	NORTHSIDE DR	APT 140-118	MACON	GA	31210	A	A		10/13/2020	10/13/2020	0/13/2020	IN PERSON
USPS	BIBB	8330810	FISHER	RENNIE	MARIE		1740	ROCKY CREEK RD	UNIT 20894	MACON	GA	31206	A	A		10/26/2020	10/26/2020	0/26/2020	IN PERSON
UPS	BIBB	10624430	KING	BRITTANY	ANDREA		4339	HARTLEY BR DGE RD	APT 215	MACON	GA	31216	A	A		10/22/2020	10/22/2020	0/22/2020	IN PERSON
UPS	BIBB	6345247	JOHNSON	GENOA	GERALD		3780	NORTHSIDE DR	APT 140187	MACON	GA	31210	A	A		10/20/2020	10/20/2020	0/20/2020	IN PERSON
UPS	BIBB	10345561	LA FOUNTAIN	MARC	ANDREW		4339	HARTLEY BR DGE RD	STE 104	MACON	GA	31216	A	A		10/26/2020	10/26/2020	0/26/2020	IN PERSON
UPS	BIBB	161139	KING	SUVONEREE	EVANS		4339	HARTLEY BR DGE RD	BOX 215	MACON	GA	31216	A	A		10/22/2020	10/22/2020	0/22/2020	IN PERSON
UPS	BIBB	5333249	PATTERSON	FRANK	KIDD	III	5962	ZEBULON RD	APT 169	MACON	GA	31210	A	A		10/12/2020	10/12/2020	10/12/2020	IN PERSON
USPS	BIBB	3323797	DENNIS	ROBERT		JR	1040	PIO NONO AVE	UNIT 2023	MACON	GA	31204	A	A		10/16/2020	10/16/2020	10/16/2020	IN PERSON
USPS	BIBB	1760838	CRANFILL	MELANIE	R		1740	ROCKY CREEK RD	UNIT 20591	MACON	GA	31206	A	A		10/21/2020	10/21/2020	0/21/2020	IN PERSON
UPS	BIBB	8421878	PFEIFFER	KATHERINE	ANN		5962	ZEBULON RD	UNIT 163	MACON	GA	31210-2099	A	A		10/28/2020	10/28/2020	0/28/2020	IN PERSON
UPS	BIBB	812945	RAGIN	LELAND	K	JR	4339	HARTLEY BR DGE RD	APT 216	MACON	GA	31216	A	A		10/19/2020	10/19/2020	0/19/2020	IN PERSON
UPS	BIBB	5035181	DAVIS	KATHERINE	ANGELA		4339	HARTLEY BR DGE RD	APT 167	MACON	GA	31216	A	A		10/20/2020	10/20/2020	0/20/2020	IN PERSON
UPS	BIBB	176527	CROTHERS	VINCENT	LEE		3780	NORTHSIDE DR	STE 140	MACON	GA	31210	A	A		10/14/2020	10/14/2020	0/14/2020	IN PERSON
UPS	BIBB	179993	DILL	DONALD	EDWARD	JR	4339	HARTLEY BR DGE RD	UNIT 83	MACON	GA	31216-5641	A	A		4/8/2020	9/18/2020	9/23/2020	MAILED
UPS	BIBB	1001890	ENGLISH	RODREQUEZ	L		5962	ZEBULON RD	STE 175	MACON	GA	31210	A	A		10/21/2020	10/21/2020	0/21/2020	IN PERSON
UPS	BIBB	8327966	ABBOTT	FRANK	M		4339	HARTLEY BR DGE RD	#202	MACON	GA	31216	A	A		10/13/2020	10/13/2020	0/13/2020	IN PERSON
USPS	BRANTLEY	2243417	DAVIS	JAMES			10119	MAIN ST N	805	NAHUNTA	GA	31553	A	A		10/9/2020	10/9/2020	0/22/2020	MAILED
USPS	BRYAN	12900802	WILSON-MITCHELL	LASHONDA			9664	FORD AVE		RICHMOND HILL	GA	31324	A	A		10/15/2020	10/15/2020	0/15/2020	IN PERSON
USPS	BUTTS	11526038	DEPORRES	GERALDO	MARTIN VICENTE		461	E 2ND ST	#1304	JACKSON	GA	30233	A	A		4/22/2020	9/18/2020	9/30/2020	MAILED
USPS	CAMDEN	12014654	MCCARTHY	MARSHA	ANN		724	CHARLIE SMITH SR HWY	APT 5402	SAINT MARYS	GA	31558	A	A		10/27/2020	10/27/2020	10/27/2020	IN PERSON
USPS	CAMDEN	12014654	MCCARTHY	MARSHA	ANN		724	CHARLIE SMITH SR HWY	APT 5402	SAINT MARYS	GA	31558	A	C	Mailed Ba lot Surrendered to Vote In-Person	10/11/2020	10/11/2020	10/27/2020	MAILED
USPS	CAMDEN	12549980	WULFFIEND	TONY	JAMES		724	CHARLIE SMITH SR HWY	UNIT 5734	SAINT MARYS	GA	31558	A	A		10/23/2020	10/23/2020	10/23/2020	IN PERSON
USPS	CATOOSA	11812818	KEIM	ELIZABETH	LUC LLE		862	LAFAYETTE ST	UNIT 1625	RINGGOLD	GA	30736	A	A		10/20/2020	10/20/2020	10/20/2020	IN PERSON
UPS	CHATHAM	1528241	ANDERSON	DOREEN	MARIE		57	0 OGEECHEE RD	STE 200	SAVANNAH	GA	31405	A	A		10/16/2020	10/16/2020	0/16/2020	IN PERSON
UPS	CHATHAM	7321565	BOSTICK	JAMAAR	SHA'RON		5501	ABERCORN ST	SUITE D214	SAVANNAH	GA	31405	A	A		10/14/2020	10/14/2020	11/3/2020	MAILED
FedEx	CHATHAM	10312723	MCGEE	ADAM	DEAN		5	W BROUGHTON ST		SAVANNAH	GA	31401	A	A		10/28/2020	10/28/2020	0/28/2020	IN PERSON
FedEx	CHATHAM	12199576	GONZALEZ	REBECCA			5	W BROUGHTON ST	UNIT 305B	SAVANNAH	GA	31401	A	A		10/28/2020	10/28/2020	0/28/2020	IN PERSON
UPS	CHATHAM	11697835	GONZALEZ	ANDREW	ROBERT		5710	OGEECHEE RD	STE 200	SAVANNAH	GA	31405	A	A		10/16/2020	10/16/2020	0/16/2020	IN PERSON
UPS	CHATHAM	5609599	REARDON	WALTER	MCKINLEY		5710	OGEECHEE RD	200-265	SAVANNAH	GA	31405	A	A		10/12/2020	10/12/2020	0/12/2020	IN PERSON
UPS	CHATHAM	8500756	LIU	XIN JIAN			57	0 OGEECHEE RD	UNIT 150	SAVANNAH	GA	31405-9517	A	A		10/16/2020	10/16/2020	11/3/2020	MAILED
UPS	CHATHAM	8002756	MITCHELL	DARLA	POTTER		57	0 OGEECHEE RD	STE200-208	SAVANNAH	GA	31405	A	A		10/20/2020	10/24/2020	11/3/2020	MAILED
UPS	CHATHAM	7463225	GREEN	KEON	DONTAGUS		57	0 OGEECHEE RD	#200-202	SAVANNAH	GA	31405	A	A		10/15/2020	10/15/2020	0/15/2020	IN PERSON
FedEx	CHATHAM	12105784	TROPEA	ALEXANDRA	FLORENCE		5	W BROUGHTON ST	-UNIT.305A	SAVANNAH	GA	31401	A	A		9/8/2020	9/18/2020	10/19/2020	MAILED
UPS	CHATHAM	12042290	WARD	KEN	EARL		5501	ABERCORN ST	SUITE D-326	SAVANNAH	GA	31405	A	A		10/15/2020	10/15/2020	11/2/2020	MAILED
UPS	CHATHAM	8761840	KANG	DANIEL	HONG-GU		57	0 OGEECHEE RD	# 200228	SAVANNAH	GA	31405	A	A		9/18/2020	9/18/2020	0/21/2020	MAILED
USPS	CHATHAM	1075107	GREY	FRANCES	EVELYN		1	8 BARNARD ST	UNIT 10703	SAVANNAH	GA	31401	A	A		10/12/2020	10/12/2020	0/12/2020	IN PERSON
UPS	CHATHAM	2219986	PACE	MARCUS	J		5501	ABERCORN ST	STE D205	SAVANNAH	GA	31405	A	A		10/15/2020	10/15/2020	0/15/2020	IN PERSON
USPS	CHATHAM	5095798	LOESCH	MELANIE	MARIE		1030	US HIGHWAY 80 W	APT#244	POOLER	GA	31322	A	A		10/14/2020	10/14/2020	0/14/2020	IN PERSON
UPS	CHATHAM	7463225	GREEN	KEON	DONTAGUS		5710	OGEECHEE RD	#200-202	SAVANNAH	GA	31405	A	C	Ballot was Undelivered	9/4/2020	9/18/2020	0/15/2020	MAILED
UPS	CHATHAM	8788281	HATHAWAY	AUGUSTA	DEJUAN		5501	ABERCORN ST	STE D	SAVANNAH	GA	31405	A	A		10/29/2020	10/29/2020	0/29/2020	IN PERSON
FedEx	CHATHAM	6109251	NELSON	DARREN	CEDRIC		5	W BROUGHTON ST		SAVANNAH	GA	31401	A	A		10/30/2020	10/30/2020	0/30/2020	IN PERSON
UPS	CHATHAM	12454539	CHRISTMAS	DIANA	L		2126	E VICTORY DR	UNIT 313	SAVANNAH	GA	31404	A	A		5/15/2020	9/18/2020	0/15/2020	MAILED
UPS	CHATHAM	1502183	WILLIAMS	KEVIN	LEROY		2126	E VICTORY DR		SAVANNAH	GA	31404	A	A		10/26/2020	10/26/2020	10/26/2020	IN PERSON
UPS	CHATHAM	1916108	CARDEN	CLIFTON			2126	E VICTORY DR	APT 329	SAVANNAH	GA	31404	A	A		10/27/2020	10/27/2020	0/27/2020	IN PERSON
USPS	CHATHAM	11220744	WRIGHT	STEPHEN	R		463	JOHNNY MERCER BLVD	#STE -B 7	SAVANNAH	GA	31410	A	A		10/12/2020	10/12/2020	0/12/2020	IN PERSON
UPS	CHATHAM	1861860	MITCHELL	MATTHEW	BATES		57	0 OGEECHEE RD	UNIT # 200 208	SAVANNAH	GA	31405	A	A		10/19/2020	10/24/2020	11/3/2020	MAILED
USPS	CHATHAM	10509083	SETTERS	JAMES	EARL		407	E US HIGHWAY 80	UNIT 784	BLOOMINGDALE	GA	31 02	A	A		4/24/2020	9/18/2020	10/2/2020	MAILED
USPS	CHATHAM	4443137	PRINCE	JENNIFER	LYNN		463	JOHNNY MERCER BLVD	STE B7	SAVANNAH	GA	31410	A	A		9/17/2020	9/18/2020	0/28/2020	MAILED
USPS	CHATHAM	2243830	PRUDEN	RALPH	J		1	8 BARNARD ST	UNIT 9482	SAVANNAH	GA	31401	A	A		10/24/2020	10/24/2020	0/24/2020	IN PERSON
UPS	CHATHAM	8740303	MULLEN	DAVID	WILLIAM		5501	ABERCORN ST	STE D304	SAVANNAH	GA	31405	A	A		10/2/2020	10/3/2020	0/23/2020	MAILED
FedEx	CHATHAM	3097079	ESTES	JACK E	MARLENE		5	W BROUGHTON ST	UNIT 404	SAVANNAH	GA	31401	A	A		10/22/2020	10/22/2020	0/22/2020	IN PERSON
UPS	CLARKE	1764442	LONG	THAD	D		1860	BARNETT SHOALS RD	103	ATHENS	GA	30605	A	A		10/20/2020	10/20/2020	0/20/2020	IN PERSON
UPS	CLARKE	1764442	LONG	THAD	D		1860	BARNETT SHOALS RD	103	ATHENS	GA	30605	A	C	Ballot was Undelivered	10/5/2020	10/20/2020	0/20/2020	IN PERSON
UPS	CLARKE	11816715	TERRY	CHARLES	LEE		1860	BARNETT SHOALS RD	STE 103	ATHENS	GA	30605	A	A		4/10/2020	9/18/2020	9/29/2020	MAILED
UPS	CLARKE	12773226	SHIELDS	LAUREN	CORRIN		1860	BARNETT SHOALS RD	STE 103	ATHENS	GA	30605	A	A		10/30/2020	10/30/2020	10/30/2020	IN PERSON
USPS	CLAYTON	5186097	LEONARD	OLINKA	GEDDES		6691	CHURCH ST	UNIT 96105	RIVERDALE	GA	30274	A	A		10/26/2020	10/26/2020	10/26/2020	IN PERSON
USPS	CLAYTON	6147616	ROSS	PATRICIA	ANN		6450	EVANS DR	UNIT 275	REX	GA	30273	A	A		10/13/2020	10/13/2020	10/13/2020	IN PERSON
USPS	CLAYTON	8527984	ANDREW	FREDERICK	AUGUSTINE	II	6450	EVANS DR	UNIT 612	REX	GA	30273	A	A		10/14/2020	10/14/2020	0/14/2020	IN PERSON
USPS	CLAYTON	7490170	LAWRENCE	CATHERINE			4989	COURTNEY DR		FOREST PARK	GA	30297	A	A		10/23/2020	10/23/2020	0/23/2020	IN PERSON
USPS	CLAYTON	10197275	SIMMONS	MARIAN	PATRICIA MENDENHALL		6450	EVANS DR	UNIT 978	REX	GA	30273	A	A		9/12/2020	9/18/2020	10/19/2020	MAILED
USPS	CLAYTON	3424731	SMITH	HANA	NICOLETTE		6691	CHURCH ST	962114	RIVERDALE	GA	30274	A	A		9/11/2020	9/18/2020	10/19/2020	MAILED
USPS	CLAYTON	2681033	CRAWFORD	TONY			6450	EVANS DR	UNIT 256	REX	GA	30273	A	A		10/23/2020	10/23/2020	10/23/2020	IN PERSON
USPS	CLAYTON	4465782	RAY	FATIMAH	ALI		6450	EVANS DR	UNIT 225	REX	GA	30273	A	A		10/22/2020	10/22/2020	10/22/2020	IN PERSON
USPS	CLAYTON	8852967	HODGE	ANTHONY	QUINN		6450	EVANS DR	UNIT 693	REX	GA	30273	A	A		10/23/2020	10/23/2020	0/23/2020	IN PERSON
USPS	CLAYTON	2681033	CRAWFORD	TONY			6450	EVANS DR	UNIT 256	REX	GA	30273	A	C	Ballot was Undelivered	9/4/2020	9/18/2020	10/23/2020	MAILED
USPS	CLAYTON	10697559	MYHAND	TRACEY	WANNETTE		6450	EVANS DR	UNIT 998	REX	GA	30273	A	A		10/14/2020	10/27/2020	10/27/2020	IN PERSON
USPS	CLAYTON	3439191	GRIFFIN	VERONICA	HARRIS		6450	EVANS DR	UNIT # 62	REX	GA	30273	A	A		10/16/2020	10/16/2020	10/16/2020	IN PERSON
USPS	CLAYTON	4250384	JOHNSON	VANEE	LAVEESTA		6691	CHURCH ST	960880	RIVERDALE	GA	30274	A	A		10/21/2020	10/21/2020	10/21/2020	IN PERSON
USPS	CLAYTON	8169111	DALE	GLEN	FRANK		6691	CHURCH ST		RIVERDALE	GA	30274	A	A		10/14/2020	10/14/2020	10/14/2020	IN PERSON
USPS	CLAYTON	8852967	HODGE	ANTHONY	QUINN		6450	EVANS DR	UNIT 693	REX	GA	30273	A	C	VOTER DESTROYED THE BALLOT	9/28/2020	10/5/2020	10/23/2020	MAILED
USPS	COBB	10082513	BASEL	CHRISTIANA	YVONNE		2001	DUNCAN DR NW	1821	KENNESAW	GA	30144	A	C	Ballot was Undelivered	0/4/2020	10/6/2020	11/6/2020	MAILED
USPS	COBB	5310383	ROBINSON	DANA	MARCEL		2001	DUNCAN DR NW	831	KENNESAW	GA	30144	A	A		9/8/2020	9/18/2020	10/20/2020	MAILED
USPS	COBB	11391524	SMITH	CUVANNA	MONIQUE		2001	DUNCAN DR NW	46	KENNESAW	GA	30144	A	A		10/27/2020	10/27/2020	10/27/2020	IN PERSON
USPS	COBB	8611055	FRANCOIS	MARIE	LAURENCE REGINE		2001	DUNCAN DR NW	153	KENNESAW	GA	30144	A	A		10/12/2020	10/12/2020	0/12/2020	IN PERSON
USPS	COLQUITT	4145250	SELPH	JOHNNY	PAUL	JR	215	N MAIN ST		MOULTRIE	GA	31768	A	A		10/20/2020	10/20/2020	10/20/2020	IN PERSON
UPS	COWETA	6230740	ELLIS	ANECIA	KEVIA		388	BULLSBORO DR	119	NEWNAN	GA	30263- 069	A	A		10/30/2020	10/30/2020	10/30/2020	IN PERSON
UPS	COWETA	5848190	SULLIVAN	HEATHER	FELICIA		388	BULLSBORO DR	UNIT #240	NEWNAN	GA	30263	A	A		10/17/2020	10/17/2020	0/17/2020	IN PERSON
UPS	COWETA	11856586	HUDLER	LINDY	LEE		388	BULLSBORO DR	APT 345	NEWNAN	GA	30263	A	A		0/5/2020	10/5/2020	0/24/2020	MAILED
USPS	DAWSON	11471636	SWEENEY	JONATHAN	WILLIAM		452	HIGHWAY 53 E	UNIT 831	DAWSONVILLE	GA	30534	A	A		10/15/2020	10/15/2020	0/15/2020	IN PERSON
USPS	DEKALB	5897712	KEITH	SANDRA	R		1551	DUNWOODY VILLAGE PKWY	88052	DUNWOODY	GA	30338	A	A		10/23/2020	10/23/2020	0/23/2020	IN PERSON
USPS	DEKALB	8550933	QUEMIE	PETER			977	MONTREAL RD	UNIT #1072	CLARKSTON	GA	30021	A	A		4/17/2020	9/18/2020	9/30/2020	MAILED
USPS	DEKALB	10559784	PETTY	KEVIN	CORNELIUS		3328	E PONCE DE LEON AVE	UNIT 288	SCOTTDALE	GA	30079	A	A		10/14/2020	10/14/2020	10/14/2020	IN PERSON
USPS	DEKALB	4103762	HOWARD	WILLIAM	JESSE	III	3035	STONE MOUNTAIN ST	UNIT 183	LITHONIA	GA	30058	A	A		10/14/2020	10/14/2020	0/14/2020	IN PERSON
USPS	DEKALB	8758656	CUMMINGS	LINDA	LOUISE		3328	E PONCE DE LEON AVE		SCOTTDALE	GA	30079	A	A		10/20/2020	10/20/2020	0/20/2020	IN PERSON
UPS	DEKALB	3130326	HANSEN	BRAD			4780	ASHFORD DUNWOODY RD	254	ATLANTA	GA	30338	A	A		10/16/2020	10/16/2020	0/16/2020	IN PERSON
UPS	DEKALB	6615612	ARROUFI	KAYRONNA	G		4780	ASHFORD DUNWOODY RD	# 122	ATLANTA	GA	30338	A	A		10/27/2020	10/27/2020	0/27/2020	IN PERSON
USPS	DEKALB	5016531	CHRISTMON	FENECIA	SHEVANDA		1551	DUNWOODY VILLAGE PKWY		DUNWOODY	GA	30338	A	A		10/13/2020	10/13/2020	0/13/2020	IN PERSON
USPS	DEKALB	11896828	SMITH	TIMOTHY	EUGENE	II	3328	E PONCE DE LEON AVE	UNIT 288	SCOTTDALE	GA	30079	A	C	VOTED IN PERSON	9/10/2020	9/19/2020	0/14/2020	MAILED
UPS	DEKALB	3117437	MCCOWEN	KELLY	BRYAN		4780	ASHFORD DUNWOODY RD	540-243	ATLANTA	GA	30338	A	A		10/24/2020	10/24/2020	0/24/2020	IN PERSON
UPS	DEKALB	5909442	NUNLEY	AQUANETTA	CORISE		4780	ASHFORD DUNWOODY RD	A221	ATLANTA	GA	30338	A	A		10/19/2020	10/19/2020	0/19/2020	IN PERSON
UPS	DEKALB	4844267	PASSMORE	GEORGE	WILSON E-LI'EL	II	2724	WESLEY CHAPEL RD	UNIT361571	DECATUR	GA	30034	A	A		10/20/2020	10/20/2020	0/20/2020	IN PERSON
USPS	DEKALB	4992603	HOWARD	MARHONDA			3035	STONE MOUNTAIN ST	UNIT 83	LITHONIA	GA	30058	A	A		10/14/2020	10/14/2020	0/14/2020	IN PERSON
UPS	DEKALB	7233574	RANKINE	CHRISTOPHER	CHARLES		4780	ASHFORD DUNWOODY RD	UNIT 540	ATLANTA	GA	30338-5553	A	A		10/17/2020	10/17/2020	10/17/2020	IN PERSON
USPS	DEKALB	8480986	STAPLETON	RENEE			1920	DRESDEN DR NE	#190193	ATLANTA	GA	30319	A	C	VOTED INPERSON	9/4/2020	9/18/2020	10/18/2020	MAILED
USPS	DEKALB	8635615	LEWIS	ASHTON	NICOLAIS		1551	DUNWOODY VILLAGE PKWY	88324	DUNWOODY	GA	30338	A	A		10/12/2020	10/12/2020	0/12/2020	IN PERSON
USPS	DEKALB	11896828	SMITH	TIMOTHY	EUGENE	II	3328	E PONCE DE LEON AVE	UNIT 288	SCOTTDALE	GA	30079	A	A		10/14/2020	10/14/2020	0/14/2020	IN PERSON
UPS	DEKALB	2433780	YOUNG	DEIDRA	LOUISE		4780	ASHFORD DUNWOODY RD	UNIT # A414	ATLANTA	GA	30338	A	A		10/20/2020	10/20/2020	0/20/2020	IN PERSON
USPS	DEKALB	3364665	DAWKINS	TONY	B		977	MONTREAL RD	UNIT 852	CLARKSTON	GA	30021	A	A		10/24/2020	10/24/2020	0/24/2020	IN PERSON
USPS	DEKALB	1770281	SEBASTIAN	GLORIA	ANITA		3035	STONE MOUNTAIN ST	UNIT 1222	LITHONIA	GA	30058	A	A		10/21/2020	10/21/2020	0/21/2020	IN PERSON
USPS	DEKALB	3792102	WHEAT	MONIQUE	SHEREE		5181	W MOUNTAIN ST	UNIT 2427	STONE MOUNTAIN	GA	30083	A	A		10/22/2020	10/22/2020	0/22/2020	IN PERSON

UPS	DEKALB	10703552 SHANBHAG	RAM			4780 ASHFORD DUNWOODY RD	#540-626	ATLANTA	GA	30338	A	A		10/22/2020	10/22/2020	0/22/2020 IN PERSON
USPS	DEKALB	2524398 MORRIS	JOHNNY		II	5181 W MOUNTAIN ST	UNIT 20	STONE MOUNTAIN	GA	30083	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	DEKALB	1935242 DANIEL	KIMBERLY	PYLES		3035 STONE MOUNTAIN ST	161	LITHONIA	GA	30058	A	A		10/28/2020	10/28/2020	0/28/2020 IN PERSON
USPS	DEKALB	3698478 GIBBS	MICHAEL	A		1273 METROPOLITAN AVE SE	UNIT 18071	ATLANTA	GA	30316	A	A		10/17/2020	10/17/2020	11/2/2020 MAILED
USPS	DEKALB	11780596 AGNEW	JAMES	FREDERICK	II	1920 DRESDEN DR NE	T190573	ATLANTA	GA	30319	A	A		10/29/2020	10/29/2020	0/29/2020 IN PERSON
USPS	DEKALB	11194151 REID	RONALD	NATHANIEL		5181 W MOUNTAIN ST	#2473	STONE MOUNTAIN	GA	30083	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	DEKALB	4120734 SMALLS	FELONES		JR	1273 METROPOLITAN AVE SE	UNIT 17563	ATLANTA	GA	30316	A	A		10/13/2020	10/13/2020	0/13/2020 IN PERSON
USPS	DEKALB	2619531 COX ERWOOD	PATRICIA			1551 DUNWOODY VILLAGE PKWY	#888966	DUNWOODY	GA	30338	A	A		10/14/2020	10/14/2020	0/14/2020 IN PERSON
USPS	DEKALB	11320058 TAYLOR	BRAY			1920 DRESDEN DR NE	191453	ATLANTA	GA	30319	A	A		10/12/2020	10/12/2020	0/12/2020 IN PERSON
UPS	DEKALB	12644244 MEYER	AMY	SUE		4780 ASHFORD DUNWOODY RD	APT 339	ATLANTA	GA	30338	A	A		10/21/2020	10/21/2020	0/21/2020 IN PERSON
UPS	DEKALB	12110438 JORDAN	MARCUS	TYREE		4780 ASHFORD DUNWOODY RD	#540-226	ATLANTA	GA	30338	A	A		10/17/2020	10/17/2020	0/17/2020 IN PERSON
USPS	DEKALB	4315785 MILLER	SUBRENA	LORRI ANNE		3328 E PONCE DE LEON AVE	UNIT 142	SCOTTDALE	GA	30079	A	A		10/30/2020	10/30/2020	10/30/2020 IN PERSON
UPS	DEKALB	5680113 WILLIAMS	DEREK	MCKENZIE		4780 ASHFORD DUNWOODY RD	#540-180	ATLANTA	GA	30338	A	A		10/13/2020	10/13/2020	0/13/2020 IN PERSON
USPS	DEKALB	8070605 GUILLORY	LARRY	JAMES		3035 STONE MOUNTAIN ST	723	LITHONIA	GA	30058	A	A		10/19/2020	10/19/2020	0/19/2020 IN PERSON
USPS	DEKALB	10893803 MOHAMED	ABDIFATAH	NURENI		977 MONTREAL RD	UNIT 1231	CLARKSTON	GA	30021	A	A		10/24/2020	10/24/2020	0/24/2020 IN PERSON
USPS	DEKALB	11745844 LANKFORD	SHANTEL	ROSE		3035 STONE MOUNTAIN ST	UNIT 83	LITHONIA	GA	30058	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
UPS	DEKALB	8235906 GARMAN	RAYMOND	JACK		4780 ASHFORD DUNWOODY RD	E176	ATLANTA	GA	30338-5564	A	A		4/16/2020	9/18/2020	9/30/2020 MAILED
USPS	DEKALB	8635615 LEWIS	ASHTON	NICOLAIS		1551 DUNWOODY VILLAGE PKWY	88324	DUNWOODY	GA	30338	A	C	Ballot was Undelivered	9/4/2020	9/18/2020	0/12/2020 MAILED
USPS	DEKALB	2096526 SEWELL	VALARIE	L		3035 STONE MOUNTAIN ST	UNIT#182	LITHONIA	GA	30058	A	A		10/14/2020	10/14/2020	0/14/2020 IN PERSON
USPS	DEKALB	10318897 GREGORY	PAMELA	KAYE		1551 DUNWOODY VILLAGE PKWY	APT 88531	DUNWOODY	GA	30338	A	A		10/29/2020	10/29/2020	0/29/2020 IN PERSON
USPS	DEKALB	3857907 HALL	MONIQUE	LANE		3328 E PONCE DE LEON AVE	UNIT 6	SCOTTDALE	GA	30079	A	A		10/29/2020	10/29/2020	0/29/2020 IN PERSON
USPS	DEKALB	6019870 MITCHELL	ANGELA	RUTH		977 MONTREAL RD	UNIT 761	CLARKSTON	GA	30021	A	A		9/3/2020	9/18/2020	0/13/2020 MAILED
USPS	DEKALB	7693510 RIVERS	DAVID	L		3035 STONE MOUNTAIN ST	UNIT 1202	LITHONIA	GA	30058	A	A		9/24/2020	9/24/2020	0/16/2020 MAILED
UPS	DEKALB	8263903 LUBERT	ANN MARIE			4780 ASHFORD DUNWOODY RD	STE A331	ATLANTA	GA	30338	A	A		0/4/2020	10/5/2020	10/19/2020 MAILED
UPS	DEKALB	5075460 ROGERS	LIGETTE	GAYNELL		4780 ASHFORD DUNWOODY RD	A195	DUNWOODY	GA	30338-5564	A	A		0/9/2020	10/9/2020	10/30/2020 MAILED
UPS	DEKALB	2418411 DELL	CATHERINE	ELIZABETH		4780 ASHFORD DUNWOODY RD	STE A-302	ATLANTA	GA	30338	A	A		10/20/2020	10/20/2020	0/20/2020 IN PERSON
UPS	DEKALB	11627917 COLE	ANDREA			4780 ASHFORD DUNWOODY RD	540	ATLANTA	GA	30338	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	DEKALB	7370429 HOUSE	TERRY	LAMONTE		5181 W MOUNTAIN ST	UNIT 1734	STONE MOUNTAIN	GA	30083	A	A		10/18/2020	10/18/2020	0/18/2020 IN PERSON
UPS	DEKALB	11050704 GABALDO	ALEXIS	B		4780 ASHFORD DUNWOODY RD	540	ATLANTA	GA	30338	A	A		10/15/2020	10/15/2020	0/15/2020 IN PERSON
USPS	DEKALB	2120141 THOMAS	EDGAR			977 MONTREAL RD	UNIT 1162	CLARKSTON	GA	30021-3543	A	A		10/26/2020	10/26/2020	0/26/2020 IN PERSON
USPS	DEKALB	7159843 COLL E	OCTAVIA	G		3035 STONE MOUNTAIN ST	27	LITHONIA	GA	30058	A	A		10/11/2020	10/12/2020	0/30/2020 MAILED
USPS	DEKALB	6314989 DAVIS	AUBREY			3035 STONE MOUNTAIN ST	UNIT 972	LITHONIA	GA	30058	A	A		10/17/2020	10/17/2020	0/17/2020 IN PERSON
USPS	DEKALB	10344524 SILMON	LAVOR			5181 W MOUNTAIN ST	UNIT 2427	STONE MOUNTAIN	GA	30083	A	A		10/22/2020	10/22/2020	0/22/2020 IN PERSON
USPS	DEKALB	5311421 MACK	HEATHER	DENISE		5181 W MOUNTAIN ST	1734	STONE MOUNTAIN	GA	30083	A	A		10/14/2020	10/14/2020	0/14/2020 IN PERSON
USPS	DEKALB	10579522 DAVIS	DENISE	MARIE		5181 W MOUNTAIN ST	1742	STONE MOUNTAIN	GA	30083	A	A		10/16/2020	10/16/2020	10/30/2020 MA LED
USPS	DEKALB	4039674 HARRIS	VERONICA	ANN		3035 STONE MOUNTAIN ST	1985	LITHONIA	GA	30058	A	A		9/12/2020	9/19/2020	10/14/2020 MAILED
UPS	DEKALB	11349827 RUSNAK	SEAN	RYAN		4780 ASHFORD DUNWOODY RD	STE A-282	ATLANTA	GA	30338	A	A		10/24/2020	10/24/2020	0/24/2020 IN PERSON
USPS	DEKALB	4971965 COX	MICHAEL	ALLEN		3328 E PONCE DE LEON AVE	UNIT 331	SCOTTDALE	GA	30079	A	A		10/28/2020	10/28/2020	0/28/2020 IN PERSON
UPS	DEKALB	7874423 POWELL	NATHAN	EDISON		4780 ASHFORD DUNWOODY RD	540	ATLANTA	GA	30338	A	A		10/22/2020	10/22/2020	0/22/2020 IN PERSON
USPS	DEKALB	11470364 FAYNE	ARIKKA	LATRICE		5181 W MOUNTAIN ST	APT 2455	STONE MOUNTAIN	GA	30083	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	DEKALB	6712576 LANG	TERESA	MICHELLE		3035 STONE MOUNTAIN ST	UNIT 656	LITHONIA	GA	30058	A	A		10/15/2020	10/15/2020	0/15/2020 IN PERSON
USPS	DEKALB	4765257 WALKER	KEITH	JERMAINE		2724 WESLEY CHAPEL RD	#362103	DECATUR	GA	30034	A	A		10/24/2020	10/24/2020	0/24/2020 IN PERSON
USPS	DEKALB	6432158 TARVER	TRACI	G		3035 STONE MOUNTAIN ST	#1895	LITHONIA	GA	30058	A	A		10/26/2020	10/26/2020	0/26/2020 IN PERSON
UPS	DEKALB	7001059 ANTHONY	MIGUEL			4780 ASHFORD DUNWOODY RD		ATLANTA	GA	30338	A	A		10/12/2020	10/12/2020	0/12/2020 IN PERSON
UPS	DEKALB	11651695 CASERZA-LIGHT	CATHERINE	M		4780 ASHFORD DUNWOODY RD	UNIT 540-501	ATLANTA	GA	30338	A	A		9/17/2020	9/18/2020	0/20/2020 MAILED
USPS	DEKALB	10832848 WASH NGTON	ANGELA	DEE		977 MONTREAL RD	UNIT 413	CLARKSTON	GA	30021	A	A		10/26/2020	10/26/2020	0/26/2020 IN PERSON
UPS	DEKALB	5503109 OSA-YANDE	CADISA	E		4780 ASHFORD DUNWOODY RD	# A-177	DUNWOODY	GA	30338-5564	A	A		10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	DEKALB	8480986 STAPLETON	RENEE			1920 DRESDEN DR NE	#190193	ATLANTA	GA	30319	A	A		10/18/2020	10/18/2020	0/18/2020 IN PERSON
USPS	DEKALB	5363650 TAYLOR	CANDACE	N		1551 DUNWOODY VILLAGE PKWY	88025	DUNWOODY	GA	30338	A	A		10/15/2020	10/18/2020	0/30/2020 MAILED
UPS	DOUGHERTY	22732 CATES	MARY	GARNER		2800 OLD DAWSON RD	STE 2	ALBANY	GA	31707	A	A		10/21/2020	10/21/2020	0/21/2020 IN PERSON
UPS	DOUGHERTY	17211 CATES	LEE	RUSSELL		2800 OLD DAWSON RD	STE 2	ALBANY	GA	31707	A	A		10/21/2020	10/21/2020	0/21/2020 IN PERSON
USPS	DOUGHERTY	12111768 COAD	DARYL	ANTONIO		328 S MOCK RD		ALBANY	GA	31705	A	A		10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	DOUGHERTY	33946 POTTS	VERLISIA	L		1501 S SLAPPEY BLVD		ALBANY	GA	31701	A	A		10/24/2020	10/24/2020	10/24/2020 IN PERSON
USPS	DOUGHERTY	6264357 POSTELL	LAVOR	DEANDRE		2823 MEREDYTH DR	UNIT 72161	ALBANY	GA	31707	A	A		10/12/2020	10/12/2020	0/12/2020 IN PERSON
USPS	DOUGHERTY	30554 CHATMON	SHEILA	ANN		2823 MEREDYTH DR		ALBANY	GA	31707	A	A		9/9/2020	9/18/2020	10/21/2020 MAILED
UPS	DOUGHERTY	6073494 LAFAYETTE	HOANG	TRAN		2800 OLD DAWSON RD	UNIT 89	ALBANY	GA	31707-1599	A	A		8/25/2020	9/18/2020	0/19/2020 MAILED
USPS	EFFINGHAM	3956574 PURVIS	ROBBIE	FRANKLIN		3 8 5TH ST		MELDRIM	GA	31318	A	A		5/4/2020	9/18/2020	10/8/2020 MAILED
USPS	FAYETTE	3455421 ENGLISH	TYWANDRA	DIANN		250 GEORGIA AVE E	UNIT 14296	FAYETTEVILLE	GA	30214	A	A		10/21/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FAYETTE	1942751 DOCKERY	ALMETA	BEATRICE		250 GEORGIA AVE E	UNIT 952	FAYETTEVILLE	GA	30214	A	A		10/19/2020	10/19/2020	0/19/2020 IN PERSON
USPS	FAYETTE	10407494 KNIGHT	RITA	JEAN		250 GEORGIA AVE E	UNIT 142901	FAYETTEVILLE	GA	30214	A	A		9/12/2020	9/18/2020	11/2/2020 MAILED
USPS	FAYETTE	6151432 MYERS	ANTHONY	A		250 GEORGIA AVE E	UNIT# 1272	FAYETTEVILLE	GA	30214	A	A		10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FAYETTE	3837612 BROWN	DENEENE			250 GEORGIA AVE E	143987	FAYETTEVILLE	GA	30214	A	A		10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	FAYETTE	11203287 TAYLOR	TASIA	CENTESCIA		250 GEORGIA AVE E	#143692	FAYETTEVILLE	GA	30214	A	A		10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FAYETTE	11541328 NYILE	RRIIVER			250 GEORGIA AVE E	UNIT 142854	FAYETTEVILLE	GA	30214	A	A		10/13/2020	10/13/2020	0/13/2020 IN PERSON
USPS	FAYETTE	12155102 WATTS	JULIETTE	MARIE		250 GEORGIA AVE E	UNIT 64	FAYETTEVILLE	GA	30214	A	A		10/24/2020	10/24/2020	0/24/2020 IN PERSON
USPS	FORSYTH	7630299 RIGGS	ROBERT	JOSEPH		525 TRIBBLE GAP RD	UNIT 1951	CUMMING	GA	30040	A	C	Mailed Ba lot Surrendered to Vote In-Person	9/6/2020	9/18/2020	11/3/2020 MAILED
FedEx	FORSYTH	12448554 AJUFOR	BENEDICT	N	JR	4920 ATLANTA HWY	APT 363	ALPHARETTA	GA	30004	A	A		10/21/2020	10/22/2020	11/3/2020 MAILED
USPS	FORSYTH	10967366 WATKINS	WILLIE	B	JR	525 TR BBLE GAP RD	UNIT 598	CUMMING	GA	30040	A	A		10/24/2020	10/24/2020	0/24/2020 IN PERSON
UPS	FORSYTH	7187843 ENGLISH	CHRISTY	LORRAINE		5174 MCGINNIS FERRY RD	# 113	ALPHARETTA	GA	30005	A	A		10/22/2020	10/22/2020	0/22/2020 IN PERSON
USPS	FORSYTH	10967802 WATKINS	PATRICIA	ANN		525 TR BBLE GAP RD	UNIT 598	CUMMING	GA	30040	A	A		10/24/2020	10/24/2020	0/24/2020 IN PERSON
UPS	FORSYTH	11778683 ILYASOVA	ANNA			3482 KEITH BRIDGE RD	# 274	CUMMING	GA	30041	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
FedEx	FORSYTH	2143677 WILLIAMS	LAMAR	DAVID	JR	4920 ATLANTA HWY	#310	ALPHARETTA	GA	30004	A	A		10/21/2020	10/21/2020	0/21/2020 IN PERSON
FedEx	FORSYTH	8543436 ALDEN	MARK	A		4920 ATLANTA HWY	# 41	ALPHARETTA	GA	30004	A	A		10/29/2020	10/29/2020	0/29/2020 IN PERSON
FedEx	FORSYTH	12216618 BOVENSIEP	THOMAS	DANIEL		4920 ATLANTA HWY	UNIT 109	ALPHARETTA	GA	30004	A	A		10/15/2020	10/15/2020	0/15/2020 IN PERSON
UPS	FORSYTH	8166806 PARAS	STEVE	ANDREW		3482 KEITH BRIDGE RD		CUMMING	GA	30041	A	A		10/14/2020	10/14/2020	0/14/2020 IN PERSON
USPS	FULTON	3947113 PRATT	DEIDRA			8920 EVES RD	APT768133	ROSWELL	GA	30076	A	A		8/20/2020	9/18/2020	0/13/2020 MAILED
UPS	FULTON	8651642 MACCALLA	JOHNETTA	REDDIX		3000 OLD ALABAMA RD	UNIT 119	JOHNS CREEK	GA	30022	A	A		8/27/2020	8/27/2020	10/8/2020 MAILED
UPS	FULTON	4209504 NALL	RENATA			10800 ALPHARETTA HWY		ROSWELL	GA	30076	A	A		10/19/2020	10/19/2020	0/19/2020 IN PERSON
UPS	FULTON	11486284 SPIVEY	TASHANDA			3000 OLD ALABAMA RD		ALPHARETTA	GA	30022	A	A		10/20/2020	10/20/2020	0/20/2020 IN PERSON
USPS	FULTON	11570565 MANSOOR BROWN	KHALIS	SHAFIQ		4575 WEBB BRIDGE RD	UNIT 3344	ALPHARETTA	GA	30005	A	A		10/21/2020	10/21/2020	0/21/2020 IN PERSON
USPS	FULTON	11076389 BRUFF	BROOKE			8920 EVES RD	UNIT 767952	ROSWELL	GA	30076	A	A		10/20/2020	10/20/2020	0/20/2020 IN PERSON
UPS	FULTON	2123331 TIPPETT	ARDRA	SINETT		8343 ROSWELL RD	APT 111	SANDY SPRINGS	GA	30350	A	A		10/19/2020	10/19/2020	0/19/2020 IN PERSON
USPS	FULTON	10420932 CARPENTER	SHELIA			4575 WEBB BRIDGE RD		ALPHARETTA	GA	30005	A	A		10/24/2020	10/24/2020	0/24/2020 IN PERSON
USPS	FULTON	5639813 BANKS	AMBER	DAN ELLE		8920 EVES RD	#767472	ROSWELL	GA	30076	A	A		10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	10623498 SUAREZ	MARTHA	LIGIA		245 N HIGHLAND AVE NE	APT 305	ATLANTA	GA	30 07	A	A		10/23/2020	10/23/2020	10/23/2020 IN PERSON
FedEx	FULTON	5279825 MCMAHAN	T L CHEYENNE			245 N HIGHLAND AVE NE	UNIT 230-228	ATLANTA	GA	30 07-1936	A	A		8/19/2020	9/18/2020	10/3/2020 MAILED
UPS	FULTON	11072079 KELLINA	SUNDI			8 0 GLENWOOD AVE SE		ATLANTA	GA	30316	A	A		9/12/2020	9/21/2020	10/18/2020 MAILED
FedEx	FULTON	4134502 GOLDBERG	JOHN	JACOB		245 N HIGHLAND AVE NE	APT 312	ATLANTA	GA	30 07	A	A		10/10/2020	10/10/2020	10/23/2020 MAILED
UPS	FULTON	3355996 DRAYTON	CEDRIC	T		12460 CRABAPPLE RD	APT 202	ALPHARETTA	GA	30004	A	A		10/15/2020	10/15/2020	10/15/2020 IN PERSON
UPS	FULTON	7178225 ABAEIAN	FOROUGH	KHANOM		12460 CRABAPPLE RD	UNIT 202-353	ALPHARETTA	GA	30004	A	A		10/16/2020	10/16/2020	0/16/2020 IN PERSON
USPS	FULTON	2644614 WASHINGTON	ROBERT	ANTHONY		780 MOROSGO DR NE	UNIT 14364	ATLANTA	GA	30324	A	A		10/21/2020	10/21/2020	0/21/2020 IN PERSON
FedEx	FULTON	5666320 WALKER	LINSEY	ALLISON		245 N HIGHLAND AVE NE	#183	ATLANTA	GA	30 07	A	A		10/24/2020	10/24/2020	0/24/2020 IN PERSON
USPS	FULTON	12497406 GRIER-WILLIAMS	FAIR	ADIA		4575 WEBB BRIDGE RD	UNIT 3344	ALPHARETTA	GA	30005	A	A		10/21/2020	10/21/2020	0/21/2020 IN PERSON
UPS	FULTON	5418972 SLADE-HARRELL	KAREN	LYNDERA		3000 OLD ALABAMA RD	APT 119	JOHNS CREEK	GA	30022	A	A		10/26/2020	10/26/2020	0/26/2020 IN PERSON
USPS	FULTON	3290871 GLOVER	CYNTONIA	MICHELLE		575 PHARR RD NE	UNIT 12215	ATLANTA	GA	30305	A	A		10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	8094779 COTTON	WILLIAM	CONRAD		245 N HIGHLAND AVE NE	APT 309	ATLANTA	GA	30307	A	A		9/14/2020	9/24/2020	10/23/2020 MAILED
FedEx	FULTON	11627429 DANIEL	COLLEEN	ANITA		245 N HIGHLAND AVE NE	APT 315	ATLANTA	GA	30307	A	A		9/18/2020	9/21/2020	10/27/2020 MAILED
UPS	FULTON	3319280 ANDERSON	RHONDA	LASHON		10800 ALPHARETTA HWY	SUITE 208	ROSWELL	GA	30076	A	A		9/24/2020	9/25/2020	10/19/2020 MAILED
UPS	FULTON	1739423 ECHOLS	CURTIS	LEE	JR	2020 HOWELL MILL RD NW	STE C	ATLANTA	GA	30318	A	A		10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	3348711 BLANKINSHIP	MARY	ELLEN		4575 WEBB BRIDGE RD	UNIT 5092	ALPHARETTA	GA	30005	A	A		10/20/2020	10/20/2020	10/20/2020 IN PERSON
USPS	FULTON	10268056 WEBBER	WILLIE	OLIVER		4575 WEBB BRIDGE RD	3172	ALPHARETTA	GA	30005	A	A		10/20/2020	10/20/2020	10/20/2020 IN PERSON
USPS	FULTON	7617065 VAUGHAN	KEIONNA	SHAWANDA		575 PHARR RD NE	UNIT 12073	ATLANTA	GA	30305	A	A		10/22/2020	10/22/2020	10/22/2020 IN PERSON

USPS	FULTON	7195339 HOSANG	TENEKA	ASHEKA		1072 W PEACHTREE ST NW	UNIT 7904	ATLANTA	GA	30309	A	A			10/10/2020	10/12/2020	10/28/2020 MAILED
USPS	FULTON	5034732 MINYARD	JAMES	BRYANT		8920 EVES RD	UNIT 76772	ROSWELL	GA	30076	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
USPS	FULTON	10137684 WARD	ERIC	JOSIAH		2260 FA RBURN RD SW	UNIT310841	ATLANTA	GA	30331	A	A			8/31/2020	9/18/2020	0/13/2020 MAILED
FedEx	FULTON	7195480 COPELAND	TINA			2625 P EDMONT RD NE	UNIT 56381	ATLANTA	GA	30324	A	A			9/5/2020	9/18/2020	10/5/2020 MAILED
FedEx	FULTON	6242535 WILLIAMS	JIMMONIQUE	ALANNA		8725 ROSWELL RD	STE O-87	SANDY SPR NGS	GA	30350	A	A			9/17/2020	9/21/2020	10/9/2020 MAILED
USPS	FULTON	10602489 SINNEN	MICHAEL	EVERETT		10719 ALPHARETTA HWY	UNIT 1781	ROSWELL	GA	30076	A	A			9/15/2020	9/21/2020	10/17/2020 MAILED
UPS	FULTON	12094544 GOSNELL	KATRINA			885 WOODSTOCK RD	# 430-203	ROSWELL	GA	30075	A	A			0/6/2020	10/6/2020	10/19/2020 MAILED
USPS	FULTON	2588308 KIRKLAND	MARIAN	LEIGH		4575 WEBB BRIDGE RD	UNIT 5234	ALPHARETTA	GA	30005	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	11607357 NUNEZ	DIEGO	M		11877 DOUGLAS RD	STE 102	ALPHARETTA	GA	30005	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	6392408 ODUBELA	CHRISTINE			3495 BUCKHEAD LOOP NE	UNIT 115	ATLANTA	GA	30326	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	10676634 MACCALLA	ERIC	CONWAY	JR	3000 OLD ALABAMA RD		ALPHARETTA	GA	30022	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
UPS	FULTON	2628093 STEED	RICHARD	E		5805 STATE BRIDGE RD		JOHNS CREEK	GA	30097	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	6915452 CHARLES	JOSHUA	JOSEPH		245 N HIGHLAND AVE NE	APT 205	ATLANTA	GA	30307	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
USPS	FULTON	8640995 HARRIS	TAMEKA	NICOLE		794 MARIETTA ST NW	94209	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
FedEx	FULTON	8636357 GUBA	DENISE	ANGELLA GALE		8725 ROSWELL RD	APT 0149	SANDY SPR NGS	GA	30350	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
FedEx	FULTON	12600812 ALBERT	GABRIELLE	MARIE		1700 NORTHSIDE DR NW	APT 4508	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	10855306 TAYLOR	PAMELA	ELIZABETH		575 PHARR RD NE	UNIT550893	ATLANTA	GA	30 05	A	C	Ballot was Undelivered		10/16/2020	10/19/2020	10/28/2020 MAILED
FedEx	FULTON	12327204 DAVIS	CONCHETTA			1700 NORTHSIDE DR NW	APT 4-4406	ATLANTA	GA	30318	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	4783367 KATES	JAMEELAH	ALEXANDRIA		1190 N HIGHLAND AVE NE	UNIT 8063	ATLANTA	GA	30306	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	7137220 HOWARD	CATHERINE			8920 EVES RD	UNIT 76766	ROSWELL	GA	30076	A	A			8/29/2020	9/18/2020	10/15/2020 MAILED
FedEx	FULTON	8339525 WALDRON	BENJAMIN	PATRICK		245 N HIGHLAND AVE NE	UNIT 306	ATLANTA	GA	30307-1958	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
FedEx	FULTON	5736762 MCGLOWN	ERIC	CARLTON		245 N HIGHLAND AVE NE	APT 407	ATLANTA	GA	30307	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
UPS	FULTON	2466914 PREVOST	FREDERICK	COREY		12460 CRABAPPLE RD	202-430	ALPHARETTA	GA	30004	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	FULTON	8068005 TYLER	APRIL			780 MOROSGO DR NE	#244240	ATLANTA	GA	30324	A	A			9/4/2020	9/18/2020	10/23/2020 MAILED
UPS	FULTON	2610362 GORDON	NICOLE	DANIELLE		2020 HOWELL MILL RD NW	# 120	ATLANTA	GA	30318	A	A			9/4/2020	9/18/2020	10/9/2020 MAILED
FedEx	FULTON	8569622 ELKIND	STEPHEN			245 N HIGHLAND AVE NE	230-498	ATLANTA	GA	30307	A	C	Voter Requested		0/6/2020	10/6/2020	10/12/2020 MAILED
FedEx	FULTON	10852501 FLENOID	TANGANYIKA	KATARA		1700 NORTHSIDE DR NW	APT 5501	ATLANTA	GA	30318	A	A			0/8/2020	10/8/2020	10/28/2020 MAILED
USPS	FULTON	1227434 COBB	MICHEAL	L		240 PEACHTREE ST NW	APT 56352	ATLANTA	GA	30303	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	3908725 ARNOLD	MELISSA			6300 POWERS FERRY RD NW	UNIT # 600	SANDY SPR NGS	GA	30339	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	12247100 HAZELL	CASSANDRA	LYNN		1700 NORTHSIDE DR NW	APT 3608	ATLANTA	GA	30318	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	10896756 AITORO	JOSEPH	FRANK		2625 PIEDMONT RD NE	STE 56-272	ATLANTA	GA	30324	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FULTON	10268513 GRIGSBY	URSULA	HENDERSON		4575 WEBB BRIDGE RD	UNIT 5481	ALPHARETTA	GA	30005	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
FedEx	FULTON	7197957 GILBERT	SHAREE			245 N HIGHLAND AVE NE	#230-458	ATLANTA	GA	30307	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	11878423 DENSON	TYLER			1700 NORTHSIDE DR NW	APT 5602	ATLANTA	GA	30318	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
UPS	FULTON	4448877 GARNER	DEBORAH	CAROL		7742 SPALDING DR	UNIT 397	NORCROSS	GA	30092	A	C	VOTE IN PERSON		9/19/2020	9/21/2020	11/3/2020 MAILED
FedEx	FULTON	2663531 WILLIAMS	SABRINA	LAVERN		2625 P EDMONT RD NE	UNIT 56	ATLANTA	GA	30324	A	A			8/25/2020	9/18/2020	10/13/2020 MAILED
FedEx	FULTON	6937413 DAVIS	MAXINE			2995 E POINT ST	APT 107	EAST POINT	GA	30344	A	A			8/25/2020	9/18/2020	10/13/2020 MAILED
FedEx	FULTON	10735875 BURKE	LAUREN	VIRGINIA		245 N HIGHLAND AVE NE	#308	ATLANTA	GA	30307	A	A			9/19/2020	9/21/2020	10/8/2020 MAILED
FedEx	FULTON	4044708 CHAVOUS	JENNIFER	HOLSTON		8725 ROSWELL RD	STE O-121	SANDY SPR NGS	GA	30350	A	C	IN PERSON		10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	11042950 KINDRED	TERICA			2020 HOWELL MILL RD NW	APT # 185	ATLANTA	GA	30318	A	A			10/14/2020	10/14/2020	10/27/2020 MAILED
FedEx	FULTON	6301866 REED	TRAVINA	MELENESSE		2625 PIEDMONT RD NE	# 56-255	ATLANTA	GA	30324	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	11037992 WASHINGTON HAMPTON	LA ROYA	DARSHELLE		4575 WEBB BRIDGE RD	UNIT 4272	ALPHARETTA	GA	30005	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
USPS	FULTON	6828105 MADDOX	JAMES	MICHAEL		570 PIEDMONT AVE NE	UNIT 5416	ATLANTA	GA	30308	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
FedEx	FULTON	5561075 BRIGHT	RHONDA	N		245 N HIGHLAND AVE NE	UNIT 230-160	ATLANTA	GA	30307	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
FedEx	FULTON	7546309 STROUD	CHRISTOPHER			2090 DUNWOODY CLUB DR	STE 106	ATLANTA	GA	30350-5406	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	7469493 OVERBECK	JOSEPH	EDWARD		245 N HIGHLAND AVE NE	UNIT 301	ATLANTA	GA	30307-1903	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
USPS	FULTON	11639138 MCEACHERN	TANESSA	LAMAE		2260 FA RBURN RD SW		ATLANTA	GA	30331	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
UPS	FULTON	4845027 WHORTON	KRISTEN	LEIGH		885 WOODSTOCK RD	STE430-128	ROSWELL	GA	30075	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
USPS	FULTON	4458469 MCKEEVER	ANDREA	COLLEEN		575 PHARR RD NE	UNIT 12034	ATLANTA	GA	30305	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
USPS	FULTON	5325298 PARSON	DOUGLAS	DEWAYNE	JR	5050 UNION ST	APT 804	UNION CITY	GA	30291	A	A			0/2/2020	10/2/2020	10/31/2020 MAILED
FedEx	FULTON	7791091 SOINSKI	CHRISTINA	MARIE		245 N HIGHLAND AVE NE	APT 419	ATLANTA	GA	30307	A	A			10/12/2020	10/12/2020	10/27/2020 MAILED
USPS	FULTON	7195339 HOSANG	TENEKA	ASHEKA		1072 W PEACHTREE ST NW	UNIT 7904	ATLANTA	GA	30309	A	C	Administrative Cancellation		0/8/2020	10/9/2020	10/10/2020 MAILED
UPS	FULTON	3075515 COLEMAN	LASENIE	RENAE		3000 OLD ALABAMA RD	UNIT 119	ALPHARETTA	GA	30022	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
UPS	FULTON	6715372 KINDLMANN	GLENN	PETER		2300 HOLCOMB BRIDGE RD	UNIT 103-D3	ROSWELL	GA	30076	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	7369623 DAVIS	LORNA	OLIVIA		2221 PEACHTREE RD NE	D-150	ATLANTA	GA	30309-1148	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	12431502 PURDIE	QUELYN			240 PEACHTREE ST NW	UNIT 56195	ATLANTA	GA	30 03	A	A			10/16/2020	10/16/2020	0/16/2020 IN PERSON
UPS	FULTON	3469270 MCINTYRE	LORETTA	M		2020 HOWELL MILL RD NW	C109	ATLANTA	GA	30318-1732	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
USPS	FULTON	7955148 SMITH	HAYWOOD		JR	2400 OLD MILTON PKWY	236	ALPHARETTA	GA	30009	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
FedEx	FULTON	10949671 IVORY	BERNARD	ISIAH		2090 DUNWOODY CLUB DR	STE 106	ATLANTA	GA	30350	A	A			10/22/2020	10/22/2020	0/22/2020 IN PERSON
UPS	FULTON	6154932 BROWN	LINDSEY	MICHAEL		1425 MARKET BLVD	STE 330	ROSWELL	GA	30076	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
FedEx	FULTON	3827127 WILLIAMS	JAMAH	A		2625 PIEDMONT RD NE	# 56-328	ATLANTA	GA	30324	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
USPS	FULTON	10044460 MOORE	TIFFANY	ILEAN		50 SUNSET AVE NW	UNIT 92763	ATLANTA	GA	30314	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
FedEx	FULTON	11666057 ARJULA	MANJULA			9925 HAYNES BRIDGE RD	# 200-143	ALPHARETTA	GA	30022	A	C	11666057IN PERSON EARLY VOTING		8/30/2020	9/18/2020	0/26/2020 MAILED
USPS	FULTON	7682977 REDMOND	WAYNE	THOMAS		2385 GODBY RD	UNIT 491262	ATLANTA	GA	30349	A	C	VOTED AT POLLS		10/22/2020	10/23/2020	11/3/2020 MAILED
UPS	FULTON	7953563 HOU	PETER			11877 DOUGLAS RD	UNIT 02-196	ALPHARETTA	GA	30005	A	C	VOT NG AT POLLS		10/28/2020	10/28/2020	11/3/2020 MAILED
UPS	FULTON	7073382 MUHAMMAD	RONNA	ELISE		5805 STATE BRIDGE RD	G-436	DULUTH	GA	30097	A	A			0/3/2020	10/5/2020	10/28/2020 MAILED
FedEx	FULTON	10874654 PURVIS	IAN	CARTER		245 N HIGHLAND AVE NE	UNIT # 230	ATLANTA	GA	30307	A	A			9/29/2020	9/29/2020	10/28/2020 MAILED
FedEx	FULTON	8312953 CHATMAN	VERLYN	ANGELA		2625 PIEDMONT RD NE	STE 56-311	ATLANTA	GA	30324	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	184466 GREEN	TRACY	DANIELLE		6300 POWERS FERRY RD NW	UNIT 269	ATLANTA	GA	30339	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
UPS	FULTON	12057410 WALKER	ANAJAE	LYNNE		10945 STATE BRIDGE RD	APT 4011	ALPHARETTA	GA	30022	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	6491419 ROSS	DEMETRIA	H		10945 STATE BRIDGE RD	401-193	ALPHARETTA	GA	30022	A	A			10/21/2020	10/21/2020	0/21/2020 IN PERSON
UPS	FULTON	2673692 DIAMOND	SUNNIE	EDWARD		2221 PEACHTREE RD NE	STE 421	ATLANTA	GA	30 09	A	A			10/25/2020	10/25/2020	0/25/2020 IN PERSON
UPS	FULTON	7011595 STJULIEN	JEREMY	JAMAR		2020 HOWELL MILL RD NW	STE D269	ATLANTA	GA	30318	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
FedEx	FULTON	8016088 WILLIAMS	LAUREN	CAROL		1700 NORTHSIDE DR NW	APT 2508	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
FedEx	FULTON	2396329 DOUBLEDAY	CHARLES	WARREN	III	1700 NORTHSIDE DR NW		ATLANTA	GA	30318	A	A			8/20/2020	9/18/2020	10/2/2020 MAILED
FedEx	FULTON	6380400 COFFIN	TRISTRAM	LEWIS		1700 NORTHSIDE DR NW	APT # 2408	ATLANTA	GA	30318	A	A			9/9/2020	9/21/2020	10/21/2020 MAILED
USPS	FULTON	4248809 MCCLENDON	LINDA			4575 WEBB BRIDGE RD	UNIT #2641	ALPHARETTA	GA	30005	A	A			9/7/2020	9/18/2020	10/16/2020 MAILED
UPS	FULTON	7910340 MINTON	DANIEL	ISAIAH		2275 MARIETTA BLVD NW	STE 270	ATLANTA	GA	30318	A	A			0/3/2020	10/5/2020	10/21/2020 MAILED
USPS	FULTON	8519440 FLOWERS	DANIEL	L		227 SANDY SPRINGS PL NE	UNIT # 149-D	ATLANTA	GA	30328	A	A			0/1/2020	10/1/2020	10/29/2020 MAILED
USPS	FULTON	7784867 PONDS	WHITNEY			780 MOROSGO DR NE	14846	ATLANTA	GA	30324	A	A			9/26/2020	9/28/2020	11/2/2020 MAILED
FedEx	FULTON	10443617 CHAMPLIN-LIGUORI	JULIA	ELIZABETH		245 N HIGHLAND AVE NE	APT 402	ATLANTA	GA	30307	A	A			7/20/2020	9/18/2020	10/10/2020 ELECTRONIC
FedEx	FULTON	5144874 HARRIS	NILES	D		2625 PIEDMONT RD NE	UNIT 56-488	ATLANTA	GA	30324-3086	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	12422700 MURRELL	MYRAH	MARIE		1072 W PEACHTREE ST NW	APT 77791	ATLANTA	GA	30309	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	2413916 JOHNSON	CAMISHA	L		75 WASHINGTON ST	UNIT 931	FAIRBURN	GA	30213	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
FedEx	FULTON	7724034 WALKER	SANDRA	JEAN		245 N HIGHLAND AVE NE	230-183	ATLANTA	GA	30307	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	1935327 DANIEL	RODNEY	A		8920 EVES RD	UNIT 76852	ROSWELL	GA	30076	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	5095241 KALBFELD	AARON	PAUL		2020 HOWELL MILL RD NW	STE D239	ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
USPS	FULTON	5662679 WINSTON	HERMAN	EDWARD	JR	75 WASHINGTON ST	UNIT 1575	FAIRBURN	GA	30213	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
UPS	FULTON	7199423 HARRISON	KRISTINA			5805 STATE BRIDGE RD	UNIT # G165	DULUTH	GA	30097	A	C	Mailed Ba lot Surrendered to Vote In-Person		0/9/2020	10/9/2020	10/24/2020 MAILED
FedEx	FULTON	11386541 ROLL NS	BENJAMIN			1700 NORTHSIDE DR NW	APT# 5403	ATLANTA	GA	30318	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
USPS	FULTON	5028402 PAZERA	JOHN	GEORGE	JR	1072 W PEACHTREE ST NW	UNIT 7551	ATLANTA	GA	30309	A	C	VOTED AT THE POLL		9/7/2020	9/18/2020	11/3/2020 MAILED
FedEx	FULTON	11490980 MASSELL	CYNTHIA	DIANE		1700 NORTHSIDE DR NW	APT 1403 NW	ATLANTA	GA	30318	A	A			8/24/2020	9/18/2020	10/6/2020 MAILED
USPS	FULTON	4904013 LASONDE	JACK			570 PIEDMONT AVE NE	UNIT 54175	ATLANTA	GA	30308	A	A			9/8/2020	9/21/2020	10/3/2020 MAILED
FedEx	FULTON	4498123 SISK	JAMES	DAVID		245 N HIGHLAND AVE NE	UNIT 211	ATLANTA	GA	30307-1903	A	A			8/28/2020	9/18/2020	10/1/2020 MAILED
USPS	FULTON	3815917 WARNOCK	PAMELA	M		570 PIEDMONT AVE NE	UNIT 54802	ATLANTA	GA	30308-8708	A	A			9/18/2020	9/21/2020	10/30/2020 MAILED
USPS	FULTON	1982990 HASKIN	JEFFREY	M		227 SANDY SPRINGS PL NE	APT# D-75	ATLANTA	GA	30328	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	8477220 ROLLE	LEAH	ALEXANDRIA PUGH		2221 PEACHTREE RD NE	STE D	ATLANTA	GA	30309	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	7344504 SMITH	TAWANNA	R		848 OGLETHORPE AVE SW	UNIT 11343	ATLANTA	GA	30310	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
FedEx	FULTON	8536189 MEDINA	GEORDANNIS			1700 NORTHSIDE DR NW	APT 3305	ATLANTA	GA	30318	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	3445151 TAYLOR	TRACY	RENEE		50 SUNSET AVE NW	APT 2301	ATLANTA	GA	30314	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
USPS	FULTON	10222941 BOYD	JEREMIAH	DEAMOS		8920 EVES RD	UNIT 76872	ROSWELL	GA	30076	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
UPS	FULTON	493063 HURST	JOHN	BYRON		3000 OLD ALABAMA RD	119-128	ALPHARETTA	GA	30022	A	C	VOTED IN PERSON		9/27/2020	9/29/2020	10/27/2020 MAILED

USPS	FULTON	8713529 SANTORO	SCOTT	MICHAEL		650 S CENTRAL AVE	UNIT 82285	HAPEVILLE	GA	30354	A	A		10/29/2020	10/29/2020	10/29/2020 IN PERSON
FedEx	FULTON	8893255 BARMORE	MAYGHEN	SYMORE		2625 P EDMONT RD NE	STE 56146	ATLANTA	GA	30324	A	A		10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	11005598 SCOTT	MIA			570 P EDMONT AVE NE	55492	ATLANTA	GA	30 08	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
UPS	FULTON	10355875 THOMAS	DOLLITIA	GARCIA		5805 STATE BRIDGE RD	APT G63	JOHNS CREEK	GA	30097	A	A		10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	7617584 PRICE	EMMANUEL	BERNARD		1700 NORTHSIDE DR NW	APT 2206	ATLANTA	GA	30318	A	A		10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	7231407 RICHARD	ADAM	MARK		245 N HIGHLAND AVE NE	UNIT 230-500	ATLANTA	GA	30 07-1936	A	A		9/15/2020	9/21/2020	10/29/2020 MAILED
FedEx	FULTON	7187601 BANISTER	JENNIFER			245 N HIGHLAND AVE NE	APT # 155	ATLANTA	GA	30 07	A	A		0/6/2020	10/7/2020	0/29/2020 MAILED
USPS	FULTON	3667802 ALLEN	GREGORY			570 P EDMONT AVE NE	UNIT 54837	ATLANTA	GA	30 08	A	A		9/27/2020	9/29/2020	10/22/2020 MAILED
FedEx	FULTON	4024401 DOBSON	MICHAEL			245 N HIGHLAND AVE NE	UNIT 313	ATLANTA	GA	30307-1958	A	A		10/18/2020	10/18/2020	10/18/2020 IN PERSON
FedEx	FULTON	7013684 VIDEKI	AMANDA	LUISA		1700 NORTHSIDE DR NW	APT 2203	ATLANTA	GA	30318	A	A		10/15/2020	10/15/2020	10/15/2020 IN PERSON
UPS	FULTON	12444558 RIORDAN	MICHAEL	PATRICK	JR	12460 CRABAPPLE RD	APT202 246	ALPHARETTA	GA	30004	A	A		10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	10694812 DAVY	NAA			575 PHARR RD NE	UNIT # 53	ATLANTA	GA	30 05	A	A		10/15/2020	10/15/2020	0/15/2020 IN PERSON
FedEx	FULTON	11835149 AASER	RACHEL			1700 NORTHSIDE DR NW	APT 3602	ATLANTA	GA	30318	A	A		10/18/2020	10/18/2020	10/18/2020 IN PERSON
FedEx	FULTON	4556710 ALLRED	CHARLES	MATTHEW		1700 NORTHSIDE DR NW	UNIT 4203	ATLANTA	GA	30318	A	A		10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	6586782 GORDILLO	DONALD	HENRY		10719 ALPHARETTA HWY	UNIT 1773	ROSWELL	GA	30076	A	A		10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	4921000 PHILLIPS	KIM	YVETTE		780 MOROSGO DR NE		ATLANTA	GA	30324	A	A		10/29/2020	10/29/2020	10/29/2020 IN PERSON
FedEx	FULTON	8225751 BRANCH	JENA	ALEXIS		1700 NORTHSIDE DR NW	APT 5504	ATLANTA	GA	30318	A	A		10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	6286437 WHITE	KEVIN	ANTHONY		575 PHARR RD NE	APT#12262	ATLANTA	GA	30305	A	A		9/11/2020	9/21/2020	10/18/2020 MAILED
FedEx	FULTON	8951794 SHELTON	DIANE	MARIE		2625 PIEDMONT RD NE	UNIT 56-347	ATLANTA	GA	30324-3086	A	A		9/2/2020	9/18/2020	10/2/2020 MAILED
UPS	FULTON	6212910 COLLINS	LASANDRA	R		5805 STATE BRIDGE RD	G429	DULUTH	GA	30097	A	A		8/30/2020	9/18/2020	10/12/2020 MAILED
UPS	FULTON	6064500 MONTANA	IRMA	MACIAS		2020 HOWELL MILL RD NW	C231	ATLANTA	GA	30318	A	A		10/18/2020	10/18/2020	10/18/2020 IN PERSON
USPS	FULTON	5937812 NORRIS	YASMIN	NAOMI		3495 BUCKHEAD LOOP NE	#18601	ATLANTA	GA	30326	A	A		10/30/2020	10/30/2020	10/30/2020 IN PERSON
UPS	FULTON	6043260 WELLS	MARCUS	LEON		2221 PEACHTREE RD NE	STE D 651	ATLANTA	GA	30309	A	A		10/30/2020	10/30/2020	10/31/2020 MAILED
USPS	FULTON	10595805 COOPER	ALVIN	ARNOLD		75 WASHINGTON ST	APT 1792	FAIRBURN	GA	30213	A	A		8/25/2020	9/18/2020	10/6/2020 MAILED
USPS	FULTON	6262467 ADAMS	MESSINA			575 PHARR RD NE	UNIT 52032	ATLANTA	GA	30305	A	A		9/30/2020	9/30/2020	10/25/2020 MAILED
FedEx	FULTON	7652611 LENNON	SEAN	PATRICK		245 N HIGHLAND AVE NE	APT 213	ATLANTA	GA	30307	A	A		10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	3678030 DOSTIE	DEBRA	LYNN		10945 STATE BRIDGE RD	STE 401	ALPHARETTA	GA	30022	A	A		10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	10554755 DOLLIOLE	MYLES	JULIEN		227 SANDY SPRINGS PL NE	UNIT D-171	ATLANTA	GA	30328	A	A		10/18/2020	10/18/2020	10/18/2020 IN PERSON
USPS	FULTON	10010108 BRISCOE	CRAIG	ALAN		2400 OLD MILTON PKWY	UNIT 597	ALPHARETTA	GA	30009	A	A		10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	2088569 ROWLAND	CORACE	STANLEY		1190 N HIGHLAND AVE NE	UNIT 8971	ATLANTA	GA	30306	A	A		10/18/2020	10/18/2020	10/18/2020 IN PERSON
UPS	FULTON	11446972 LEWIS	ISAIAH	DIJUAN		11877 DOUGLAS RD	STE102-193	ALPHARETTA	GA	30005	A	A		10/24/2020	10/24/2020	10/24/2020 IN PERSON
USPS	FULTON	12760681 COHENS	JOHNEITA			227 SANDY SPRINGS PL NE	UNIT # 450	ATLANTA	GA	30328	A	A		10/26/2020	10/26/2020	10/26/2020 IN PERSON
UPS	FULTON	5054041 PAM	MEEGAN	DANIELLE		2020 HOWELL MILL RD NW	APT 229	ATLANTA	GA	30318	A	A		10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	5125354 BROWN	MARTIN	JOSEPH		245 N HIGHLAND AVE NE	APT230-484	ATLANTA	GA	30 07	A	A		10/29/2020	10/29/2020	0/29/2020 IN PERSON
USPS	FULTON	2140942 WIECZOREK	ROBERT	JOSEPH		227 SANDY SPRINGS PL NE	D326	ATLANTA	GA	30328	A	A		8/24/2020	9/18/2020	10/28/2020 MAILED
UPS	FULTON	7022580 JENKINS	CARL			5805 STATE BRIDGE RD	STE G	DULUTH	GA	30097	A	A		10/13/2020	10/13/2020	10/13/2020 IN PERSON
USPS	FULTON	8075707 DOLLIOLE	KIMBERLY	B		227 SANDY SPRINGS PL NE	D171	ATLANTA	GA	30328-5918	A	A		10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	3838088 JOHNSON	FRANK			2090 DUNWOODY CLUB DR	APT106-783	ATLANTA	GA	30350	A	A		10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	FULTON	4321958 FORD	KIMBERLY	D		575 PHARR RD NE	UNIT 11506	ATLANTA	GA	30305	A	A		10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	1988327 HIDER	DORETHA			3495 BUCKHEAD LOOP NE	UNIT 18912	ATLANTA	GA	30326	A	A		10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	FULTON	5042269 TOBIN	ANTHONY	DAVID		227 SANDY SPRINGS PL NE	STE D352	ATLANTA	GA	30328	A	A		10/28/2020	10/28/2020	10/28/2020 IN PERSON
FedEx	FULTON	8594097 IVORY	BRIAH			2090 DUNWOODY CLUB DR		ATLANTA	GA	30350	A	A		10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	10734948 REYNOLDS	VICKIE	E		8920 EVES RD		ROSWELL	GA	30076	A	A		9/10/2020	9/21/2020	10/8/2020 MAILED
FedEx	FULTON	6878625 BLACK	CANDICE	MARIE		1700 NORTHSIDE DR NW	# 4602	ATLANTA	GA	30318	A	A		9/29/2020	9/30/2020	11/2/2020 MAILED
USPS	FULTON	12317330 SEY	MODOU			3495 BUCKHEAD LOOP NE	UNIT 18525	ATLANTA	GA	30326	A	A		9/30/2020	10/1/2020	10/23/2020 MAILED
USPS	FULTON	6451241 BUTTS	BEVERLY	TURNER		848 OGLETHORPE AVE SW	UNIT 11071	ATLANTA	GA	30310	A	A		10/12/2020	10/12/2020	0/12/2020 IN PERSON
USPS	FULTON	11644385 WOODS	LATANJA	DENISE		4575 WEBB BRIDGE RD		ALPHARETTA	GA	30005	A	A		10/12/2020	10/12/2020	0/12/2020 IN PERSON
USPS	FULTON	8956101 HARRIS	DAIN			227 SANDY SPRINGS PL NE		ATLANTA	GA	30328	A	A		10/20/2020	10/20/2020	0/20/2020 IN PERSON
FedEx	FULTON	11683154 MALIREDDY	RAHUL	REDDY		245 N HIGHLAND AVE NE	APT 324	ATLANTA	GA	30 07	A	A		10/22/2020	10/22/2020	0/22/2020 IN PERSON
USPS	FULTON	6374723 LOZON	CRISDEION	MARIE		794 MARIETTA ST NW	APT 93372	ATLANTA	GA	30318	A	A		10/29/2020	10/29/2020	0/29/2020 IN PERSON
USPS	FULTON	6300959 BLACKMON	DERRELL			575 PHARR RD NE	UNIT550165	ATLANTA	GA	30 05	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
FedEx	FULTON	4320567 HARVEY	TIMOTHY	JOSEPH		2995 E POINT ST		EAST POINT	GA	30344	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
UPS	FULTON	7305472 LEMBECK	WILHELM	M		3000 OLD ALABAMA RD	STE 119266	ALPHARETTA	GA	30022	A	A		8/24/2020	9/18/2020	0/23/2020 MAILED
FedEx	FULTON	3505287 SWINSON	SHONA	LAQUETTA		2625 P EDMONT RD NE	STE 56-139	ATLANTA	GA	30324	A	A		8/30/2020	9/18/2020	0/13/2020 MAILED
FedEx	FULTON	11070092 SMITH	ADRIANNE	NICOLE		245 N HIGHLAND AVE NE	APT # 408	ATLANTA	GA	30 07	A	A		9/22/2020	9/23/2020	11/3/2020 MAILED
FedEx	FULTON	11280327 RICHARD	NATALIE	JOY		245 N HIGHLAND AVE NE	#230-500	ATLANTA	GA	30307	A	A		9/15/2020	9/21/2020	10/29/2020 MAILED
USPS	FULTON	11187544 ADAMS	DON	WINZER		4575 WEBB BRIDGE RD	UNIT 3491	ALPHARETTA	GA	30005	A	A		9/28/2020	9/29/2020	10/17/2020 MAILED
FedEx	FULTON	12546572 JONES	MARISSA	E		1700 NORTHSIDE DR NW		ATLANTA	GA	30318	A	A		0/5/2020	10/5/2020	10/30/2020 MAILED
FedEx	FULTON	5889232 VANCE	JESSICA	AINSWORTH		1700 NORTHSIDE DR NW	APT 1206	ATLANTA	GA	30318	A	A		10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	6545559 CHATMAN	MICHAEL	SYLVESTER	JR	2625 PIEDMONT RD NE	STE 56-311	ATLANTA	GA	30324	A	A		10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	10520251 PHINISEE	QUINTIN	SCOTT		8725 ROSWELL RD	APT # 0-93	SANDY SPR NGS	GA	30350	A	A		10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	2648764 CONNER	RICKEY	CICERA		1700 NORTHSIDE DR NW	UNIT 4207	ATLANTA	GA	30318-2683	A	A		10/16/2020	10/16/2020	10/16/2020 IN PERSON
FedEx	FULTON	11058900 PATTERSON	RAYMOND	GUY		9925 HAYNES BRIDGE RD	STE 200	JOHNS CREEK	GA	30022	A	A		10/21/2020	10/21/2020	10/21/2020 IN PERSON
UPS	FULTON	5533265 WILLIAMS	KATHERINE	ANN		12460 CRABAPPLE RD		ALPHARETTA	GA	30004	A	A		10/25/2020	10/25/2020	10/25/2020 IN PERSON
FedEx	FULTON	5908794 IVORY	GALE	BERNARD		2090 DUNWOODY CLUB DR	APT 106	ATLANTA	GA	30350	A	A		10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	10072126 HOLLAND	LARA	LYNN		245 N HIGHLAND AVE NE	230-491	ATLANTA	GA	30307	A	A		10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	FULTON	2437910 MITCHELL	DUANE	ALAN		1072 W PEACHTREE ST NW	UNIT 79344	ATLANTA	GA	30 09	A	A		10/30/2020	10/30/2020	0/30/2020 IN PERSON
UPS	FULTON	825257 WAGES	JULIA			3000 OLD ALABAMA RD	UNIT 119246	JOHNS CREEK	GA	30022	A	A		10/26/2020	10/26/2020	0/26/2020 IN PERSON
UPS	FULTON	5181625 PATILLO	NICOLE	TURNER		5805 STATE BRIDGE RD	G424	JOHNS CREEK	GA	30097-8220	A	C	VOT NG IN PERSON	0/9/2020	10/9/2020	10/28/2020 MAILED
USPS	FULTON	2988107 MUHAMMAD	CORLISS	WILLIS		575 PHARR RD NE	APT 550311	ATLANTA	GA	30 05	A	A		10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	8744248 SECHREST	AVERY	CARRIE		245 N HIGHLAND AVE NE	420	ATLANTA	GA	30 07	A	A		8/26/2020	9/18/2020	0/31/2020 MAILED
FedEx	FULTON	11665148 MALIREDDY	DEENA			245 N HIGHLAND AVE NE	APT 324	ATLANTA	GA	30 07	A	A		9/4/2020	9/18/2020	10/9/2020 MAILED
USPS	FULTON	10250297 GARCIA-CAPTAIN	TRICIA	L		780 MOROSGO DR NE	APT 13803	ATLANTA	GA	30324	A	A		10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	7641497 VIGGERS	TALIA	MERCEDES		2020 HOWELL MILL RD NW	C-192	ATLANTA	GA	30318	A	A		10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	5901959 RHODES	SUSIE	MARIE		2400 OLD MILTON PKWY	UNIT 908	ALPHARETTA	GA	30009	A	A		10/21/2020	10/21/2020	10/21/2020 IN PERSON
FedEx	FULTON	7632822 TOBY	WILLIAM	GLENN		2625 PIEDMONT RD NE	UNIT 56-290	ATLANTA	GA	30324	A	A		10/21/2020	10/21/2020	10/21/2020 IN PERSON
UPS	FULTON	2516939 DEJANES	JOHN		SR	1425 MARKET BLVD	530-171	ROSWELL	GA	30076	A	A		10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	FULTON	4747572 RENFROE	JERMAINE			245 N HIGHLAND AVE NE	APT 221	ATLANTA	GA	30307	A	A		10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	11608034 HAWKINS	AARON	ANTHONY		848 OGLETHORPE AVE SW		ATLANTA	GA	30310	A	A		10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	FULTON	3927435 OGLE	CAREN	G		570 P EDMONT AVE NE	2101	ATLANTA	GA	30308	A	A		10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	5244730 CRAIG	COLLETTE	YVETTE		227 SANDY SPRINGS PL NE	STE D 252	ATLANTA	GA	30328	A	A		10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	6762444 MAGEE	RICKY	R		227 SANDY SPRINGS PL NE	STE D 164	ATLANTA	GA	30328	A	A		10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	8810583 DOWLING	KEVIN	THOMAS		245 N HIGHLAND AVE NE	APT 314	ATLANTA	GA	30307	A	A		7/17/2020	9/18/2020	10/13/2020 MAILED
FedEx	FULTON	10760132 SIFUENTES	JACOB	BRYAN		1700 NORTHSIDE DR NW	APT 3307	ATLANTA	GA	30318	A	A		9/3/2020	9/18/2020	10/13/2020 MAILED
USPS	FULTON	12215877 BEAUCHAMP	SHANIKA	MILLER		75 WASHINGTON ST	UNIT 1521	FAIRBURN	GA	30213	A	A		9/22/2020	9/23/2020	10/15/2020 MAILED
UPS	FULTON	3504837 MIZE	CONNIE	JEAN		10800 ALPHARETTA HWY	# 208-489	ROSWELL	GA	30076	A	A		9/23/2020	9/24/2020	10/22/2020 MAILED
UPS	FULTON	7125213 DUMAS	ELIZABETH	MARIE		10800 ALPHARETTA HWY	308-622	ROSWELL	GA	30076	A	A		10/16/2020	10/16/2020	10/16/2020 IN PERSON
FedEx	FULTON	4024399 DOBSON	DEBRA	YATES		245 N HIGHLAND AVE NE	UNIT 313	ATLANTA	GA	30307-1958	A	A		10/18/2020	10/18/2020	10/18/2020 IN PERSON
USPS	FULTON	6035383 FRANCOIS	FRITZ			3495 BUCKHEAD LOOP NE		ATLANTA	GA	30326	A	A		10/23/2020	10/23/2020	10/23/2020 IN PERSON
UPS	FULTON	7880023 KARIM	ASIM			3000 OLD ALABAMA RD	UNIT 119	JOHNS CREEK	GA	30022	A	A		10/23/2020	10/23/2020	0/23/2020 IN PERSON
FedEx	FULTON	6296008 ADAMS	ALFRED	JERMAINE		8725 ROSWELL RD	136	SANDY SPR NGS	GA	30350	A	A		10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	5060984 WRIGHT	ATASHA	WILADEAN		240 PEACHTREE ST NW	STE 56991	ATLANTA	GA	30 03	A	A		10/26/2020	10/26/2020	0/26/2020 IN PERSON
UPS	FULTON	8013401 HUNTER	KETURAH	RICHARDSON		1425 MARKET BLVD	530	ROSWELL	GA	30076	A	A		10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	8890008 WINN-KING	SHAQUILLE			1590 JONESBORO RD SE		ATLANTA	GA	30315	A	A		9/21/2020	9/22/2020	10/22/2020 MAILED
UPS	FULTON	7069924 GLIEBE	RACHAEL	ANN		5805 STATE BRIDGE RD	APT G430	JOHNS CREEK	GA	30097	A	A		9/29/2020	9/30/2020	10/17/2020 MAILED
USPS	FULTON	10481524 SMITH	JANEEN	PATRICE		1185 HIGHTOWER TRL	#501204	ATLANTA	GA	30350	A	A		10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	1882366 ANDERSON	DAVID	MICHAEL	SR	570 P EDMONT AVE NE	#43512	ATLANTA	GA	30308	A	A		10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	4770540 LEWIS	ANDREA	NICOLE		817 W PEACHTREE ST NW	A180-115	ATLANTA	GA	30308	A	A		10/16/2020	10/16/2020	10/16/2020 IN PERSON
FedEx	FULTON	7865689 LOTT	KATELYN	NICOLE		245 N HIGHLAND AVE NE	APT # 220	ATLANTA	GA	30307	A	A		10/16/2020	10/16/2020	10/16/2020 IN PERSON
UPS	FULTON	4914587 FISCHER	JO	TOMOFF		2221 PEACHTREE RD NE	UNIT#5107	ATLANTA	GA	30 09	A	A		10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	12012731 GORDON	JW			10945 STATE BRIDGE RD	401-601	ALPHARETTA	GA	30022	A	A		10/21/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FULTON	3901068 WILSON	MONIQUE	L		227 SANDY SPRINGS PL NE	STE D	ATLANTA	GA	30328	A	A		10/21/2020	10/21/2020	10/21/2020 IN PERSON

USPS	FULTON	4967500 SCHLICHTER	FRANK	JOHN	III	227 SANDY SPRINGS PL NE	#D308	ATLANTA	GA	30328	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
FedEx	FULTON	4699982 BOYD	LATEISHA	A		2625 PIEDMONT RD NE	UNIT 399	ATLANTA	GA	30324-3086	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	FULTON	11865088 MOORE	KENDRA	MARIE		575 PHARR RD NE	UNIT 52984	ATLANTA	GA	30305	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
UPS	FULTON	2379804 WEST	BENJAMIN	DANIEL		2020 HOWELL MILL RD NW	APT C358	ATLANTA	GA	30318	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
FedEx	FULTON	5479048 JONES	LAKESHA	MARIE		1700 NORTHSIDE DR NW	APT # 3502	ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
FedEx	FULTON	12823159 SEIBEL	DAVID	JAMES		1700 NORTHSIDE DR NW	APT 4402	ATLANTA	GA	30318	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
UPS	FULTON	3748921 GREENE	MONICA	JENINE		8343 ROSWELL RD	APT 182	SANDY SPR NGS	GA	30350	A	A			8/21/2020	9/18/2020	10/7/2020 MAILED
FedEx	FULTON	8402018 WARD	DOUGLAS	EUGENE		1700 NORTHSIDE DR NW	UNIT 3308	ATLANTA	GA	30318-2686	A	A			9/29/2020	9/30/2020	10/28/2020 MAILED
UPS	FULTON	6258707 WHITE	DOYLE	INMAN		2221 PEACHTREE RD NE	D-622	ATLANTA	GA	30309-1148	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	FULTON	5873883 WOOD	STEVEN	RANDOLPH	II	570 P EDMONT AVE NE	UNIT 55538	ATLANTA	GA	30308	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	11970592 HERNANDEZ	NIA	MICHELLE		794 MARIETTA ST NW	UNIT # 93-323	ATLANTA	GA	30318	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
FedEx	FULTON	12428945 OCHOA	STEVEN			1700 NORTHSIDE DR NW	APT 3508	ATLANTA	GA	30318	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
UPS	FULTON	2567682 WIELAND	LOUIS	ANDREW		10800 ALPHARETTA HWY	208	ROSWELL	GA	30076	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	11065423 STEPHENS	LORENZO			227 SANDY SPRINGS PL NE	APT 76813	ATLANTA	GA	30328	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	7555687 BURNETT	BENNY	RAY		10945 STATE BRIDGE RD	401	ALPHARETTA	GA	30022	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	6354671 BINDER	CAMILLE	DELON		2625 P EDMONT RD NE	#56-171	ATLANTA	GA	30324	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
USPS	FULTON	12577822 TENORIO	TERI	CHRIST NE		8920 EVES RD	UNIT # 786321	ROSWELL	GA	30076	A	A			10/14/2020	10/15/2020	11/2/2020 MAILED
USPS	FULTON	10869225 JONES	ERINN	MARIE		1072 W PEACHTREE ST NW	UNIT 7506	ATLANTA	GA	30 09	A	A			10/17/2020	10/17/2020	0/17/2020 IN PERSON
UPS	FULTON	12743489 WHITFIELD	KAIRO			4279 ROSWELL RD NE		ATLANTA	GA	30342	A	A			10/16/2020	10/17/2020	0/17/2020 IN PERSON
UPS	FULTON	7452721 DICKINSON	FAWN	AMBER		2221 PEACHTREE RD NE	D455	ATLANTA	GA	30 09	A	A			10/20/2020	10/20/2020	0/20/2020 IN PERSON
USPS	FULTON	3853298 MOBLEY	ACQUANETTA	S		780 MOROSGO DR NE	UNIT 13831	ATLANTA	GA	30324	A	A			10/19/2020	10/19/2020	0/19/2020 IN PERSON
FedEx	FULTON	11757293 KANE	SOPHIA			245 N HIGHLAND AVE NE	APT 405	ATLANTA	GA	30 07	A	A			10/13/2020	10/13/2020	0/13/2020 IN PERSON
USPS	FULTON	12839524 ANDREWS	STANLEY	WADE		2400 OLD MILTON PKWY	UNIT # 806	ALPHARETTA	GA	30009	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
UPS	FULTON	482832 DAILY	MICHAEL	W		10945 STATE BRIDGE RD	APT401-191	ALPHARETTA	GA	30022	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
UPS	FULTON	6267800 WILLIAMS	DAMANI	M		5805 STATE BRIDGE RD	STE G309	JOHNS CREEK	GA	30097	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	12143425 DEAN	NIA			9925 HAYNES BRIDGE RD	200-118	JOHNS CREEK	GA	30022	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	3705857 BEAL	DEMETRIS	ANTIGO		1590 JONESBORO RD SE	UNIT 6913	ATLANTA	GA	30315	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
FedEx	FULTON	8119994 WASILEWSKI	PAUL			245 N HIGHLAND AVE NE	APT # 404	ATLANTA	GA	30 07	A	C	Administrative Cancellation		9/21/2020	9/22/2020	9/29/2020 MAILED
USPS	FULTON	4225562 CARSON	PHYLISIA	ADINA		4575 WEBB BRIDGE RD	APT 2232	ALPHARETTA	GA	30005	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	5630315 TAYLOR	ERIC	DEWAYNE		3495 BUCKHEAD LOOP NE	APT 18781	ATLANTA	GA	30326	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
USPS	FULTON	6463459 MARONEY	PATRICIA	SAGUIER		227 SANDY SPRINGS PL NE	APT D-331	ATLANTA	GA	30328	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
FedEx	FULTON	11903474 OWENS	LAUREN	BRITTANY		1700 NORTHSIDE DR NW	APT 4602	ATLANTA	GA	30318	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	6950741 DUNCAN	REBECCA	D		11877 DOUGLAS RD	APT 10-232	ALPHARETTA	GA	30005	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
USPS	FULTON	4841646 SPEARS	TREMAIN			575 PHARR RD NE	UNIT 53001	ATLANTA	GA	30 05	A	A			10/24/2020	10/24/2020	0/24/2020 IN PERSON
FedEx	FULTON	11649867 HUGHES	DAVID	ALLEN		2995 E POINT ST	APT 130	EAST POINT	GA	30344	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
FedEx	FULTON	11967643 SMITH	TAYLOR	MARIE		1700 NORTHSIDE DR NW	APT #3301	ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
FedEx	FULTON	5982972 LEAKE	BENJAMIN			1700 NORTHSIDE DR NW	A7-1170	ATLANTA	GA	30318	A	A			9/9/2020	9/19/2020	11/2/2020 MAILED
UPS	FULTON	11383664 LIE	LEO	POENPONG		12460 CRABAPPLE RD	202-182	ALPHARETTA	GA	30004	A	A			9/4/2020	9/18/2020	10/15/2020 MAILED
FedEx	FULTON	8213266 HILDEBRANDT	JONATHAN			245 N HIGHLAND AVE NE	UNIT # 212	ATLANTA	GA	30307	A	A			9/4/2020	9/18/2020	10/13/2020 MAILED
UPS	FULTON	7550040 SCATES	CAPPRICCIEO	M		2020 HOWELL MILL RD NW	SUITE D268	ATLANTA	GA	30318	A	A			9/30/2020	9/30/2020	10/19/2020 MAILED
USPS	FULTON	5075287 SCHEIMAN	ROBERT	EDMUND		3495 BUCKHEAD LOOP NE	UNIT 18981	ATLANTA	GA	30326	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	7681735 EVANS	STACY	DENISE		1700 NORTHSIDE DR NW	APT # 4605	ATLANTA	GA	30318	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	3163737 BAILEY	IRENE	DENISE		2260 FAIRBURN RD SW	APT310032	ATLANTA	GA	30331	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
USPS	FULTON	5231758 WILLIAMS	MECHELLE	YVETTE		2400 OLD MILTON PKWY	UNIT 806	ALPHARETTA	GA	30009	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	FULTON	11921429 SHIPLEY	BENJAMIN	RANIER		1700 NORTHSIDE DR NW	APT 3409	ATLANTA	GA	30318	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	10691473 WILSON	MARI			245 N HIGHLAND AVE NE	APT # 2 0-217	ATLANTA	GA	30307	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	FULTON	11407277 WILLIAMS	DAMIEN	LAMONT		4575 WEBB BRIDGE RD	UNIT 3344	ALPHARETTA	GA	30005	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
UPS	FULTON	4595380 COLLINS	BRENT	DELBERT		2221 PEACHTREE RD NE	#D262	ATLANTA	GA	30309	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
USPS	FULTON	8885003 WATSON	STACEY			575 PHARR RD NE	UNIT 52984	ATLANTA	GA	30305	A	A			9/8/2020	10/25/2020	10/25/2020 IN PERSON
FedEx	FULTON	7653013 SEIBERT	ELIZABETH			1700 NORTHSIDE DR NW	APT #5606	ATLANTA	GA	30318	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
FedEx	FULTON	10447012 MONTILLA	TOMAS	E		245 N HIGHLAND AVE NE	APT 209	ATLANTA	GA	30307	A	A			8/27/2020	9/18/2020	10/8/2020 MAILED
FedEx	FULTON	11054926 GARBER	MICHAEL	IAN		245 N HIGHLAND AVE NE	APT 201	ATLANTA	GA	30307	A	A			9/2/2020	9/18/2020	10/19/2020 MAILED
USPS	FULTON	11063066 PRATT	COREY	JUSTIN		8920 EVES RD	# 768133	ROSWELL	GA	30076	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	2519917 OLSEN	JUDITH	W		12460 CRABAPPLE RD	UNIT 202-150	ALPHARETTA	GA	30004	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
USPS	FULTON	6991286 MSZ-HASHEMI	MOHAMMAD			570 P EDMONT AVE NE	UNIT 54103	ATLANTA	GA	30308	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FULTON	6256589 MEREDITH	MICHAEL	EVAN		848 OGLETHORPE AVE SW		ATLANTA	GA	30310	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	3793800 GIBSON	JAMES	EDWIN		75 WASHINGTON ST	UNIT 1006	FAIRBURN	GA	30213	A	A			5/7/2020	9/18/2020	10/19/2020 MAILED
USPS	FULTON	10122089 BROWN	CHAVAZA	DJUAN		4575 WEBB BRIDGE RD	UNIT 4601	ALPHARETTA	GA	30005	A	A			10/12/2020	10/13/2020	10/29/2020 MAILED
FedEx	FULTON	5988022 BETTS	DANIELLE	GENISE		8725 ROSWELL RD		SANDY SPR NGS	GA	30350	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	8469866 MCGREW	VELETIA	ORA		4575 WEBB BRIDGE RD	UNIT 4411	ALPHARETTA	GA	30005	A	C	Mailed Ba lot Surrendered to Vote In-Person		0/1/2020	10/1/2020	10/12/2020 MAILED
FedEx	FULTON	1970255 COPPINS	KAREN	L		245 N HIGHLAND AVE NE	UNIT 403	ATLANTA	GA	30307	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	8376677 BOATENG	YAA	KONADU		780 MOROSGO DR NE	APT 14863	ATLANTA	GA	30324	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
FedEx	FULTON	8070198 COLEMAN	MCKENZIE	JEAN		245 N HIGHLAND AVE NE	APT 204	ATLANTA	GA	30307	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
USPS	FULTON	8193848 BURTON	CAPRICE			1590 JONESBORO RD SE	UNIT 12604	ATLANTA	GA	30315	A	A			10/23/2020	10/26/2020	10/31/2020 MAILED
USPS	FULTON	12766364 MANNING	TANISHA	D		4575 WEBB BRIDGE RD	UNIT 4281	ALPHARETTA	GA	30005	A	A			0/8/2020	10/8/2020	11/2/2020 MAILED
UPS	FULTON	3921527 SLAUGHTER	ROBERT	SHELTON		3000 OLD ALABAMA RD	STE 119	ALPHARETTA	GA	30022	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
UPS	FULTON	7468618 REID	VICTORIA	KANIELE		10945 STATE BRIDGE RD	401-278	ALPHARETTA	GA	30022	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
UPS	FULTON	2441287 DELSARTE	DOROTHY	JOHNSON		2221 PEACHTREE RD NE	APT D268	ATLANTA	GA	30309	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	12498828 WALKER	JAEDON	ALEXANDER		10945 STATE BRIDGE RD	4011	ALPHARETTA	GA	30022	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	11721315 HINES	AYANNA	SARAN		50 SUNSET AVE NW	APT 92771	ATLANTA	GA	30314	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
FedEx	FULTON	5382587 FINDLEY	ROBERT	FRANKLIN		245 N HIGHLAND AVE NE	APT 214	ATLANTA	GA	30307	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	7686606 HOLYFIELD	EBONNE	ESHAYA		1700 NORTHSIDE DR NW	UNIT 3608	ATLANTA	GA	30318-2693	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	12518567 COFFELT	CHRISTOPHER	AARON	JR	1700 NORTHSIDE DR NW	APT 3508	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	8477551 AGUILAR	PEDRO	JOAQUIN	JR	1700 NORTHSIDE DR NW	APT 2216	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
UPS	FULTON	7894999 BIGOT	CHINARA	SHANI		8343 ROSWELL RD	UNIT 116	SANDY SPR NGS	GA	30350	A	A			9/4/2020	9/18/2020	10/27/2020 MAILED
USPS	FULTON	12491418 HAMILTON	NEALI	RAI		848 OGLETHORPE AVE SW	UNIT115603	ATLANTA	GA	30310	A	A			0/5/2020	10/6/2020	10/28/2020 MAILED
USPS	FULTON	12591515 PHILIP	GAIL	ANN		10719 ALPHARETTA HWY	APT 212	ROSWELL	GA	30076	A	A			9/2/2020	9/16/2020	10/9/2020 ELECTRONIC
USPS	FULTON	10322163 NEWELL	WANDA	ANISE		8920 EVES RD		ROSWELL	GA	30076	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	3570048 ROGERS	RUSSEL	LAROY		1590 JONESBORO RD SE	UNIT 150832	ATLANTA	GA	30315	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
FedEx	FULTON	11591530 NABORS	BARRY	LAMARK		245 N HIGHLAND AVE NE	# 230-155	ATLANTA	GA	30 07	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	2496687 COTTRELL	JAMES	MONROE		50 SUNSET AVE NW	UNIT 9214	ATLANTA	GA	30314	A	A			4/30/2020	9/18/2020	10/8/2020 MAILED
USPS	FULTON	2010010 JOSEY	LORI	ANN		227 SANDY SPRINGS PL NE		ATLANTA	GA	30328	A	A			9/22/2020	9/23/2020	10/15/2020 MAILED
UPS	FULTON	4853637 FULLER	CHERYL			2221 PEACHTREE RD NE	D 133	ATLANTA	GA	30309	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	FULTON	8234973 LEWIS	ELLIOTT	DONALD		240 PEACHTREE ST NW		ATLANTA	GA	30303	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	3378629 WHITTED	GORDON	STANLEY		8920 EVES RD		ROSWELL	GA	30076	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	10519961 ROUNTREE	MAYLIN	BISHOP		227 SANDY SPRINGS PL NE	D-176	ATLANTA	GA	30328	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	11661919 GESAKA	RODGERS	NYAEGA		6300 POWERS FERRY RD NW	APT600-168	ATLANTA	GA	30339	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
UPS	FULTON	10726969 CAMPBELL	DION	LEIGH		7742 SPALDING DR	APT # 397	NORCROSS	GA	30092	A	C	VOTE IN PERSON		9/19/2020	9/21/2020	11/3/2020 MAILED
UPS	FULTON	4012076 AMAN	LARRY	JAMES		8343 ROSWELL RD	UNIT 252	SANDY SPR NGS	GA	30350	A	A			9/16/2020	9/21/2020	11/3/2020 MAILED
FedEx	FULTON	8168781 GILES	GREGORY			1700 NORTHSIDE DR NW	APT # 4403	ATLANTA	GA	30318	A	A			9/16/2020	9/21/2020	10/15/2020 MAILED
FedEx	FULTON	11832581 FAKHOURY	ABDEL HAMID			245 N HIGHLAND AVE NE	APT 410	ATLANTA	GA	30307	A	A			9/26/2020	9/28/2020	10/31/2020 MAILED
USPS	FULTON	10556507 SMITH	PATRICK	ARNOLD		1185 HIGHTOWER TRL	#501204	ATLANTA	GA	30350	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	5343677 AUGUSTINE	NICHOLE	VERONICA		1700 NORTHSIDE DR NW	UNIT 1511	ATLANTA	GA	30318	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
USPS	FULTON	12754700 FENNELL	ALTAVIESE	MARIE		780 MOROSGO DR NE	UNIT # 244095	ATLANTA	GA	30324	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
UPS	FULTON	3937171 WEST	SHAWN	ANDRE		1425 MARKET BLVD	STE 530	ROSWELL	GA	30076	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	3742542 MCGHEE	FELICIA	WYNETTE		227 SANDY SPRINGS PL NE	UNIT 28261	ATLANTA	GA	30328	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
UPS	FULTON	12537968 STEPHENSON	ARELISA	SONIA		11877 DOUGLAS RD	STE 1021	ALPHARETTA	GA	30005	30005	A	A				10/18/2020 10/18/2020
FedEx	FULTON	5337484 ERVIN	MARQUES			245 N HIGHLAND AVE NE	230-456	ATLANTA	GA	30307	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	4022752 CROOKS	JASMINE	NORMADELLE		575 PHARR RD NE	APT 12266	ATLANTA	GA	30305	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	4488170 WOOTEN	ROBERT	LEE		2385 GODBY RD	APT 491262	ATLANTA	GA	30349	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
FedEx	FULTON	7332290 LYON	GINGER	BAYARD		245 N HIGHLAND AVE NE	UNIT 406	ATLANTA	GA	30307-1958	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	11661648 CANADA	KENNETH	WAYNE		650 S CENTRAL AVE	UNIT 82335	HAPEVILLE	GA	30354	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON

USPS	FULTON	7659015 RUSHING	MARSHA	CIARA		794 MARIETTA ST NW		ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	8569622 ELKIND	STEPHEN			245 N HIGHLAND AVE NE	230-498	ATLANTA	GA	30307	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	2508870 DODSON	JAMES	STANTON		12460 CRABAPPLE RD	UNIT 202-353	ALPHARETTA	GA	30004-6602	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	5041960 SPATES	MARCELLA	LEANNE		75 WASHINGTON ST	UNIT 1514	FAIRBURN	GA	30213	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
FedEx	FULTON	12398384 BORTIER	DORA	PATIENCE A		245 N HIGHLAND AVE NE	UNIT 230-125	ATLANTA	GA	30 07	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
UPS	FULTON	11069424 RAGY	ANEES-CARL	LOUIS		2221 PEACHTREE RD NE	APT # D-188	ATLANTA	GA	30 09	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
UPS	FULTON	2575444 BANKS	MICHAEL	EDWARD		7742 SPALDING DR	APT 457	NORCROSS	GA	30092	A	A			5/17/2020	9/18/2020	10/13/2020 MAILED
USPS	FULTON	3775079 PRATT	KAMALA	DAWN		8920 EVES RD	768133	ROSWELL	GA	30076	A	A			8/26/2020	9/18/2020	10/13/2020 MAILED
USPS	FULTON	2672614 ANDERSON	SHAUNDRA	KEITH		570 P EDMONT AVE NE		ATLANTA	GA	30308	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
USPS	FULTON	12776351 LOVE	RASHAD			2400 OLD MILTON PKWY	UNIT # 1	ALPHARETTA	GA	30009	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	8050127 GITTONS	SHAWN	MICHAEL		1700 NORTHSIDE DR NW	APT 5402	ATLANTA	GA	30318	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
FedEx	FULTON	7312463 REED	DOROTHEA			2625 PIEDMONT RD NE	UNIT 56-255	ATLANTA	GA	30324- 086	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
UPS	FULTON	8084076 PALMER	KEISHA	D		2221 PEACHTREE RD NE	STE D555	ATLANTA	GA	30309	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
FedEx	FULTON	10679572 COTNER	MICHAELA	ANDREA		1700 NORTHSIDE DR NW	APT 1207	ATLANTA	GA	30318	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
FedEx	FULTON	11683154 MALIREDDY	RAHUL	REDDY		245 N HIGHLAND AVE NE	APT 324	ATLANTA	GA	30307	A	C	Ballot was Undelivered		9/4/2020	9/18/2020	10/22/2020 MAILED
USPS	FULTON	6906434 SANCHEZ	ANTHONY	JAMAL		3799 MAIN ST	APT 87245	ATLANTA	GA	30337	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	FULTON	10523187 BEATTY	JOSEPH	ISIAH BEN-JOSHUA		8920 EVES RD	APT 767802	ROSWELL	GA	30076	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
UPS	FULTON	11036733 SHIROYA	MICHAEL	ANDABWA		2221 PEACHTREE RD NE	APT # D406	ATLANTA	GA	30309	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
FedEx	FULTON	3972426 WILHOIT	KATHLEEN	DELORES		8725 ROSWELL RD	UNIT 0-212	SANDY SPR NGS	GA	30350-7533	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	10855306 TAYLOR	PAMELA	ELIZABETH		575 PHARR RD NE	UNIT550893	ATLANTA	GA	30 05	A	A			10/28/2020	10/28/2020	0/31/2020 MAILED
FedEx	FULTON	12363758 EZE	CHUKWUEMEKA	OBINNA		1700 NORTHSIDE DR NW	APT 2506	ATLANTA	GA	30318	A	A			6/1/2020	9/18/2020	10/5/2020 MAILED
FedEx	FULTON	8502404 WALL	ROBIN	HOPE		245 N HIGHLAND AVE NE	UNIT 401	ATLANTA	GA	30307	A	A			9/22/2020	9/24/2020	10/19/2020 MAILED
USPS	FULTON	6130338 LANE	JERRY	TINSLEY	JR	3495 BUCKHEAD LOOP NE	UNIT 18897	ATLANTA	GA	30326	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	2601256 ROCKWELL	MELISSA	A		4279 ROSWELL RD NE		ATLANTA	GA	30342	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
FedEx	FULTON	11725413 JEMISON	WILLIAM	TYRELL		1700 NORTHSIDE DR NW	APT 5406	ATLANTA	GA	30318	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
FedEx	FULTON	11919915 SAWYER	JONATHAN	BRANDON		245 N HIGHLAND AVE NE	APT 230616	ATLANTA	GA	30307	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	8070198 COLEMAN	MCKENZIE	JEAN		245 N HIGHLAND AVE NE	APT 204	ATLANTA	GA	30307	A	C	Ballot was Undelivered		10/24/2020	10/24/2020	10/24/2020 IN PERSON
FedEx	FULTON	12727664 AKERS	ERCLE	WHITNEY		245 N HIGHLAND AVE NE		ATLANTA	GA	30307	A	C	Ballot was Undelivered		0/5/2020	10/22/2020	11/3/2020 MAILED
UPS	FULTON	2358261 HARRIS	ARTHUR		III	2221 PEACHTREE RD NE	APT D433	ATLANTA	GA	30309	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
UPS	FULTON	12769251 PANSING	JENNA	RILEY		5805 STATE BRIDGE RD	APT # G172	JOHNS CREEK	GA	30097	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	11272302 GALINDO	MARIELY			245 N HIGHLAND AVE NE	#230-323	ATLANTA	GA	30307	A	A			9/27/2020	9/29/2020	11/2/2020 MAILED
FedEx	FULTON	8167554 RABE-TRIMARCO	JOHN			1700 NORTHSIDE DR NW	APT 1405	ATLANTA	GA	30318	A	A			0/7/2020	10/7/2020	10/22/2020 MAILED
USPS	FULTON	2768707 MASON	JOEL	MICHAEL		227 SANDY SPRINGS PL NE	APT D105	ATLANTA	GA	30328	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	6213342 HURT	STEWART	JAMES		10800 ALPHARETTA HWY	STE 208-58	ROSWELL	GA	30076	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	5025783 RAMOS	JAY	ANTHONY	II	1700 NORTHSIDE DR NW	APT 1408	ATLANTA	GA	30318	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	6761560 BOGGS	JUSTIN			227 SANDY SPRINGS PL NE	APT 76764	ATLANTA	GA	30328	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	5106986 ROLLE	SONYA	PUGH		2221 PEACHTREE RD NE	APT D474	ATLANTA	GA	30309	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	5587253 SCOTT	MARCIA	LANENETTE		794 MARIETTA ST NW	UNIT 93894	ATLANTA	GA	30318	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
UPS	FULTON	4199517 TYLER	CHARLES			5805 STATE BRIDGE RD	G-217	DULUTH	GA	30097	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
UPS	FULTON	5567315 INGRAM	HENRY	OLIVER	JR	10945 STATE BRIDGE RD	APT #401-459	ALPHARETTA	GA	30022	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	11666057 ARJULA	MANJULA			9925 HAYNES BRIDGE RD	# 200-143	ALPHARETTA	GA	30022	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
FedEx	FULTON	2059939 ROESEL	ELIZABETH	ROSS		245 N HIGHLAND AVE NE		ATLANTA	GA	30307	A	A			6/2/2020	9/18/2020	10/23/2020 MAILED
FedEx	FULTON	5270885 JONES	CHRISTOPHER	RAY		245 N HIGHLAND AVE NE	APT 207	ATLANTA	GA	30307	A	A			8/27/2020	9/18/2020	10/15/2020 MAILED
USPS	FULTON	11667254 VAUGHAN	KHRYS			75 WASHINGTON ST	UNIT 1457	FAIRBURN	GA	30213	A	A			9/4/2020	9/18/2020	10/23/2020 MAILED
FedEx	FULTON	2535115 ANDREWS	KENNETH	RAY		9925 HAYNES BRIDGE RD	STE 200	ALPHARETTA	GA	30022	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	2412451 THOMAS	CAROL			2625 PIEDMONT RD NE	UNIT 56-221	ATLANTA	GA	30324	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	2002548 JENKINS	BARBARA	ANN		2625 PIEDMONT RD NE	APT 56-377	ATLANTA	GA	30324	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
FedEx	FULTON	3593960 PARSONS	SHAUN			245 N HIGHLAND AVE NE	STE230-195	ATLANTA	GA	30307	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	FULTON	6299135 AUSTIN	TOREY	LAMONT		2385 GODBY RD		ATLANTA	GA	30349	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
FedEx	FULTON	12591672 NEWMAN	IAN	PAUL		1700 NORTHSIDE DR NW	APT # 2502	ATLANTA	GA	30318	A	A			10/28/2020	10/28/2020	10/31/2020 MAILED
FedEx	FULTON	3668292 WYNETTE	KIM			245 N HIGHLAND AVE NE	|2 0	504|	ATLANTA	GA	30307-1936	A	A			10/30/2020	10/30/2020 10/30/2020
USPS	FULTON	2544623 CONRAD	KITTY	RICHARDSON		227 SANDY SPRINGS PL NE	324	ATLANTA	GA	30328	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	11400994 QUINCER	ELIZABETH	MARY		245 N HIGHLAND AVE NE	APT 414	ATLANTA	GA	30307	A	A			9/4/2020	9/18/2020	10/28/2020 MAILED
USPS	FULTON	8457125 BENZ	LANEY			1185 HIGHTOWER TRL	UNIT # 501	ATLANTA	GA	30350	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
UPS	FULTON	4587115 ARNOLD	GISELLE	SIMONE		2221 PEACHTREE RD NE	D556	ATLANTA	GA	30309	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	10531284 MILAM	MEGAN	RUTH		1700 NORTHSIDE DR NW	APT 1409	ATLANTA	GA	30318	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
USPS	FULTON	10370610 LEVISTER	SHAY	NIASIA		4575 WEBB BRIDGE RD	4996	ALPHARETTA	GA	30005	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
FedEx	FULTON	8141612 AGYEPONG	YAW			1700 NORTHSIDE DR NW	APT # 4609	ATLANTA	GA	30318	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	6354397 STALLWORTH	CHANIKA	LATANYA		5805 STATE BRIDGE RD	G48	JOHNS CREEK	GA	30097	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	7901681 PRESTON	LARRY			3495 BUCKHEAD LOOP NE	UNIT 18785	ATLANTA	GA	30326	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
USPS	FULTON	2369526 MACK	ALPHONSE	BERNARR		575 PHARR RD NE	APT 550591	ATLANTA	GA	30305	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	FULTON	10516154 MCLAURIN	KENNETH			1700 NORTHSIDE DR NW	APT 1303	ATLANTA	GA	30318	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	FULTON	7692906 MORGAN	DARRELL	LYNN		2625 PIEDMONT RD NE	SUITE 104	ATLANTA	GA	30324	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	11693467 WILLIAMS	JOI	PAULINE		4575 WEBB BRIDGE RD	UNIT 3344	ALPHARETTA	GA	30005	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
UPS	FULTON	2563880 SHANNON	LERONDA	ANN		2221 PEACHTREE RD NE		ATLANTA	GA	30 09	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	10266253 KLAUTZER	LISA			2625 P EDMONT RD NE	STE 56-120	ATLANTA	GA	30324	A	A			8/27/2020	9/16/2020	11/3/2020 ELECTRONIC
UPS	FULTON	11753421 VIGGERS	ALFONSO	IGNACIO		2020 HOWELL MILL RD NW		ATLANTA	GA	30318	A	A			5/28/2020	9/18/2020	10/15/2020 MAILED
UPS	FULTON	6259464 WILLIAMS	PAMELA			8343 ROSWELL RD	#242	SANDY SPR NGS	GA	30350	A	A			8/5/2020	9/18/2020	10/15/2020 MAILED
USPS	FULTON	7047827 TRIBER	DELBERT	HENRY	JR	4575 WEBB BRIDGE RD	UNIT 2062	ALPHARETTA	GA	30005	A	A			9/15/2020	9/21/2020	10/18/2020 MAILED
FedEx	FULTON	10055868 KNOX	ANGELA	DENISE		245 N HIGHLAND AVE NE	STE 230	ATLANTA	GA	30307	A	A			9/30/2020	9/30/2020	10/23/2020 MAILED
USPS	FULTON	2530491 RANDOLPH	JAMES	JAMAL		570 P EDMONT AVE NE	UNIT 54861	ATLANTA	GA	30308	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	2616343 STEWART	PHYLLIS	D		10800 ALPHARETTA HWY	UNIT #752	ROSWELL	GA	30076	A	C	Voter Requested		5/7/2020	9/18/2020	10/12/2020 MAILED
FedEx	FULTON	6158197 HOBBS	JASON	OSA RANDOLPH		1700 NORTHSIDE DR NW	APT 1301	ATLANTA	GA	30318	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	8946433 JONES	CRAIG	RAYMOND		780 MOROSGO DR NE	UNIT 13484	ATLANTA	GA	30324	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FULTON	6398265 CREECY	TERESA	CHRIST NE		575 PHARR RD NE	# 551014	ATLANTA	GA	30 05	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
UPS	FULTON	4915627 SLADE	TERRANCE	DONALD		3000 OLD ALABAMA RD	APT119-411	ALPHARETTA	GA	30022	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
USPS	FULTON	10719759 RAGLAND	CASEY	RAE		575 PHARR RD NE	UNIT 52920	ATLANTA	GA	30 05	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
UPS	FULTON	2379804 WEST	BENJAMIN	DANIEL		2020 HOWELL MILL RD NW	APT C358	ATLANTA	GA	30318	A	C	Voter Turned in Ballot at The Polls		10/26/2020	10/26/2020	10/26/2020 IN PERSON
FedEx	FULTON	8882142 GORDON	GLEN	DALE		2625 P EDMONT RD NE	UNIT 56-37	ATLANTA	GA	30324- 086	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	11043877 PERRYMAN	AMBER	CASHELL		1700 NORTHSIDE DR NW	4401	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	FULTON	6911794 JAMIESON	ALVIN	EARLE	JR	227 SANDY SPRINGS PL NE	720073	ATLANTA	GA	30328	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
FedEx	FULTON	12290112 TYERYAR	RACHEL			1700 NORTHSIDE DR NW	APT 3608	ATLANTA	GA	30318	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	10232720 MILLER	THOMAS	KURT		245 N HIGHLAND AVE NE	APT # 304	ATLANTA	GA	30307	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	5867652 CALLWOOD	ETHANIE	TISHELL		2221 PEACHTREE RD NE		ATLANTA	GA	30309	A	A			10/14/2020	10/15/2020	11/2/2020 MAILED
UPS	FULTON	5380372 MEADERS	CATHERINE	ASHLEY		2221 PEACHTREE RD NE	APT D416	ATLANTA	GA	30309	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
FedEx	FULTON	8919942 CARLO	ALIYA			1700 NORTHSIDE DR NW	APT 3305	ATLANTA	GA	30318	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	5794198 MITCHELL	JOHN	HECTOR HARMON		4575 WEBB BRIDGE RD	UNIT 5877	ALPHARETTA	GA	30005	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
FedEx	FULTON	8623823 MCCULLOCH	TIMOTHY	LAWRENCE		1700 NORTHSIDE DR NW	APT 3607	ATLANTA	GA	30318	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	FULTON	4096890 GREENE	IRVING	C	III	1700 NORTHSIDE DR NW	APT 1304	ATLANTA	GA	30318	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	FULTON	5088592 PERRY-HOUSTON	LEONTANETTE	JUNISE		570 PIEDMONT AVE NE		ATLANTA	GA	30308	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
FedEx	FULTON	12112409 FILICE	GABRIANA	MARIA		1700 NORTHSIDE DR NW	APT 3301	ATLANTA	GA	30318	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
USPS	FULTON	6584682 MCMILLIAN	TERRENCE	T		4575 WEBB BRIDGE RD		ALPHARETTA	GA	30005	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
USPS	FULTON	4104968 PITTMAN	CHAVEZ	TORQUATO		780 MOROSGO DR NE	UNIT 14516	ATLANTA	GA	30324	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	8381290 CAUSEESTKO-MCCOLLUM	CAROL	SYLVANIA		575 PHARR RD NE	UNIT 11765	ATLANTA	GA	30305	A	A			9/10/2020	9/21/2020	10/31/2020 MAILED
USPS	FULTON	12771568 RANDLE	PAYTON	JULIANA		8920 EVES RD	# 8581	ROSWELL	GA	30076	A	A			9/3/2020	9/18/2020	10/27/2020 MAILED
FedEx	FULTON	8119994 WASILEWSKI	PAUL			245 N HIGHLAND AVE NE	APT # 404	ATLANTA	GA	30307	A	A			9/29/2020	9/30/2020	10/23/2020 MAILED
FedEx	FULTON	3832823 DARRIS	DIANA	ROBIN		245 N HIGHLAND AVE NE	UNIT 415	ATLANTA	GA	30307	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	2598283 HOUSEN	MELVA	DESHUN		2385 GODBY RD		ATLANTA	GA	30349	A	A			0/9/2020	10/9/2020	10/23/2020 MAILED
UPS	FULTON	10413932 BUTCHER	CHRISTOPHER	MICHAEL		8 0 GLENWOOD AVE SE	APT 510-255	ATLANTA	GA	30316	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	FULTON	10658214 LEWERS	MITZI	MARSHA		3495 BUCKHEAD LOOP NE	18614	ATLANTA	GA	30326	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
FedEx	FULTON	11989336 YU	MICHAEL	ANDREW		245 N HIGHLAND AVE NE	APT # 414	ATLANTA	GA	30307	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	2029430 LUNCHEON	ANTOINETTE	N		8920 EVES RD	UNIT768482	ROSWELL	GA	30076	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON

UPS	FULTON	493063 HURST	JOHN	BYRON		3000 OLD ALABAMA RD	119-128	ALPHARETTA	GA	30022	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
FedEx	FULTON	6263578 SMITH	JENNA	MARIE		1700 NORTHSIDE DR NW	APT 1206	ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
UPS	FULTON	20637 GADSON	DANNY	EDWARD		2221 PEACHTREE RD NE	UNIT D417	ATLANTA	GA	30309	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	7141787 ANDERSON	ELIZABETH	MICHELLE		1700 NORTHSIDE DR NW	APT # 5606	ATLANTA	GA	30318	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	7749895 COLLIER	DWIGHT	LEVONNE	JR	780 MOROSGO DR NE		ATLANTA	GA	30324	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	10632492 MAYER	SYLVIA	NICOLE		1700 NORTHSIDE DR NW	APT # 3306	ATLANTA	GA	30318	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	2669386 SPALDING	SCOTT	KENDALL		6300 POWERS FERRY RD NW	STE 600	ATLANTA	GA	30339	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
UPS	FULTON	2519917 OLSEN	JUDITH	W		12460 CRABAPPLE RD	UNIT 202-150	ALPHARETTA	GA	30004	A	C	VOTED IN PERSON		9/3/2020	9/18/2020	10/18/2020 MAILED
USPS	FULTON	6815573 GORDILLO	GLORIA	JIMENEZ		10719 ALPHARETTA HWY	UNI 1773	ROSWELL	GA	30076	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	4904201 CREASMAN	DAPHNE	WILLIAMS		50 SUNSET AVE NW	UNIT # 925	ATLANTA	GA	30314	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	5126421 BROWN	PEGGY	PLUMMER		75 WASHINGTON ST	UNIT 266	FAIRBURN	GA	30213	A	A			10/16/2020	10/16/2020	0/16/2020 IN PERSON
USPS	FULTON	5820960 GREEN	LORENTINE	FITZGERALD		2400 OLD MILTON PKWY	UNIT 525	ALPHARETTA	GA	30009	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
FedEx	FULTON	3653126 MACKENZIE	RODERICK	J		9925 HAYNES BRIDGE RD	200153	JOHNS CREEK	GA	30022	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	7109648 LOVE	TONE			2625 PIEDMONT RD NE	#56-165	ATLANTA	GA	30324	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	FULTON	8956101 HARRIS	DAIN			227 SANDY SPRINGS PL NE		ATLANTA	GA	30328	A	C	Mailed Ba lot Surrendered to Vote In-Person		9/15/2020	9/21/2020	10/20/2020 MAILED
UPS	FULTON	5847848 FINLEY	WILLIAM	ORLANDO		3000 OLD ALABAMA RD	STE 150	ALPHARETTA	GA	30022	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	7744045 JENKINS	JAY	WAYNE	II	2221 PEACHTREE RD NE	STE D 439	ATLANTA	GA	30309	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
FedEx	FULTON	12588751 COPING	ANDREA			1700 NORTHSIDE DR NW		ATLANTA	GA	30318	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
FedEx	FULTON	12633672 PARKS	AUSTIN			1700 NORTHSIDE DR NW	APT # 5 05	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	7456401 MAHONE	FINEQUA			5050 UNION ST	UNIT 4	UNION CITY	GA	30291	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	10140592 POPOWSKI	MICHAEL	JAMES		245 N HIGHLAND AVE NE	UNIT 208	ATLANTA	GA	30307	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	7312893 JONES	KELLEY	LYNN		227 SANDY SPRINGS PL NE	#D250	ATLANTA	GA	30328	A	A			/31/2020	9/18/2020	10/15/2020 MAILED
FedEx	FULTON	8810566 DOWLING	KATHLEEN	MARIE		245 N HIGHLAND AVE NE	UNIT 314	ATLANTA	GA	30307	A	A			7/21/2020	9/18/2020	10/13/2020 MAILED
USPS	FULTON	10692516 HARKEY	CHARLES	WENDELL	III	2400 OLD MILTON PKWY	1145	ALPHARETTA	GA	30009	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	4305169 YOUNG	GWENDOLYN	SHERELLE		3495 BUCKHEAD LOOP NE	UNIT 18903	ATLANTA	GA	30326	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	8403829 GILL	GINA	MARIA		2275 MARIETTA BLVD NW	STE 270	ATLANTA	GA	30318	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
USPS	FULTON	10274733 WEBBER	ANIKA	LORACE		4575 WEBB BRIDGE RD	UNIT 3172	ALPHARETTA	GA	30005	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	FULTON	3937511 HUDSON	PATRICK			1700 NORTHSIDE DR NW	UNIT 2402	ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
USPS	FULTON	4157567 WINCHESTER	LYNDON			1072 W PEACHTREE ST NW	UNIT 79471	ATLANTA	GA	30309	A	C	VOTED AT THE POLLS		0/8/2020	10/8/2020	11/3/2020 MAILED
UPS	FULTON	10349780 SARRE	CHARLES	BERND		2020 HOWELL MILL RD NW	APT#100	ATLANTA	GA	30318	A	A			5/12/2020	9/18/2020	10/1/2020 MAILED
USPS	FULTON	2543524 MARTIN	KORINNA	MARGERY		8920 EVES RD		ROSWELL	GA	30076	A	A			9/3/2020	9/18/2020	10/13/2020 MAILED
FedEx	FULTON	12765400 OWENS	CHRISTIA	MARIE		1700 NORTHSIDE DR NW	APT 1310	ATLANTA	GA	30318	A	A			0/6/2020	10/7/2020	10/31/2020 MAILED
USPS	FULTON	5208024 HODGE	GREGORY			848 OGLETHORPE AVE SW		ATLANTA	GA	30310	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	4013435 COTTRELL	QUENTIN	VERNARD		8725 ROSWELL RD		SANDY SPR NGS	GA	30350	A	A			10/14/2020	10/14/2020	10/27/2020 MAILED
FedEx	FULTON	8011151 EYOUM	FRANCE	KOME		2625 P EDMONT RD NE	56-311	ATLANTA	GA	30324	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	7622671 PHILLIPS	SARAH	CHRIST NE		2275 MARIETTA BLVD NW	STE 270-369	ATLANTA	GA	30318	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	2475049 VAUSE	GARY		II	570 P EDMONT AVE NE	UNIT 54408	ATLANTA	GA	30 08-2437	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	10369970 JOHNSON	TARANIESEE	LASHAY		227 SANDY SPRINGS PL NE	STE D498	ATLANTA	GA	30328	A	A			10/13/2020	10/14/2020	0/27/2020 MAILED
USPS	FULTON	3570183 BROWN	SHERROD			2260 FA RBURN RD SW	#311675	ATLANTA	GA	30331	A	A			10/16/2020	10/16/2020	0/16/2020 IN PERSON
USPS	FULTON	8222145 WILSON	ALTHEA	ANESIA		10719 ALPHARETTA HWY	UNIT #2131	ROSWELL	GA	30076	30077	A	A			10/23/2020	10/23/2020 10/23/2020
UPS	FULTON	2010170 JOYNER	REGINALD	TYROME		3000 OLD ALABAMA RD	APT129-119	ALPHARETTA	GA	30022	A	A			10/21/2020	10/21/2020	0/21/2020 IN PERSON
USPS	FULTON	5454851 HAWKINS	DAWANDA	LASHONDA		570 P EDMONT AVE NE	UNIT 54766	ATLANTA	GA	30 08	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
FedEx	FULTON	6350753 CAPIN	JONATHAN	GREGORY		245 N HIGHLAND AVE NE	STE230-164	ATLANTA	GA	30 07	A	A			8/21/2020	10/27/2020	0/27/2020 IN PERSON
FedEx	FULTON	3681516 HOLT	STANLEY	WAYNE		245 N HIGHLAND AVE NE	APT230-226	ATLANTA	GA	30 07	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	2621013 SMITH	PAMELA	Y		3799 MAIN ST	APT 1116	ATLANTA	GA	30337	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
UPS	FULTON	12537555 CASON	VINCENT	JOHN		5805 STATE BRIDGE RD		DULUTH	GA	30097	A	A			5/28/2020	9/18/2020	10/13/2020 MAILED
USPS	FULTON	2457938 WILLIAMS	ERNEST			4575 WEBB BRIDGE RD	UNIT 2641	ALPHARETTA	GA	30005	A	A			9/7/2020	9/18/2020	10/16/2020 MAILED
FedEx	FULTON	699975 CLOWERS	PHALON	ADRIAN		3515 CAMP CREEK PKWY		ATLANTA	GA	30344	A	A			9/21/2020	9/23/2020	10/15/2020 MAILED
FedEx	FULTON	11387210 CHANDRAN	KARTHIC			1700 NORTHSIDE DR NW	APT 3605	ATLANTA	GA	30318	A	A			0/5/2020	10/6/2020	10/23/2020 MAILED
USPS	FULTON	12785172 UPSHAW	ANGELICA	KIMBERLY		227 SANDY SPRINGS PL NE	#D149	ATLANTA	GA	30328	A	C	VOTER MOVING TO CHEROKEE COUNTY		0/6/2020	10/6/2020	10/14/2020 MAILED
USPS	FULTON	5591020 MAJORS	SOPHIA	CHISTINA		575 PHARR RD NE	UNIT 551011	ATLANTA	GA	30305	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	2663117 OLIVER	SHANON	TONI		575 PHARR RD NE	UNIT 550565	ATLANTA	GA	30305	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	7388681 LASKER	TERRENCE	LARON		2020 HOWELL MILL RD NW	C-146	ATLANTA	GA	30318	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	12105802 CHAMBERS	ADDINO	DAMARIO		2221 PEACHTREE RD NE	378	ATLANTA	GA	30309	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
UPS	FULTON	7199423 HARRISON	KRISTINA			5805 STATE BRIDGE RD	UNIT # G165	DULUTH	GA	30097	A	A			10/24/2020	10/24/2020	0/24/2020 IN PERSON
USPS	FULTON	12123787 MOORE	SANDY	ROXANNE		570 P EDMONT AVE NE	UNIT 24109	ATLANTA	GA	30 08	A	A			10/20/2020	10/20/2020	0/25/2020 IN PERSON
USPS	FULTON	7620001 DAVIS	JALICIA	L		2400 OLD MILTON PKWY	UNIT # 234	ALPHARETTA	GA	30009	A	A			10/24/2020	10/24/2020	0/24/2020 IN PERSON
UPS	FULTON	1245821 FREEMAN	MICHAEL	JOSEPH		12460 CRABAPPLE RD	APT 202261	ALPHARETTA	GA	30004	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
UPS	FULTON	4819732 WILLIAMS	VEDA	M		2221 PEACHTREE RD NE	D413	ATLANTA	GA	30 09-1148	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
FedEx	FULTON	6268350 ROBERTS	SHANE	ANTO NE		245 N HIGHLAND AVE NE	UNIT 321	ATLANTA	GA	30 07	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	7319338 SHELTON	LEE	ROY	JR	1700 NORTHSIDE DR NW	APT 2206	ATLANTA	GA	30318	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	11723671 KOEHNEMANN	LYNN	CURTIS		245 N HIGHLAND AVE NE	APT 206	ATLANTA	GA	30 07	A	A			5/7/2020	9/18/2020	9/28/2020 MAILED
USPS	FULTON	4885216 HARPER	JENNIFER	MADGE		570 P EDMONT AVE NE	UNIT 54615	ATLANTA	GA	30 08	A	A			9/28/2020	9/29/2020	0/18/2020 MAILED
USPS	FULTON	4904201 CREASMAN	DAPHNE	WILLIAMS		50 SUNSET AVE NW	UNIT # 925	ATLANTA	GA	30314	A	C	VOT NG IN PERSON		9/5/2020	9/18/2020	10/15/2020 MAILED
FedEx	FULTON	5363100 OTUDOR	ABENA			245 N HIGHLAND AVE NE	# 230-101	ATLANTA	GA	30307	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	2991944 MACLEODELLIOTT	MARIAN			227 SANDY SPRINGS PL NE	D172	ATLANTA	GA	30328-5918	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
USPS	FULTON	5233639 BROSH	SYLVIE	AVIVI		227 SANDY SPRINGS PL NE	# D 267	ATLANTA	GA	30328	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	11469050 BUFFINGTON	CHRISTIAN	DETERRIUS		1700 NORTHSIDE DR NW	APT 1307	ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	11158949 CASTRO	MARIA	ELIA		245 N HIGHLAND AVE NE	230-492	ATLANTA	GA	30307	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
USPS	FULTON	8877920 ARRASTIA	AELRED	INGRID		575 PHARR RD NE	APT 12177	ATLANTA	GA	30305	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
USPS	FULTON	12403139 GOODLOW	TYJON	DEMETRIUS		1590 JONESBORO RD SE	UNIT 6652	ATLANTA	GA	30315	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	8904780 SMITH	ISAIAH			227 SANDY SPRINGS PL NE	D-142	ATLANTA	GA	30328	A	A			8/31/2020	9/18/2020	10/9/2020 MAILED
FedEx	FULTON	3615194 YOUNG	STEPHANIE	SHAY		1700 NORTHSIDE DR NW	UNIT 2408	ATLANTA	GA	30318-2688	A	A			9/9/2020	9/21/2020	10/15/2020 MAILED
USPS	FULTON	5933597 OVERTON	LATONYA			780 MOROSGO DR NE	UNIT # 13161	ATLANTA	GA	30324	A	C	VOT NG IN PERSON		9/8/2020	9/18/2020	10/12/2020 MAILED
FedEx	FULTON	3909082 KERNS	THOMAS	JOSEPH		1700 NORTHSIDE DR NW	A7-1506	ATLANTA	GA	30318	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	7613483 IVORY	JOESETTE			2090 DUNWOODY CLUB DR	APT # 106-200	ATLANTA	GA	30350	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	10380055 SMITH	CHARLOTTE	HART		245 N HIGHLAND AVE NE	APT # 307	ATLANTA	GA	30307	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
UPS	FULTON	8952718 LEWIS	INDIA	G		11877 DOUGLAS RD	UNIT 102-193	ALPHARETTA	GA	30005	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	3288045 GORDON	PORTIA	LASHAN		10945 STATE BRIDGE RD	401-610	ALPHARETTA	GA	30022	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FULTON	6680998 WASHINGTON	CARLOS	DAVIS		2905 E POINT ST	UNIT 90703	EAST POINT	GA	30344	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	10618550 NOVAK	JANIS	APRIL		245 N HIGHLAND AVE NE	APT 207	ATLANTA	GA	30307	A	A			9/1/2020	9/18/2020	10/15/2020 MAILED
USPS	FULTON	2892157 MUGGRIDGE	SAMUEL	CLAYTON		3495 BUCKHEAD LOOP NE	UNIT 18766	ATLANTA	GA	30326	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	1778692 ROUNTREE	NICOLE			227 SANDY SPRINGS PL NE	APT D-176	ATLANTA	GA	30328	A	C	EARLY VOTE		0/1/2020	10/2/2020	10/16/2020 MAILED
FedEx	FULTON	8364683 NORWOOD	KERRY	BERNARD	JR	1700 NORTHSIDE DR NW	APT 4507	ATLANTA	GA	30318	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
UPS	FULTON	8405945 DEVEREAUX	DARRIN			11877 DOUGLAS RD	102-122	ALPHARETTA	GA	30005	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	7687076 GARY	DEM ERAH	JANNESE		780 MOROSGO DR NE	UNIT 1022	ATLANTA	GA	30324	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	FULTON	2643795 WINGO	ROMAN	AUSTIN		2625 P EDMONT RD NE	APT 127	ATLANTA	GA	30324	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
USPS	FULTON	4933691 BERRY	BARNEY	LEE	JR	227 SANDY SPRINGS PL NE		ATLANTA	GA	30328	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	FULTON	7713782 WAGNER	LAURA			245 N HIGHLAND AVE NE	APT 409	ATLANTA	GA	30307	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
FedEx	FULTON	12117194 BINDER	CHANDLER	GABRIEL-LUVENE		2625 PIEDMONT RD NE	56-171	ATLANTA	GA	30324	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
FedEx	FULTON	11851152 GALLOWAY	EBONY	CHARMAIN		1700 NORTHSIDE DR NW	APT 2305	ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	7070689 SMITH	BRITNEY	TONIECE		9925 HAYNES BRIDGE RD	200207	ALPHARETTA	GA	30022	A	A			9/2/2020	9/18/2020	11/2/2020 MAILED
USPS	FULTON	3895165 THOMAS	FLORENCE			4575 WEBB BRIDGE RD		ALPHARETTA	GA	30005	A	A			9/6/2020	9/18/2020	10/10/2020 MAILED
USPS	FULTON	8469866 MCGREW	VELETIA	ORA		4575 WEBB BRIDGE RD	UNIT 4411	ALPHARETTA	GA	30005	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	10876908 GALLERY	WESLEY	JARROD		1700 NORTHSIDE DR NW	APT 5602	ATLANTA	GA	30318	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
UPS	FULTON	11038642 BARRETT	PETER	WALTER		2221 PEACHTREE RD NE	APT D505	ATLANTA	GA	30309	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
FedEx	FULTON	8408318 LORA	RAYMONDO	R		245 N HIGHLAND AVE NE	APT 230-384	ATLANTA	GA	30 07	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
FedEx	FULTON	12298079 THORNTON	BRIANNA	LASHEL		1700 NORTHSIDE DR NW	APT 5503	ATLANTA	GA	30318	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	4684255 RIORDAN	MICHAEL	PATRICK		12460 CRABAPPLE RD		ALPHARETTA	GA	30004	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	FULTON	12730623 WARDLAW	HEATHER	RHENEE'		1185 HIGHTOWER TRL	APT 501361	ATLANTA	GA	30350	A	A			10/22/2020	10/22/2020	0/22/2020 IN PERSON
USPS	FULTON	7252670 TAYLOR	MARKELA	RACHELE		227 SANDY SPRINGS PL NE	APT D133	ATLANTA	GA	30328	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
UPS	FULTON	12431732 CLIFFORD	COLLEEN	MARIE		2221 PEACHTREE RD NE	STE D 244	ATLANTA	GA	30 09	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON

USPS	FULTON	8614370 WILLINGHAM	TYLER	RENEE		848 OGLETHORPE AVE SW	UNIT 1065	ATLANTA	GA	30310	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
FedEx	FULTON	6116845 FLANERY	ELIZABETH			1700 NORTHSIDE DR NW	UNIT #500	ATLANTA	GA	30318	A	A			6/1/2020	9/18/2020	10/5/2020 MAILED
USPS	FULTON	5396653 CROWDER	PATANZA	LANEE		2260 FA RBURN RD SW	#310841	ATLANTA	GA	30331	A	A			8/27/2020	9/18/2020	10/13/2020 MAILED
UPS	FULTON	7073378 MUHAMMAD	GASTON	ALFRED		5805 STATE BRIDGE RD	APT G436	DULUTH	GA	30097	A	A			0/3/2020	10/5/2020	10/28/2020 MAILED
USPS	FULTON	3653306 NAISH	STEVEN	C	II	8920 EVES RD	APT 767112	ROSWELL	GA	30076	A	A			9/4/2020	9/18/2020	10/22/2020 MAILED
FedEx	FULTON	3188229 AL NIECE	PAMALA	GAIL		245 N HIGHLAND AVE NE	APT 230111	ATLANTA	GA	30307	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	3599719 WHITFIELD	SHEREE			4279 ROSWELL RD NE		ATLANTA	GA	30342	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	2685327 CHARLES	THERESA	H		570 PIEDMONT AVE NE	UNIT 54894	ATLANTA	GA	30308	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	8511785 FERMO	ALEXANDER			50 SUNSET AVE NW	UNIT 92463	ATLANTA	GA	30314	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	5787102 HALIK	ROBERT	JOSEPH	JR	10945 STATE BRIDGE RD	STE 401	ALPHARETTA	GA	30022	A	A			10/18/2020	10/18/2020	0/18/2020 IN PERSON
USPS	FULTON	10363826 FULLER	KAMEELAH	GLOSTER		780 MOROSGO DR NE	#14404	ATLANTA	GA	30324	A	A			10/16/2020	10/16/2020	0/16/2020 IN PERSON
USPS	FULTON	2660237 CHEN	STEVEN	THOMAS		227 SANDY SPRINGS PL NE	STE G28408	ATLANTA	GA	30328	A	C	IN PERSON EARLY VOTING		9/22/2020	9/23/2020	10/20/2020 MAILED
USPS	FULTON	12417412 WATKINS	WESLEY		JR	2414 HERRING RD SW	UNIT 42044	ATLANTA	GA	30311	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
UPS	FULTON	7580990 BIDDY	GERALD	ANTHONY		5805 STATE BRIDGE RD		JOHNS CREEK	GA	30097	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	11588075 COOPER	NAKIA	JANISE		570 P EDMONT AVE NE	UNIT 55433	ATLANTA	GA	30 08	A	A			10/25/2020	10/25/2020	0/25/2020 IN PERSON
USPS	FULTON	3471720 RAQUE	PAUL	DAMON		227 SANDY SPRINGS PL NE	D-272	ATLANTA	GA	30328	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
USPS	FULTON	10820597 DRAPER	ASHTON	TASHEA		50 SUNSET AVE NW	UNIT 92763	ATLANTA	GA	30314	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
FedEx	FULTON	11491966 SULLIVAN	APPREONNA	SHAMICK		1700 NORTHSIDE DR NW		ATLANTA	GA	30318	A	A			9/5/2020	9/18/2020	10/28/2020 MAILED
FedEx	FULTON	11705406 MCCLAIN	TAURUS	L		245 N HIGHLAND AVE NE	#230-292	ATLANTA	GA	30 07	A	A			10/14/2020	10/14/2020	0/14/2020 IN PERSON
USPS	FULTON	6161166 JARBOE	JUDITH			780 MOROSGO DR NE	UNIT 14712	ATLANTA	GA	30324	A	A			10/12/2020	10/12/2020	0/12/2020 IN PERSON
FedEx	FULTON	2558650 HILTON	LYDIA	MITCHELL		2625 P EDMONT RD NE	UNIT 56-297	ATLANTA	GA	30324	A	A			10/19/2020	10/19/2020	0/19/2020 IN PERSON
USPS	FULTON	10855306 TAYLOR	PAMELA	ELIZABETH		575 PHARR RD NE	UNIT550893	ATLANTA	GA	30 05	A	C	Ballot was Undelivered		9/16/2020	9/21/2020	10/16/2020 MAILED
USPS	FULTON	4716357 ILLIEN	JAYME	BIDYUT		1100 PEACHTREE ST NE		ATLANTA	GA	30309	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
FedEx	FULTON	6457241 COMEAUX	BRANDON	JEROME		1700 NORTHSIDE DR NW	APT 4405	ATLANTA	GA	30318	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	4210351 BEAL	ARKINA	NASHAWN		1590 JONESBORO RD SE	UNIT 6913	ATLANTA	GA	30315	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	2381534 WIECZOREK	BETTYE	LORRAINE		227 SANDY SPRINGS PL NE	D326	ATLANTA	GA	30328	A	A			8/24/2020	9/18/2020	10/28/2020 MAILED
FedEx	FULTON	10443152 BUTLER	LATASHA	NICOLE		2625 PIEDMONT RD NE	SUITE 5627	ATLANTA	GA	30324	A	A			8/20/2020	9/18/2020	10/27/2020 MAILED
FedEx	FULTON	11000872 MURRAY	RYAN	DAVID		245 N HIGHLAND AVE NE	APT # 2 0-271	ATLANTA	GA	30307	A	A			9/23/2020	9/25/2020	10/27/2020 MAILED
FedEx	FULTON	12130719 SALTERS	DANIELLE	V		2625 PIEDMONT RD NE	APT 56153	ATLANTA	GA	30324	A	A			0/5/2020	10/5/2020	11/2/2020 MAILED
USPS	FULTON	5418438 THOMAS	JAMAR	ANTWAN		575 PHARR RD NE	UNIT 52742	ATLANTA	GA	30305	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
UPS	FULTON	4884829 JORDAN	KELLY	DAWAYNE		2020 HOWELL MILL RD NW	APT # 197	ATLANTA	GA	30318	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	7536112 SAXTON	TARA			2221 PEACHTREE RD NE	UNIT 275	ATLANTA	GA	30309	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
UPS	FULTON	5635943 COLEMAN	CHRISTOPHER	A		1425 MARKET BLVD	APT 530-51	ROSWELL	GA	30076	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
USPS	FULTON	7628578 SESSOMS	LINWOOD	D	III	2414 HERRING RD SW	APT 7306	ATLANTA	GA	30311	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	2403153 PIASECKI	CARLA	M		2400 OLD MILTON PKWY	APT 683	ALPHARETTA	GA	30009	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	6138058 CHARLES	JERRY	LEONARD	JR	1700 NORTHSIDE DR NW	STE A7	ATLANTA	GA	30318	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
FedEx	FULTON	2585460 REEVES	MICHAEL	D		245 N HIGHLAND AVE NE	STE230-212	ATLANTA	GA	30 07	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
UPS	FULTON	11429288 HUNTER	MARION	LEMARCUS		1425 MARKET BLVD	STE 530	ROSWELL	GA	30076	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	7090387 BROWN	MARQUELL	DASHUN		650 S CENTRAL AVE	UNIT 82415	HAPEVILLE	GA	30354	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	FULTON	4153018 BUSH	VANESSA			570 P EDMONT AVE NE	UNIT 55558	ATLANTA	GA	30 08	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	FULTON	11219954 ARCENEAUX	ANTHONY	JAMES		8920 EVES RD	UNIT 76751	ROSWELL	GA	30076	A	A			9/30/2020	9/30/2020	10/23/2020 MAILED
FedEx	FULTON	6848711 BENNETT	WILLIAM	JOSEPH		245 N HIGHLAND AVE NE	APT 318	ATLANTA	GA	30 07	A	A			10/13/2020	10/13/2020	0/13/2020 IN PERSON
FedEx	FULTON	4044708 CHAVOUS	JENNIFER	HOLSTON		8725 ROSWELL RD	STE O-121	SANDY SPR NGS	GA	30350	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	4823622 WEGNER	ROBERT	JOHN		2625 P EDMONT RD NE	STE 56-294	ATLANTA	GA	30324	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	2646382 DODSON	ROSHANAK	KASHANCHI		12460 CRABAPPLE RD	UNIT 202-353	ALPHARETTA	GA	30004	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
UPS	FULTON	2541604 CONWAY	KEVIN	JAMES		2020 HOWELL MILL RD NW	#127	ATLANTA	GA	30318	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
USPS	FULTON	2427449 PIASECKI	JERZY			2400 OLD MILTON PKWY	APT 683	ALPHARETTA	GA	30009	A	A			10/22/2020	10/22/2020	0/22/2020 IN PERSON
FedEx	FULTON	10891468 PATEL	AMEE	KANUBHAI		245 N HIGHLAND AVE NE	APT 311	ATLANTA	GA	30 07	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
UPS	FULTON	12424562 WELCH	JASON			7742 SPALDING DR	UNIT # 134	NORCROSS	GA	30092	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	FULTON	6249781 TALLEY	JOSEPH	ALEXANDER		570 P EDMONT AVE NE	UNIT 54332	ATLANTA	GA	30 08	A	A			10/13/2020	10/13/2020	0/13/2020 IN PERSON
USPS	FULTON	8625776 HALL	DELROY PAUL	MICHAEL ANTHONY		4575 WEBB BRIDGE RD	LOT 4412	ALPHARETTA	GA	30005	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
FedEx	FULTON	3802166 JOHNSTON	JEFFREY	S		9925 HAYNES BRIDGE RD	200218	ALPHARETTA	GA	30022	A	A			10/19/2020	10/19/2020	0/19/2020 IN PERSON
FedEx	FULTON	12814479 ROBERTSON	THURSTON	LAMAR		1700 NORTHSIDE DR NW	4302	ATLANTA	GA	30318	A	A			10/20/2020	10/20/2020	0/20/2020 IN PERSON
FedEx	FULTON	3996852 IDEMUDIA	KENNEDY			245 N HIGHLAND AVE NE	# 230-125	ATLANTA	GA	30 07	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
UPS	FULTON	5674103 KINDLE	AARON	DWIGHT		8343 ROSWELL RD		SANDY SPRINGS	GA	30350	A	A			10/25/2020	10/25/2020	0/25/2020 IN PERSON
USPS	FULTON	11825707 SULAIMAN	SHAHEED			8920 EVES RD	APT 767215	ROSWELL	GA	30076	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	12342008 MUHAMMAD	SANA	NADIRA		575 PHARR RD NE	UNIT 550311	ATLANTA	GA	30 05	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	7976733 MURPHY	WAYNE	DONALD		245 N HIGHLAND AVE NE	UNIT # 230	ATLANTA	GA	30 07	A	A			9/19/2020	9/21/2020	10/19/2020 MAILED
USPS	FULTON	12721820 VISARRAGA	LAMAR	LYNN	SR	2905 E POINT ST	APT 90746	EAST POINT	GA	30344	A	A			0/7/2020	10/7/2020	10/28/2020 MAILED
UPS	FULTON	2616343 STEWART	PHYLLIS	D		10800 ALPHARETTA HWY	UNIT #752	ROSWELL	GA	30076	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	10374833 MYLES	ANDREA	JANAI		1700 NORTHSIDE DR NW	APT 1410	ATLANTA	GA	30318	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	3518043 MAHONE	MAIA	AISHA		1700 NORTHSIDE DR NW	UNIT 4301	ATLANTA	GA	30318	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	7241117 COPELAND	JOHN	WALLACE	III	1700 NORTHSIDE DR NW	APT 1210	ATLANTA	GA	30318	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	1778692 ROUNTREE	NICOLE			227 SANDY SPRINGS PL NE	APT D-176	ATLANTA	GA	30328	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
UPS	FULTON	8853159 DABO	ABOUBACAR			1425 MARKET BLVD	STE530-160	ROSWELL	GA	30076	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
UPS	FULTON	5269473 TILLY	ANNE	MARIE		880 MARIETTA HWY	UNIT # 630	ROSWELL	GA	30075	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	11382346 CLIFFORD	COUGAR	HAYES		2221 PEACHTREE RD NE	STE D244	ATLANTA	GA	30309	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
UPS	FULTON	4701939 RIORDAN	LAURA	ROBBINS FIELD		12460 CRABAPPLE RD	STE 202-24	ALPHARETTA	GA	30004	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
USPS	FULTON	5090171 WASHINGTON	JARWIN			570 P EDMONT AVE NE	UNIT 55594	ATLANTA	GA	30 08	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	8742106 JOHNSON	QUANITA	CHAIRMAINE		75 WASHINGTON ST	UNIT 1526	FAIRBURN	GA	30213	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	11324011 GITTONS	JUDITH	ELIZABETH		1700 NORTHSIDE DR NW	APT 5402	ATLANTA	GA	30318	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
UPS	FULTON	11595461 SMITH	ANTOINE	DAMONE		11877 DOUGLAS RD	APT102-193	ALPHARETTA	GA	30005	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	2522429 MILES	JO	RENFRO		2275 MARIETTA BLVD NW	#270-118	ATLANTA	GA	30318	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	5297146 CHERRY	LATEAH	SHANEA		227 SANDY SPRINGS PL NE	STE D228	ATLANTA	GA	30328	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	2811999 MONCRIEF	MARION	LUTHER	JR	227 SANDY SPRINGS PL NE	STE B	ATLANTA	GA	30328	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	FULTON	10073330 VELAZQUEZ	YVETTE			227 SANDY SPRINGS PL NE	D 229	ATLANTA	GA	30328	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
FedEx	FULTON	6915452 CHARLES	JOSHUA	JOSEPH		245 N HIGHLAND AVE NE	APT 205	ATLANTA	GA	30307	A	C	Ballot was Undelivered		8/20/2020	10/20/2020	10/24/2020 MAILED
FedEx	FULTON	8819285 MCNAIR	REGINALD	E		245 N HIGHLAND AVE NE		ATLANTA	GA	30307	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
UPS	FULTON	11198460 COHEN	ANITA	F		11877 DOUGLAS RD	APT 102192	ALPHARETTA	GA	30005	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
USPS	FULTON	12778835 ARRASTIA	DAVID			575 PHARR RD NE	UNIT # 12177	ATLANTA	GA	30 05	A	A			10/25/2020	10/25/2020	10/25/2020 IN PERSON
FedEx	FULTON	5383495 SANDERS	KATHLEEN	L		245 N HIGHLAND AVE NE	STE 230-317	ATLANTA	GA	30 07	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
USPS	FULTON	11616322 BROWN	SHENOA	LA DAWN		575 PHARR RD NE	UNIT 11611	ATLANTA	GA	30 05	A	A			8/25/2020	9/18/2020	10/20/2020 MAILED
USPS	FULTON	8682159 LYNN	RICHARD	EARL	JR	8920 EVES RD	#8581	ROSWELL	GA	30076	A	A			9/3/2020	9/18/2020	10/27/2020 MAILED
USPS	FULTON	5793410 JOHNS	CHRISTINE	DIANE		227 SANDY SPRINGS PL NE	STE D-449	ATLANTA	GA	30328	A	A			9/21/2020	9/22/2020	10/15/2020 MAILED
UPS	FULTON	7195120 PINCKNEY	LEMERIO		II	885 WOODSTOCK RD	UNIT 218	ROSWELL	GA	30075	A	A			9/29/2020	9/29/2020	10/31/2020 MAILED
FedEx	FULTON	8677182 MAYS	FELICIA	ANN		2995 E POINT ST	#112	EAST POINT	GA	30344	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	6361852 HOLT	BRANDON			575 PHARR RD NE	UNIT 53032	ATLANTA	GA	30305	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	FULTON	5554114 FREEMONT	LATOYA	MIKAL MOORE		575 PHARR RD NE	UNIT 53264	ATLANTA	GA	30 05	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FULTON	7201187 SACK	JULIE	SAMET		227 SANDY SPRINGS PL NE	D-307	ATLANTA	GA	30328-5918	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
UPS	FULTON	4882574 JOHNSON	TIPHANIE	WATSON		2221 PEACHTREE RD NE	APT D120	ATLANTA	GA	30 09	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
FedEx	FULTON	7546309 STROUD	CHRISTOPHER			2090 DUNWOODY CLUB DR	STE 106	ATLANTA	GA	30350-5406	A	C	VOT NG IN PERSON		9/6/2020	9/18/2020	10/30/2020 MAILED
FedEx	FULTON	3477544 BUFFTON	DOROTHY	LITTLEWOOD		245 N HIGHLAND AVE NE	UNIT 224	ATLANTA	GA	30 07	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
FedEx	FULTON	12047911 AASER	DOUGLAS	MARTIN		1700 NORTHSIDE DR NW	APT 3602	ATLANTA	GA	30318	A	A			9/6/2020	9/18/2020	10/25/2020 MAILED
USPS	FULTON	12183986 BEAUCHAMP	ENOS	EMMANUEL		75 WASHINGTON ST	UNIT 1521	FAIRBURN	GA	30213	A	A			9/22/2020	9/23/2020	10/15/2020 MAILED
FedEx	FULTON	10232719 MILLER	BEVERLY	MCADAMS		245 N HIGHLAND AVE NE	APT # 304	ATLANTA	GA	30307	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
FedEx	FULTON	11051390 CARTER	PRACHEL	KAMEELAH		245 N HIGHLAND AVE NE	UNIT 456	ATLANTA	GA	30307	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
FedEx	FULTON	2409961 PETERSON	CEDRIC	LAMAR		2995 E POINT ST	APT # 114	EAST POINT	GA	30344	A	C	Mailed Ba lot Surrendered to Vote In-Person		9/13/2020	10/9/2020	10/14/2020 MAILED
UPS	FULTON	5738538 FAUNTLEROY	THOMAS	T	III	2221 PEACHTREE RD NE	D533	ATLANTA	GA	30 09-1148	A	A			10/15/2020	10/15/2020	10/15/2020 IN PERSON
USPS	FULTON	7066144 LOYD	KATHERINE	JEAN		2414 HERRING RD SW	UNIT 42655	ATLANTA	GA	30311	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
UPS	FULTON	8560143 ALLEN	BRIGGS	WILLIAM		5805 STATE BRIDGE RD	G422	JOHNS CREEK	GA	30097-8220	A	A			10/17/2020	10/17/2020	0/17/2020 IN PERSON
USPS	FULTON	7874275 CREASMAN	SHARAD	HASSEINI		50 SUNSET AVE NW	UNIT 92572	ATLANTA	GA	30314	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
FedEx	FULTON	7479746 TOLIVER	OCTAVIA	JEVETTA		245 N HIGHLAND AVE NE	STE230-176	ATLANTA	GA	30 07	A	A			10/21/2020	10/21/2020	0/21/2020 IN PERSON

UPS	FULTON	11061751 DEWITT	SUK			5805 STATE BRIDGE RD	APT G-249	DULUTH	GA	30097	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
FedEx	FULTON	10865043 NICHOLS	FREDERICK	THOMAS		1700 NORTHSIDE DR NW	STE A7	ATLANTA	GA	30318	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
USPS	FULTON	11121968 OSIKOYA	JHARE	PLACHETT		227 SANDY SPRINGS PL NE	D245	ATLANTA	GA	30328	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
UPS	FULTON	4663515 BANKS	ANNA	LOUISE		10800 ALPHARETTA HWY	STE 208	ROSWELL	GA	30076	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
FedEx	FULTON	5804737 BARRON	LAWRENCE	CHARLES		2625 P EDMONT RD NE	# 53-205	ATLANTA	GA	30324	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
UPS	FULTON	7119709 BISSONNETTE	WENDY			3000 OLD ALABAMA RD	# 171	ALPHARETTA	GA	30022	A	A			10/19/2020	10/19/2020	0/19/2020 IN PERSON
USPS	FULTON	5607531 HILL	FARON	ALEXANDER		3495 BUCKHEAD LOOP NE	UNIT 213	ATLANTA	GA	30326	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
UPS	FULTON	10572875 KNOX	CHANTE'	JOYCELYN		8343 ROSWELL RD	UNIT 300	SANDY SPR NGS	GA	30350	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
UPS	FULTON	3882973 BERRY	MARION	C		2300 HOLCOMB BRIDGE RD	UNIT 103-136	ROSWELL	GA	30076	A	A			8/29/2020	9/18/2020	10/13/2020 MAILED
UPS	FULTON	2862268 SIMONE	CHERYL	LYN		4279 ROSWELL RD NE	STE 207	ATLANTA	GA	30342	A	A			10/14/2020	10/14/2020	0/14/2020 IN PERSON
USPS	FULTON	12721309 NOZAM	MICHAEL	MYKE		1100 PEACHTREE ST NE		ATLANTA	GA	30 09	A	A			0/9/2020	10/9/2020	0/28/2020 MAILED
USPS	FULTON	2442504 SMITH	DEBRA	M		10719 ALPHARETTA HWY	682	ROSWELL	GA	30076	A	A			10/19/2020	10/19/2020	0/31/2020 MAILED
USPS	FULTON	7908519 HANEY	OSCAR		III	575 PHARR RD NE	UNIT 550222	ATLANTA	GA	30 05	A	A			10/16/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FULTON	8315131 ALLEN	JOSEPH	CULP	JR	3495 BUCKHEAD LOOP NE	UNIT 19204	ATLANTA	GA	30326	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
UPS	FULTON	8555149 DELSARTE	LLEWELLYN	RACHEL		2221 PEACHTREE RD NE	APT D268	ATLANTA	GA	30 09	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
UPS	FULTON	5181625 PATILLO	NICOLE	TURNER		5805 STATE BRIDGE RD	G424	JOHNS CREEK	GA	30097-8220	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	1918391 CARUSO	JOSEPH	PAUL		1700 NORTHSIDE DR NW	UNIT 2501	ATLANTA	GA	30318	A	A			9/1/2020	9/18/2020	10/8/2020 MAILED
USPS	FULTON	8204143 BENZ	SEBASTIAN			1185 HIGHTOWER TRL	501031	ATLANTA	GA	30350	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	FULTON	5988022 BETTS	DANIELLE	GENISE		8725 ROSWELL RD		SANDY SPR NGS	GA	30350	A	C	DIDN'T RECEIVE IT		9/7/2020	9/18/2020	10/12/2020 MAILED
USPS	FULTON	5034995 CHERRY	TAMERA	SHENNELL		227 SANDY SPRINGS PL NE	UNIT # D22	ATLANTA	GA	30328	A	A			10/19/2020	10/19/2020	0/19/2020 IN PERSON
FedEx	FULTON	4655280 WINSTON	VALENCIA	RONNELDA		245 N HIGHLAND AVE NE	230-347	ATLANTA	GA	30 07	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	FULTON	11323264 CORNELIUS	PATRICK	EUGENE		4575 WEBB BRIDGE RD	UNIT 4092	ALPHARETTA	GA	30005	A	A			9/12/2020	9/21/2020	0/21/2020 MAILED
FedEx	FULTON	11673363 MELTON	JESSICA	RENE'		245 N HIGHLAND AVE NE	STE 230	ATLANTA	GA	30307	A	A			9/28/2020	9/29/2020	10/28/2020 MAILED
USPS	FULTON	11622870 VAUSE	GARILYN	AMARE		570 P EDMONT AVE NE	UNIT 54048	ATLANTA	GA	30308	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
FedEx	FULTON	2409961 PETERSON	CEDRIC	LAMAR		2995 E POINT ST	APT # 114	EAST POINT	GA	30344	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	FULTON	7390886 MORRIS	KEITH	S		10719 ALPHARETTA HWY	UNIT 894	ROSWELL	GA	30076	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
FedEx	FULTON	7013654 LOTT	GEORGE	LEOTIS		245 N HIGHLAND AVE NE	220	ATLANTA	GA	30 07	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
UPS	FULTON	4680986 LYNCH	PATRICK	MICHAEL		6300 POWERS FERRY RD NW	STE600-223	ATLANTA	GA	30339	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
FedEx	FULTON	8412799 ALLEN	KRISTOFER	TRE		1700 NORTHSIDE DR NW	APT 5502	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	FULTON	10086238 CABLER	TRACIE	JORDAN		245 N HIGHLAND AVE NE	APT 1225	ATLANTA	GA	30 07	A	A			8/26/2020	9/18/2020	10/13/2020 MAILED
UPS	FULTON	7774260 KRAVITZ	ERIC			885 WOODSTOCK RD	UNIT 430	ROSWELL	GA	30075	A	A			9/10/2020	9/21/2020	10/23/2020 MAILED
USPS	FULTON	11067923 BROWN	JIM	HENRY	JR	5050 UNION ST	UNIT 119	UNION CITY	GA	30291	A	A			9/1/2020	9/18/2020	10/28/2020 MAILED
UPS	FULTON	7576573 MOSLEY	DEBRA	RENEE		5805 STATE BRIDGE RD	APT G124	DULUTH	GA	30097	A	A			0/5/2020	10/6/2020	10/30/2020 MAILED
FedEx	FULTON	6770892 MASON	KRISTEN			1700 NORTHSIDE DR NW	APT # 530	ATLANTA	GA	30318	A	A			9/7/2020	9/18/2020	10/31/2020 MAILED
USPS	FULTON	5933597 OVERTON	LATONYA			780 MOROSGO DR NE	UNIT # 13161	ATLANTA	GA	30324	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	10203276 WARREN	ERWIN	DONTA	JR	2221 PEACHTREE RD NE		ATLANTA	GA	30 09	A	A			10/14/2020	10/15/2020	11/2/2020 MAILED
FedEx	FULTON	11202637 SUMMERS	BRENDA	JEAN		8725 ROSWELL RD	UNIT # O12	SANDY SPR NGS	GA	30350	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	4834833 SONNEMAKER	VALORIE	FAYE		2221 PEACHTREE RD NE	UNIT D-219	ATLANTA	GA	30 09	A	A			10/20/2020	10/20/2020	0/20/2020 IN PERSON
UPS	FULTON	7197380 PANDA	DILLIP	KUMAR		12460 CRABAPPLE RD	UNIT 202 422	ALPHARETTA	GA	30004-6602	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
FedEx	FULTON	6894169 CLARK	BRITTANY	RENEE		1700 NORTHSIDE DR NW	APT 2503	ATLANTA	GA	30318	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
FedEx	FULTON	11793609 WRIGHT	LAKIESHA	N		2625 P EDMONT RD NE	STE 56-211	ATLANTA	GA	30324	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
USPS	FULTON	7631997 SPENCER	LASHENA	MARIA		227 SANDY SPRINGS PL NE	STE D321	ATLANTA	GA	30328	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	FULTON	12753436 PRICE	SIR-WILLIAM	L	II	4575 WEBB BRIDGE RD	UNIT # 5261	ALPHARETTA	GA	30005	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	6494412 JACKSON	VICTORIA	ANN		245 N HIGHLAND AVE NE	APT 316	ATLANTA	GA	30307	A	A			8/24/2020	9/18/2020	10/13/2020 MAILED
FedEx	FULTON	5897698 STUESSER	NAOMI			245 N HIGHLAND AVE NE	# 230	ATLANTA	GA	30307	A	A			0/1/2020	10/2/2020	10/27/2020 MAILED
UPS	FULTON	7926233 KAISERMAN	BRIAN	MATTHEW		11877 DOUGLAS RD	STE 102179	ALPHARETTA	GA	30005	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	FULTON	2665274 WASHINGTON	SAUNDRA	L		2221 PEACHTREE RD NE	# D-124	ATLANTA	GA	30309	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	6477061 MARONEY	PATRICK	SHANE		227 SANDY SPRINGS PL NE	D331	ATLANTA	GA	30328	A	A			10/21/2020	10/21/2020	10/21/2020 IN PERSON
USPS	FULTON	7119198 LOPEZ	SHALYSE	RENAE		570 PIEDMONT AVE NE	UNIT 55485	ATLANTA	GA	30308	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
USPS	FULTON	10450860 HAMPTON	CHRISTOPHER	BRIAN		4575 WEBB BRIDGE RD	UNIT 4272	ALPHARETTA	GA	30005	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	4939273 HINES	BOBBY	EARL		5805 STATE BRIDGE RD	G97	DULUTH	GA	30097	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
UPS	FULTON	8669501 MARTIN	MYRNA	DENISE		5805 STATE BRIDGE RD	UNIT # G357	JOHNS CREEK	GA	30097	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
UPS	FULTON	1889807 BARKER	ROLF	P E		10945 STATE BRIDGE RD	UNIT 401	ALPHARETTA	GA	30022	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	7901688 ALVAREZ	YOLENE			1700 NORTHSIDE DR NW	APT 4407	ATLANTA	GA	30318	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	FULTON	8379824 BARNEY	TASHA	TARRAN		502 WALNUT WAY	UNIT 1486	PALMETTO	GA	30268	A	A			5/4/2020	9/18/2020	10/8/2020 MAILED
UPS	FULTON	5707029 TUDOR	PATRICE	ANTIGONE		2221 PEACHTREE RD NE	APT D524	ATLANTA	GA	30309	A	A			8/25/2020	9/18/2020	10/30/2020 MAILED
UPS	FULTON	11571427 SPERLING	KIMBERLY	DAVIS		885 WOODSTOCK RD	UNIT 430-247	ROSWELL	GA	30075	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	FULTON	7874275 CREASMAN	SHARAD	HASSEINI		50 SUNSET AVE NW	UNIT 92572	ATLANTA	GA	30314	A	C	VOT NG IN PERSON		9/5/2020	9/18/2020	10/15/2020 MAILED
FedEx	FULTON	2060997 OLIPHANT	MARK	VINCENT		245 N HIGHLAND AVE NE		ATLANTA	GA	30307	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	FULTON	4275346 SKORDILIS	LYDIA	DEWITT		5805 STATE BRIDGE RD	G-249	JOHNS CREEK	GA	30097	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
UPS	FULTON	5138061 WALKER	JAE	ALLEN		10945 STATE BRIDGE RD	APT 401-1	ALPHARETTA	GA	30022	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	8027230 BLAIR	OWENA	ARLENE		2414 HERRING RD SW		ATLANTA	GA	30311	A	A			5/12/2020	9/18/2020	10/8/2020 MAILED
UPS	FULTON	4687640 GILL	JEREMY	ALLEN		2275 MARIETTA BLVD NW	STE 270	ATLANTA	GA	30318	A	A			10/13/2020	10/13/2020	0/13/2020 IN PERSON
USPS	FULTON	3274521 BAAWO	ALBERT	SAYE	JR	3495 BUCKHEAD LOOP NE	UNIT 18614	ATLANTA	GA	30326	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
USPS	FULTON	6297622 SNEED	LATERRIOUS	DEWAYNE		1100 PEACHTREE ST NE	STE 200	ATLANTA	GA	30 09	A	A			10/19/2020	10/19/2020	0/19/2020 IN PERSON
USPS	FULTON	2660237 CHEN	STEVEN	THOMAS		227 SANDY SPRINGS PL NE	STE G28408	ATLANTA	GA	30328	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	FULTON	2646542 HASKINS	RICHARD	ALAN		10945 STATE BRIDGE RD	#401-336	ALPHARETTA	GA	30022	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
UPS	FULTON	8034686 MANGHRAM	LOLITA	VENETTE		10945 STATE BRIDGE RD	STE401-216	ALPHARETTA	GA	30022	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
UPS	FULTON	8312065 WILLIAMS	SONYA	MONIQUE		2221 PEACHTREE RD NE	D214	ATLANTA	GA	30 09	A	A			10/28/2020	10/28/2020	0/28/2020 IN PERSON
FedEx	FULTON	7072776 CAPIN	CANDICE	AMARA		245 N HIGHLAND AVE NE		ATLANTA	GA	30 07	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
FedEx	FULTON	4835080 HILL	ANTHONY	THOMAS		2625 P EDMONT RD NE	APT 56-135	ATLANTA	GA	30324	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
FedEx	FULTON	3264239 JOHNSON	AMELIA	DENISE		8725 ROSWELL RD	STE 18	SANDY SPR NGS	GA	30350	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
UPS	FULTON	8811775 RHODES	JANESHA	LAVERNE		7742 SPALDING DR	UNIT # 397	NORCROSS	GA	30092	A	C	VOTE IN PERSON		9/19/2020	9/21/2020	11/3/2020 MAILED
USPS	FULTON	7201452 MORAN	TIMOTHY	BERNARD	JR	780 MOROSGO DR NE	14424	ATLANTA	GA	30324	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	FULTON	2814738 DELANEY	EVIE	JULES		2300 HOLCOMB BRIDGE RD	103-180	ROSWELL	GA	30076	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	FULTON	8156320 DOLLIOLE	ANDRE	P		227 SANDY SPRINGS PL NE	D171	ATLANTA	GA	30328-5918	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
UPS	FULTON	12728042 WHITFIELD	KALEIGH	SERENITY		4279 ROSWELL RD NE	APT 197	ATLANTA	GA	30342	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	FULTON	2099285 SHOUP	THOMAS	MAL K		227 SANDY SPRINGS PL NE	STE G28193	ATLANTA	GA	30328	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
FedEx	FULTON	8318967 AHMAD	AMER	HUSSAIN		245 N HIGHLAND AVE NE	APT 409	ATLANTA	GA	30307	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
UPS	FULTON	8082837 JOHNSON	DALE	CHRISTOPHER		2300 HOLCOMB BRIDGE RD	APT 103-293	ROSWELL	GA	30076	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
USPS	FULTON	10145972 HUNTER	LAKIERA	DESHEA		780 MOROSGO DR NE	UNIT 13147	ATLANTA	GA	30324	A	A			10/28/2020	10/28/2020	10/28/2020 IN PERSON
UPS	FULTON	2598193 DLUGOZIMA	MARK			12460 CRABAPPLE RD	APT 202-242	ALPHARETTA	GA	30004	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	GLYNN	11827704 LYONS	BRIDGETTE	ELECIA		589 PALISADE DR	#51	BRUNSWICK	GA	31523	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	GLYNN	8158841 RAY	MICHAEL	STANLEY		589 PALISADE DR		BRUNSWICK	GA	31523	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
FedEx	GLYNN	10429095 JACOBS	WILLIAM	IRA		1825 GLYNN AVE	17	BRUNSWICK	GA	31520	A	A			3/9/2020	9/18/2020	10/8/2020 MAILED
FedEx	GLYNN	8024090 GAUDIO	PASQUALE	MICHAEL		589 PALISADE DR	APT 35	BRUNSWICK	GA	31523	A	A			5/7/2020	9/18/2020	10/26/2020 MAILED
FedEx	GLYNN	10429092 JACOBS	NANCY	J		1825 GLYNN AVE	17	BRUNSWICK	GA	31520	A	A			3/9/2020	9/18/2020	10/8/2020 MAILED
FedEx	GLYNN	5113107 HARRISON	JAVON	DENARD		589 PALISADE DR		BRUNSWICK	GA	31523	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	GLYNN	8346708 VOGAN	LYNDON	EDWARD		589 PALISADE DR		BRUNSWICK	GA	31523-8208	A	A			8/11/2020	9/18/2020	10/13/2020 MAILED
FedEx	GLYNN	8212514 RAY	NANCY	GAY		589 PALISADE DR		BRUNSWICK	GA	31523	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
USPS	GLYNN	11826159 TRACY	EMILY	ELIZABETH		260 EDWARDS PLZ	UNIT # 24263	ST SIMONS ISLAND	GA	31522	A	A			0/6/2020	10/6/2020	11/2/2020 MAILED
FedEx	GLYNN	1130168 VAUGHN	KIMBERLY	P		589 PALISADE DR	#543	BRUNSWICK	GA	31523	A	A			9/30/2020	9/30/2020	10/19/2020 MAILED
FedEx	GWINNETT	4538706 TEVIS	KAREN	PAULINE		320 TOWN CENTER AVE	UNIT 207	SUWANEE	GA	30024	A	A			10/18/2020	10/18/2020	10/18/2020 IN PERSON
FedEx	GWINNETT	4538707 TEVIS	WAYNE	C		320 TOWN CENTER AVE	UNIT 207	SUWANEE	GA	30024	A	A			4/9/2020	9/18/2020	10/8/2020 MAILED
FedEx	GWINNETT	8838239 CASTRO	SERGIO			320 TOWN CENTER AVE	UNIT 204	SUWANEE	GA	30024	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
FedEx	GWINNETT	6335967 BAMBACH	DENISE	CECELIA		320 TOWN CENTER AVE	UNIT 307	SUWANEE	GA	30024	A	C	Mailed Ba lot Surrendered to Vote In-Person		4/13/2020	9/18/2020	10/23/2020 MAILED
USPS	GWINNETT	6716303 PARYAG	RENEE			4160 LOGAN DR	UNIT 1742	LOGANVILLE	GA	30052	A	A			10/13/2020	10/13/2020	10/30/2020 MAILED
FedEx	GWINNETT	6289195 BAMBACH	JOHN	C		320 TOWN CENTER AVE	UNIT 307	SUWANEE	GA	30024	A	A			4/8/2020	9/18/2020	10/24/2020 MAILED
UPS	GWINNETT	2880108 SANFILIPPO	JOHN	DOMINIC	JR	4850 SUGARLOAF PKWY		LAWRENCEVILLE	GA	30044	A	A			0/4/2020	10/10/2020	10/17/2020 MAILED
FedEx	GWINNETT	12898807 ALVAREZ DE CASTRO	ALICIA	WENDY ANETT		320 TOWN CENTER AVE	UNIT # 204	SUWANEE	GA	30024	A	A			10/17/2020	10/17/2020	10/17/2020 IN PERSON
FedEx	GWINNETT	2784997 YOUNG	THOMAS	ARTHUR		320 TOWN CENTER AVE	UNIT 206	SUWANEE	GA	30024	A	A			5/8/2020	9/18/2020	10/19/2020 MAILED
USPS	GWINNETT	10927216 DEFREITAS	FELECIA	FORTEAMMOR		4160 LOGAN DR	UNIT 2074	LOGANVILLE	GA	30052	A	A			10/19/2020	10/19/2020	10/28/2020 MAILED

UPS	GWINNETT	12178783	HAWKINS	CHANDRIKA	DANIELLE		4850 SUGARLOAF PKWY		LAWRENCEVILLE	GA	30044	A	A			10/29/2020	10/29/2020	11/3/2020 MAILED
UPS	GWINNETT	10512131	ARTHUR	FRANKLIN	T		4850 SUGARLOAF PKWY		LAWRENCEVILLE	GA	30044	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
UPS	GWINNETT	4286396	KNIGHT	KATHY	HAWKINS		4850 SUGARLOAF PKWY		LAWRENCEVILLE	GA	30044	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	GWINNETT	4261018	THORNTON	KENNETH	MILTON	JR	4160 LOGAN DR	UNIT 1312	LOGANVILLE	GA	30052	A	A			10/13/2020	10/13/2020	0/13/2020 IN PERSON
FedEx	GWINNETT	4488874	YOUNG	SUSAN	FULLER		320 TOWN CENTER AVE	UNIT 206	SUWANEE	GA	30024	A	A			9/1/2020	9/18/2020	0/19/2020 MAILED
FedEx	GWINNETT	6335967	BAMBACH	DENISE	CECELIA		320 TOWN CENTER AVE	UNIT 07	SUWANEE	GA	30024	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
USPS	GWINNETT	12188258	DEFREITAS	SHAMAYA	ANGELIQUE		4160 LOGAN DR	UNIT 2074	LOGANVILLE	GA	30052	A	A			0/7/2020	10/9/2020	0/28/2020 MAILED
USPS	HABERSHAM	7801015	CRUMP	HENRY	E	III	550 GEORGIA ST		DEMOREST	GA	30535	A	A			0/3/2020	10/7/2020	0/21/2020 MAILED
USPS	HABERSHAM	3972660	VICKERY	CYNTHIA	LEE		250 WASHINGTON ST	APT 1028	CLARKESVILLE	GA	30523	A	A			9/27/2020	9/28/2020	0/16/2020 MAILED
USPS	HABERSHAM	7801043	CRUMP	JETTY	MATHESON		550 GEORGIA ST		DEMOREST	GA	30535	A	A			0/3/2020	10/7/2020	0/21/2020 MAILED
UPS	HALL	3004167	GERMAIN	RICHARD	HENRY	III	4850 GOLDEN PKWY	B306	BUFORD	GA	30518	A	C	Mailed Ba lot Surrendered to Vote In-Person		5/13/2020	9/18/2020	0/21/2020 MAILED
UPS	HALL	10842153	EARTHROWL	PAUL	DAVID REGINALD		7380 SPOUT SPRINGS RD		FLOWERY BRANCH	GA	30542	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
UPS	HALL	10254409	GREIF	KENNETH	WILLIAM	JR	4850 GOLDEN PKWY	APT 106	BUFORD	GA	30518	A	A			9/10/2020	9/18/2020	11/3/2020 MAILED
USPS	HALL	2915575	ROBERTS	PAUL	MICHAEL		3803 MAIN ST	UNIT 1461	OAKWOOD	GA	30566	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
USPS	HALL	12454424	DALEY	NISHA'E	ALEXIANNA YVONNE		364 GREEN ST NE	# 1665	GAINESVILLE	GA	30501	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
UPS	HALL	12500295	GERMAIN	MICHAEL	RICHARD		4850 GOLDEN PKWY	STE B	BUFORD	GA	30518	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
UPS	HALL	2908923	HUNT	TRACY	M		4850 GOLDEN PKWY	B403	BUFORD	GA	30518	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
UPS	HALL	3794918	ARILDSEN	LYLE	EDWARD		4850 GOLDEN PKWY	B110	BUFORD	GA	30518-5842	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
UPS	HALL	2670151	WILLIAMS	SARA			3446 WINDER HWY		FLOWERY BRANCH	GA	30542	A	A			10/10/2020	10/10/2020	0/23/2020 MAILED
UPS	HALL	662132	FARMER	PHILLIP	NEILSON		4850 GOLDEN PKWY	STE B	BUFORD	GA	30518	A	A			10/24/2020	10/24/2020	0/24/2020 IN PERSON
UPS	HALL	101946	PAULK	THOMAS	PAT		4850 GOLDEN PKWY	B-371	BUFORD	GA	30518	A	A			0/5/2020	10/5/2020	0/23/2020 MAILED
USPS	HALL	371482	JETT	ROBERT	WOODROW		5341 THOMPSON BRIDGE RD	UNIT 3	MURRAYVILLE	GA	30564	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
USPS	HALL	7913907	GRAY	ROBERT	LOUIS		3803 MAIN ST	UNIT 252	OAKWOOD	GA	30566	A	A			10/15/2020	10/15/2020	0/15/2020 IN PERSON
UPS	HALL	3004167	GERMAIN	RICHARD	HENRY	III	4850 GOLDEN PKWY	B306	BUFORD	GA	30518	A	A			10/21/2020	10/21/2020	0/21/2020 IN PERSON
UPS	HALL	5506980	STELLA	GLORIA	ESTELLE		3446 WINDER HWY	M195	FLOWERY BRANCH	GA	30542	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
UPS	HALL	3106781	SIDES	GAIL	LYNN		4850 GOLDEN PKWY	# 259	BUFORD	GA	30518	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
USPS	HALL	10862156	BREHM	BRUCE	EDWARD		3803 MAIN ST	#1802	OAKWOOD	GA	30566	A	A			5/6/2020	9/18/2020	0/12/2020 MAILED
UPS	HALL	2001118	JACOB	RONALD	HAWKINS		4850 GOLDEN PKWY	B-127	BUFORD	GA	30518	A	A			10/16/2020	10/16/2020	0/16/2020 IN PERSON
UPS	HALL	8787649	MEYER	ELLE	ETNEL		4850 GOLDEN PKWY	112	BUFORD	GA	30518	A	A			10/12/2020	10/12/2020	0/12/2020 IN PERSON
UPS	HALL	3382106	WARD	STACEY	ALLENE		4850 GOLDEN PKWY	STE B-450	BUFORD	GA	30518	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	HALL	12715290	LESUER	DWAN			4850 GOLDEN PKWY	UNIT # B229	BUFORD	GA	30518	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
USPS	HALL	6378075	SICKINGER	BONNY	BARTELS		4915 ATLANTA HWY		FLOWERY BRANCH	GA	30542	A	A			9/8/2020	9/18/2020	10/26/2020 MAILED
USPS	HALL	10855457	WILLIAMS	KIMBERLY	JANE		3803 MAIN ST	UNIT # 651	OAKWOOD	GA	30566	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	HALL	5625739	SWING	SIDNEY	DWAYNE		4915 ATLANTA HWY		FLOWERY BRANCH	GA	30542	A	A			6/5/2020	9/18/2020	10/23/2020 MAILED
UPS	HALL	7244199	PARKS	JULIE	ANNE		4850 GOLDEN PKWY		BUFORD	GA	30518	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
USPS	HALL	12797547	SICKINGER	GARY	F		4915 ATLANTA HWY	APT 1028	FLOWERY BRANCH	GA	30542	A	A			9/8/2020	9/18/2020	10/28/2020 MAILED
UPS	HALL	4987207	GARRETT	JOHN	B		3446 WINDER HWY		FLOWERY BRANCH	GA	30542	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	HALL	7380577	BROOKS	ALLYSON	LAURYN		4850 GOLDEN PKWY	B116	BUFORD	GA	30518	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
UPS	HALL	3165715	AVERY	WILLIAM	HARRISON		7380 SPOUT SPRINGS RD	APT 210190	FLOWERY BRANCH	GA	30542	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	HALL	2814372	SHEDRICK	VINCENT	JENE		7380 SPOUT SPRINGS RD	STE 210	FLOWERY BRANCH	GA	30542	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
UPS	HALL	3431942	CARLETON	ALAN	KEITH		4850 GOLDEN PKWY	STE B-252	BUFORD	GA	30518	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
UPS	HALL	5640097	STELLA	ROBERT	SAMUEL		3446 WINDER HWY	M195	FLOWERY BRANCH	GA	30542	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
UPS	HALL	4818892	MOODY	JOE		III	7380 SPOUT SPRINGS RD	# 210140	FLOWERY BRANCH	GA	30542	A	A			9/4/2020	9/18/2020	10/22/2020 MAILED
USPS	HALL	12789391	BARBOUR	KENNETH	WAYNE		364 GREEN ST NE	POBOX 2292	GAINESVILLE	GA	30501	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
UPS	HALL	2807948	CIUCCI	STEVEN	CRAIG		4850 GOLDEN PKWY		BUFORD	GA	30518-5842	A	A			10/13/2020	10/13/2020	10/13/2020 IN PERSON
UPS	HALL	2846824	MOORE	ROBERT	WAYNE		4850 GOLDEN PKWY		BUFORD	GA	30518	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
UPS	HALL	4706536	TURNER	DERRICK	SEBASTIAN		3446 WINDER HWY	APT 259	FLOWERY BRANCH	GA	30542	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
UPS	HALL	7631351	PHILLIPS	MIKE			7380 SPOUT SPRINGS RD	UNIT 210	FLOWERY BRANCH	GA	30542-7536	A	A			10/14/2020	10/14/2020	0/14/2020 IN PERSON
UPS	HALL	5641224	TORRINI	JILL	RONA		4850 GOLDEN PKWY	# B-156	BUFORD	GA	30518	A	A			10/13/2020	10/13/2020	0/13/2020 IN PERSON
USPS	HOUSTON	10421426	PVEL	VINCZ	NEO		1010 GA HIGHWAY 247 S		KATHLEEN	GA	31047	A	A			9/14/2020	9/18/2020	0/13/2020 MAILED
FedEx	HOUSTON	4826601	BURNS DOGAN	CHASITY	IEISHA		1412 RUSSELL PKWY	UNIT 284	WARNER ROBINS	GA	31088	A	A			10/22/2020	10/22/2020	0/22/2020 IN PERSON
USPS	JACKSON	11805170	JOHNSON	DYLAN	G		424 LITTLE ST	UNIT 1785	COMMERCE	GA	30529	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
USPS	JACKSON	335051	WARREN	JOYCE	ANN		424 LITTLE ST		COMMERCE	GA	30529	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	LAURENS	6274864	SIMMONS	MACK	ARTHUR		514 BELLEVUE AVE		DUBLIN	GA	31021	A	A			5/20/2020	9/18/2020	10/15/2020 MAILED
USPS	LAURENS	10596522	BRYANT	EVA	M		514 BELLEVUE AVE	UNIT 8161	DUBLIN	GA	31021	A	A			9/2/2020	9/18/2020	10/7/2020 MAILED
USPS	LIBERTY	4661804	SMITH	TAMARCUS	C		744 W OGLETHORPE HWY	UNIT 1370	H NESVILLE	GA	31313	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
USPS	LIBERTY	1223148	HENRY	MELTON	CHARLES		744 W OGLETHORPE HWY		H NESVILLE	GA	31313	A	C	VOTER WANTED TO VOTE IN PERSON		/23/2020	9/18/2020	10/12/2020 MAILED
USPS	LIBERTY	1223148	HENRY	MELTON	CHARLES		744 W OGLETHORPE HWY		H NESVILLE	GA	31313	A	A			10/12/2020	10/12/2020	10/12/2020 IN PERSON
USPS	LOWNDES	5930278	ECHOLS	SHERRELL	BUSSEY		3698 NNER PERIMETER RD	UNIT 3603	VALDOSTA	GA	3 602	A	A			8/25/2020	9/18/2020	9/30/2020 MAILED
UPS	LOWNDES	11125103	PEREZ	JOSE	ISRAEL	JR	33 8 COUNTRY CLUB RD	1 UNIT C	VALDOSTA	GA	3 605	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
UPS	LOWNDES	1208101	VOIGT	CATHY	REDKEVITCH		33 8 COUNTRY CLUB RD	UNIT L 186	VALDOSTA	GA	31605	A	A			10/18/2020	10/18/2020	0/18/2020 IN PERSON
USPS	LOWNDES	5830575	ECHOLS	THADDIOUS	LAVESTA	SR	3698 NNER PERIMETER RD	APT 3603	VALDOSTA	GA	31602	A	A			8/20/2020	9/18/2020	9/30/2020 MAILED
UPS	LOWNDES	11716878	TAYLOR	STEPHANIE	LYNN		3338 COUNTRY CLUB RD	APT 141	VALDOSTA	GA	31605	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
USPS	MUSCOGEE	7039546	HIGHTOWER	KALEENA	NECOLE		4012 HAMILTON RD	UNIT 4705	COLUMBUS	GA	31904	A	A			10/16/2020	10/16/2020	10/16/2020 IN PERSON
USPS	MUSCOGEE	12350269	PUGH	JAMILA	A		39 6 MILGEN RD	UNIT 8356	COLUMBUS	GA	31907	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	MUSCOGEE	1775709	PHIFER	PANSY			39 6 MILGEN RD	UNIT 8723	COLUMBUS	GA	31907	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
UPS	MUSCOGEE	8321547	WOMACK	TAMERA	LYNN		1639 BRADLEY PARK DR	UNIT 500	COLUMBUS	GA	31904- 623	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
FedEx	MUSCOGEE	5599504	BOWERS	SONIA	LYNN		4519 WOODRUFF RD	UNIT # 4	COLUMBUS	GA	31904	A	A			11/3/2020	11/3/2020	11/3/2020 IN PERSON
UPS	MUSCOGEE	855745	BARRETT	JOY	CEANNE		1639 BRADLEY PARK DR	500-222	COLUMBUS	GA	31904	A	A			10/20/2020	10/20/2020	0/20/2020 IN PERSON
USPS	MUSCOGEE	1851409	JONES	LORANE	CATHERINE		39 6 MILGEN RD	UNIT # 854	COLUMBUS	GA	31907	A	A			9/17/2020	9/18/2020	0/26/2020 MAILED
FedEx	MUSCOGEE	3294577	ABRAM	LEWIS	F		4519 WOODRUFF RD	UNIT 4	COLUMBUS	GA	31904-6096	A	A			10/16/2020	10/16/2020	0/16/2020 IN PERSON
USPS	MUSCOGEE	6370053	PHIFER	KEVIN	LAMAR		3916 MILGEN RD	APT 8723	COLUMBUS	GA	31907	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
UPS	MUSCOGEE	10898658	BROWN	RICKEY	LEE		1639 BRADLEY PARK DR		COLUMBUS	GA	31904	A	A			10/29/2020	10/29/2020	0/29/2020 IN PERSON
UPS	MUSCOGEE	1845735	LUCAS	SUE	ANN		1639 BRADLEY PARK DR	UNIT 63	COLUMBUS	GA	31904- 620	A	A			10/25/2020	10/25/2020	0/25/2020 IN PERSON
FedEx	MUSCOGEE	5599504	BOWERS	SONIA	LYNN		4519 WOODRUFF RD	UNIT # 4	COLUMBUS	GA	31904	A	C	Voter Requested		9/7/2020	9/18/2020	11/3/2020 MAILED
USPS	MUSCOGEE	8024520	DORMAN	GINA	NILAY		3916 MILGEN RD	UNIT 7882	COLUMBUS	GA	31907	A	A			10/29/2020	10/29/2020	10/29/2020 IN PERSON
FedEx	MUSCOGEE	1845914	MADDEN	DENISE	BAUER		4519 WOODRUFF RD	UNIT 368	COLUMBUS	GA	31904-6011	A	A			9/6/2020	10/23/2020	10/23/2020 IN PERSON
FedEx	MUSCOGEE	6591877	LEWIS	KATRENNA	LAVERENDA		4519 WOODRUFF RD	UNIT 365	COLUMBUS	GA	31904-6011	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
USPS	MUSCOGEE	11408498	BARDGE	ALLAYA	BONAI		4012 HAMILTON RD	UNIT 4705	COLUMBUS	GA	31904	A	A			10/17/2020	10/17/2020	0/17/2020 IN PERSON
UPS	MUSCOGEE	1816178	SHAZIER	LISA	ANN		1639 BRADLEY PARK DR	STE 500	COLUMBUS	GA	31904	96310	A	A			11/8/2019	9/16/2020 10/28/2020
FedEx	MUSCOGEE	5061995	MADDEN	KEVIN	ERIC		4519 WOODRUFF RD	UNIT 352	COLUMBUS	GA	31904	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
USPS	MUSCOGEE	7071685	JACKSON	BRITTANY	TASHA		3916 MILGEN RD		COLUMBUS	GA	31907	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
FedEx	NEWTON	5497158	MILES	RENEE	ANDREA		3828 SALEM RD	APT 82	COVINGTON	GA	30016	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
FedEx	NEWTON	1986059	GARMAN	LATORSHA	MORGAN		3828 SALEM RD		COVINGTON	GA	30016	A	R	Ballot Received after Deadline		9/24/2020	9/24/2020	11/9/2020 MAILED
FedEx	NEWTON	4106734	GARMAN	STERLING	MICHAEL		3828 SALEM RD		COVINGTON	GA	30016	A	R	Ballot Received after Deadline		9/24/2020	9/24/2020	11/9/2020 MAILED
FedEx	NEWTON	2472574	COCHRAN	GERALD	NELSON	JR	3828 SALEM RD	APT 10	COVINGTON	GA	30016	A	A			0/1/2020	10/1/2020	11/3/2020 MAILED
FedEx	NEWTON	12335674	SHIPPY	MIAUNI	SLYVIA		3828 SALEM RD	APT 10	COVINGTON	GA	30016	A	A			0/1/2020	10/2/2020	11/3/2020 MAILED
FedEx	NEWTON	7622775	MCCORD	MICHELLE	YVETTE		3828 SALEM RD	APT 97	COVINGTON	GA	30016	A	A			10/24/2020	10/24/2020	10/24/2020 IN PERSON
FedEx	NEWTON	11457549	BOND	DEVONANA	CHARLON		3828 SALEM RD		COVINGTON	GA	30016	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
UPS	OCONEE	11663172	CHIN	RYAN	KENNETH		1720 EPPS BRIDGE PKWY	STE 108	ATHENS	GA	30606	A	A			10/23/2020	10/23/2020	11/2/2020 ELECTRONIC
UPS	OCONEE	259457	WALLACE	CHARLES	E DVM		1720 EPPS BRIDGE PKWY	UNIT 108 391	ATHENS	GA	30606-6132	A	A			9/25/2020	9/25/2020	10/16/2020 ELECTRONIC
FedEx	PAULDING	7149393	FRANKS	RICHARD	GORDON		4813 RIDGE RD	UNIT 111- 8	DOUGLASVILLE	GA	30134-6117	A	A			10/26/2020	10/26/2020	0/26/2020 IN PERSON
USPS	PICKENS	11969193	HEADQUIST	MEREDITH	A		4817 HIGHWAY 53 E	D	TATE	GA	30177	A	A			10/23/2020	10/23/2020	0/23/2020 IN PERSON
USPS	RABUN	11292470	BLACK	TORI	HARTLEY		125 N MAIN ST	UNIT 647	CLAYTON	GA	30525	A	A			9/5/2020	9/18/2020	10/7/2020 MAILED
USPS	RABUN	2298298	GRAHAM	EUGENE	RUSSELL	JR	125 N MAIN ST	UNIT 111	CLAYTON	GA	30525	A	A			10/27/2020	10/27/2020	0/27/2020 IN PERSON
USPS	RABUN	3888983	HALTER	VERN	RALPH		17 LAKEMONT INDUSTRIAL DR	# 3	LAKEMONT	GA	30552	A	A			4/24/2020	9/18/2020	10/5/2020 MAILED
USPS	RICHMOND	7576015	HARMON	DEADRIAN			1434 STOVALL ST	UNIT # 12696	AUGUSTA	GA	30904	A	A			10/12/2020	10/12/2020	0/12/2020 IN PERSON
USPS	RICHMOND	8586500	YOUNG	JUDITH	MARIE		4902 WINDSOR SPRING RD		HEPHZIBAH	GA	30815	A	A			9/21/2020	9/21/2020	0/14/2020 MAILED
USPS	RICHMOND	7517875	SALCEDO	MIGUEL	ANGEL		3108 PEACH ORCHARD RD		AUGUSTA	GA	30906	A	A			9/7/2020	9/18/2020	11/3/2020 MAILED
USPS	RICHMOND	10270481	SMITH	ASHLEE	MIKELLA		1434 STOVALL ST	UNIT 2666	AUGUSTA	GA	30904	A	A			9/22/2020	9/22/2020	0/30/2020 MAILED
USPS	RICHMOND	3294412	MASSERANT	HOLLY	MARIE		525 8TH ST		AUGUSTA	GA	30901	A	A			10/16/2020	10/16/2020	10/19/2020 IN PERSON
USPS	RICHMOND	1743707	PALMER	AUGUSTUS		III	4902 WINDSOR SPRING RD	APT 544	HEPHZIBAH	GA	30815	A	A			9/11/2020	9/18/2020	10/8/2020 MAILED

USPS	ROCKDALE	5522146 HUGHES	WANDA	J		1007 GREEN ST SE	UNIT 284	CONYERS	GA	30012	A	A			4/16/2020	9/18/2020	10/19/2020 MAILED
FedEx	ROCKDALE	11863283 AFAIRE MINTAH	ASHANTI	A		2274 SALEM RD SE	APT 106123	CONYERS	GA	30013	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	ROCKDALE	5248691 JOSEPH	KEITH	ANDRE		1705 HIGHWAY 138 SE		CONYERS	GA	30013	A	A			10/20/2020	10/20/2020	10/20/2020 IN PERSON
FedEx	ROCKDALE	5864714 PRICE	LINDA	M		2274 SALEM RD SE	UNIT 106-240	CONYERS	GA	30013-2097	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	ROCKDALE	10540538 HART	DAWANNA	CARRIE		1007 GREEN ST SE		CONYERS	GA	30012	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	ROCKDALE	8903048 HAYES	DERICKA	VIRGINIA		2274 SALEM RD SE	UNIT 106-203	CONYERS	GA	30013	A	C	VIO AM		8/26/2020	9/18/2020	10/23/2020 MAILED
FedEx	ROCKDALE	8903048 HAYES	DERICKA	VIRGINIA		2274 SALEM RD SE	UNIT 106-203	CONYERS	GA	30013	A	A			10/23/2020	10/23/2020	10/23/2020 IN PERSON
USPS	ROCKDALE	322855 LAND	CHARLES	FRANKLIN		1007 GREEN ST SE	UNIT 1897	CONYERS	GA	30012	A	A			4/6/2020	9/18/2020	10/6/2020 MAILED
UPS	ROCKDALE	5108874 BLACKWELL	FOLUKE	B O		863 FLAT SHOALS RD SE	C158	CONYERS	GA	30094-6633	A	A			10/26/2020	10/26/2020	10/26/2020 IN PERSON
UPS	ROCKDALE	8877483 MANN	ISRAEL	LAYAA		863 FLAT SHOALS RD SE	C208	CONYERS	GA	30094-6633	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
FedEx	ROCKDALE	2370993 MINTAH	ANGELETHA	CHARNANE		2274 SALEM RD SE	UNIT 106123	CONYERS	GA	30013-2097	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
UPS	ROCKDALE	8220766 BLANKS	BRYAN	RICHARD		863 FLAT SHOALS RD SE		CONYERS	GA	30094	A	A			10/19/2020	10/19/2020	10/19/2020 IN PERSON
FedEx	ROCKDALE	7054418 TIMOTHY	MICHELLE	A		2274 SALEM RD SE	#106103	CONYERS	GA	30013	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	TOWNS	10451398 RICH	KAITLIN	NOELLE		1 8 N MAIN ST		HIAWASSEE	GA	30546	A	A			10/30/2020	10/30/2020	10/30/2020 IN PERSON
USPS	TOWNS	2850030 SMITH	TONI	CHAMBLEE		5171 COLLEGE ST	UNIT 1279	YOUNG HARRIS	GA	30582	A	A			10/27/2020	10/27/2020	10/27/2020 IN PERSON
USPS	TOWNS	4134836 MCDONALD	KELLY	LANE		1 8 N MAIN ST	895	HIAWASSEE	GA	30546	A	A			9/24/2020	9/24/2020	10/6/2020 MAILED
USPS	TOWNS	8361160 BLAKE	GWYN	MICHAEL		5171 COLLEGE ST	695	YOUNG HARRIS	GA	30582	A	A			10/14/2020	10/14/2020	10/14/2020 IN PERSON
USPS	TOWNS	12645569 MERCIER	MARGARET	ELIZABETH		1 8 N MAIN ST		HIAWASSEE	GA	30546	A	A			9/28/2020	10/7/2020	10/15/2020 MAILED
USPS	TOWNS	10508880 SMITH	PIERSON	ALEXANDER		5171 COLLEGE ST	UNIT 1279	YOUNG HARRIS	GA	30582	A	A			8/30/2020	10/8/2020	0/16/2020 MAILED
USPS	TROUP	898759 TIMBROOK	JESSIE	LYNN		950 LAFAYETTE PKWY	UNIT 911	LAGRANGE	GA	30241	A	A			10/30/2020	10/30/2020	0/30/2020 IN PERSON
USPS	WALTON	11860315 GRAY	JAMES	WESLEY	JR	125 W HIGHTOWER TRL		SOCIAL CIRCLE	GA	30025	A	C	VOTED AT POLLS AFFIDAVIT		9/30/2020	9/30/2020	11/3/2020 MAILED
USPS	WALTON	4988183 SIMS	JULIA	MARIERA		125 W HIGHTOWER TRL		SOCIAL CIRCLE	GA	30025	A	A			10/22/2020	10/22/2020	10/22/2020 IN PERSON
USPS	WAYNE	3250379 FLOYD	MARGARET	STAFFORD		405 E WALNUT ST	APT 494	JESUP	GA	31546	A	A			5/23/2020	9/18/2020	10/17/2020 MAILED
USPS	WAYNE	3432337 FLOYD	GEORGE	EDWARD		405 E WALNUT ST	494	JESUP	GA	31546	A	A			5/23/2020	9/18/2020	10/17/2020 MAILED

Exh. B

Declaration of Eric Quinnell, Ph.D. and S. Stanley Young, Ph.D.

Declarations of Eric Quinnell and S. Stanley Young

Declaration of Eric Quinnell

Pursuant to 28 U.S.C Section 1746, I, Eric Quinnell, make the following declaration.

1. I am over 21 years of age, and I am competent to testify in this action. All of the facts stated herein are true and based on my personal knowledge and skillset.

2. I received a Bachelor of Science Degree in Engineering in May of 2004, a Master of Science in Circuit Design in May of 2006, and a Doctorate in Computer Arithmetic in May of 2007, all from The University of Texas at Austin.

3. I have extensive professional experience as an engineer designing and leading teams engaged in various aspects of circuit architecture and processing. In this capacity, I frequently engage in complex and sophisticated predictive mathematical modeling and statistical analysis. I am required to prepare reports and analysis on the same for presentations to executives and other decision makers. I make this declaration in my personal capacity.

Declaration of S. Stanley Young

Pursuant to 28 U.S.C Section 1746, I, S. Stanley Young, make the following declaration.

4. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.

5. I am a trained statistician with experience in multiple fields, biology, chemistry, drug discovery, etc. I am a Fellow of the American Statistical Association and also a Fellow of the American Association for the Advancement of Science. I am or have been an adjunct professor of

statistics at five research universities. I am currently on the EPA Science Advisory Board. I have over 60 published papers.

Executive Summary

6. We were asked to further analyze the results of the 2020 General Election in Fulton County, Georgia using timeseries data to corroborate our earlier analysis. Further investigation would allow us to determine if there were either additional statistical anomalies in the voting patterns or new inferences that may explain some existing results.

7. The Edison time series data shows 73,523 total absentee votes recorded by November 4th at 12:59 AM. According to 2020 Georgia election rules, the absentee ballots in all of Fulton County's precincts could be opened and recorded in advance. We therefore presume the first timestamp data on November 4th represents the overall totals of three weeks of absentee voting across all precincts.

8. According to this data, the total sum of absentee votes received and counted after November 4th is 73,471 votes – a curiously close number to the 73,523 votes received before that date. These counts show a difference of just 52 absentee votes both sides of election night. For vote totals of this magnitude, 52 votes constitute roughly just 0.07% of both tallies.

9. Candidates Donald Trump and Joe Jorgensen had 10 and 44 precincts respectively of roughly 370 precincts with all their candidate's absentee ballots in by November 4th. Candidate Joseph Biden had 0 of roughly 370 precincts with all absentee votes in by November 4th.

10. Furthermore, Trump and Jorgensen had 14 and 48 precincts respectively with more than 80% of all absentee ballots in by November 4th. Biden had 0 precincts with more than 80% of all absentee ballots in by November 4th.

11. Finally, Trump and Jorgensen had 23 and 56 precincts respectively with more than 70% of all absentee ballots in by November

4th. Biden had 1 precinct with exactly 70% all absentee ballots in by November 4th.

12. On November 5th, 309 of the 373 precincts received 90% or more of their Biden absentee total by the end of the day– a feat the 3 weeks prior was unable to achieve even once.

13. Biden's absentee vote distribution according to this data shows a probability of 0.01% that even a single would naturally receive all its votes by November 4th. This represents 4.71 times standard deviation from its own average at that time. Such a distribution mathematically represents a peculiar, non-linear external constraint unexplainable and unrelated to the arrival and counting of absentee ballots – but only for candidate Biden.

14. Further calculations on this timeseries data starting November 5th show additional unexplainable statistical anomalies indicating that this timeseries data should be considered not only improbable, but a collection of votes over time that currently fails basic sanity and mathematical fidelity checks. The analysis result stands and needs only the beginning and end timestamps to be correct. There are 4 timestamps with static values of the November 4th initial absentee count and 7 timestamps with the static values of the final November 11th absentee count.

15. If the analyzed data set agrees with other official timestamped voter count data, then we are obligated to suggest that there exists an inexplicable flaw or external event occurring on or after November 5th that compromises the either the fidelity of the absentee vote on and beyond that timestamp or the entire Edison timeseries data in Fulton County is corrupted.

16. We, the affiants, offer neither allegations nor hypotheses as to WHY the data set exists in this unnatural state, but rather just that it IS this way. The mathematical tools analyzing this data are non-proprietary and may be replicated by anyone sufficiently skilled in the art using the same Edison timeseries data and public voter tallies.

Data Set Selection

17. For static vote analysis, we retrieved publicly available data from the https://data.fultoncountyga.gov/Elections/Election-Results-General-Election-November-8-2016/eiwi-wrhe website containing the official Fulton County 2016 General Election Results. We also retrieved the publicly available unofficial Fulton County 2020 General Election Results from https://results.enr.clarityelections.com/GA/Fulton/105430/web.264614/#/detail/1 website as of November 11, 2020.

18. For timeseries vote analysis, we received Edison timeseries voting data for all of Georgia's precincts in a batch of 18 timestamps in raw JavaScript Object Notation (*.json) format on November 23, 2020. The timestamps range from November 4th at 12:59 AM to November 11th at 11:20 PM and record the updated votes in four categories: absentee ballots, election day votes, early votes, and provisional votes. This analysis specifically concentrates on precinct level timeseries data in Fulton County.

Timeseries Data Tracking Specific counties in Fulton County

19. We investigated three particular counties – specifically counties RW, JC, and SS – after a static vote analysis (already declared in separate affidavit by Eric Quinnell) identifying these counties as well outside their historical voting norms. We used a new input set of data from the Edison timeseries voting data for all of Georgia's precincts in a batch of 18 timestamps. The timestamps range from November 4th at 12:59 AM to November 11th at 11:20 PM and record the updated votes in four categories: absentee ballots, election day votes, early votes, and provisional votes.

20. The first available timestamp of the Fulton County time series data is November 4th at 12:59 AM. The only votes registered at this time are absentee ballots already opened and counted per precinct. According to the rules established in Georgia for the 2020 election, absentee ballots were allowed to be opened and counted for a full 3 weeks leading up to and including election day. As we have no timestamp data before November 4th, we therefore presume the first

count represents this entire time window in lieu of more data. This first timestamp is the first data to register 73,523 absentee ballots across roughly 373 Fulton County precincts that cast such a vote.

21. The next three timestamps – November 4th at 3:14 AM, 10:44 AM, and 7:35 PM seem to register the bulk of the election day and early vote ballots. No absentee ballot counts are updated in these three timestamps.

22. The following timestamp – November 5th at 11:18 AM – represents the majority of the remainder of the absentee ballots for nearly all 373 precincts, with most precincts gaining on enough votes to exceed 90% of their final absentee tally seen by November 11th.

23. Of the remaining 13 timestamps in the data set, the absentee ballots for any precinct only update in 3 of those data points – November 5th at 8:37 PM with nearly every precinct gaining roughly 5% of their remaining total; November 6th at 1:52 AM with another 5% gain almost universally; and November 7th at 12:58 PM with a rough 2% remainder. None of the other 10 timestamps move any precinct's absentee count at all.

24. These total to 5 incremental timeseries of the 18 data points, which may be visually seen in Figure 1.

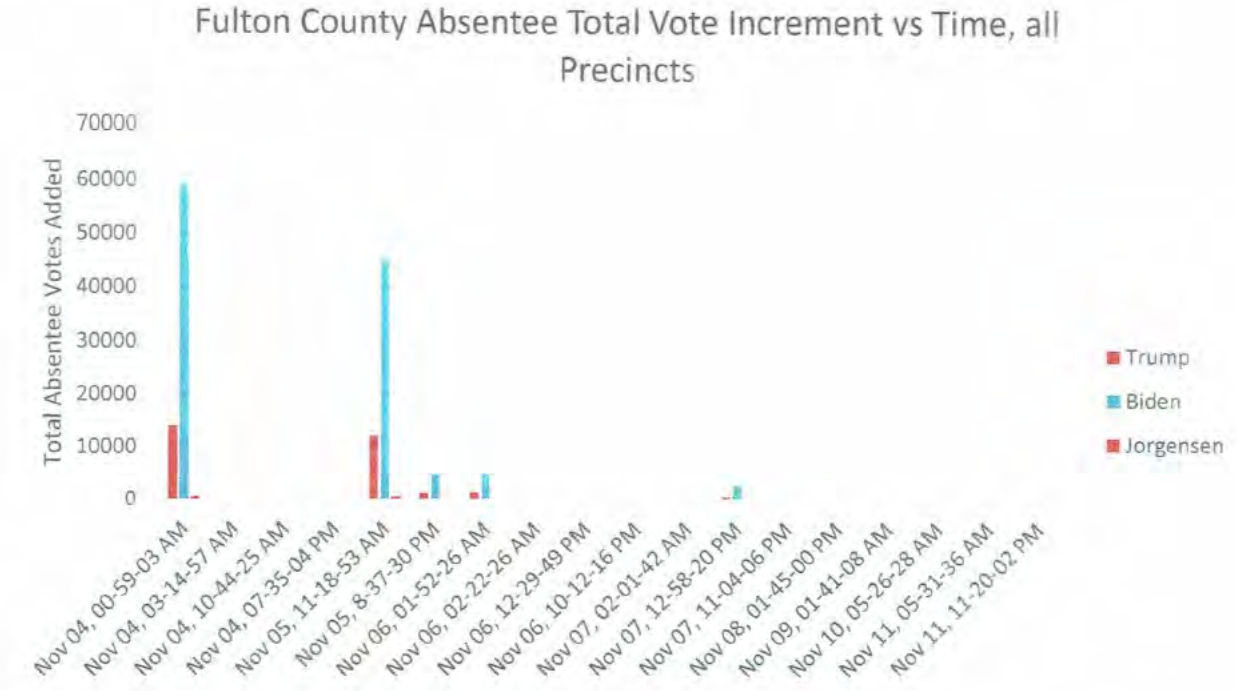

Figure 1. Incremental vote gain per presidential candidate over time in Fulton County

25. To confirm aggregate gains per precinct per timestamp, again we took our selected counties and plotted their percent of eventual total count in a visual graph for presidential candidates Donald Trump and Joseph Biden. Figure 2 shows the plot of County RW's accumulated percent total of its aggregate final absentee votes over time. What's surprising about the graph is the near perfect tracking of both Trump's and Biden's vote gains as compared to their final total.

26. To see if this pattern existed further, we plotted all three of our target counties on the same plot for both candidates, as seen in Figure 3. Again, all vote gains for all candidates track nearly perfectly. This curiosity had us abandon the targeted counties and go back to all of Fulton County to see if all precincts behaved this well. Such a synchronous result infers that the absentee votes of all precincts is at the very least centralized and coordinated.

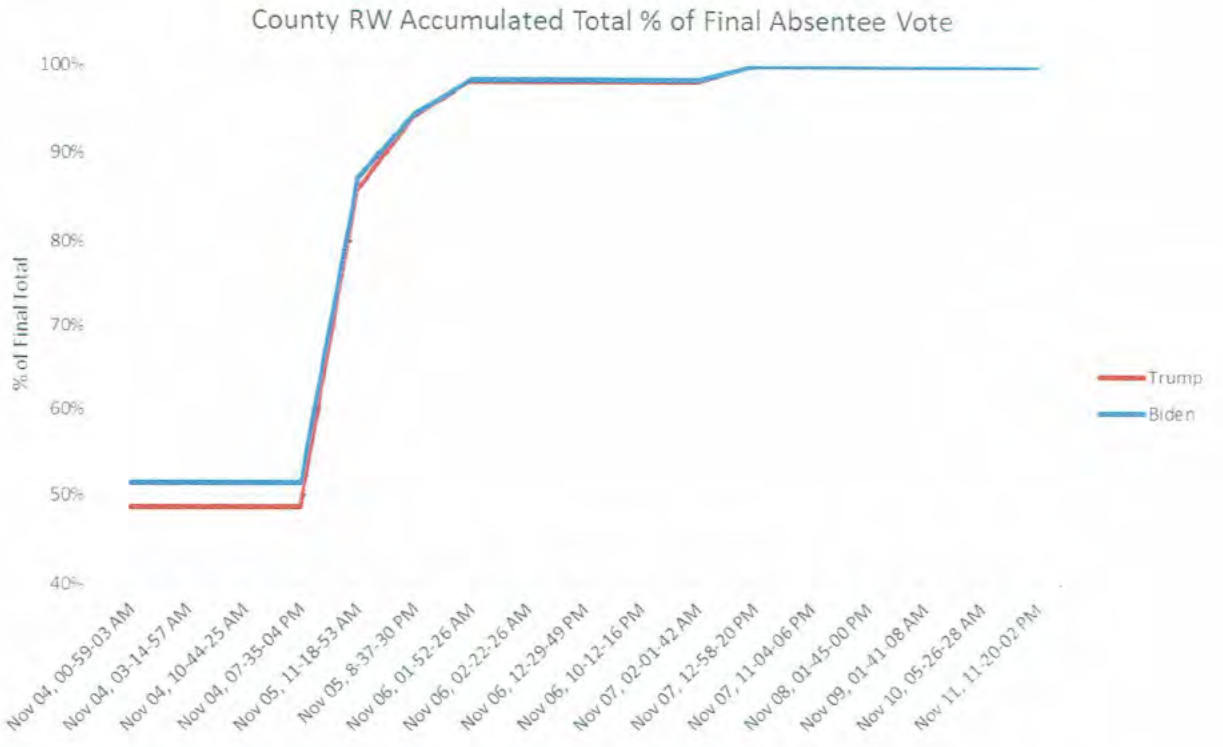

Figure 2. County RW accumulated % of eventual total absentee votes over time

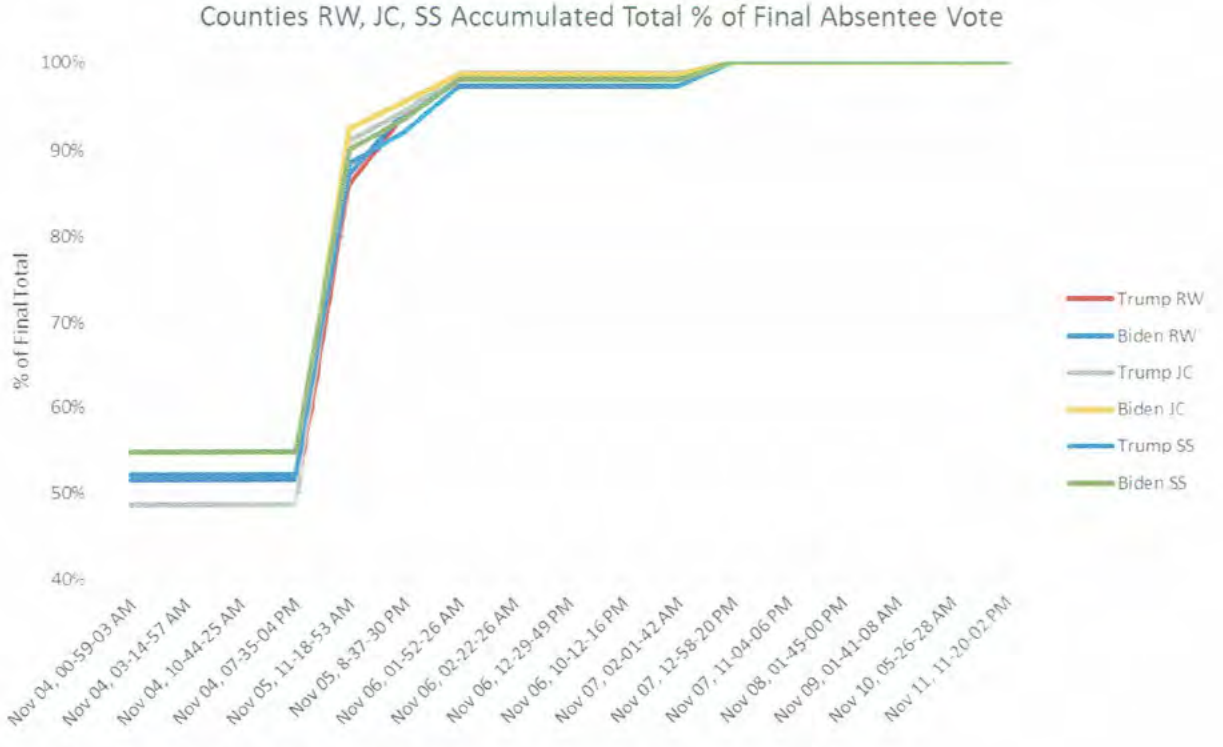

Figure 3. Counties RW, JC, and SS accumulated % of eventual total absentee votes over time

Timeseries Data Tracking of all precincts of Fulton County

27. We took all the timestamp data and re-analyzed the sum of all precincts at a Fulton County level. This simple top-level analysis discovered an exceptional mathematical anomaly – the total sum of all absentee votes in all of Fulton County after the initial November 4th timestamp was exactly 73,471 votes – a mere difference of 52 votes between the first (presumed) three weeks of absentee votes which netted 73,523 votes independently. This means each independent collection of results landed within 0.07% of each other's total. The relative gains and totals for each candidate are shown below, as well as in a bar chart in Figure 4 .

Absentee Vote Increments in Fulton County

	Trump	Biden	Jorgensen	Total
Nov 04, 00-59-03 AM	13913	58946	664	73523
All Remaining Future Timestamps	15566	56842	1063	73471
Difference	1653	-2104	399	-52

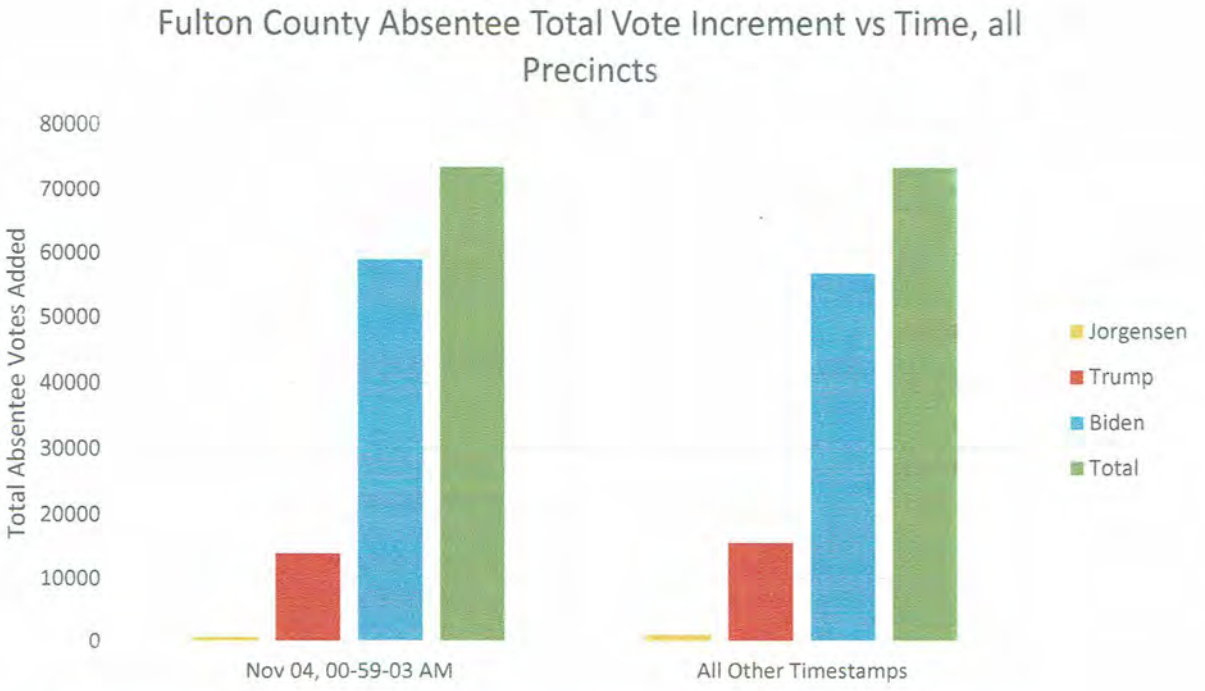

Figure 4. Absentee total vote counts for Nov 4 12:59 am as compared to the sum of all following timestamps

28. We continued by plotting all precinct aggregate percent totals over time for each candidate over timestamps. Each candidate requires two full graphs due to a software limitation of unique plots per chart. Precincts which had zero absentee votes for either candidate are excluded, which numbers 23 precincts for Trump and 10 precincts for Biden. Trump's absentee percent totals per precinct over time are seen in Figure 5 and Figure 6, and Biden's are seen in Figure 7 and Figure 8. All of these timestamps even between candidates have a correlation coefficient aggregate of 0.58, which hints they are somewhat, but not entirely independent variables.

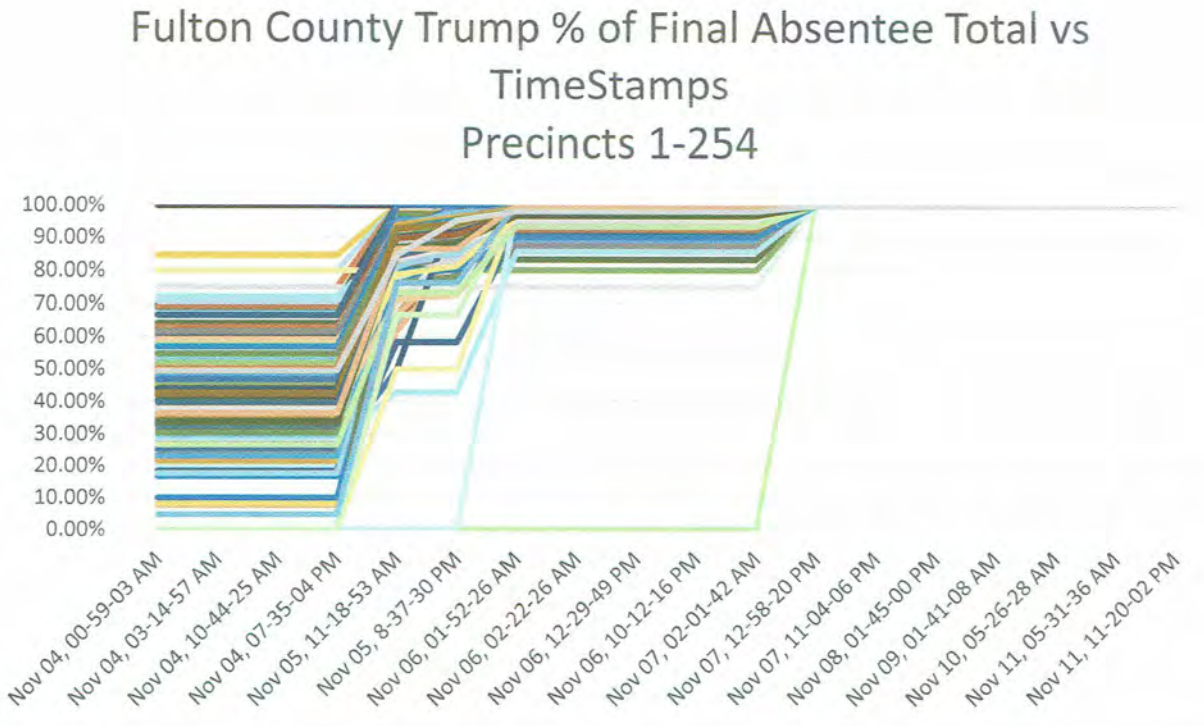

Figure 5. Trump cumulative % of final absentee over time, precincts 1-254

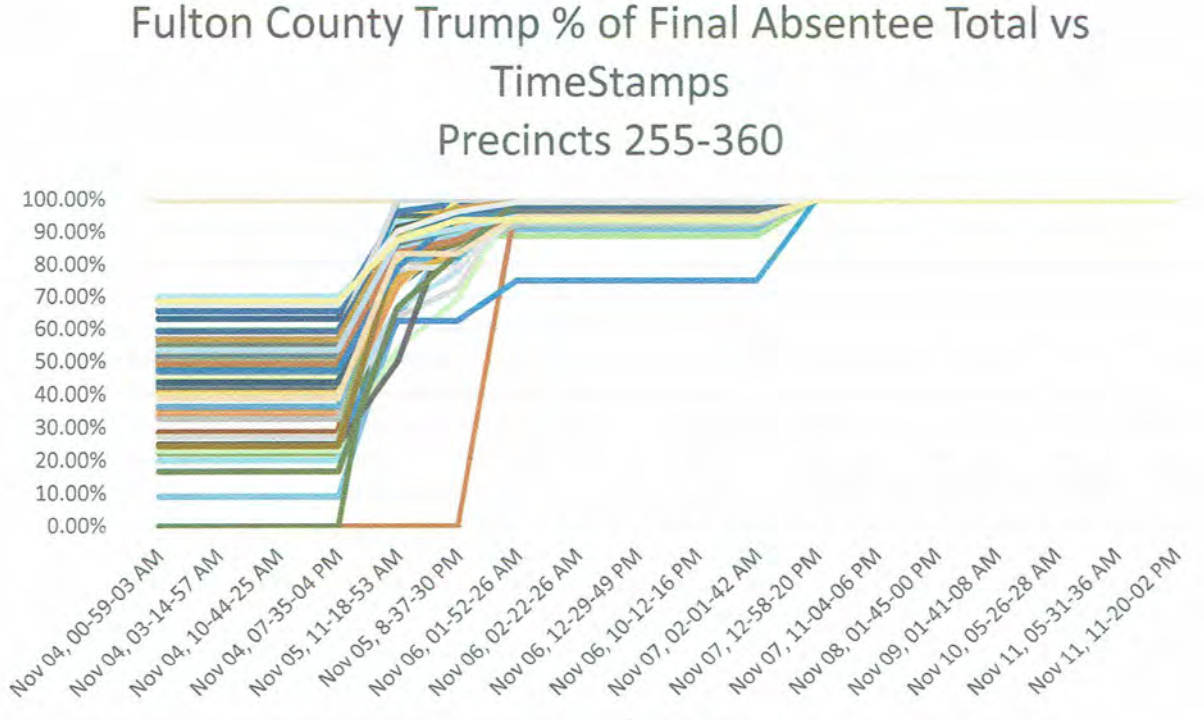

Figure 6. Trump cumulative % of final absentee over time, precincts 255-360

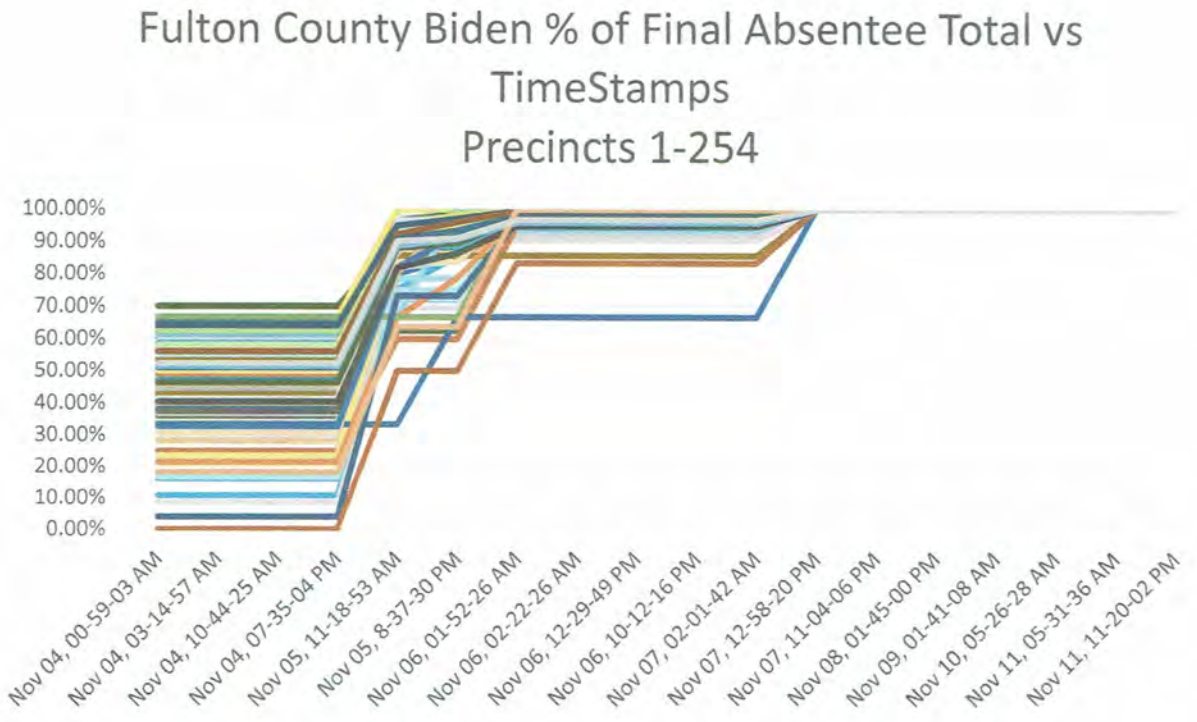

Figure 7. Biden cumulative % of final absentee over time, precincts 1-254

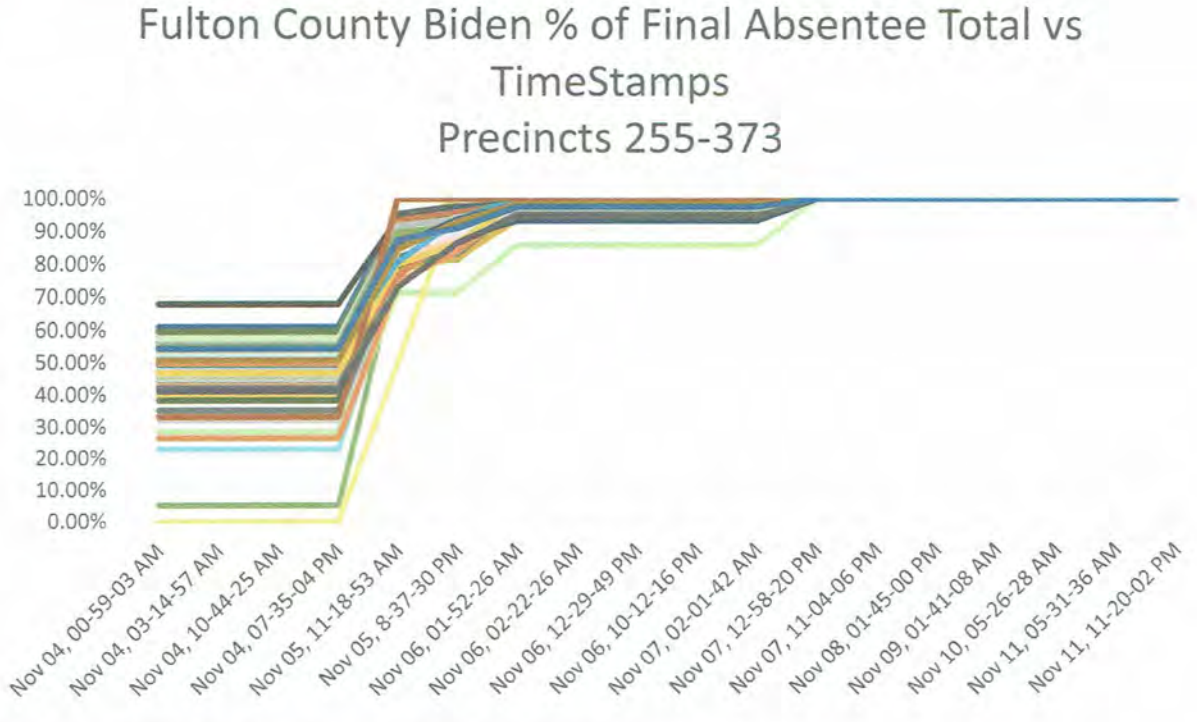

Figure 8. Biden cumulative % of final absentee over time, precincts 255-373

29. Before we quantify these very peculiar charts mathematically, we first must refer back to our anecdote of Henri and the baker. 0 of the 373 precincts across all of Fulton County broke 71% of their eventual final total in the timestamp representing the preceding 3 weeks of collection, regardless of their clear natural distribution in the initial data set. Precincts only broke the 71% barrier exactly the following day and in almost a perfect majority. Anecdotally, a batch of bread was baked, and Henri's heavy bread went missing entirely until the next day, when it re-appeared in full as shown in Figure 9.

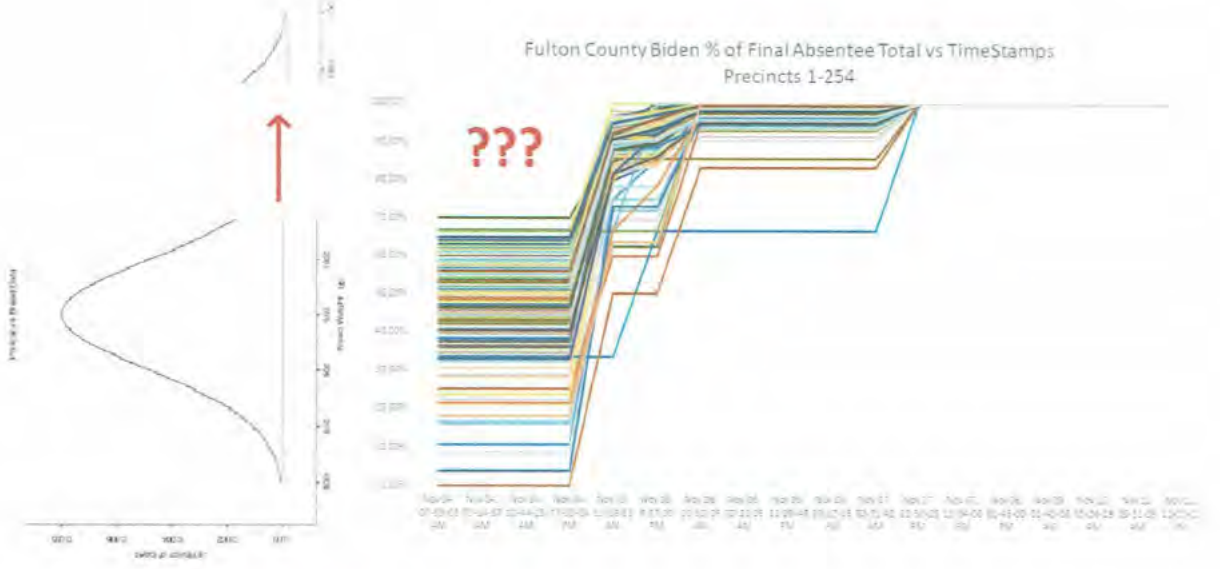

Figure 9.Henri's Poincaré's missing bread

30. Both candidate Trump and candidate Jorgensen have several bins of all 100% of a precinct's eventual final total of absentee votes in the November 4th 12:59 AM timestamp. To quantify, Trump's quantitative and visual distribution of precinct's relative percent total of the eventual result on November 4th are shown below in the table and Figure 10. The histogram of precincts includes the calculation of this distributions Probability Density Function (PDF) plotted over each bin. The November 4th Trump average completion of absentees per precinct was 44%, with a tight standard deviation of 19.5%, a skew that leans

slightly left, and kurtosis tail that covers most of the distribution range, albeit technically platykurtic by being below 3.

	Trump % of final Absentee distribution, November 4th 12:59 AM
MEAN	44.0%
STDEV	19.5%
SKEW	-2.6%
KURT	127.1%

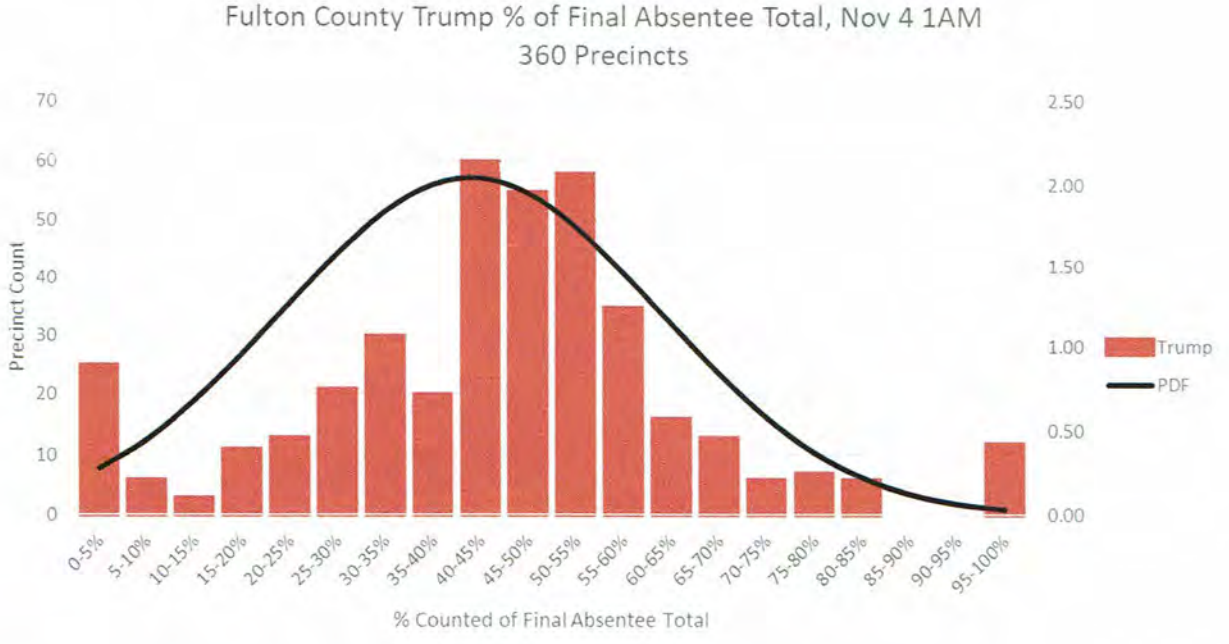

Figure 10. Trump distribution of absentee % of total per precinct on November 4th 12:59 AM.

31. In contrast, Biden's distribution quantization and visual plot of the same is seen below and in Figure 11. The November 4th Biden average completion of absentees per precinct was 48.9%, with a tighter standard deviation of 10.8%, a skew of -153% with a kurtosis tail of 381%. The skew of -153% is a meaningless nonsense calculation, implying that the mass of the curve exists below 0%. Additionally, using the mean and the standard deviation, the probability to achieve 100% of all eventual absentee votes in the first 3 weeks leading up to and

including Election day is 0.01% probability, requiring a 4.71-sigma natural event to occur. This probability does not exist for the 0% bins, as the skew is so unnaturally negative.

	Biden % of final Absentee distribution, November 4th 12:59 AM
MEAN	48.9%
STDEV	10.8%
SKEW	-153.5%
KURT	381.3%

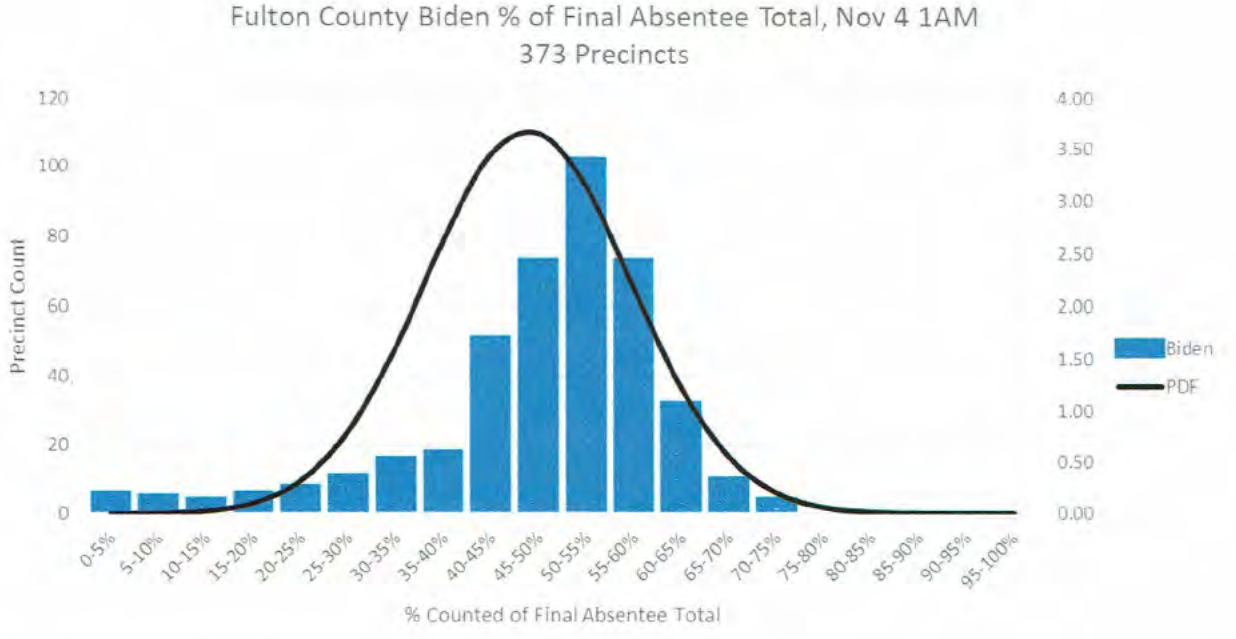

Figure 11.Biden distribution of absentee % of total per precinct on November 4th 12:59 AM

32. Results such as these that have 5-figure independent ballot counts land within 0.071% of each other, precincts that track with each other in partial correlation, entire tails of initial distributions seemingly missing until the following day, and calculated skews not even in the range of their output, are what the engineering world considers "garbage data". These kinds of signatures are not merely improbable – even though we may assign a probability to each of these oddities – but

further represent some kind of major external constraint or non-linear event that is corrupting the fidelity of the data. Such a signature would most certainly block any attempts of any device going to production until a root cause could be found to describe the phenomenon and prove it either true, safe, or discarded.

33. Real absentee votes likely exist in these timestamps starting November 5th, but mathematically we cannot delineate any useful conclusions about this data until the non-linearity corrupting this data set is explained. The database of these records fails basic quality and sanity checks mathematically and is therefore professionally untrustworthy until a sufficient root cause or explanation of these calculations are found. There clearly exists an event or constraint (or perhaps alternate actual data set?) outside mere voting pattern or absentee delivery distributions, and an explanation is required to revive the fidelity of either the absentee voter data from November 5th and beyond or the correctness of the entire Edison database in Fulton County.

We declare under the penalty of perjury that the foregoing is true and correct.

November 29, 2020

Eric Quinnell, Ph.D.

Signature

S Stanley Young

Printed Name

S. Stanley Young, Ph.D.

Exh. C

Affidavit of Benjamin A. Overholt, Ph.D

AFFIDAVIT OF BENJAMIN A. OVERHOLT

I, Benjamin A. Overholt, Ph.D., declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.
2. I have an M.S. and a Ph.D. in Applied Statistics and Research Methods from the University of Northern Colorado. I am currently an active federal civil servant for over seven years and served in the United States Army for 15 years. During that time, I spent more than five years reviewing election results for the Voting Rights Section of the Civil Rights Division of the U.S. Department of Justice in Washington, D.C.
3. I am familiar with and have analyzed public data from the office of the Secretary of State of Georgia (the "SoS") regarding the recent presidential election held on November 3, 2020 (the "2020 General Election".)
4. The plaintiff asked me to review the data available on the SoS website to determine its usefulness in questioning the rejection rates of mailed ballots ("mailed ballots") in the 2020 General Election and to determine whether anomalies existed that could change the outcome of the presidential race in

the 2020 General Election. Based on my experience and because of my personal interest in the matter, I felt qualified to do so. I am not being compensated for this work or for my time, rather, I am reviewing the data for the sake of verifying outcomes.

Anomalies Based on Rejected Ballots – Signature Verification and Missing Oath

5. I generated tabulations of mailed ballot rejection and spoil rates from 2016 to 2020 to check the accuracy of data on the SoS website and to demonstrate the discrepancies in the number of mailed ballots that were "rejected" and "spoiled" when comparing previous elections to the 2020 General Election. All data used for this analysis was downloaded directly from the SoS's public website. The datafile for the 2020 General Election was last updated on November 16, 2020.[1]

6. In the datasets, the variables "Ballot Style", "Ballot Status", and "Status Reason" are each critical to understanding ballot rejection reasons and rates. "Ballot Style" is the type of ballot cast – values included are "ELECTRONIC", "IN PERSON", and "MAILED". In the results below, I considered only those ballots marked as "MAILED". "BALLOT STATUS" is the current status of a ballot, values are "A" for accepted, "C" for cancelled,

[1] https://elections.sos.ga.gov/Elections/voterabsenteefile.do

"R" for rejected and "S" for "spoiled". In this analysis only values "A", "R" and "S" were considered.

7. There are over 6,000 different "Status Reason" codes. They seem to be handwritten phrases and include similarities such as "R-ADDR MISSING" and "RADDR NOT A MATCH". The "grepl" function in R was used to search for key words in "Status Reason". Table 1 shows the keywords searched for that showed concerning discrepancies from 2016 to 2020 and are related to signatures. To get the "[Percentage] of Mail In Ballots" in Table 1, the "Counts" were divided by the total number of mailed ballots with a Status of "Accepted", "Rejected", or "Spoiled".
8. The data was sorted for the general and primary elections in 2016, 2018 and 2020 in Georgia, with a "g" or "p" denominating the information in the columns below, respectively.

Table1: "Status Reason" Search Terms By Year for "Rejected" and "Spoiled Ballots"

	Counts				% of Mail In Ballots			
Search Term	2016g	2018g	2020p	2020g	2016g	2018g	2020p	2020g
ALL Rejections	6,059	7,889	11,772	4,471	2.90%	3.46%	1.01%	0.34%
"SIG"	581	457	3,212	1,998	0.28%	0.20%	0.28%	0.15%
"OATH"	1,259	3,029	0	0	0.60%	1.33%	0.00%	0.00%
"ADDR"	373	156	0	0	0.18%	0.07%	0.00%	0.00%
"DOB"	598	19	0	0	0.29%	0.01%	0.00%	0.00%
"DATE"	371	24	0	0	0.18%	0.01%	0.00%	0.00%
"DEADLINE"	1,004	1,783	8,495	2,400	0.48%	0.78%	0.73%	0.18%
"BY ELECTION"	1,836	1,788	0	0	0.88%	0.79%	0.00%	0.00%

9. Table 1 demonstrates the reduced rate of rejection for reasons with the term "SIG" and the near zero instances of reasons with the term "OATH" in the 2020 General Election. "SIG" is a shorthand designation for mailed ballots that were rejected because of a signature mismatch.

10. As the oath portion of the ballot is the portion signed, there is likely overlap between Oath and Signature issues. Considering only reasons with the term "SIG", the rejection rates were 0.28% in the 2016 general, 0.20% in the 2018 general and 0.28% in the 2020 primary but dropped to only 0.15% in the 2020 General Election.

11. Comparing the 0.15% rate in the 2020 General Election to the 0.28% rate in 2016 and the 2020 primary would suggest somewhere around 1,600 additional ballots should have been rejected for signature issues.

12. Considering the number of ballots classified as rejected in the "OATH" row, the rejection rates were 0.60% in 2016, 1.33% in 2018, and near zero in 2020.

The fact that there were two or three instances of "OATH" in both 2020 elections for spoiled ballots shows that "OATH" issues are still possible, but almost eliminated compared to earlier elections.

13. Comparing the 0.60% rate for 2016 and the 1.33% rejection rate in 2018 to the near zero rate in 2020 would suggest an additional 7,900 or 17,500 ballots should have been rejected, respectively. Together the difference in rejection reasons with the terms "SIG" and "OATH" would account for more ballots than the margin of victory in the presidential race in the 2020 General Election and might have affected other state-wide or local races.

Anomalies Based on Spoiled Ballots

14. I observed an additional issue when I considered the rate of spoiled ballots. Essentially, a spoiled ballot is a ballot with multiple markings or damage that make it difficult to determine the voter's intent. In both 2016 and 2018, fewer than 100 Mailed ballots were "Spoiled" (0.03% and 0.04% of Accepted, Spoiled and Rejected ballots cast, respectively). In 2020, the corresponding number increased to 1,794 in the primary (0.15% of Accepted, Spoiled and Rejected ballots cast) and 4,082 in the 2020 General Election (0.31% of Accepted, Spoiled and Rejected ballots cast – nearly 10 times the 2016 rate). The rate of spoiled ballots in the 2020 General Election was twice the rate in

the primary, over seven times the rate in 2018 and over 9 times the rate in 2016.

Table 2: "Ballot Status Counts by Election

Ballot Status	2016g	2018g	2020p	2020g
Accepted	202,492	219,731	1,150,478	1,308,447
Cancelled	12,053	20,601	116,424	318,086
Rejected	6,059	7,889	11,772	4,471
Spoiled	69	98	1,794	4,082
<blank>	25,948	36,074	333,608	133,886

The Secretary of State Analysis

15. The office of the SoS published the results of its own review of this same data (the "SOS Analysis")[2], concluding that, "The number of absentee ballot rejections for signature issues increased approximately 350% in the November 2020 election in Georgia from the 2018 election." This conclusion is misleading and the SOS Analysis is flawed in two material ways.

16. First, the SOS Analysis does not make any comparison to the most probative election available, the 2016 General Election. Second, the SOS Analysis inconsistently applies rules for computing the denominators for their percentages.

---

2 https://sos.ga.gov/index.php/elections/number_of_absentee_ballots_rejected_for_signature_issues_in_the_2020_election_increased_350_from_2018

17. In calculating the percentage of "Rejected" ballots, the SOS Analysis uses as numerators (number of rejected ballots) the numbers 454, 3,266 and 2,011. Those numbers are the number of ballots rejected in the 2018 General Election, the 2020 Primary Election, and the 2020 General Election, respectively, and are all reasonably close to the numerators used in my analysis.

18. But the SOS Analysis uses differing denominators to calculate the reported percentages. In the 2018 General Election, the SOS Analysis divided the number of rejected ballots by a denominator which was the sum of all Ballot Statuses (Accepted, Cancelled, Rejected, Spoiled, even the blanks) to get their 284,393 number, which would minimize the reported percentage.

19. For the 2020 Primary Election, the SOS Analysis divided total rejections by Accepted ballots only. For the 2020 General Election, the SOS Analysis divided the number of Rejected ballots by the total of all Accepted, Rejected and Spoiled ballots (the method employed in this analysis). That was correct, but the SOS Analysis for the 2018 General Election minimized the percentage and maximized it for the 2020 Primary Election. The data in the article cited above reporting the SOS Analysis was therefore generated improperly and inconsistently and is misleading.

Further Anomalies

20. There is one caveat regarding the dataset for the 2020 General Election. The datafile contains records for 4,505,778 ballots while Georgia's official election totals currently show a total of 4,998,482 votes cast for the top 3 candidates in the presidential contest. It is surprising that while the dataset I used is missing around 500,000 votes, it is only missing 13 rejected ballots.

21. There are other anomalies in the reported data that should be analyzed, and many raise significant questions about the conduct and results of the 2020 General Election. The effect of the difference in ballot totals on this analysis is unknown and cannot be calculated without better understanding of the underlying conduct of the election throughout Georgia. The recent "hand recount" would not resolve these issues. I understand there are further questions about the conduct and outcomes of that process.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Benjamin A. Overholt, Ph.D.

COMMONWEALTH OF VIRGINIA

COUNTY OF PRINCE WILLIAM

CITY OF MANASSAS

Benjamin A. Overholt appeared before me, a Notary Public in and for the above jurisdiction, this 21th day of November 2020, and after being duly sworn, made the foregoing declaration, under oath.

[Affix Seal]

Notary Public

My Commission Expires 3-31-2023

KIRK DAVID HILLIARD
NOTARY PUBLIC
REG. #7839539
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES MARCH 31, 2023

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N.SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF FILING

Come Now the Plaintiffs and submit this Notice of Filing of the following:

1. The Expert Report of Matthew Braynard, from other litigation, as Exhibit "A";

2. The Declaration of Eric Quinnell, Ph.D. and S. Stanley Young, Ph.D. as Exhibit "B";

3. The Affidavit of Benjamin A. Overholt, Ph.D. as Exhibit "C."

Respectfully submitted, this 3rd day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Notice of Filing with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3361

JAMES N. HATTEN
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

December 3, 2020

Clerk of Court
U.S. Court of Appeals, Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

U.S.D.C. No.: 1:20-cv-4809-TCB
U.S.C.A. No.: 00-00000-00
In re: Coreco Jaqan Pearson et al v. Brian Kemp et al

Enclosed are documents regarding an appeal in this matter. Please acknowledge receipt on the enclosed copy of this letter.

X **Certified Notice of Cross Appeal, Docket Sheet, Judgment and/or Order appealed enclosed.**

X **This is not the first notice of appeal. Other notices were filed on: 12/1/20; USCA Case No. 20-14480-RR.**

____ There is no transcript.

X **The court reporter is Lori Burgess.**

____ There is sealed material as described below: .

____ Other: .

X **Fee paid electronically on 12/1/20. (Receipt# AGANDC-10445305)**

____ Appellant has been leave to appeal *in forma pauperis*.

____ This is a bankruptcy appeal. The Bankruptcy Judge is .

____ The Magistrate Judge is .

X **The District Judge is Timothy C. Batten, Sr.**

____ This is a **DEATH PENALTY** appeal.

Sincerely,

James N. Hatten
District Court Executive
and Clerk of Court

By: /s/P. McClam
Deputy Clerk

Enclosures

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3361

JAMES N. HATTEN
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
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December 3, 2020

Clerk of Court
U.S. Court of Appeals, Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

U.S.D.C. No.: 1:20-cv-4809-TCB
U.S.C.A. No.: 00-00000-00
In re: Coreco Jaqan Pearson et al v. Brian Kemp et al

Enclosed are documents regarding an appeal in this matter. Please acknowledge receipt on the enclosed copy of this letter.

X **Certified Notice of Cross Appeal, Docket Sheet, Judgment and/or Order appealed enclosed.**

X **This is not the first notice of appeal. Other notices were filed on: 12/1/20; USCA Case No. 20-14480-RR.**

____ There is no transcript.

X **The court reporter is Lori Burgess.**

____ There is sealed material as described below: .

____ Other: .

X **Fee paid electronically on 12/1/20. (Receipt# AGANDC-10445305)**

____ Appellant has been leave to appeal *in forma pauperis*.

____ This is a bankruptcy appeal. The Bankruptcy Judge is .

____ The Magistrate Judge is .

X **The District Judge is Timothy C. Batten, Sr.**

____ This is a **DEATH PENALTY** appeal.

Sincerely,

James N. Hatten
District Court Executive
and Clerk of Court

By: /s/P. McClam
Deputy Clerk

Enclosures

4months,APPEAL,SUBMDJ

U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:20−cv−04809−TCB

Pearson et al v. Kemp et al
Assigned to: Judge Timothy C. Batten, Sr.
Case in other court: USCA− 11th Circuit, 20−14480−RR
Cause: 42:1983 Civil Rights Act

Date Filed: 11/25/2020
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

Plaintiff

Coreco Jaqan Pearson

represented by **Harry W. MacDougald**
Caldwell Propst & DeLoach, LLP
Suite 1600
Two Ravina Dr.
Atlanta, GA 30346
404−843−1956
Fax: 404−843−2737
Email: hmacdougald@cpdlawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
Howard Kleinhendler Esquire
369 Lexington Avenue
12th Floor
New York, NY 10017
917−793−1188
Fax: 732−901−0832
Email: howard@kleinhendler.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
Defending the Republic
601 Pennsylvania Ave, NW
South Building
Ste 900
Washington, DC 20004
561−888−3166
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
L. Lin Wood, P.C.
P.O. Box 52584
Atlanta, GA 30355−0584
404−891−1402

Fax: 404−506−9111
Email: lwood@linwoodlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Vikki Townsend Consiglio represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Gloria Kay Godwin represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

James Kenneth Carroll represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Carolyn Hall Fisher represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Cathleen Alston Latham represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Brian Jay Van Gundy represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Brian Kemp
in his official capacity as Governor of Georgia represented by **Charlene S McGowan**
Office of the Georgia Attorney General
Assistant Attorney General
40 Capitol Square SW
Atlanta, GA 30334
404−458−3658
Email: cmcgowan@law.ga.gov

ATTORNEY TO BE NOTICED

Russell D. Willard
Attorney General's Office−Atl
Department of Law
40 Capitol Square, SW
Atlanta, GA 30334
404−656−3300
Email: rwillard@law.ga.gov
ATTORNEY TO BE NOTICED

Defendant

Brad Raffensperger
in his official capacity as Secretary of State and Chair of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

David J. Worley
in his official capacity as a member of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Rebecca N. Sullivan
in her official capacity as a member of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Matthew Mashburn
in his official capacity as a member of the Georgia State Election Board

represented by **Charlene S McGowan**
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Anh Le
in her official capacity as a member of

represented by **Charlene S McGowan**
(See above for address)

the Georgia State Election Board

ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

V.

Intervenor Defendant

Democratic Party of Georgia, Inc. represented by **Amanda J. Beane**
Perkins Coie−WA
1201 Third Avenue
48th Floor
Seattle, WA 98101−3099
206−359−3965
Email: abeane@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amanda R. Callais
Perkins Coie−DC
Suite 600
700 Thirteenth St., N.W.
Washington, DC 20005−2011
202−654−6396
Email: acallais@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Halsey G. Knapp , Jr
Krevolin & Horst, LLC
One Atlantic Center, Ste 3250
1201 West Peachtree St., NW
Atlanta, GA 30309
404−888−9700
Fax: 404−888−9577
Email: hknapp@khlawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joyce Gist Lewis
Krevolin & Horst, LLC
1201 W. Peachtree Street, NW
Suite 3250
Atlanta, GA 30309
404−888−9700
Email: jlewis@khlawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin J. Hamilton
Perkins Coie LLP
1201 Third Avenue
Suite 4900
Seattle, WA 98101−3099
206−359−8741
Email: khamilton@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Marc E. Elias
Perkins Coie LLP
700 13th St NW
Ste 800
Washington, DC 20005
202−654−6200
Email: melias@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Matthew Joseph Mertens
Perkins Coie
1120 N.W. Couch, 10th Floor
Portland, OR 97209
503−727−2199
Fax: 503−346−2199
Email: mmertens@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Susan Coppedge
Office of the United States
Attorney−ATL600
Northern District of Georgia
600 United States Courthouse
75 Ted Turner Dr., S.W.
Atlanta, GA 30303
404−581−6250
Email: susan.coppedge@usdoj.gov
(Inactive)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam Martin Sparks
Krevolin & Horst, LLC
One Atlantic Center, Ste 3250
1201 West Peachtree St., NW
Atlanta, GA 30309

404−888−9700
Email: sparks@khlawfirm.com
ATTORNEY TO BE NOTICED

Intervenor Defendant

DSCC represented by **Amanda J. Beane**
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amanda R. Callais
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Halsey G. Knapp , Jr
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joyce Gist Lewis
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin J. Hamilton
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Marc E. Elias
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Matthew Joseph Mertens
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Susan Coppedge
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam Martin Sparks
(See above for address)

ATTORNEY TO BE NOTICED

Intervenor Defendant

DCCC represented by **Amanda J. Beane**
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amanda R. Callais
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Halsey G. Knapp , Jr
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joyce Gist Lewis
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin J. Hamilton
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Marc E. Elias
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Matthew Joseph Mertens
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Susan Coppedge
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam Martin Sparks
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
11/25/2020	1		COMPLAINT for Declaratory, Emergency, and Permanent Injunctive Relief, filed by Gloria Kay Godwin, Vikki Townsend Consiglio, Coreco Jaqan Pearson, James Kenneth Carroll, Carolyn Hall Fisher, Cathleen Alston Latham, Brian Jay Van Gundy. (Filing fee $400, receipt number AGANDC−10418604) (Attachments: # 1 Exhibit Affidavit Exh. 1, Report of William Briggs, # 2 Exhibit Affidavit Redacted Affidavit, # 3 Exhibit Affidavit of Anna Mercedes Diaz Cardozo, # 4 Exhibit Affidavit Declaration of Harri Hursti, # 5 Exhibit Affidavit Embedded Declaration of Harri Hursti, # 6 Exhibit Exhibit SoS Certification of Dominion Voting Systems Democracy Suite 5.5−A, # 7 Exhibit Exhibit Pro V&V Test Report, # 8 Exhibit Exhibit Study "Ballot−Marking Devices (BMDs) Cannot Assure the Will of the, # 9 Exhibit Affidavit Redacted Affidavit of Cyber−Security Expert, # 10 Exhibit Affidavit Affidavit of Russell Ramsland, # 11 Exhibit Affidavit of Mayra Romera, # 12 Exhibit Affidavit of Maria Diedrich, # 13 Exhibit Affidavit of Maria Diedrich, # 14 Exhibit Affidavit of Ursula Wolf, # 15 Exhibit Affidavit of Nicholas J. Zeher, # 16 Exhibit Affidavit of Susan Voyles, # 17 Exhibit Affidavit of Ibrahim Reyes, # 18 Exhibit Affidavit of Consetta Johnson, # 19 Exhibit Affidavit of Carlos Silva, # 20 Exhibit Affidavit of Andrea O'Neal, # 21 Exhibit Affidavit of Deborah Fisher, # 22 Exhibit Affidavit of Kevin Peterford, # 23 Exhibit Report of Texas Secretary of State Rejecting Dominion Voting Systems, # 24 Exhibit Letter of Rep. Maloney to Smarmatic, # 25 Exhibit Affidavit of Juan Carlos Cobucci, # 26 Exhibit Senator Warren et al letter re: Dominion Voting Systems, # 27 Exhibit Affidavit of of Eric Quinnell, # 28 Exhibit Affidavit of Mitchell Harrison, # 29 Exhibit Affidavit of Michelle Branton, # 30 Civil Cover Sheet)(rvb) Please visit our website at http://www.gand.uscourts.gov/commonly−used−forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. Modified on 11/27/2020 to add relief text (rvb). (Entered: 11/27/2020)
11/27/2020	2		EIGHTH AMENDMENT TO GENERAL ORDER 20−01 RE: COURT OPERATIONS UNDER THE EXIGENT CIRCUMSTANCES CREATED BY COVID−19 AND RELATED CORONAVIRUS. Signed by Judge Thomas W. Thrash, Jr. on 09/28/2020. (rvb) (Entered: 11/27/2020)
11/27/2020			Submission of 1 Complaint, to District Judge Timothy C. Batten Sr. (rvb) (Entered: 11/27/2020)
11/27/2020	3		PROPOSED SUMMONS filed by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Summons Proposed Summons for Anh Le, # 2 Summons Proposed Summons for Matthew Mashburn, # 3 Summons Proposed Summons for Brad Raffensberger, # 4 Summons Proposed Summons for Rebecca N. Sullivan, # 5 Summons Proposed Summons for David J. Worley, # 6 Summons Proposed Summons for Brian Kemp)(MacDougald, Harry) (Entered: 11/27/2020)
11/27/2020	4		Certificate of Interested Persons by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) (Entered:

			11/27/2020)
11/27/2020	5		MOTION for Leave to File Matters Under Seal re: 1 Complaint,,,,,,,, with Brief In Support by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (Attachments: # 1 Exhibit Redacted Exh. 2 from Complaint, # 2 Exhibit Redacted Exh.8 from the Complaint, # 3 Exhibit Exh. A, Joint Cybersecurity Advisory Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data, # 4 Text of Proposed Order Proposed Order)(MacDougald, Harry) (Entered: 11/27/2020)
11/27/2020	6		MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED, MOTION for Preliminary Injunction with Brief In Support by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (Attachments: # 1 Affidavit Declaration of Dr. Shiva Ayyadurai, # 2 Exhibit Joint CyberSecurity Advisory Exhibit, # 3 Text of Proposed Order)(MacDougald, Harry) (Entered: 11/27/2020)
11/29/2020	7		NOTICE Of Filing Emergency Injunctive Relief by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy re 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED MOTION for Preliminary Injunction (Attachments: # 1 Affidavit Redacted Declaration)(MacDougald, Harry) (Entered: 11/29/2020)
11/29/2020	8		Electronic Summons Issued as to Rebecca N. Sullivan. (rsh) (Entered: 11/29/2020)
11/29/2020	9		Electronic Summons Issued as to Matthew Mashburn. (rsh) (Entered: 11/29/2020)
11/29/2020	10		Electronic Summons Issued as to David J. Worley. (rsh) (Entered: 11/29/2020)
11/29/2020	11		Electronic Summons Issued as to Brian Kemp. (rsh) (Entered: 11/29/2020)
11/29/2020	12		Electronic Summons Issued as to Brad Raffensperger. (rsh) (Entered: 11/29/2020)
11/29/2020	13		Electronic Summons Issued as to Anh Le. (rsh) (Entered: 11/29/2020)
11/29/2020	14		ORDER. Please see Order for further specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/29/2020. (usw) (Entered: 11/29/2020)
11/29/2020	18		Minute Entry for proceedings held before Judge Timothy C. Batten, Sr.: Telephone Conference via ZOOM held on 11/29/2020 re briefing, scheduling, and Plaintiff's request to forensically inspect county voting machines. (Court Reporter Lori Burgess)(dmb) (Entered: 11/30/2020)
11/30/2020	15		1292(b) ORDER − Please see order for specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (usw) (Entered: 11/30/2020)
11/30/2020	16		NOTICE of Appearance by Charlene S McGowan on behalf of Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (McGowan, Charlene) (Entered: 11/30/2020)
11/30/2020	17		

			ORDER Setting Hearing on Motion 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED and MOTION for Preliminary Injunction : Motion Hearing set for 12/4/2020 at 10:00 AM in ATLA Courtroom 2106 before Judge Timothy C. Batten Sr. The Court sets the following schedule: Defendants' brief in opposition to the claims in Plaintiffs' complaint will be due on 12/2/2020, by 5:00 p.m. EST. Any reply brief will be due 12/3/2020 by 5:00 p.m. EST. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (dmb) (Entered: 11/30/2020)
11/30/2020	19		APPLICATION for Admission of Howard Kleinhendler Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10426686).by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) Documents for this entry are not available for viewing outside the courthouse. (Entered: 11/30/2020)
11/30/2020			APPROVAL by Clerks Office re: 19 APPLICATION for Admission of Howard Kleinhendler Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10426686).. Attorney Howard Kleinhendler added appearing on behalf of James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (nmb) (Entered: 11/30/2020)
11/30/2020	20		MOTION to Intervene with Brief In Support by Democratic Party of Georgia, Inc., DSCC, DCCC. (Attachments: # 1 Exhibit A: Proposed Intervenors' Proposed Motion to Dismiss, # 2 Exhibit B: Proposed Intervenors' Brief in Support of Proposed Motion to Dismiss, # 3 Exhibit C: Proposed Intervenors' Proposed Answer to Complaint)(Sparks, Adam) (Entered: 11/30/2020)
11/30/2020	21		NOTICE of Appearance by Russell D. Willard on behalf of Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (Willard, Russell) (Entered: 11/30/2020)
11/30/2020	22		AMENDED 1292(b) ORDER − Please see order for specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (dmb) (Entered: 11/30/2020)
11/30/2020			MINUTE ORDER granting Howard Kleinhendler's 19 Application for Admission Pro Hac Vice. Entered by CRD at the direction of Judge Timothy C. Batten, Sr. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(usw) (Entered: 11/30/2020)
11/30/2020			Clerks Notation re 4 Certificate of Interested Persons. Reviewed and approved by Judge Timothy C. Batten, Sr. (usw) (Entered: 11/30/2020)
11/30/2020	23		TRANSCRIPT of Proceedings held on 11/29/2020, before Judge Timothy C. Batten, Sr.. Court Reporter/Transcriber Lori Burgess. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory−court−reporters. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/21/2020. Redacted Transcript Deadline set for 12/31/2020. Release of Transcript Restriction set for

			3/1/2021. (Attachments: # 1 Notice of Filing Transcript) (llb) (Entered: 11/30/2020)
11/30/2020	24		APPLICATION for Admission of Julia Z. Haller Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10429766).by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) Documents for this entry are not available for viewing outside the courthouse. (Entered: 11/30/2020)
12/01/2020	25		Certificate of Interested Persons by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) (Entered: 12/01/2020)
12/01/2020			Clerks Notation re 25 Certificate of Interested Persons. Reviewed and approved by Judge Timothy C. Batten, Sr. (usw) (Entered: 12/01/2020)
12/01/2020	26		APPLICATION for Admission of Amanda J. Beane Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432164).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	27		APPLICATION for Admission of Amanda R. Callais Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432211).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	28		APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432219).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	29		APPLICATION for Admission of Marc E. Elias Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432230).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	30		APPLICATION for Admission of Matthew Mertens Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432239).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020			APPROVAL by Clerks Office re: 24 APPLICATION for Admission of Julia Z. Haller Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10429766).. Attorney Julia Z. Haller added appearing on behalf of James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (nmb) (Entered: 12/01/2020)
12/01/2020	31		NOTICE Of Filing by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Affidavit Declaration of Ronald Watkins)(MacDougald, Harry) (Entered: 12/01/2020)
12/01/2020	32		NOTICE OF APPEAL as to 14 Order by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. Filing fee $ 505, receipt

			number AGANDC−10432999. Transcript Order Form due on 12/15/2020 (MacDougald, Harry) Modified on 12/2/2020 to correct filing fee amount (pjm). (Entered: 12/01/2020)
12/01/2020	33		NOTICE Of Filing NOA Transmittal Letter re: 32 Notice of Appeal. (pjm) (Entered: 12/01/2020)
12/01/2020	34		Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Order and Docket Sheet to US Court of Appeals re: 32 Notice of Appeal. (pjm) (Entered: 12/01/2020)
12/01/2020	35		AMENDED ANSWER to *Complaint (Proposed) of Proposed Intervenor−Defendants* by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) (Entered: 12/01/2020)
12/01/2020	36		USCA Acknowledgment of 32 Notice of Appeal, filed by Cathleen Alston Latham, James Kenneth Carroll, Carolyn Hall Fisher, Coreco Jaqan Pearson, Brian Jay Van Gundy, Gloria Kay Godwin and Vikki Townsend Consiglio. Case Appealed to USCA− 11th Circuit. Case Number 20−14480−RR. (pjm) (Entered: 12/01/2020)
12/01/2020	37		ORDER STAYING 17 Order Setting Hearing on Motion. Signed by Judge Timothy C. Batten, Sr. on 12/01/2020. (usw) (Entered: 12/01/2020)
12/02/2020			MINUTE ORDER granting Julia Z. Haller's 24 Application for Admission Pro Hac Vice. Entered by CRD at the direction of Judge Timothy C. Batten, Sr. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(usw) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 26 APPLICATION for Admission of Amanda J. Beane Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432164).. Attorney Amanda J. Beane added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 27 APPLICATION for Admission of Amanda R. Callais Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432211).. Attorney Amanda R. Callais added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 28 APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432219).. Attorney Kevin J. Hamilton added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 29 APPLICATION for Admission of Marc E. Elias Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432230).. Attorney Marc E. Elias added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 30 APPLICATION for Admission of Matthew Mertens Pro Hac Vice (Application fee $ 150, receipt number

			AGANDC−10432239).. Attorney Matthew Joseph Mertens added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020	38		RESPONSE in Opposition re 20 MOTION to Intervene filed by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) (Entered: 12/02/2020)
12/02/2020	39		USCA Order: Appellants' "Emergency Motion for expedited briefing schedule and Review" filed by Appellants Coreco Ja'Qan Pearson, Vikki Townsend Consiglio, Gloria Kay Godwin, James Kenneth Carroll, Carolyn Hall Fisher, Cathleen Alston Latham and Brian Jay Van Gundy is GRANTED re: 32 Notice of Appeal, filed by Cathleen Alston Latham, James Kenneth Carroll, Carolyn Hall Fisher, Coreco Jaqan Pearson, Brian Jay Van Gundy, Gloria Kay Godwin and Vikki Townsend Consiglio. Case Appealed to USCA− 11th Circuit. Case Number 20−14480−RR. (pjm) (Entered: 12/02/2020)
12/02/2020	40		ORDER POSTPONING this Court's December 4th hearing, until further order of the Court. Signed by Judge Timothy C. Batten, Sr. on 12/02/2020. (usw) (Entered: 12/02/2020)
12/02/2020	41		Emergency MOTION to Intervene by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Callais, Amanda) (Entered: 12/02/2020)
12/03/2020	42		ORDER granting 20 Motion to Intervene; 41 Emergency Motion to Intervene by The Democratic Party of Georgia, the DSCC and the DCCC. The Clerk is directed to add these entities as parties and to docket their proposed motion to dismiss [20−1], brief in support of motion to dismiss [20−2], and answer [20−3]. Signed by Judge Timothy C. Batten, Sr. on 12/3/20. (rsh) (Entered: 12/03/2020)
12/03/2020	43		MOTION to Dismiss by DCCC, DSCC, Democratic Party of Georgia, Inc. (Attachments: # 1 Brief in Support)(rsh) (Entered: 12/03/2020)
12/03/2020	44		ANSWER to COMPLAINT by DCCC, DSCC, Democratic Party of Georgia, Inc. Discovery ends on 5/3/2021.(rsh) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 12/03/2020)
12/03/2020	45		NOTICE Of Filing Evidence by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson (Attachments: # 1 Exhibit Expert Report of Matthew Braynard, # 2 Affidavit Declaration of Eric Quinnell, Ph.D. and S. Stanley Young, Ph.D., # 3 Affidavit Affidavit of Benjamin O. Overholt, Ph.D.)(MacDougald, Harry) (Entered: 12/03/2020)
12/03/2020			MINUTE ORDER granting Amanda J. Beane {26], Amanda R. Callais 27 , Kevin J. Hamilton 28 , Mark E. Elias 29 , and Matthew Mertens's 30 Application for Admission Pro Hac Vice. Entered by CRD at the direction of Judge Timothy C. Batten, Sr. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(usw) (Entered: 12/03/2020)
12/03/2020	46		

			NOTICE OF CROSS APPEAL as to 14 Order by Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley. Filing fee $ 505, receipt number AGANDC−10445305. Transcript Order Form due on 12/14/2020 (McGowan, Charlene) (Entered: 12/03/2020)
12/03/2020	47		NOTICE Of Filing NOA Transmittal Letter re: 46 Notice of Cross Appeal. (pjm) (Entered: 12/03/2020)

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

O R D E R

Plaintiffs have filed an emergency motion [6] for temporary injunctive relief. In their motion, Plaintiffs seek an order directing Defendants to allow Plaintiffs' expert(s) to inspect the Dominion voting

machines in Cobb, Gwinnett, and Cherokee Counties. The Court conducted a Zoom hearing at 7:45 p.m. EST to consider Plaintiffs' motion.

During the hearing, Defendants' counsel argued that the secretary of state has no lawful authority over county election officials, citing *Jacobson v. Florida Secretary of State*, 974 F.3d 1236, 1256–58 (11th Cir. 2020). Plaintiffs' counsel responded that Plaintiffs could amend their complaint to add the elections officials in Cobb, Gwinnett, and Cherokee Counties, thus obviating the issue of whether the proper officials had been named as Defendants to this case.

Defendants' counsel also argued that allowing such forensic inspections would pose substantial security and proprietary/trade secret risks to Defendants. Plaintiffs' counsel responded that Defendants' concerns could be alleviated by an order from the Court (1) allowing Defendants' own expert(s) to participate in the requested inspections, which would be video-recorded, and (2) directing the experts to provide whatever information they obtain to the Court—and no one else—for an *in camera* inspection.

After considering the parties' email submissions today and the arguments advanced at the Zoom hearing, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1.

Defendants shall have until Wednesday, December 2, at 5:00 p.m. EST, to file a brief setting forth in detail the factual bases they have, if any, against allowing the three forensic inspections. The brief should be accompanied and supported by affidavit or other evidence, if appropriate.

2.

Defendants are hereby ENJOINED and RESTRAINED from altering, destroying, or erasing, or allowing the alteration, destruction, or erasure of, any software or data on any Dominion voting machine in Cobb, Gwinnett, and Cherokee Counties.

3.

Defendants are ORDERED to promptly produce to Plaintiffs a copy of the contract between the State and Dominion.

4.

This temporary restraining order shall remain in effect for ten days, or until further order of the Court, whichever comes first.

IT IS SO ORDERED this 29th day of November, 2020, at 10:10 p.m. EST.



Timothy C. Batten, Sr.
United States District Judge

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

CORECO JA'QAN PEARSON, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	1:20-cv-4809-TCB
	)	
BRIAN KEMP, *et al.*,	)	
	)	
Defendants.	)	

STATE DEFENDANTS' NOTICE OF PROTECTIVE CROSS-APPEAL

Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and State Election Board Members Rebecca Sullivan, David Worley, Matthew Mashburn, and Anh Le (collectively, "State Defendants") hereby give notice of their protective cross-appeal to the U.S. Court of Appeals for the Eleventh Circuit of the District Court's Temporary Restraining Order entered on November 29, 2020 ("TRO Order"), which granted in part and denied in part Plaintiffs' requested emergency relief. (Doc. 14).

Plaintiffs filed a notice of appeal of the TRO Order on December 1, 2020. (Doc. 32). It is State Defendants' position that the Court of Appeals lacks jurisdiction to review the TRO Order under 28 U.S.C. 1292(a), as the District Court has noted. (Doc. 37) ("[T]his Court is of the opinion that its November 29 order is not within

the scope of *Schiavo* [*ex rel. Schindler v. Schiavo*]'s exception to the unappealable nature of a temporary restraining order."). However, in the event that the Court of Appeals determines otherwise, the Court of Appeals should address the cross-appeal, which will argue that the partial TRO should be reversed and vacated.

Respectfully submitted, this 3d day of December, 2020.

/s/ *Charlene S. McGowan*
CHARLENE S. MCGOWAN 697316
Assistant Attorney General

Office of the Georgia Attorney General
40 Capitol Square SW
Atlanta, GA 30334
cmcgowan@law.ga.gov
Tel: 404-458-3658

Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been formatted using Times New Roman font in 14-point type in compliance with Local Rule 7.1(D).

/s/Charlene S. McGowan
Charlene S. McGowan
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **NOTICE OF PROTECTIVE CROSS-APPEAL** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for the parties of record via electronic notification.

Dated: December 3, 2020.

/s/ Charlene S. McGowan
Charlene S. McGowan
Assistant Attorney General

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

CORECO JA'QAN PEARSON, *et al*., Plaintiffs, v. BRIAN KEMP, *et al.*, Defendants.	CIVIL ACTION NO. 1:20-cv-04809-TCB

NOTICE OF APPEARANCE OF CAREY MILLER

COMES NOW Carey Miller of the law firm Robbins Ross Alloy Belinfante Littlefield LLC, located at 500 14th Street N.W., Atlanta, Georgia 30318, hereby makes an entry of appearance in the above-styled action on behalf of Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and State Election Board Members Rebecca Sullivan, David Worley, Matthew Mashburn, and Anh Le (collectively, "State Defendants"). Please direct all further pleadings, notices, orders, and other matters to him at the address below.

Respectfully submitted, this 3rd day of December, 2020

/s/ Carey Miller
Carey Miller
Georgia Bar No. 976240
cmiller@robbinsfirm.com
Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street, N.W.

Atlanta, Georgia 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

Counsel for Defendants Governor Brian Kemp, Brad Raffensperger, in his official capacity as the Georgia Secretary of State and the Chair of the Georgia State Election Board; Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Ahn Le, in their official capacities as Members of the Georgia State Election Board

L.R. 7.1(D) CERTIFICATION

I certify that this Notice has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this Notice has been prepared using 14-pt Times New Roman Font.

/s/ Carey Miller
Carey Miller

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the within and foregoing **NOTICE OF APPEARANCE OF CAREY MILLER** with the Clerk of Court using the CM/ECF system, which automatically sent counsel of record e-mail notification of such filing.

This 3rd day of December 2020.

/s/ Carey Miller
Carey Miller

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

CORECO JA'QAN PEARSON, *et al*., Plaintiffs, v. BRIAN KEMP, *et al.*, Defendants.	CIVIL ACTION NO. 1:20-cv-04809-TCB

NOTICE OF APPEARANCE OF JOSH BELINFANTE

COMES NOW Josh Belinfante of the law firm Robbins Ross Alloy Belinfante Littlefield LLC, located at 500 14th Street N.W., Atlanta, Georgia 30318, hereby makes an entry of appearance in the above-styled action on behalf of Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and State Election Board Members Rebecca Sullivan, David Worley, Matthew Mashburn, and Anh Le (collectively, "State Defendants"). Please direct all further pleadings, notices, orders, and other matters to him at the address below.

Respectfully submitted, this 3rd day of December, 2020

/s/ Josh Belinfante
Josh Belinfante
Georgia Bar No. 047399
jbelinfante@robbinsfirm.com
Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street, N.W.

Atlanta, Georgia 30318
Telephone:(678) 701-9381
Facsimile: (404) 856-3250

Counsel for Defendants Governor Brian Kemp, Brad Raffensperger, in his official capacity as the Georgia Secretary of State and the Chair of the Georgia State Election Board; Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Ahn Le, in their official capacities as Members of the Georgia State Election Board

L.R. 7.1(D) CERTIFICATION

I certify that this Notice has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this Notice has been prepared using 14-pt Times New Roman Font.

/s/ Josh Belinfante
Josh Belinfante

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the within and foregoing **NOTICE OF APPEARANCE OF JOSH BELINFANTE** with the Clerk of Court using the CM/ECF system, which automatically sent counsel of record e-mail notification of such filing.

This 3rd day of December 2020.

/s/ Josh Belinfante
Josh Belinfante

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

CORECO JA'QAN PEARSON, *et al*., Plaintiffs, v. BRIAN KEMP, *et al.*, Defendants.	CIVIL ACTION NO. 1:20-cv-04809-TCB

NOTICE OF APPEARANCE OF MELANIE JOHNSON

COMES NOW Melanie Johnson of the law firm Robbins Ross Alloy Belinfante Littlefield LLC, located at 500 14th Street N.W., Atlanta, Georgia 30318, hereby makes an entry of appearance in the above-styled action on behalf of Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and State Election Board Members Rebecca Sullivan, David Worley, Matthew Mashburn, and Anh Le (collectively, "State Defendants"). Please direct all further pleadings, notices, orders, and other matters to her at the address below.

Respectfully submitted, this 3rd day of December, 2020

/s/ Melanie Johnson
Melanie Johnson
Georgia Bar No. 466756
mjohnson@robbinsfirm.com
Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street, N.W.

Atlanta, Georgia 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

Counsel for Defendants Governor Brian Kemp, Brad Raffensperger, in his official capacity as the Georgia Secretary of State and the Chair of the Georgia State Election Board; Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Ahn Le, in their official capacities as Members of the Georgia State Election Board

L.R. 7.1(D) CERTIFICATION

I certify that this Notice has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this Notice has been prepared using 14-pt Times New Roman Font.

/s/ Melanie Johnson
Melanie Johnson

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the within and foregoing **NOTICE OF APPEARANCE OF MELANIE JOHNSON** with the Clerk of Court using the CM/ECF system, which automatically sent counsel of record e-mail notification of such filing.

This 3rd day of December 2020.

/s/ Melanie Johnson
Melanie Johnson

Exhibit 1

Declaration of Michael Barnes

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

CORECO JA'QUAN PEARSON, *et al.* *Plaintiffs*, v. BRIAN KEMP, *et al.*, *Defendants.*	CIVIL ACTION FILE NO. 1:20-CV-4809-TCB

DECLARATION OF MICHAEL BARNES

Pursuant to 28 U.S.C. § 1746, I, MICHAEL BARNES, make the following declaration:

1. My name is Michael Barnes. I am over the age of 21 years, and I am under no legal disability which would prevent me from giving this declaration. If called to testify, I would testify under oath to these facts.

2. I am currently the Director of the Center for Election Systems within the Office of the Secretary of State. In my role as CES Director, I am familiar with the operation of the State's Ballot Marking Device ("BMD") Voting System.

3. Before each election, County officials load certain election data

files onto the BMD's. Those data files contain the ballot content associated for the precinct in which the BMD's will be deployed, the ballot activation codes which correspond to the voter's appropriate ballot, and the audio files associated with the ballot content for visually impaired voters.

4. Prior to loading the election data files referenced in Paragraph 3, the election data files contained on the BMD from the previous election must be removed since the BMD's host only one set of election files at a time. Removal of those data files does not alter the source-code or operational software of the BMDs.

5. Separate from the BMD's are Compact Flash Cards utilized by the ballot scanners to tabulate results. These Compact Flash Cards contain election files downloaded from the County's election management server before each election which, like the BMD data files, correspond to the particular election.

6. There are only a limited number of these Compact Flash Cards, so they must be formatted and re-used for each election. When the Compact Flash Cards are re-formatted, all the data contained therein is removed. However, prior to re-formatting, the results and ballot images contained on those Cards are uploaded to the county's election management server and retained.

7. Even prior to use of BMD's in an election, these steps must be taken so that the counties can conduct Logic and Accuracy testing as required by Georgia law. *See* O.C.G.A. § 21-2-379.25(c). Logic and Accuracy Testing, in sum, simulates voting to ensure that the BMD's correctly record the votes cast by electors. This process thus requires county officials to take the actions outlined above, mark and print each ballot style, and then scan those test ballots to ensure the scanners accurately record the votes contained on each test ballot. County officials must similarly hand-mark and scan test ballots in the same manner that an absentee-by-mail ballot would be marked as scanned. Once Logic and Accuracy Testing is complete, and there is confirmation that the tabulators accurately reflect the votes as intended, those test results are cleared and ballots removed to prepare for election voting.

8. Logic and accuracy testing is a labor-intensive and time-consuming task. Counties normally begin this process of Logic and Accuracy testing about two weeks in advance of scheduled use, but sometimes sooner for larger counties with more devices to test. With early in-person voting slated to begin on December 14th, it is my understanding that some counties are scheduled to conduct this testing on BMD's and scanners this week.

[*Signature on Next Page*]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 3rd day of December 2020.

Michael Barnes

Exhibit 2

Declaration of Kristi Royston

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

CORECO JAQ'AN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA K. GODWIN, JAMES K. CARROLL, CAROLYN H. FISHER, CATHLEEN A. LATHAM AND BRIAN J. VAN GUNDY, *Plaintiffs*, v. BRIAN KEMP, BRAD RAFFENSPERGER, DAVID J. WORLEY, REBECCA N. SULLIVAN, MATTHEWS MASHBURN AND ANH LE, *Defendants*.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

DECLARATION OF KRISTI ROYSTON

Pursuant to 28 U.S.C. § 1746, I, Kristi Royston, make the following declaration:

1.

My name is Kristi L. Royston. I am over the age of 21 years, and I am under no legal disability that would prevent me from giving this declaration. I am giving this declaration based on my personal knowledge.

2.

I am the Elections Supervisor for the Board of Voter Registrations and Elections in Gwinnett County. I was appointed as Elections Supervisor in September 2019. Prior to being appointed the Elections Supervisor, I was the Assistant Elections Supervisor for nine years. I have worked in the field of voter registration and elections for more than 20 years, including time as the Elections Supervisor in Barrow County, in the Athens-Clarke County Elections and Registration Office, and in the Secretary of State's Elections Division.

3.

The Voter Registrations and Elections Division has a professional staff, which ranges in size between 20-24 full-time employees and a number of temporary employees, as needed. It oversees the equipment needs for Gwinnett County's 156 voting precincts including testing and delivery for Ballot-Marking Devices ("BMDs") to the 156 precincts for Election Day and for Advanced In Person ("AIP") voting at the main office in Lawrenceville and at eight locations around the County. All of the work associated with preparing for elections is done by full-time or temporary staff.

4.

On November 30, 2020, I became aware of a temporary restraining order issued in the above-styled case that impacts Gwinnett and two other counties.

5.

The temporary restraining order has grave and serious consequences. It is preventing the Gwinnett County Board of Voter Registrations and Elections ("GCBORE") from beginning its required preparation for the AIP voting for the January 5 runoff elections for two United States Senate seats. AIP is required by law to begin on December 14, 2020 and run for three weeks.

6.

Gwinnett County has established and advertised an AIP schedule that provides for nine locations. The GCBORE's main office in Lawrenceville from 8:00AM to 5:00PM and eight other locations from 7:00AM to 7:00PM including Saturdays and Sundays from December 14 until December 31 excluding Christmas Eve and Christmas Day.

7.

Hundreds of pieces of voting equipment are needed for deployment in time to begin AIP in December.

8.

By state law and State Election Board rules, the GCBORE must conduct Logic and Accuracy ("L & A") testing on all voting equipment prior to the deployment of such equipment for use.

9.

Testing for the equipment to be used for AIP was scheduled to start on December 3, 2020. The TRO has caused that process to be placed on hold.

10.

Unless L & A testing begins this week, it will not be possible to timely execute all of the tasks necessary to facilitate the opening of AIP in the County for what is anticipated to be a high turnout runoff election. During the General Election, the majority of voters who voted in person cast their votes during the three-week AIP voting period.

11.

There are 581,467 registered voters in Gwinnett County. 71.62% of those voters voted in the last election. Of the 414,192 votes in the Presidential race, 216,885 of those votes were cast during AIP compared with 72,888 votes cast on Election Day.

12.

Our typical approach to L & A testing is to first test the equipment to be used for AIP, and thereafter begin testing the more than 3,000 pieces of equipment that will be deployed to the County's 156 precincts for Election Day.

13.

The continuance of the TRO places all of that essential work in jeopardy and will inevitably lead to widespread disruption to AIP and Election Day voting.

14.

To operate AIP in the typical fashion, we need 144 Ballot Marking Devices, 72 Poll Pad units and 38 Image Cast Precinct units a.k.a. ballot scanners. The TRO has made it impossible to use all of the equipment we need to operate.

15.

Our office is currently exploring contingency plans for AIP. Specifically, there are a small number of BMDs and scanners on hand that were not used during the November 3 General Election. Using that available equipment, we could conduct L & A testing on that limited amount of equipment. However, that equipment will only allow for one AIP location to be open.

16.

Specifically, AIP voting would be limited to the main office only if this TRO remains in place.

17.

The limited access that a single AIP location at the main office would provide is less than adequate access.

18.

It is far less access than what the citizens of the County have come to deserve. Long lines would be inevitable. Long lines in the midst of the COVID-19 pandemic which gets worse by the day, places public health at greater risk.

19.

The impact of this TRO is that it creates a significant impediment on the exercise of the right to vote.

20.

I am required to be away from the office for personal reasons and I am unavailable to use a wet signature, so I have signed the Declaration with an electronic signature.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of December, 2020.

s/Kristi. L. Royston
Kristi L. Royston

Exhibit 3

Declaration of Janine Eveler

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,	:	CIVIL ACTION FILE NO.: 1:20-cv-4809-TCB
Plaintiff,	:	
vs.	:	
BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,	:	
Defendants.	:	

DECLARATION OF JANINE EVELER

Pursuant to 28 U.S.C. 1746, Janine Eveler declares as follows:

1.

I make this Declaration in support of the Motion to Amend the Temporary Restraining Order submitted by Governor Brian Kemp, Secretary of State Raffensperger, and the members of the State Elections Board in the above-styled matter of Pearson, et al. v. Kemp, et al., (Civil Action No. 1:20-cv-4809-TCB). Specifically, the purpose of this Declaration is to address the burdens created by Plaintiffs' request to allow Plaintiffs' expert(s) to inspect the Dominion voting

machines in Cobb County and by the Court's Order of November 29, 2020 enjoining the State from "allowing the alteration, destruction, or erasure of, any software or data on any Dominion voting machine in Cobb, Gwinnett, and Cherokee Counties." [Doc. ¶ 2].

2.

I am the Director of the Cobb County Elections Department ("Cobb Elections") and have been employed in that role since September 2010. In that role my duties include planning, directing and overseeing departmental operations and staff involved in conducting federal, state and local elections, registering voters, and maintaining voter lists in compliance with applicable laws and regulations. Furthermore, I direct staff in activities such as determining polling locations, conducting absentee voting, determining staff and equipment deployment levels for both early and election day voting, and developing poll worker training curriculum. I am responsible for approving ballot layouts, creating an election preparation schedule and task list so that milestone dates are met, implementing procedure changes to resolve issues, developing the department's budget each fiscal year and monitoring expenditures for adherence to established budgetary parameters.

3.

Cobb Elections is already in the process of executing its plan for the January 5, 2021 Statewide Runoff Election ("Runoff Election"). This plan involves

preparing and deploying the same number of voting units used in the November 2020 General Election, including 1,772 Ballot Marking Devices ("BMD units") for election day, and 69 BMD units for advance voting, as well as 197 precinct scanners for election day and 10 for advance voting.

4.

For Advance In-Person Voting, Cobb Elections is planning to use BMD units that were not deployed in the General Election and scanners that were used only for poll worker training. Preparation of those units, including the clearing of the memory cards for those units, was begun before the Court's Order of November 29, 2020.

5.

While there are enough unused BMD units to deploy for Advanced Voting, in order to have enough BMD units ready for In-person Voting on January 5, 2021, Cobb Elections needs to use nearly all of the units that were deployed in the November 3, 2020 General Election. There are fewer than 300 BMD units, and less than 10 scanners, that were unused in November and available to deploy in January.

6.

In order to have sufficient BMD units ready by January 5, 2021 Cobb Elections is scheduled to start Logic and Accuracy Testing ("L&A Testing")

required by Georgia Rules and Regulations Rule 183-1-12-.08 on Tuesday, December 8, 2020.

7.

The first step in the L&A Testing process is to create memory cards, which starts with clearing the old data from memory cards used in the prior election, in this case the November General Election. Clearing the data is expected to take at least half a day and then an additional 2 days will be needed to create cards with the new data.

8.

Therefore, in order to start the L&A Testing for polling place voting BMDs and scanners on December 8, Cobb Elections needs to be able to start clearing almost 400 memory cards by Friday, December 4.

9.

Cobb Elections will have two workstations set up for creating memory cards with two people working on this process. The actual L&A testing takes 12-14 workers to conduct the test scripts and to move the units into position for testing and then onto pallets for delivery. Cobb Elections' schedule anticipates L&A Testing occurring on every non-holiday weekday and at least one day during the weekend throughout the month of December. Delivery of tested voting units to polling places begins on December 28, 2020.

10.

L&A Testing needs to be conducted as a careful and methodical process. Delaying the testing of equipment for even a short time would likely cause the workers to have to rush the process which would potentially lead to errors or undiscovered technical problems which could cause problems on the day of the Runoff Election.

11.

Additionally, if the testing window tightens, personnel constraints will come into play. Workers are likely to drop out or become less available near the holidays, and personnel resources are already tired and strained from an unusually draining election year in which Cobb Elections has already performed a full hand-recount audit and a second recount of the November General Election ballots. The longer this process is delayed, the fewer workers Cobb Elections will have available.

12.

Additionally, storage and workspace are extremely limited. So even if Cobb Elections could acquire additional units to use for Runoff Election Day deployment, the voting equipment from the General Election cannot be stored for examination while also testing and storing additional equipment for the Runoff. Currently, Cobb Elections is already using three additional county buildings as overflow locations for the equipment warehouse. In addition, there is no available space at which to

conduct examinations, nor personnel available to monitor the activity until after the January Runoff is completed.

13.

In the conduct of the statewide audit that took place between November 13-19, 2020 and the recount that took place between November 25-December 2, 2020, no significant errors were uncovered in Cobb County that would lead to concerns about inaccurate or manipulated vote totals, especially with regard to the BMDs which provide voter verifiable paper ballots. Every voting unit deployed for the November 3, 2020 election was tested prior to the election and all units passed testing. In addition, the hand-count audit performed after the election showed that humans reading the votes by hand came up with virtually the same results as were determined by the machine count. In my opinion there would be more risk of confusion and potential for errors if the preparation for the January 2021 Runoff were delayed and the counties were forced to rush through L&A testing and deployment of election day voting units.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 3rd day of December, 2020.

Janine R. Eveler

Signature of Janine Eveler,
Director of Elections,
Cobb County Board of Elections
and Registration

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

CORECO JA'QAN PEARSON, *et al.*,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia *et al.*,

Defendants.

CIVIL ACTION

FILE NO. 1:20-cv-04809-TCB

STATE DEFENDANTS' EMERGENCY MOTION TO DISSOLVE, ALTER, OR AMEND TEMPORARY RESTRAINING ORDER AND BRIEF IN SUPPORT

Defendants Governor Brian Kemp, Secretary of State and Chair of the State Election Board Brad Raffensperger, and State Election Board Members David Worley, Rebecca Sullivan, Matthew Mashburn, and Anh Le (collectively, the "State Defendants"), hereby move[1] this Court to dissolve the November 29, 2020 Temporary Restraining Order entered by the Court, [Doc.

[1] For the same reasons the Order is due to be dissolved, altered, or amended, good cause exists to waive the time requirements of Local Rule 7.1 and treat this motion as an emergency motion pursuant to Local Rule 7.2. Specifically, without dissolution, alteration, or amendment, the ability of local county officials to efficiently and securely conduct the upcoming January 5, 2021 Run-Off Elections will be significantly inhibited.

14], or, in the alternative, to alter or amend that Order, showing the Court as follows:

As this Court is aware, Georgians are set to choose their next United States Senators and a Public Service Commissioner on January 5, 2020. Early voting in the election commences in just over two weeks, on December 14, 2020. In-person early voting takes place on Georgia's ballot marking devices ("BMDs"), which are subject to Paragraph Two of the Court's November 29, 2020 Order granting emergency temporary injunctive relief (the "Order" or "TRO"). Specifically, Paragraph Two provides that the State Defendants (collectively, the "State") are "ENJOINED and RESTRAINED from altering, destroying, or erasing, or allowing the alteration, destruction, or erasure of, any software or data on any Dominion voting machine in Cobb, Gwinnett, and Cherokee Counties."

With this Motion, the State seeks to amend Paragraph Two so that counties may proceed with Logic and Accuracy testing needed to prepare the machines for early, in-person and election-day voting as required by State law.[2] Without some modification, non-party Cobb County's ability to prepare

[2] Under *Jacobson v. Florida Secretary of State*, 974 F.3d 1236, 1253 (11th Cir. 2020), the State does not maintain the BMD's at issue. Nevertheless, in the light of the Order, and because the State is subject to the Order, it seeks the relief articulated in this Motion.

for the January 5, 2021 Run-off Election will be significantly hindered if not practically precluded altogether, while voters in Gwinnett County could be deprived of the same rights to early voting as voters in other Georgia counties. Cobb and Gwinnett voters may also be subject to long lines due to an insufficient number of voting machines. There is no reason for these outcomes and, consequently, the State respectfully requests that this Court dissolve the TRO or otherwise modify Paragraph Two of the Order to permit Cobb and Gwinnett County machines to be used in the rapidly approaching Run-off Election.

ARGUMENT AND CITATION TO AUTHORITY

There are good grounds to grant the State's Motion. First, the standard to grant the State's requested relief is broad, and this Court retains jurisdiction to do so. Second, evidence attached to this Motion demonstrates the need to use the Cobb and Gwinnett BMDs, which does not interfere with any evidence the Plaintiffs may seek at some later time. Third, as this Court has already recognized, Plaintiffs themselves have caused the delay in this litigation. *See* [37, pp. 2–3]. They cannot now complain that immediate relief remains warranted.

I. Applicable Legal Standard

Federal Rule of Civil Procedure 65(b)(4) authorizes the Court to dissolve the Order quickly—in two days or less. Case law empowers this Court with broad authority to do so. *Collum v. Edwards*, 578 F.2d 110, 113 (5th Cir. 1978) (addressing preliminary injunction). *See also Mincey v. Head*, 206 F.3d 1106 (11th Cir. 2000) (quoting *American Home Assurance Co. v. Glenn Estess & Assocs.*, 763 F.2d 1237, 1238–39 (11th Cir. 1985) (addressing Rule 59(e) and amendment of judgments)). Similarly, Federal Rule of Civil Procedure 62(d) permits this Court to "suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights," while an appeal is pending.

Some Courts treat a motion seeking to dissolve or modify an injunction while an appeal is pending as a motion for reconsideration (which in turn falls within Fed. R. Civ. P. 59(e)), justified whenever any one of the following three instances is demonstrated: "(1) there has been an intervening change in the law, (2) new evidence has been discovered that was not previously available to the parties at the time the original order was entered, **or** (3) reconsideration is necessary to correct a clear error of law or prevent manifest injustice." *Securities & Exchange Comm'n v. Conversion Solutions Holding Corp.*, No. 1:06-cv-2568-CC, 2008 WL 11407217 (N.D. Ga. Jul. 21,

2008) (citing *Bryan v. Murphy*, 246 F. Supp. 2d 1256, 1258–59 (N.D. Ga. 2003) (emphasis added) (applying Fed. R. Civ. P. 59)). Other courts have taken a broader approach, applying "general equitable principles." *Huk-A-Poo Sportswear, Inc. v. Little Lisa, Ltd.*, 74 F.R.D. 621, 623 (S.D.N.Y. 1977).

Plaintiffs' Notice of Appeal suggests this Court is now divested of jurisdiction. [Doc. 32]. Plaintiffs are wrong. This Court "retain[s] jurisdiction over motions for alteration or amendment" of its Order, even after a notice of appeal is given. Wright & Miller, 11 Fed. Prac. & Proc. Civ. § 2810.1 (3d ed. Oct. 2020 Update). At the very least, courts in the Eleventh Circuit consider motions for reconsideration to be encompassed within the provisions of Federal Rule of Civil Procedure 59(e). *See Green v. Drug Enforcement Admin.*, 606 F.3d 1296 (2010); *see also Dixit v. Singh*, No. 1:18-cv-403-TWT (N.D. Ga. Apr. 23, 2018).

II. The Order should be dissolved or amended since information is already retained and it imposes undue hardship on non-parties.

A. Election data is retained under existing processes.

Plaintiffs contend that an immediate temporary restraining order is necessary because they fear the voting machines will be "wiped" before the upcoming elections and forensic data will be lost. [Doc. 6]. Plaintiffs again are wrong. A basic understanding of the State's elections system instead shows

that data from the election is stored in three different ways following completion of the election, even in the absence of the Court's Temporary Restraining Order.

Before each election, Ballot Marking Devices ("BMDs") utilize USB drives to load certain election data files onto the BMDs. *See* Declaration of Michael Barnes, ¶ 3, attached hereto as **Exhibit 1**. Those election data files contain blank ballot images for each precinct associated to the BMD for the previous election, the ballot activation codes needed to access each associated ballot, and the audio files associated to the content within the ballot images for visually impaired voters. *Id.* Before a new election occurs, the election data files from the most-recent election must be removed from the BMDs, as the BMDs host only one set of those files at a time. *Id.* at ¶ 4. The removal of election data files does not alter the operational software or source code of the BMDs. *Id.*

Separate from the BMDs, scanners are employed to count the paper ballots produced by the BMD and attached printer; those scanners utilize Compact Flash Cards. These Compact Flash Cards contain election files downloaded from the county's election management server before each election—like the files used in the BMD, the files employed with the scanners correspond to the particular election. *Id.* at ¶ 5. There are only a limited

number of these cards, so they must be formatted and re-used for each election. *Id.* at ¶ 6. The formatting removes all data previously held by the Compact Flash Cards. However, before the formatting occurs, the results contained in the memory cards are uploaded to the specific county's election management server, and retained. *Id.* Thus, the data is securely stored after each election and before the removal of the data from the Compact Flash Cards.

Finally, the paper ballots on which votes were cast are also retained. In Georgia's BMD System, a voter makes their selection on the BMD which is connected to a printer that produces a paper ballot. That ballot is then taken to a precinct scanner which records the votes contained on the paper ballot and deposits the ballot into a secure box. With respect to absentee-by-mail and provisional ballots, those ballots are similarly counted by a scanner and, like the in-person ballots, are retained.

All of this data is required by Georgia law to be retained, even in the absence of the TRO. Indeed, Code Section 21-2-500 requires the following information to be stored with the Clerk of Superior Court or other County Officer designated by the County governing authority:

> the used and void ballots and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of each numbered list of voters, tally paper, voting machine paper proof sheet, and

> return sheet involved in the primary or election. In addition, the superintendent shall deliver copies of the voting machine ballot labels, computer chips containing ballot tabulation programs, copies of computer records of ballot design, and similar items or an electronic record of the program by which votes are to be recorded or tabulated, which is captured prior to the election, and which is stored on some alternative medium such as a CD-ROM or floppy disk simultaneously with the programming of the PROM or other memory storage device. The clerk, county records manager, or the office or officer designated by the clerk shall hold such ballots and other documents under seal, unless otherwise directed by the superior court, for at least 24 months, after which time they shall be presented to the grand jury for inspection at its next meeting.

O.C.G.A. § 21-2-500(a). Thus, to the extent Plaintiffs can later demonstrate a need for any of this information, it remains available for inspection even in the absence of the Temporary Restraining Order.

B. Enforcement of the Order will impose undue hardship on non-party counties and their voters.

Continued enforcement of Paragraph Two's embargo of the BMDs would cause substantial harm to Georgia voters in Cobb and Gwinnett counties, and in turn, the State election system and Georgia voters generally. Specifically, continued segregation of the counties' voting machines pursuant to the TRO would significantly and materially interfere with preparation for the upcoming runoff election.

Early voting is set to begin on December 14 for the January 5, 2021 State and Federal General Election Runoff for two seats in the United States Senate and one seat on Georgia's Public Service Commission. *See* O.C.G.A. § 21-2-385(d)(1) (establishing a period for advance voting). These elections will not happen with the flick of a switch, instead requiring significant advance preparations that must begin prior to dissolution date of the TRO. These activities include conducting essential Logic and Accuracy testing on the machines, a requirement of State law, which must be conducted on the BMDs prior to their use for both early and election day voting. *See* O.C.G.A. § 21-2-379.25(c), Ga. Comp. R & Regs. r. 183-1-12-.08. The Logic and Accuracy testing, in turn, requires removal of the files from the previous election and utilization of files for the current election, as described in Section II.A., *supra*. Ex. 1 at ¶ 7.

Under state law, the BMDs must be utilized for both early in-person and election day voting. O.C.G.A. § 21-2-300. In Gwinnett County, the BMDs are utilized for the County's 156 voting precincts and nine advance-voting locations. *See* Declaration of Kristi Royston, ¶ 3, attached hereto as **Exhibit 2**. Prior to entry of the TRO, Gwinnett County intended to begin testing of BMD's which will be utilized for early in-person voting this week. *Id.* at ¶ 9. Gwinnett County has not yet begun that testing due to the TRO. *Id.* Unless

Gwinnett County is able to begin testing this week, "it will not be possible to timely execute all of the tasks necessary to facilitate the opening of [early in-person voting] in the County for what is anticipated to be a high turnout runoff election." *Id.* at ¶ 10. While Cobb County, on the other hand, possesses sufficient BMDs not subject to the TRO for early in-person voting, it intends to use BMDs that are subject to the TRO on election day. *See* Declaration of Janine Eveler, ¶¶ 4–5, attached hereto as **Exhibit 3**. However, Cobb County must begin Logic and Accuracy by December 8, 2020 to ensure the machines are ready for deployment on election day. *Id.* at ¶ 6. Put simply, Cobb and Gwinnett counties will be unable to be prepared for voting under the extant TRO.

Thus, for at least Cobb and Gwinnett counties, the continued threat of enforcement of the TRO (to which they are not a party) would rule out, or at least make extremely difficult, any chance of readiness for early voting on December 14 and election-day voting. This would unfairly impede Cobb and Gwinnett election officials, and may well impose significant burden on those counties' voters from being able to participate in early voting, and could ultimately lead to longer lines during the later days of early voting or election day itself.

Furthermore, as a result of the disruption to elections activities in Cobb and Gwinnett counties, the State would also suffer significant harm. The State has a strong interest in running an efficient election. *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1282 (11th Cir. 2020). Interruption of two counties' preparation processes and the resulting impact on early voting, and on Election Day itself, frustrates this interest. The associated voter confusion at the unanticipated elimination of the early-voting option, as well as other realistic impacts on election day voting, is further disruptive. The harm to the counties, Georgia voters, and the State election process itself cannot be overstated. At this point, and particularly in the light of the delay caused by the Plaintiffs' litigation strategy, Paragraph Two of the Order requiring segregation of the BMDs is simply not compatible with the Sate's interest in running a smooth election. Due to the significant harms imposed on the counties and on Georgia's election system, the Order should be dissolved, or at least amended.

The State has satisfied either Rule 59's three factor test or Rule 65(b)(4)'s more flexible "general equitable principles" standard. *See Little Lisa, Ltd.*, 74 F.R.D. at 623. Here, both the second and third circumstances—new evidence or preventing manifest injustice—are applicable. *See Conversion Solutions Holding Corp.*, 2008 WL 11407217 at * 1. As explained,

evidence which was not previously available at the time this Court's Order was entered demonstrates that counties may be unable to complete pre-election Logic and Accuracy Testing required by State law while complying with the Order. As to the third circumstance, this new evidence further shows that this Court's Order may well impose manifest injustice upon Georgia voters in the affected counties, hindering their ability to vote with ease while the State's other 156 counties are not subject to the Order (to the extent the three counties named therein are subject to it at all).

III. The Order should be dissolved since Plaintiffs have failed to add non-party county officials, rendering the relief ordered improper.

During the TRO hearing on Sunday, November 29, the Plaintiffs represented to the Court that they seek to bring in the relevant counties, as they are the ones in the control of the BMDs. Indeed, multiple counsel for the Plaintiffs indicated that counties could and later would be brought in "tonight," meaning over three days ago. [Doc. 23] (TRO Hr'g) Tr. 27:13-14; 36:23-25. Plaintiffs' counsel went even further and promised that if "the Court gives us until Tuesday to examine, we will add the counties that the Court lets us go examine, we will do it add them tomorrow; add them tonight." (*Id.* at 24:11-14).

Since Sunday, Plaintiffs have hosted rallies, filed an appeal in the Eleventh Circuit, and engaged in an aggressive social media campaign falsely accusing elected State Officials of fraud and crime. They have not, however, lived up to their representation to this Court to add the necessary parties. As the Court may recall, it was initially going to deny the TRO, and it may have granted limited relief under the belief that the Plaintiffs meant what they said and said what they meant when they represented they would bring in the proper parties to this litigation.

As the case now sits before this Court, binding precedent forecloses any of the relief Plaintiffs sought with the TRO (beyond preserving information held by the State). *See Jacobson v. Florida Sec'y of State*, 974 F.3d 1236, 1253 (11th Cir. 2020). Plaintiffs attempt to evade *Jacobson's* binding precedent by claiming it is only about Florida law. TRO Hr'g Tr. 22:13. Plaintiffs' argument reads *Jacobson* far too narrowly, as Judge William Pryor considered language from a Florida statute that is substantively the same as Georgia's (both identify the Secretary as the "Chief Election Officer"). *Id.* This language, the same Plaintiffs cite, proved insufficient to establish traceability of every election issue to the Secretary. *Id.* Applying Georgia law, United States District Court Judge Michael L. Brown came to the same conclusion earlier this year in *Anderson v. Raffensperger*, 1:20-CV-03263, 2020 WL

6048048, at *23 (N.D. Ga. Oct. 13, 2020). This lack of State authority and control provides another reason to amend the Order and allow the BMDs to be prepared for use in Cobb and Gwinnett Counties.

In sum, the State has demonstrated that "general equitable principles" warrant modifying the Order. *Little Lisa, Ltd.*, 74 F.R.D. at 623. On the one hand, a continued embargo of the BMDs will prevent voters in Gwinnett from having access to the machines during early voting and will inhibit Cobb from preparing its machines for election day. This will likely cause longer lines, voter confusion, and longer tabulation times. On the other hand, allowing the BMDs to be used does not harm Plaintiffs in the slightest. The State is maintaining all paper ballots, and electronic information is saved on the State's Election Database. Time is of the essence, and the Court's relief is needed now.

CONCLUSION

For the foregoing reasons, State Defendants respectfully request this Court dissolve or modify the TRO to prevent unintended impacts on Georgia's Run-off Election.

Respectfully submitted this 3rd day of December 2020.

Christopher M. Carr
Attorney General
GA Bar No. 112505
Russell D. Willard
Senior Assistant Attorney General
GA Bar No. 760280
rwillard@law.ga.gov
Charlene S. McGowan
GA Bar No. 697316
cmcgowan@law.ga.gov
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

/s/ Carey Miller
Carey Miller
Georgia Bar No. 976240
cmiller@robbinsfirm.com
Josh Belinfante
Georgia Bar No. 047399
jbelinfante@robbinsfirm.com
Melanie Johnson
Georgia Bar No. 466756
mjohnson@robbinsfirm.com
Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street NW
Atlanta, GA 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I hereby certify that the foregoing STATE DEFENDANTS' EMERGENCY MOTION TO DISSOLVE, ALTER, OR AMEND TEMPORARY RESTRAINING ORDER AND BRIEF IN SUPPORT was prepared double-spaced in 13-point Century Schoolbook font, approved by the Court in Local Rule 5.1(C).

/s/Carey Miller
Carey Miller

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 03, 2020

Mrs. Charlene S. McGowan
Attorney General's Office
40 CAPITOL SQUARE SW
ATLANTA, GA 30334

(RE: CROSS-APPEAL)

Appeal Number: 20-14480-RR
Case Style: Coreco Pearson, et al v. Gov. of the State of Georgia, et al
District Court Docket No: 1:20-cv-04809-TCB

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov.

The referenced case has been docketed in this court. Please use the appellate docket number noted above when making inquiries.

Eleventh Circuit Rule 31-1 requires that APPELLANT'S BRIEF BE SERVED AND FILED ON OR BEFORE APPELLANT'S APPENDIX MUST BE SERVED AND FILED NO LATER THAN 7 DAYS AFTER FILING OF THE APPELLANT'S BRIEF. INCARCERATED PRO SE PARTIES ARE NOT REQUIRED TO FILE AN APPENDIX.

A notice regarding briefing schedule and other required filings with this court as to CROSS APPEAL will be forwarded to you separately at court direction. You may review specific rules and information regarding the filing of briefs and appendices - See Fed.R.App.P. 28, 30, 31, 32, the corresponding circuit rules, General Order 39 and the Guide to Electronic Filing for further information. (In cross-appeals pursuant to Fed.R.App.P. 28.1(b), the party who first files a notice of appeal is the appellant unless the parties otherwise agree.)

Every motion, petition, brief, answer, response and reply filed must contain a Certificate of Interested Persons and Corporate Disclosure Statement (CIP). Appellants/Petitioners must file a CIP within 14 days after the date the case or appeal is docketed in this court; Appellees/Respondents/Intervenors/Other Parties must file a CIP within 28 days after the case

or appeal is docketed in this court, regardless of whether appellants/petitioners have filed a CIP. See FRAP 26.1 and 11th Cir. R. 26.1-1.

On the same day a party or amicus curiae first files its paper or e-filed CIP, that filer must also complete the court's web-based CIP at the Web-Based CIP link on the court's website. Pro se filers (except attorneys appearing in particular cases as pro se parties) are **not required or authorized** to complete the web-based CIP.

Attorneys who wish to participate in this appeal must be admitted to the bar of this Court, admitted for this particular proceeding pursuant to 11th Cir. R. 46-3, or admitted pro hac vice pursuant to 11th Cir. R. 46-4. In addition, all attorneys (except court-appointed counsel) who wish to participate in this appeal must file an Appearance of Counsel form within 14 days. The Application for Admission to the Bar and Appearance of Counsel Form are available at www.ca11.uscourts.gov. The clerk generally may not process filings from an attorney until that attorney files an appearance form. See 11th Cir. R. 46-6(b).

11th Cir. R. 33-1(a) requires appellant to file a Civil Appeal Statement in most civil appeals. You must file a completed Civil Appeal Statement, with service on all other parties, within 14 days from the date of this letter. Civil Appeal Statement forms are available on the Internet at www.ca11.uscourts.gov, and as provided by 11th Cir. R. 33-1(a).

MEDIATION. If a Civil Appeal Statement is required to be filed, your appeal and all related matters will be considered for mediation by the Kinnard Mediation Center. The mediation services are free and the mediation process is confidential. You may confidentially request mediation by calling the Kinnard Mediation Center at 404-335-6260 (Atlanta) or 305-714-1900 (Miami). See 11th Cir. R. 33-1.

Attorneys must file briefs electronically using the ECF system. Use of ECF does not modify the requirements of the circuit rules that counsel must also provide seven (7) paper copies of a brief to the court, nor does it modify the requirements of the circuit rules for the filing of appendices in a particular case.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Regina A. Veals-Gillis, RR(dhh)
Phone #: (404) 335-6163

DKT-7CIV Civil Early Briefing

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FOR THE ELEVENTH CIRCUIT

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Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Regina A. Veals-Gillis, RR(dhh)
Phone #: (404) 335-6163

DKT-7CIV Civil Early Briefing

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-14480-RR

CORECO JA'QAN PEARSON,
VIKKI TOWNSEND CONSIGLIO,
GLORIA KAY GODWIN,
JAMES KENNETH CARROLL,
CAROLYN HALL FISHER,
CATHLEEN ALSTON LATHAM,
BRIAN JAY VAN GUNDY,

Plaintiffs – Appellants – Cross-Appellees,

versus

GOVERNOR OF THE STATE OF GEORGIA,
in his official capacity,
SECRETARY OF STATE FOR THE STATE OF GEORGIA,
in his official capacity as Secretary of State and
Chair of the Georgia State Election Board,
DAVID J. WORLEY,
in his official capacity as a member of the Georgia
State Election Board,
REBECCA N. SULLIVAN,
in her official capacity as a member of the Georgia
State Election Board,
MATTHEW MASHBURN,
in his official capacity as a member of the Georgia
State Election Board,
ANH LE,
in her official capacity as a member of the Georgia
State Election Board,

Defendants – Appellees – Cross-Appellants.

On Appeal from the United States
District Court for the Northern District of Georgia

ORDER:

"Appellees' Emergency Motion to Expedite Cross-Appeal and Consolidate Briefing" is GRANTED.

DAVID J. SMITH
Clerk of the United States Court of
Appeals for the Eleventh Circuit

ENTERED FOR THE COURT – BY DIRECTION

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-14480-RR

CORECO JA'QAN PEARSON,
VIKKI TOWNSEND CONSIGLIO,
GLORIA KAY GODWIN,
JAMES KENNETH CARROLL,
CAROLYN HALL FISHER,
CATHLEEN ALSTON LATHAM,
BRIAN JAY VAN GUNDY,

Plaintiffs – Appellants – Cross-Appellees,

versus

GOVERNOR OF THE STATE OF GEORGIA,
in his official capacity,
SECRETARY OF STATE FOR THE STATE OF GEORGIA,
in his official capacity as Secretary of State and
Chair of the Georgia State Election Board,
DAVID J. WORLEY,
in his official capacity as a member of the Georgia
State Election Board,
REBECCA N. SULLIVAN,
in her official capacity as a member of the Georgia
State Election Board,
MATTHEW MASHBURN,
in his official capacity as a member of the Georgia
State Election Board,
ANH LE,
in her official capacity as a member of the Georgia
State Election Board,

Defendants – Appellees – Cross-Appellants.

On Appeal from the United States
District Court for the Northern District of Georgia

ORDER:

"Appellees' Emergency Motion to Expedite Cross-Appeal and Consolidate Briefing" is GRANTED.

DAVID J. SMITH
Clerk of the United States Court of
Appeals for the Eleventh Circuit

ENTERED FOR THE COURT – BY DIRECTION

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

CORECO JA'QAN PEARSON, *et al.*, *Plaintiffs*, v. BRIAN KEMP, in his official capacity as Governor of Georgia, *Defendants*.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CONSOLIDATED MOTION TO INTERVENE BY GWINNETT BORE WITH BRIEF IN SUPPORT

Stephen Day, John Mangano, Alice O'Lenick, Ben Satterfield, and Wandy Taylor, members of the Gwinnett County Board of Registrations and Elections ("Gwinnett BORE" or "Proposed Intervenors") file this motion to intervene as objectors. Intervention is appropriate under Federal Rules of Civil Procedure 24(a) and (b) for the following reasons.

FACTUAL BACKGROUND

On November 20, 2020, Governor Brian Kemp and Secretary of State Brad Raffensperger certified the election results. This certification followed an audit by hand recount in Georgia which affirmed the results.

Plaintiffs asked this Court to enter an order decertifying the results and "requiring Governor Kemp to transmit certified election results that state that President Donald J. Trump is the winner of the election." Compl. ¶ 211(3). Plaintiffs' Complaint was filed more than three weeks after the general election, and five days after Georgia certified the results.

The Temporary Restraining Order ("TRO") issued by this Court on November 29, 2020 [Doc. 14] is materially delaying the ability for the Gwinnett BORE to ready its equipment and polling locations for the upcoming January 5, 2020 runoff election and the early voting process for that election, which begins on December 14, 2020. A hearing on the TRO was scheduled to take place today, December 4, 2020, but this Court cancelled the hearing on December 2, 2020 [Doc. 40] and has not provided any further indication as to when the TRO will be resolved.

Each day the TRO remains in effect, it is increasingly difficult for the Gwinnett BORE to ensure it is adequately prepared for the upcoming runoff election, as outlined in the Declaration of Kristi Royston, filed yesterday. [Doc. 52-2]. Specifically, if the Gwinnett BORE is unable to begin Logic and Accuracy testing on its voting machines and other equipment immediately, it will be unable to open all of its early-voting sites on December 14, as it had planned to do. *Id*. at ¶ 14.

The Gwinnett BORE files this motion to object to the TRO because its interests will be materially and irreparably harmed if the TRO is not lifted. The Gwinnett BORE has a significant stake in the outcome of this action and, as one of Georgia's largest counties, can offer the Court useful insight on the practical needs associated with applying the TRO to those who have a duty to carry out the administration of elections.

ARGUMENT AND CITATION TO AUTHORITY

I. The Gwinnett BORE is entitled to intervention as of right.

Intervention as of right must be granted when (1) the motion to intervene is timely; (2) the proposed intervenors possess an interest in the subject matter of the action; (3) denial of the motion to intervene would affect or impair the proposed intervenors' ability to protect their interests; and (4) the proposed intervenors' interests are not adequately represented by the existing parties to the lawsuit. Fed. R. Civ. P. 24(a)(2); *Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d 1242, 1250 (11th Cir. 2002). The Gwinnett BORE satisfies each of these factors.

A. The Gwinnett BORE timely filed this Motion

The Gwinnett BORE filed this Motion just two days after this Court signaled it would not resolve the status of the TRO as it had initially scheduled. Because the Court has not provided a timeline of any kind now

that the hearing on the TRO has been delayed – or possibly outright cancelled – the Gwinnett BORE is in the unique position of being prevented by Court Order to prepare for an election that is mere days away.

B. The Gwinnett BORE has an interest in the outcome of this action and denying its motion impair its ability to protect such interests.

The Gwinnett BORE cannot overstate the effect the TRO has on its ability to adequately prepare for the upcoming runoff election. It is likely that, in keeping with the general election one month ago, the runoff election will have uncommonly high voter turnout, especially during early voting. [Doc. 52-2 at ¶ 11]. As a result, successful administration of the election in Gwinnett County will require all of the voting machines and polling places to function at optimum capacity. [Doc. 52-2 at ¶¶ 9-12]. This capacity is hindered by the delay brought on by this Court's TRO. [Doc. 52-2 at ¶ 13]. Indeed, if the Gwinnett BORE cannot begin programming machines today or tomorrow, the county will only be able to have one early-voting site open on December 14 instead of all nine locations that would be available absent the TRO. [Doc. 52-2 at ¶¶ 16-18]. The massive diminution of resources and access to voting sites in one of Georgia's counties could be a disaster for Gwinnett County voters and potentially result in wholesale disenfranchisement of hundreds of thousands of Georgians. Put simply, the Gwinnett BORE has an

acute interest in the outcome of this action, and denial of the motion to intervene would absolutely affect or impair the proposed intervenors' ability to protect their interests.

C. The Gwinnett BORE is not adequately represented by the parties to this action

While the Governor, Secretary of State, and the various election officials named in this action have obvious interests in defending the state's laws and their exercises of authority pursuant to those laws, the Gwinnett BORE's focus is entirely separate from those interests, but just as important. Moreover, a proposed intervenor's burden "should be treated as minimal," and it is sufficient "if the applicant shows that representation of his interest 'may be' inadequate." *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n. 10 (1972) (citing 3 B J. Moore, Federal Practice 24.09—1 (4) (1969)); *Chiles v. Thornburgh*, 865 F.2d 1197, 1214 (11th Cir. 1989).

Here, while Defendants have an interest in defending the actions of state officials, they must parry the litany of accusations cast against them by Plaintiffs. The Gwinnett BORE, on the other hand, is singularly focused on expeditious resolution of the TRO that resulted from Plaintiffs' accusations. Moreover, the Gwinnett BORE faces practical hurdles in administering the upcoming election unique to their circumstances. While there is certainly an

overlap of interests at times, no Defendant *shares* the interests of the Gwinnett BORE. And because of this, they cannot rely on Defendants or anyone else to provide adequate representation. They have thus satisfied the four requirements for intervention as of right under Rule 24(a)(2).

II. The Gwinnett BORE should receive permissive intervention from this Court.

If the Court does not grant intervention as a matter of right, the Gwinnett BORE respectfully requests that the Court exercise its discretion to allow them to intervene under Rule 24(b). The Court has broad discretion to grant a motion for permissive intervention when it determines that: (1) the proposed intervenors' claim or defense and the main action have a question of law or fact in common, and (2) the intervention will not unduly delay or prejudice the adjudication of the original parties' rights. *See* Fed. R. Civ. P. 24(b)(1)(B) and (b)(3); *Chiles*, 865 F.2d at 1213; *Ga. Aquarium, Inc. v. Pritzker*, 309 F.R.D. 680, 690 (N.D. Ga. 2014). Even where courts find intervention as of right may be denied, permissive intervention may nonetheless be proper or warranted. Moreover, "the claim or defense clause of Rule 24(b)(2) is generally given a liberal construction." *Id.* The Gwinnett BORE meets these requirements.

Initially, the Gwinnett BORE's claims and defenses will inevitably raise common questions of law and fact because they seek to ensure voters in *all elections* have their vote counted. See *Franconia Minerals (US) LLC v. United States*, 319 F.R.D. 261, 268 (D. Minn. 2017) ("Thus, applicant['s] claims and the main action obviously share many common questions of law and perhaps of fact."). At bottom, Defendants are hoping to ensure that voters in the *last* election have their votes counted. The Gwinnett BORE, on the other hand, is focused on ensuring voters in the *next* election aren't unnecessarily disenfranchised. And the TRO, as it stands, imperils the legitimacy of both elections.

Finally, for the reasons set forth above, the motion to intervene is timely, and given the early stage of this litigation, intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.

III. The Gwinnett BORE joins the State's motion.

For purposes of its claims or defenses for which intervention is sought, Fed. R. Civ. P. 24(c), the Gwinnett BORE joins the State Defendants' Emergency Motion to Dissolve, Alter, or Amend Temporary Restraining Order [Doc. 52] and urges the Court to dissolve the TRO as quickly as

practicable to allow programming of voting machines for early voting to begin.

Respectfully submitted this 4th day of December, 2020.

/s/ Bryan P. Tyson
Bryan P. Tyson
Georgia Bar No. 515411
btyson@taylorenglish.com
Frank B. Strickland
Georgia Bar No. 687600
fstrickland@taylorenglish.com
Bryan F. Jacoutot
Georgia Bar No. 668272
bjacoutot@taylorenglish.com
TAYLOR ENGLISH DUMA LLP
1600 Parkwood Circle, Suite 200
Atlanta, GA 30339
770.434.6868 (telephone)

Counsel for the Gwinnett BORE

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing CONSOLIDATED MOTION TO INTERVENE BY GWINNETT BORE WITH BRIEF IN SUPPORT has been prepared in Century Schoolbook 13-point, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO; GLORIA KAY GODWIN; JAMES KENNETH CARROLL; CAROLYN HALL FISHER; CATHLEEN ALSTON LATHAM; and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD RAFFENSPERGER; DAVID J. WORLEY; REBECCA N. SULLIVAN; MATTHEW MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

O R D E R

The Eleventh Circuit Court of Appeals having dismissed the appeals in this case, the Court sets the following revised scheduling order:

Plaintiffs' complaint shall come before the Court for hearing on Monday, December 7, at 10:00 a.m., EST, in the ceremonial courtroom on the 23rd floor.

Defendants' brief in opposition to the claims in Plaintiffs' complaint will be due on Saturday, December 5, by 9:00 p.m. EST. Any reply brief will be due on Sunday, December 6, by 6:00 p.m. EST. Plaintiffs are also directed to file their response brief to the pending motion [43] to dismiss by Sunday, December 6, at 6:00 p.m. EST.

In light of the upcoming hearing, Defendants' emergency motion [52] to dissolve or alter the November 29 temporary restraining order is denied. This renders moot the Gwinnett County Board of Registrations and Electors members' pending emergency motion [55] to intervene. Therefore, that motion is denied.

IT IS SO ORDERED this 4th day of December, 2020.

Timothy C. Batten, Sr.
United States District Judge

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, JASON M SHEPHERD, on behalf of the COBB COUNTY REPUBLICAN PARTY and BRIAN JAY VAN GUNDY, **Plaintiffs,** **v.** **BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,** **Defendants.**	**CASE NO.** **1:20-cv-4809**

This matter comes before the Court on Plaintiffs' Motion to File Affidavits Under Seal And For In Camera Review pursuant to LR 7.5 and 65.1, and Section II(J) of Appendix H to the Local Rules, and having shown that the requested relief that certain affidavits be sealed with specific identification of the portions for which sealing is necessary, the likelihood of

injury to the interests of the affiants if public disclosure were made, and the lack of less onerous alternatives to the sealing of the affidavits to protect the personal safety and harm to the interests of the affiants, and for good cause appearing;

IT IS HEREBY ORDERED that Plaintiffs' Motion is GRANTED, and the affidavits to be filed under seal until further order of the Court, and Plaintiffs are permitted to file these affidavits with the identifying information redacted in the public docket.

Dated: December 4, 2020.

The Honorable Timothy C. Batten
U.S. District Court Judge

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

INTERVENOR-DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' EMERGENCY MOTION FOR INJUNCTIVE RELIEF

I. INTRODUCTION

In their emergency motion for injunctive relief ("Motion"), Plaintiffs ask this Court to enjoin certification of an election decided by the ballots of millions of lawful voters, discard their clear decision selecting President-Elect Joseph R. Biden, Jr. as the winner of the presidential race in Georgia, and declare that the state's electoral college votes will be awarded to President Donald J. Trump instead. Granting this relief would transform the political process as Georgians and Americans have long understood it, into something antithetical to our nation's most cherished democratic principles. It would also require this Court to step outside the constitutionally prescribed role of federal courts. Plaintiffs' Motion is as factually baseless as it is unprecedented. Plaintiffs purport to find fault in an eight-month-old settlement agreement, which they mischaracterize and misunderstand, and they rely on unfounded conspiracy theories of election fraud, and specious affidavits about absentee voting and the recount process.

Numerous jurisdictional barriers also doom Plaintiffs' case from the outset. As already set forth in the motion to dismiss filed by Intervenor-Defendants Democratic Party of Georgia, DSCC, and DCCC ("Intervenors"), ECF No. 20-2, Plaintiffs lack standing to bring these claims; their decision to wait eight months and challenge the settlement agreement after the election legally bars this lawsuit; and

they have entirely failed to meet Rule 8's plausibility requirements, to say nothing of Rule 9(b)'s heightened pleading standard for claims sounding in fraud. The Court could deny Plaintiffs' Motion for these reasons alone. The Motion's lack of legal authority and relevant supporting evidence provide ample additional reason for denial.

By all credible accounts, Georgia's 2020 election was one of the most transparent and accurate in history. Elections officials worked hard under difficult conditions to administer the nation's first-ever presidential election to be held in the middle of a pandemic, and then to accurately count millions of ballots cast by lawful voters. Claims of fraud or misconduct have been debunked. U.S. Attorney General William P. Barr has stated that the Justice Department has not uncovered voting fraud that could have affected the results of the presidential election.

Nevertheless, a small number of zealous partisans have launched a misinformation campaign to sow doubt about the results of the election. Part of this effort has been an unprecedented wave of litigation attempting to deliver the presidential election to President Trump, in direct contradiction to the will of the people. Each of these lawsuits have failed. This one should, as well.[1]

[1] *See, e.g.*, *Donald J. Trump for President, Inc. v. Boockvar*, No. 4:20-CV-02078, 2020 WL 6821992 (M.D. Pa. Nov. 21, 2020), *aff'd*, No. 20-3371, 2020 WL 7012522

II. BACKGROUND

A. The General Election

Nearly five million Georgians cast ballots in the November election. On November 11, Secretary of State Brad Raffensperger (the "Secretary") announced that an audit by statewide hand recount of the presidential election would take place. This audit confirmed the outcome of the presidential election in favor of President-elect Biden, and on November 20, the Secretary certified that President-elect Biden had prevailed over President Trump by a margin of 12,670 votes. Compl. ¶ 23.[2]

B. Prior and Ongoing Litigation

Less than three weeks ago, Lin Wood (who represents Plaintiffs in this lawsuit) filed his *own* lawsuit, *Wood v. Raffensperger*, Case No. 1:20-cv-04651-SDG, ECF No. 5. The *Wood* litigation asserted claims that bear a striking

(3d Cir. Nov. 27, 2020) (affirming district court's refusal to enjoin Pennsylvania from certifying election results based on similar equal protection claims); *Bognet v. Sec'y of Commonwealth*, No. 20-3214, 2020 WL 6686120 (3d Cir. Nov. 13, 2020) (affirming denial of preliminary relief based on equal protection claim premised on vote dilution by purportedly illegal ballots); *Wood v. Raffensperger*, No. 1:20-cv-04561-SDG, 2020 WL 6817513 (N.D. Ga. Nov. 20, 2020) (rejecting plaintiffs' motion to enjoin Georgia from certifying election results based on similar equal protection claims); *aff'd*, No. 20-14418, slip op. (11th Cir. Dec. 5, 2020).

[2] On November 22, President Trump requested a third count by machine. President-elect Biden prevailed over President Trump by 11,769 votes in this third count. *See* Office of the Georgia Secretary of State, *Presidential Recount (Nov. 3, 2020)*, https://results.enr.clarityelections.com/GA/107231/web.264614/#/detail/5000 (last accessed December 4, 2020).

resemblance to those Plaintiffs press here. *See infra* at 9-25. And each of Wood's claims were thoughtfully and thoroughly rejected by Judge Grimberg in an order denying the motion for a temporary restraining order. *Wood v. Raffensperger.,* No. 1:20-CV-04651-SDG, 2020 WL 6817513 (N.D. Ga. Nov. 20, 2020), *aff'd*, Case No. 20-14418 slip op. (11th Cir. Dec. 5, 2020).

In that case, Wood contended that the Secretary and the State Election Board had performed their roles in an unconstitutional manner by entering into a settlement agreement with Intervenors in a separate federal litigation over eight months ago (the "Settlement Agreement"). *Id.* at *2-3. He also contended the Secretary and the State Election Board had violated the due process rights of Republican election monitors during the hand recount. *Id.* *6.

In denying the motion for a temporary restraining order, Judge Grimberg found that Wood could not clear the threshold requirements to invoke the federal court's jurisdiction, much less succeed on his claims. First, he found that Wood lacked standing to assert these claims. *Id.* at *4-6. Second, he found that Wood's claims were barred by the doctrine of laches. *Id.* at *7-8. Finally, Judge Grimberg determined that Wood had failed to carry his burden on even one of the four requisite factors necessary to justify the temporary restraining order he sought. *Id.* at *8-13.

In so finding, Judge Grimberg concluded that the Settlement Agreement that Wood (and Plaintiffs here) purported to challenge did not alter Georgia law or impose any kind of constitutional injury on Wood or Georgia voters. Instead, it simply articulated uniform, statewide procedures for matching signatures on absentee ballot envelopes and curing deficiencies on the same, in a manner and means that was entirely consistent with Georgia law. *Id.* at *10; *see also id.* at *3 (setting forth substantive terms of agreement between Intervenors and Defendants). The rule implemented as a result of the Settlement Agreement, moreover, was the subject of an extended and public notice and comment process.[3]

Wood appealed, and on December 5, the Eleventh Circuit affirmed, finding that Wood lacked standing to bring his claims because he only asserted a generalized grievance and that his action is moot because he primarily sought to delay certification of an election that has already been certified. *Wood v. Raffensperger*, No. 20-14418 slip op. (11th Cir. Dec. 5, 2020).

C. Plaintiffs' Lawsuit

In an attempt to sidestep Wood's first failed bite at the apple, Plaintiffs filed this Complaint on November 25—over three weeks after the general election and

[3] *See also* Ga. Comp. R. & Regs. 183-1-14-.13 (amended March 22, 2020); Ga. Comp. R. & Regs. 183-1-14-.13 (May 21, 2020); Ga. Comp. R. & Regs. 183-1-14-.13 (Aug. 31, 2020).

five days after Georgia officials certified the election results. The gist of Plaintiffs' disjointed 100-page Complaint is that Georgia election officials are engaged in an elaborate conspiracy to "fraudulently manipulat[e] the vote count to make certain the election of Joe Biden as President of the United States." Compl. ¶ 2.

The Complaint borrows heavily from the "factual" allegations that Judge Grimberg found inadequate in *Wood*, re-filing eleven affidavits from that case. It complains, again, about the constitutionality of the Settlement Agreement (*see, e.g.*, *id.* ¶ 136) and about lack of adequate access during the hand recount of the presidential election results (*see, e.g., id.* ¶ 157). Plaintiffs additionally "support" the Complaint with "expert" declarations written for other lawsuits, concerning entirely different issues, in different states. *See id*. ¶¶ 8, 10, 147-148*; see also id.* at 2 n.1.

From these incredible factual allegations, Plaintiffs allege various causes of action: ostensible violations of the Elections and Electors Clauses, Compl. ¶¶ 132-142, Equal Protection Clause, *id.* ¶¶ 143-167, Due Process Clause, *id.* ¶¶ 168-181, and "wide-spread ballot fraud", which appears to assert a claim under Georgia's election contest statute (which can only be brought in state court), *id.* ¶¶ 182-207.

Among many other requests, Plaintiffs ask this Court to order Defendants to "decertify" the election for President-elect Biden and to affirmatively certify results "in favor of President Donald Trump." *Id*. ¶¶ 208-211.

III. ARGUMENT

A. Legal Standard

A party seeking a preliminary injunction must establish "(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that entry of the relief would serve the public interest." *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005) (per curiam). "[A] preliminary injunction is an extraordinary and drastic remedy that should not be granted unless the movant clearly carries its burden of persuasion on each of these prerequisites." *Suntrust Bank v. Houghton Mifflin Co.*, 252 F.3d 1165, 1166 (11th Cir. 2001) (per curiam); *see also Wood*, 2020 WL 6817513, at *13 (Grimberg J.) (denying temporary restraining order on similar facts).

B. Plaintiffs' motion is procedurally improper.

As an initial matter, rather than actually attempt to make their case by proffering arguments and evidence and explaining how that evidence supports their position in the body of their brief, Plaintiffs have improperly "present[ed] only a summary of certain highlighted facts for the convenience of the [C]ourt," purporting, instead, to wholesale incorporate by reference their entire 100-page Complaint and

29 exhibits, *see* Mot. for TRO (ECF No. 6) at 5, leaving both the other parties in the case and the Court to sift through all of it and attempt to guess at what Plaintiffs believe actually supports their case.[4] *See, e.g.*, *Four Seasons Hotels & Resorts, B.V. v. Consorcio Barr S.A.*, 377 F.3d 1164, 1167 n.4 (11th Cir. 2004) (holding a party who purported on appeal to "incorporate[ ] the [additional] arguments it presented below" inappropriately sought to "transfer *its* duty to make arguments to the judges of this panel") (emphasis added)*; Bumpers for Estate of Bumpers v. Austal U.S.A., L.L.C,* No. CV 08-00155-KD-N, 2015 WL 13664949, at *2 (S.D. Ala. June 1, 2015) ("It is neither this Court's job, nor its preference, to utilize its resources to scour the trial record (transcripts, docket, etc.) to 'ferret out' counsel's arguments for them, and then endeavor to presume which are being reasserted and which are not."). Moreover, Plaintiffs cannot support their Motion with allegations from their Complaint. *See Wright v. Farouk Sys., Inc.*, 701 F.3d 907, 911 n.8 (11th Cir. 2012) ("[P]leadings are only allegations, and allegations are not evidence of the truth of what is alleged.").

[4] Page number citations herein are to the ECF page number, rather than to the document's internal pagination.

Because Intervenors cannot divine what arguments Plaintiffs intended to present by referencing the entire Complaint and its exhibits, this brief focuses on the arguments and evidence specifically presented and identified in Plaintiffs' Motion.

C. Plaintiffs lack standing.

As a threshold matter, this Court should deny Plaintiffs' request for injunctive relief because Plaintiffs lack standing to even pursue this litigation, much less to obtain the emergency and extraordinary relief that they request.

Plaintiffs have neither pleaded nor suffered a cognizable injury-in-fact, asserting only generalized grievances about Defendants' supposed defiance of state law and entirely unsupported (and thus not plausible) theories of transnational election fraud. As the Eleventh Circuit held today when affirming dismissal of Wood's own claims, which were nearly identical to those here, the contention that "inclusion of unlawfully processed absentee ballots diluted the weight of his vote . . . is a paradigmatic generalized grievance that cannot support standing," and "irregularities in the tabulation of election results" do not give standing because this "allegation, at bottom, remains that 'the law . . . has not been followed.'" *Wood v.*

Raffensperger, Case No. 20-14418, slip op. at 11-13 (11th Cir. Dec. 5, 2020) (citing *Dillard v. Chilton Cty. Comm'n*, 495 F.3d 1324, 1335 (11th Cir. 2007)).[5]

D. Plaintiffs' requested relief concerning the 2020 general election is moot.

As the Eleventh Circuit held just this morning, even if Plaintiffs had standing, their requests for relief are barred by another jurisdictional defect: mootness. *See Wood v. Raffensperger*, Case No. 20-14418, slip op. at 2 (11th Cir. Dec. 5, 2020) (finding challenge to 2020 election results moot because Georgia has certified its election results). The Court is "not empowered to decide moot questions." *North Carolina v. Rice*, 404 U.S. 244, 246 (1971) (internal quotation marks omitted). "An issue is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief." *Christian Coal. of Fla., Inc. v. United States*, 662 F.3d 1182, 1189 (11th Cir. 2011) (alteration rejected) (internal quotation marks omitted).

[5] For the reasons further articulated in Intervenors' Motion to Dismiss, ECF No. 20-2 at 8-12, Plaintiffs do not have prudential standing to assert their Elections and Electors Clause claims or (to the extent they plead one) their Equal Protection Clause claim based on purportedly unfair treatment towards third party election monitors. *See Kowalski v. Tesmer*, 543 U.S. 125, 129 (2004) (a party's standing cannot "rest . . . on the legal rights or interests of third parties"). Plaintiffs rely on *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020) for standing for their Elections and Electors Clause claims, but that case is a nonbinding outlier contradicted by the weight of authority. *See, e.g,. Bognet*, 2020 WL 6686120, at *7

Plaintiffs ask for several kinds of relief in their emergency motion and proposed order, *see* ECF No. 6 at 26-27 and ECF No. 6-3 at 3-4, but all of their requests flow from challenges to the 2020 election results. "Because Georgia has already certified its election results and its slate of presidential electors," Plaintiffs' "requests for emergency relief are moot to the extent they concern the 2020 election." *Wood*, No. 20-14418, slip op. at 2. The Court "cannot turn back the clock and create a world in which" the 2020 election results are not certified. *Id*. at 17 (citing *Fleming v. Gutierrez*, 785 F.3d 442, 445 (10th Cir. 2015)). Nor is it meaningful to order a new recount when the results are already final and certified. *See id.* (citing *Tropicana Prods. Sales, Inc. v. Phillips Brokerage Co.*, 874 F.2d 1581, 1582 (11th Cir. 1989)). The Court need not consider Plaintiffs' claims on the merits because their salient requests for relief are moot.

E. The Court lacks jurisdiction over Plaintiffs' election contest claim (Count V).

Plaintiffs' Count V—in which Plaintiffs purport to state a claim under Georgia's election contest statute—cannot proceed in federal court. Georgia law is clear that an election contest "article shall be tried and determined by the superior court of the county where the defendant resides . . ." O.C.G.A. § 21-2-523(a).

F. Laches bars Plaintiffs' claims under the Elections and Electors Clause (Count I) and the Equal Protection Clause (Counts II and III).

Laches bars a claim when "(1) there was a delay in asserting a right or a claim, (2) the delay was not excusable, and (3) the delay caused [the defendant] undue prejudice." *United States v. Barfield*, 396 F.3d 1144, 1150 (11th Cir. 2005). Each element of laches is satisfied as to Plaintiffs' Counts I-III.[6]

The gravamen of Plaintiffs' Elections and Electors Clause claim is that Defendants improperly exercised legislative power by adopting protocols regarding signature cure for absentee ballots and early processing of absentee ballots. Compl. ¶¶ 135-137. Yet these protocols, by Plaintiffs' own admission, were public for months before the election. *See id.* ¶ 51 (Settlement Agreement giving rise to cure procedures executed on March 6, 2020); *id*. ¶ 60 (early processing rule adopted in April 2020).

Plaintiffs delayed more than *eight months* in bringing this lawsuit; their delay is not excusable, nor does the Motion attempt to excuse it; and granting their requested relief of decertifying the election results would occasion tremendous prejudice for Defendants, Intervenors, and the public at large. *Accord Wood*, 2020 WL 6817513, at *7-8 (denying plaintiff's motion for temporary injunction on virtually identical facts and claims because of laches).

[6] It is unclear whether Plaintiffs even seek injunctive relief on Count I, as the Motion does not discuss Plaintiffs' Elections and Electors Clause claim. Laches bars the claim in any event.

In a similar vein, Plaintiffs' equal protection claims appear to contend that the rule allowing early processing of absentee ballots resulted in election procedures that violated Plaintiffs' equal protection rights. *See, e.g.*, Compl. ¶¶ 146-148 (Count II); *id.* ¶¶ 171-173 (Count III). For the same reasons, laches bars these claims, as well.

G. Plaintiffs are not likely to succeed on the merits of their claims.

Plaintiffs' Complaint cobbles disparate legal theories into claims that are not cognizable. *See, e.g.*, ¶¶ 172-173 (asserting a Due Process Clause violation based on disparate treatment of voters that allegedly violates the Equal Protection Clause). And it purports to allege claims of constitutional violations without identifying any supporting legal theory. *See, e.g.*, ¶¶ 174-181 (ostensibly asserting a Due Process Clause claim without alleging any Due Process Clause violation). The Motion does the same. It states a series of "facts," many of which are bereft of any actual evidentiary support. S*ee* Mot. for TRO at 6-18. It then provides nearly five pages of citations to legal authority, without ever (1) relating a single "fact" to this legal discussion, or (2) applying the legal discussion to try to support the Complaint's claims. *See id.* at 20-25. From this, Plaintiffs summarily conclude they have established a likelihood of success on the merits. *Id.* at 24-25.

Plaintiffs have thus manifestly failed to carry their burden of demonstrating a substantial likelihood of success on the merits. Plaintiffs have not even advanced

arguments to support each of their (convoluted) claims, much less attempted to tie their "evidence" to specific claims. Plaintiffs' claims fail for this reason alone but, under any reading, they fail to establish a likelihood of success.

1. Plaintiffs are not likely to succeed on their Elections and Electors Clause claim.

Plaintiffs offer neither argument nor evidence to support their Elections and Electors Clause claim. The closest they come is asserting that Defendants failed to comply with statutory provisions governing State Election Board processes, absentee ballot processing and signature match requirements, and optical scan voting. *See* Mot. for TRO at 20-21. This is perhaps intended to support their claim that Defendants improperly exercised legislative power by adopting protocols regarding signature cure for absentee ballots and early processing of absentee ballots. Compl. ¶¶ 135-137. Plaintiffs' contention lacks merit.

The Elections and Electors Clause vest authority in "the Legislature" of each state to regulate "[t]he Times, Places, and Manner of holding Elections for Senators and Representatives," U.S. Const. art. I, § 4, cl. 1, and to direct the selection of presidential electors, U.S. Const. art. II, § 1, cl. 2, respectively. The Supreme Court has held, however, that state legislatures can delegate this authority—including to state officials like the Secretary. *See, e.g.*, *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 807 (noting Elections Clause does not preclude

"the State's choice to include" state officials in lawmaking functions so long as such involvement is "in accordance with the method which the State has prescribed for legislative enactments") (quoting *Smiley v. Holm*, 285 U.S. 355, 367 (1932)).

Pursuant to Georgia law, the Secretary is the chief election official for the State, O.C.G.A § 21-2-50(b); *see also Wood*, 2020 WL 6817513, at *2, and the General Assembly has granted him the power and authority to manage Georgia's election system, including the absentee voting system. *See Fair Fight Action, Inc. v. Raffensperger*, 413 F.Supp.3d 1251 (N.D. Ga. 2019); Ga. Op. Att'y Gen. No. 2005-3 (Apr. 15, 2005) (recognizing Secretary's authority to manage Georgia's election system). The Secretary is also the Chair of the Board, which is the governmental body responsible for uniform election practice in Georgia. O.C.G.A. § 21-2-31; *see also Curling v. Raffensperger*, 403 F. Supp. 3d 1311, 1345 (N.D. Ga. 2019) ("[T]he [] Board is charged with enforcing Georgia's election code under state law."). In both roles, the Secretary has significant statutory authority to set election standards. *See New Georgia Project v. Raffensperger*, No. 1:20-CV-01986-ELR, 2020 WL 5200930, at *8 (N.D. Ga. Aug. 31, 2020).

As the Judge Grimberg succinctly and correctly determined in rejecting a virtually identical challenge to the Elections and Electors Clause:

> The Settlement Agreement is a manifestation of Secretary Raffensperger's statutorily granted authority. It does not override or

> rewrite state law. It simply adds an additional safeguard to ensure election security by having more than one individual review an absentee ballot's information and signature for accuracy before the ballot is rejected. [Plaintiff] does not articulate how the Settlement Agreement is not "consistent with law" other than it not being a verbatim recitation of the statutory code. Taking [Plaintiff]'s argument at face value renders O.C.G.A. § 21-2-31(2) superfluous. A state official—such as Secretary Raffensperger—could never wield his or her authority to make rules for conducting elections that had not otherwise already been adopted by the Georgia General Assembly.

Wood v. Raffensperger, 2020 WL 6817513, at *10.

Plaintiffs have not demonstrated a likelihood of success on this claim.

2. Plaintiffs are not likely to succeed on their Equal Protection Clause claims.

Plaintiffs assert in the Motion that their "equal protection claim is straightforward," Mot. for TRO at 21, and then provide four pages of legal citations without once articulating the claim, *id.* at 21-24, or alleging facts or evidence to support it, *see id.* It appears from the Motion's lengthy discussion of alleged "fraud" and "ballot-stuffing," *id.* at 6-18, and select case law cites, that Plaintiffs are attempting to advance a vote dilution claim under Count II of their Complaint.[7] Cross-references to the Complaint support this reading. *See* Compl. ¶ 156 ("Defendants failed to comply with the requirements of the Georgia Election Code

[7] *See, e.g.*, *Baker v. Carr*, 369 U.S. 186, 208 (1962) (cited in Mot. for TRO at 22-23), and *Reynolds v. Sims*, 377 U.S. 533, 555 (1964) (cited in Mot. for TRO at 23).

and thereby diluted the lawful ballots of the Plaintiffs and of other Georgia voters and electors in violation of the United States Constitution guarantee of Equal Protection."). This is not an equal protection injury.

Vote dilution is a viable basis for federal claims only in certain contexts, such as when laws structurally devalue one community's votes over another's. *See, e.g.*, *Bognet*, 2020 WL 6686120, at *11 ("[V]ote dilution under the Equal Protection Clause is concerned with votes being weighed differently."). Courts have repeatedly rejected Plaintiffs' "conceptualization of vote dilution—state actors counting ballots in violation of state election law" as failing to state a concrete or cognizable harm under the Equal Protection Clause. *Id.* at *11; *see also Wood*, 2020 WL 6817513, at *8–10 (concluding vote-dilution injury is not "cognizable in the equal protection framework"), *aff'd*, Case No. 20-14418, slip op. at 12 (11th Cir. Dec. 5, 2020).

It is unclear whether Plaintiffs mean to separately argue that they will prevail on Count III of the Complaint, which asserts a confusing equal protection claim that is seemingly predicated on "disparate treatment" arising from the Settlement Agreement. Compl. ¶¶ 168-172. If so, that claim is baseless, too. The Settlement Agreement set forth "standards to be followed by the clerks and registrars in processing absentee ballots in the *State of Georgia*" as a whole, not across different counties. *Id.* ¶ 51 (emphasis added); *see also Wood*, 2020 WL 6817513, at *9

("Defendants applied the Settlement Agreement in a wholly uniform manner across the entire state. In other words, no voter . . . was treated any differently than any other voter."); *aff'd*, Case No. 20-14418, slip op. at 12-13 (11th Cir. Dec. 5, 2020). Judge Grimberg rejected this theory as insufficient to establish an equal protection violation, and this Court should, too.

3. Plaintiffs are not likely to succeed on their due process claim.

Plaintiffs similarly fail to meaningfully develop any argument regarding their due process claim (Count IV). Neither the Motion nor the Complaint explain whether Plaintiffs advance a substantive or procedural due process claim (or both). The only relevant allegation in Count IV is that Georgia's "signature verification requirement is a dead letter." Compl. ¶ 181. Intervenors surmise that Plaintiffs may advance a procedural due process claim. Any such claim fails.

A procedural due process claim raises two inquires: "(1) whether there exists a liberty or property interest which has been interfered with by the State," and (2) "whether the procedures attendant upon that deprivation were constitutionally sufficient." *Kentucky Dep't of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). But Plaintiffs do not have a liberty or property interest in enforcing state election procedures, such as the signature verification requirement. *See Wood*, 2020 WL 6817513, at *11 ("The circuit court has expressly declined to extend the strictures

of procedural due process to 'a State's election procedures.'") (citing *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1282 (11th Cir. 2020)).

Even construing the allegations in the Complaint as a substantive due process claim (which Plaintiffs do not specifically assert) the Motion still falls short. It is well-settled that "[f]ederal courts should not 'involve themselves in garden variety election disputes.'" *Serpentfoot v. Rome City Comm'n*, No. 4:09-CV-0187-HLM, 2010 WL 11507239, at *16 (N.D. Ga. Mar. 3, 2010) (quoting *Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir. 1986) ("Only in extraordinary circumstances will a challenge to a state election rise to the level of a constitutional deprivation"). The sort of unconstitutional irregularity that courts have entertained under the Due Process Clause consists of widescale fraud and disenfranchisement. *See, e.g.*, *Bennett v. Yoshina*, 140 F.3d 1218, 1226-27 (9th Cir. 1998). But Plaintiffs' Complaint does not allege disenfranchisement at all. Rather, it seeks to disenfranchise millions of Georgian voters by "decertifying" the result.

Even assuming that Plaintiffs' fraud allegations could support a prima facie substantive due process claim—which, again, is a proposition that Plaintiffs have neither pleaded in the Complaint nor argued in the Motion—the allegations fail for want of proof. Indeed, Plaintiffs' fantastical allegations cannot withstand even cursory scrutiny. The Motion's assertions of election improprieties rest on two broad

and unsupported grounds: "fraud," Mot. for TRO at 6-11, and "ballot-stuffing," *id.* at 11-18. The "fraud" assertions are further subdivided into "fraud" identified in the absentee mail voting process by Plaintiffs' supposed experts—Russel Ramsland, Matthew Braynard, Dr. William Briggs, and Dr. Shiva Ayyadurai—and "fraud" identified in the recount process by Plaintiffs' lay affiants.[8] No credible evidence supports any of these claims.

As a threshold matter, none of the "experts" Plaintiffs rely on are qualified to offer their analyses and opinions, and the Court should exclude this evidence from consideration of the merits of the TRO on this basis alone. *Smith v. Ortho Pharm. Corp*., 770 F. Supp. 1561, 1566 (N.D. Ga. 1991) ("For if the expert is not qualified, his or her opinion is inadmissible regardless of the content of the opinion.").[9] Plaintiffs' experts also utterly fail to explain how they developed their methods, what data they relied upon, or why that data is remotely reliable, which also warrants

[8] Plaintiffs also purport to have several additional "experts" supporting their claims, including Dr. Eric Quinnell (ECF No. 1-27 and 45-2); Dr. Stanley Young (ECF No. 45-2); Dr. Benjamin Overholt (ECF No. 45-3); and Ronald Watkins (ECF No. 31-1). Plaintiffs do not cite or rely on these "experts" in their Motion, so Intervenors do not address here the myriad problems with the qualifications, methods, and conclusions of these ostensible experts. *See Bumpers for Estate of Bumpers,* 2015 WL 13664949, at *2. However, these are addressed in the expert reports of Dr. Kenneth Mayer, and Dr. Jonathan Rodden and William Marble (*see* Callais Declaration and exhibits thereto) and in Intervenors' simultaneously filed Daubert motion.

[9] *See* note 8 *supra*.

disregarding their opinions in full.[10] Moreover, Intervenors' rebuttal experts comprehensively and conclusively identify the problems with Plaintiffs' experts' specious data, analyses, and conclusions. *See* Callais Decl., Ex. 1, ¶ 4 (Dr. Stephen Ansolabehere Response to Braynard) ("None of [Braynard's] claims meets scientific standards of my fields of research, including survey research, political science, statistics and data sciences. There is no scientific basis for drawing any inferences or conclusions from the data presented."); *id.* Ex. 2, ¶ 2 (Ansolabehere Response to Briggs) (Dr. Briggs' "errors in [survey] design, analysis, and interpretation of the data are so massive that there is no foundation for drawing any conclusions or inferences" from this report; *id.* Ex. 3, at 2 (Expert Report of Dr. Jonathan Rodden) (Ramsland, Quinnell, and Ayyadurai's reports "do not meet basic standards for scientific inquiry," only "identify common and easily explained patterns in the 2020 election results," "lack even a basic level of clarity or transparency about research methods," and are "based on puzzling but serious mistakes and misunderstandings about how to analyze election data"); *id.* Ex. 4 at 1, 4 (Expert Report of Dr. Kenneth R. Mayer) (Ramsland's conclusion that "at least 96,600 votes were illegally counted" rests on his inexcusably "mistaken[] claim[]" that "the ballot status field"

[10] *See* note 8 *supra.*

"C" means "counted," when in actually means "cancelled"; in reality, this number is 4, which is "obviously a recordkeeping issue.").

The assertions of "fraud" in the recount process from Plaintiffs' lay affiants fare no better, in which they recycle allegations that were inadequate for injunctive relief in *Wood*. The incidents Plaintiffs complain of—not seeing anyone verify signatures on ballots, ECF No. 1-19 at 5; not receiving a call back from the Secretary's voter fraud line, ECF No. 1-20 at 3; and isolated discrepancies in ballot placements or ballot recounts, *id.* at 4, ECF No. 1-19 at 5, and ECF No. 1-22 at 9—reflect misunderstandings of Georgia state law regarding signature verification and "garden variety" ordinary disputes that would occur in any hand recount. To the extent that the affidavits insinuate "pristine" ballots or sightings of counterfeit ballots based on illegitimate watermarks, *see* ECF No. 1-21 at 3, this is nothing more than mere speculation and uninformed opinions of an individual who is unfamiliar with Georgia elections, which is rebutted in the *same paragraph* of the declaration. *Id.* ("I challenged this and the Elections Director said it was a legitimate ballot and was due to the use of different printers.").[11]

[11] Intervenors' own evidence counteracts these allegations in any event. *See* Intervenors' Notice of Filing, Ghazal Aff., ¶ 41 and Brandon Aff. ¶ 15 (explaining reasons for differences in size, feel, and appearance of various ballots being counted during hand recount); *see also* Notice of Filing, Exs. 1-13 (setting forth the affidavits

Plaintiffs' allegations of "ballot-stuffing," which are equally meritless, are predicated almost entirely on dark insinuations of what *could* have happened in a fevered alternative reality rife with election fraud. *See, e.g.*, Mot. for TRO at 12-13 (alleging possibility of "manipulation of votes," without evidence, during the time that Fulton County experienced a leaking pipe at its election tabulation site); *id.* at 13-14 (asserting that Dominion voting machines are capable of being manipulated, without evidence that they were, in fact, manipulated); *id.* at 14-15 (discussing FBI acknowledgment of foreign attempts to access voter registration data, without evidence that these attempts affected Georgia's election in any way). Plaintiffs point to ostensible security concerns motivating Texas to decline to use Dominion voting machines, which is irrelevant to whether there was actually any fraud in Georgia. *Id.* at 15. Plaintiffs say Defendants "ignored" *U.S.* House Bill 2722, which died in the *U.S.* Senate; it is unclear what Defendants should have done to "respond" to this proposed federal legislation. *Id*. at 15-16. And interestingly, nearly all of Plaintiffs' requested relief has to do with *absentee ballots,* not Dominion machines.

Plaintiffs' discussion of Dr. Andrew Appel's comments regarding Dominion voting machines, *see Id*. at 16, borders on outright misrepresentation. The Motion

of thirteen credentialed observers that the recounts were conducted fairly and in accordance with the procedures that the Secretary and Board promulgated).

cross-references Paragraph 13 of the Complaint as the source of Dr. Appel's comments. *Id*. at 16. Paragraph 13 in turn references Exhibit 7 (ECF No. 1-8), which is a study regarding voting machines authored by Dr. Appel. Yet *the study does not contain the quote set forth in the Motion*. Instead, the quote originated from a November 13, 2020, Fox News segment aired by Sean Hannity, in which Dr. Appel is quoted from 2018 discussing *older* Dominion voting machines—different from the machines presently used in Georgia, which do not have the security vulnerability Dr. Appel was discussing in 2018.[12] For perhaps obvious reasons, Plaintiffs have not actually tried to substantiate Dr. Appel's quote with evidence in the Motion.

Plaintiffs have failed to establish a substantial likelihood of success on the merits for their due process claim.

H. Plaintiffs do not establish irreparable harm.

As discussed in Sections C-F *supra*, Plaintiffs bring, at most, generalized grievances or third-party claims, based on wholly implausible allegations, and supported with threadbare evidence. As such, they cannot demonstrate that they will suffer any harm at all. In contrast, Plaintiffs' requested relief would cause irreparable injury by depriving between one and five million Georgians of their votes. *See*

[12] Dr. Andrew Appel, *Did Sean Hannity misquote me?*, Freedom to Tinker (November 13, 2020), https://freedom-to-tinker.com/2020/11/13/did-sean-hannity-misquote-me/.

Gonzalez v. Governor of Georgia, 978 F.3d 1266 (11th Cir. 2020) (noting that depriving even a single individual of his right to vote would cause irreparable harm).

I. The balance of the equities and public interest weigh against a preliminary injunction.

The threatened injury to Defendants as state officials, Intervenors, and the public at large far outweigh any harm to Plaintiffs. As the *Wood* court found under virtually identical circumstances, Plaintiffs "seek[] an extraordinary remedy: to prevent Georgia's certification of the votes cast in the General Election, after millions of people had lawfully cast their ballots. To interfere with the result of an election that has already concluded would be unprecedented and harm the public in countless ways. Granting injunctive relief here would breed confusion, undermine the public's trust in the election, and potentially disenfranchise [] over one million Georgia voters." *Wood*, 2020 WL 6817513, at *13 (citation omitted).

IV. CONCLUSION

For these reasons, Intervenors request that the Court deny Plaintiff's Emergency Motion for Injunctive Relief.

Dated: December 5, 2020.

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Joyce Gist Lewis
Susan P. Coppedge
Adam M. Sparks
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street, N.W., Suite 800
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
MElias@perkinscoie.com
ACallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: (206) 359-8000
Facsimile: (206) 359-9000
KHamilton@perkinscoie.com
ABeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, OR 97209
Telephone: (503) 727-2000
Facsimile: (503) 727-2222
MMertens@perkinscoie.com

Counsel for Intervenors-Defendants

**Admitted Pro Hac Vice*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: December 5, 2020.

Adam M. Sparks
Counsel for Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 5, 2020.

Adam M. Sparks
Counsel for Intervenor-Defendants

Exhibit 1

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT OF SHAMEIKA VAILES

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, Shameika Vailes, who being duly sworn, deposed and stated as follows:

1. My name is Shameika Vailes. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Fulton County, Georgia.

3. On November 15, 2020, I was present as an observer credentialed by the Democratic Party of Georgia ("DPG") to observe the statewide hand recount of

ballots cast in the 2020 Presidential Election in Fulton County, Georgia (the "Recount"). As part of becoming credentialed, I received training in what the Recount would entail and what I would expect to observe.

4. I arrived at the Georgia World Congress Center, where the Recount was held, at approximately 8:00 a.m.

5. On arrival, I had no problems accessing the Center where the Recount was happening, though I was unable at first to locate and connect with fellow credentialed observers.

6. Check-in went smoothly.

7. After check-in, it took me some time to find the DPG appointed Site Lead. As I asked around seeking where I should go, Fulton County election employees or volunteers shared that a great deal of progress was made in the Recount on Saturday, such that the auditors were nearing completion of the Recount. No one tried to stop me from proceeding, or to get me or anyone else to leave on the premise that the Recount was complete or nearly complete.

8. . The Recount was ongoing when I arrived.

9. By 8:30 a.m., I had connected with the Site Lead and fellow observers and learned that there were more DPG-credentialed observers than were permitted to access the floor at that time.

10. The numbers of credentialed observers from DPG and from the Georgia Republican Party appeared to be roughly equal. Both parties appeared to have more credentialed observers present than were permitted to approach the audit teams who were conducting the Recount. Both parties had credentialed observers in the space where the audit teams were conducting the Recount

11. At no time did I see or hear of a credentialed observer being denied access to the Recount, other than for the reason that the observer's political party already had the maximum permitted number of credentialed observers in the space. I observed no disparate treatment by Fulton County elections employees or volunteers of observers credentialed by a particular party, or of members of the public.

12. Around 9:30 a.m., I left the Recount because there were sufficient numbers of DPG-credentialed observers on site and I had other commitments that day.

13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

14. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 17th day of November 2020.

Shameika Vailes

SHAMEIKA VAILES

Sworn to and subscribed to before me this 17th day of November 2020.

Laura Tucker

Notary Public

LAURA TUCKER
MY COMMISSION EXPIRES
MAR 28 2023
COBB COUNTY, GEORGIA
NOTARY PUBLIC

My commission expires: March 28, 2023

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT OF ANGELA THOMAS

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, ANGELA THOMAS who being duly sworn, deposed and stated as follows:

1. My name is ANGELA THOMAS. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Fulton County, Georgia.

3. On November 15, 2020, I was present as an observer credentialed by the Democratic Party of Georgia to observe the statewide hand recount of ballots cast in the 2020 Presidential Election in Fulton County, Georgia (the "Recount").

4. I arrived at the Georgia World Congress Center, where the Recount was held, at approximately 6:30 a.m.

5. On arrival, I had no problems accessing the space where the Recount was happening. There was a sign that said "Monitors" when I walked in, and I went directly to it. I sat for an hour or so before counting began, around 7:30 a.m.

6. I did not observe anyone claiming that the Recount had "just finished" or was otherwise complete, until after 9 a.m., when we were told that each party (Democratic and Republican) had to reduce number on the floor to 17, and myself and several others prepared to leave.

7. While I was observing the Recount, there were approximately 40 other credentialed observers present, with about 20 representing the Democratic Party of Georgia, and at least 20 I understood to be representing the Georgia Republican Party.

8. At no time did I see or hear of a credentialed observer being denied access to the Recount.

9. While observing, I had access to view each of the two-person audit teams from about six feet away. From this distance, I could hear the auditors announce and discuss the votes they counted on each ballot. I could see into what designated stack a given audit team placed each ballot.

10. Based on my personal observation, there were no inaccuracies, improprieties, inconsistencies, or other problems during the Recount. The audit teams I observed all appeared to be counting correctly.

11. I reviewed the Affidavit of Amanda Coleman stating that she saw people walking around and that there were no observers at the tables where counting was happening. However, observers were not assigned to specific tables and that was not our role. We were instructed to roam and observe the activities at multiple tables.

12. I reviewed the Affidavit of Maria Diedrich, stating that tables were left unattended. I did not observe any tables left unattended, but I did hear an announcement that at least one person must remain at each counting table at all times.

13. Around 9 a.m., after approximately 1.5 hours of observation, I left the Recount because the county elections officials announced that they were limiting

the number of observers on the floor to 17 per party. I would estimate that at least 30 credentialed observers were still there observing the Recount when I left.

14. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

15. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 18th day of November 2020.

Angela Thomas (signed)

Angela Thomas

LAURA TUCKER
MY COMMISSION EXPIRES
MAR
28
2023
COBB COUNTY, GEORGIA
NOTARY PUBLIC

Sworn to and subscribed to before me this 18th day of November 2020.

Laura Tucker
Notary Public

My commission expires: March 28, 2023

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT OF KIMBERLY BRANDON

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, Kimberly Brandon, who being duly sworn, deposed and stated as follows:

1. My name is Kimberly Brandon. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Cobb County, Georgia.

3. I volunteered to work as the Democratic site volunteer supervisor for Cobb County, Georgia on November 13 through 15 of 2020, and was present on all

three days as a monitor credentialed by the Democratic Party of Georgia to observe the statewide hand recount of ballots cast in the 2020 Presidential Election in Cobb County, Georgia (the "Recount").

4. I arrived at the Event Center in Jim R. Miller Park, in Marietta, Georgia, where the Recount was held each day I worked as a volunteer supervisor at around 1:00 p.m. My assigned shift on each day I volunteered was from 1:00 p.m. until 6:00 p.m.

5. I did not witness or otherwise observe any Cobb County election official or officials treat credentialed monitors for the Republican Party any differently than the way they treated credentialed monitors for the Democratic Party.

6. I did not witness or otherwise observe any Cobb County election official or officials treat any credentialed monitors, regardless of party affiliation, with any hostility.

7. I did not witness Cobb County Director of Elections Janine Eveler treating monitors or public observers any differently based upon their party affiliation.

8. I did not witness Director Eveler treating anyone with hostility or behaving in any way that was less than professional.

9. Instead, at least based on what I observed, Director Eveler appeared to respond promptly to all inquiries, complaints, and questions from monitors and observers regardless of their party affiliation. On Saturday, another election official was supervising, and she also seemed to treat everyone fairly based on what I observed.

10. I understand that an individual who claims to have observed the recount in Cobb County on Monday, November 16, 2020, has submitted that the process was "sloppy, unorganized, and suspicious." However, I consider myself to be highly organized and particular and, based on what I saw, nothing could be further from the truth.

11. This is not to say that everything was constantly perfect. To be sure, election officials had to hand count almost 400,000 ballots in Cobb County alone, and invariably humans will make occasional mistakes. However, whenever anyone reported any concern or mistake to Director Eveler, it was my observation that any such issue was promptly, efficiently, and thoroughly addressed.

12. In addition, it was my observation that Director Eveler, or other elections officials, were constantly available to questions and concerns.

13. On several occasions, I did witness Republican observers standing closer to the audit tables than is recommended under Centers for Disease Control

guidelines as a result of the COVID-19 pandemic. During the first day or two of the Recount this was reported to Director Eveler and promptly addressed by her. It was clear to me that the Republican monitors wanted to be close enough to read each ballot, which is more difficult from the necessary distance of six feet.

14. I did continue to escalate concerns when I observed Republican credentialed monitors attempting to talk to or engage with the auditors, as this clearly violated the rules that were explained to us.

15. I understand that an individual has submitted an affidavit to this Court alleging that certain ballots looked and felt different. While I touched no ballots personally, in accordance with the rules, I saw many ballots that were cast on election day and marked by Ballot Marking Devices ("BMDs") and absentee ballots during the three days that I volunteered as a monitor. The BMD ballots from election day do look different than absentee ballots. Absentee ballots are creased from mailing and longer in size, and the BMD ballots generated by the in-person voting machines are not creased, shorter, and list the name of the selected candidate, rather than indicating the voter's choice with a marked bubble next to the name of the selected candidate in a list of all candidates.

16. I understand that certain individuals have submitted affidavits to this Court claiming they observed irregularities in Cobb County during the Recount

without providing further evidence of same. Notably, however, I witnessed credentialed Republican monitors constantly taking video recordings and photographs on their phone. Indeed, at one point a Republican credentialed monitor took a video recording of me and my volunteer monitors where we were standing and sitting outside of the counting area for what felt like ten minutes. We simply ignored her and continued doing what we were there to do: observe the Recount. However, if these individuals have credible allegations of irregularities or improprieties having occurred, it would shock me that they would not have captured any such occurrences on camera.

17. Each day I was present, there were at least ten monitors from each political party present. At no point did I observe Republican monitors being denied access or otherwise turned away.

18. To the extent any minor problems arose, I observed election officials promptly address and rectify such issues with the audit teams directly. In general, the process ran smoothly, everyone was treated fairly, and election officials were working hard to complete the enormous task of hand counting hundreds of thousands of ballots, under the watchful eye of tens of credentialed observers and more that remained in the public viewing area, before the Recount deadline.

19. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

20. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

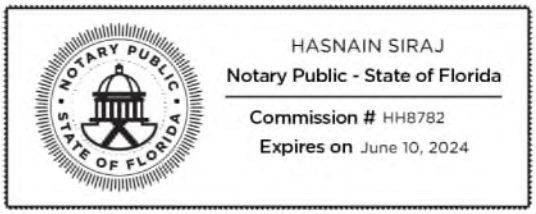
Executed this 18th day of November 2020.

Kimberly Brandon (signed)

Kimberly Brandon

State of Florida, County of Duval

Sworn to and subscribed to before me this 18th day of November 2020. Type of identification presented is driver license.



Hasnain Siraj

Notary Public Hasnain Siraj

My commission expires: 06/10/2024

Notarized online using audio-video communication

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04651-SDG

AFFIDAVIT OF DORIS SUMNER

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, DORIS SUMNER, who being duly sworn, deposed and stated as follows:

1. My name is DORIS SUMNER. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Gwinnett County, Georgia.

3. On November 13, 14, and 15, 2020, I was present as an observer credentialed by the Democratic Party of Georgia to observe the statewide hand

recount of ballots cast in the 2020 Presidential Election in Gwinnett County, Georgia (the "Recount").

4. I arrived at 455 Grayson Highway, Lawrenceville, GA 30046, where the Recount was held, at approximately 1:00 p.m. on November 13 and approximately 8:00 a.m. on November 14 and 15. I had no difficulty accessing the space in which the Recount was held on any of these days.

5. Throughout my time observing the Recount, there were many more GOP-credentialed observers than DPG-credentialed observers. At no time did I see or hear of a credentialed observer being denied access to the Recount.

6. When I first began observing on November 13, GOP-credentialed observers stationed themselves close to or in the personal space of the audit teams. By November 15, these observers had stopped getting so close to the audit teams.

7. In all but a few instances, the auditing teams counted ballots aloud, with both members of each audit team examining the ballot. The few times that didn't occur, a credentialed observer would notify a county elections official and the election official would promptly correct the auditors.

8. From what I observed, the election officials secured ballots well. I never saw any unattended ballots. There was always an elections worker present around any of the plastic black boxes (for absentee ballots) and blue security bags

(for election day ballots) used to store and organize the batches of ballots being counted.

9. I saw no unauthorized party handling ballots at any point.

10. Based on my personal observations over three days, I have no concerns about Gwinnett County's ability to count, control, and keep secure the voted ballots examined in the Recount.

11. The Recount process seemed like a professional operation each day I observed.

12. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

13. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

observed.

12. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

13. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 18 day of November 2020.

Doris W Sumner

DORIS SUMNER

Sworn to and subscribed to before me this 18 day of November 2020.

Laura Tucker

Notary Public

LAURA TUCKER
MY COMMISSION EXPIRES
MAR 28 2023
COBB COUNTY, GEORGIA
NOTARY PUBLIC

My commission expires: March 28, 2023

[illegible].DOCX2 2

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT OF ROBIN LOURIE

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, Robin Lourie, who being duly sworn, deposed and stated as follows:

1. My name is Robin Lourie. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in DeKalb County, Georgia.

3. On November 14 and 15, 2020, I was present as an observer credentialed by the Democratic Party of Georgia to observe the statewide hand

recount of ballots cast in the 2020 Presidential Election in Fulton County, Georgia (the "Recount").

4. I arrived at the Georgia World Congress Center, where the Recount was held, at approximately 8:00 a.m. on November 14 and 8:20 a.m. on November 15.

5. On arrival on the 14th, the entrance to the recounting area was not marked well and it took some time to find the entrance. This difficulty in finding the space where the recount was happening would have affected everyone attempting to enter equally. Once I found the correct location and provided my credentials, I was given access to the recount area around 8:45 a.m. I saw numerous credentialed Republican and Democratic observers in that area.

6. On November 14, I estimate there were approximately 170 tables with 2 individuals per table engaged in the Recount. To the best of my knowledge, the Recount began with mail-in or absentee ballots.

7. On November 14, there were numerous credentialed observers from both parties observing the recount. Credentialed observers had access to view each of the two-person audit teams. We were asked to social distance, but we were allowed to get within approximately 2-4 feet of the tables. There were aisles in front and behind the rows of tables and we were allowed to walk in front and behind the tables. I was able to hear and observe individuals at the tables read off

the name of the person who received the vote, hand the ballot to their partner to verify, and put the ballot in one of 4-5 piles marked on the table. I observed pieces of paper with Trump, Biden, and Joregensen on them and I saw counters put ballots in the corresponding pile. There were 1-2 additional sheets of paper on the table, but I cannot remember exactly what was written on them. Each table also had 3 large manilla envelopes for placing write-in ballots, and two other categories of ballots. I understood that these were the ballots that needed to be presented to the voter review panels.

8. I further observed that the envelopes for write-in candidates had a piece of paper attached and I saw the workers write the name of the write-in candidate(s) on the outside of the envelope and then place the write-in ballot(s) in the envelope.

9. On November 14, I observed the gold sheets with vote tallies being given to election officials for entry into the system. Each time a box of ballots was completed at a table, the gold sheet and any manilla envelopes that contained ballots were given to the election official with the sealed box of ballots. The workers were not allowed to leave their table until the box, gold sheet, and manilla envelopes were picked up and taken away.

10. On November 14, I heard the election official on the PA asking monitors to maintain social distance and to refrain from moving into the personal

space of the workers counting the votes. I was able to easily observe, hear, and monitor the tables while keeping a respectable distance from the workers. I did notice some credentialed Republican observers being intrusive and speaking to the workers counting the vote.

11. I left on November 14 at approximately 1:15 p.m. as it was the end of my volunteer shift.

12. On November 15, 2020, when I arrived at approximately 8:20 a.m., the tables were full of counters and I noticed that additional tables had been added from the day before. At approximately 9:00 many of the workers were permitted to leave, but there continued to be approximately 30 teams counting votes. I did not hear anyone claiming that the Recount had "just finished" or was otherwise complete. To the contrary, the Recount was ongoing and continued until I left around 12:30.

13. On November 15, 2020, a Fulton County election official announced that all Republican and Democratic monitors should gather in two distinct locations. The official stated that only one monitor should be present for every ten tables. She asked each party to reduce their monitors down to 17. I was one of the 17 credentialed monitors to stay and observe for the Democratic Party. Because there were too many Democratic monitors, some of those that were not needed left. The Republican Party was also allowed to have 17 credentialed monitors. Officials

did announce that any additional monitors who did not want to leave were welcomed to stay in the public viewing area.

14. On both November 14 and 15 there were members of the media and the public observing the Recount from a designated area. There were more people present in the public area on Saturday.

15. On Sunday, November 15, there was a press conference wherein it was announced that the County was getting close to finishing the Recount and it was going well. The County expected to be finished with the Recount by the afternoon.

16. On Sunday, November 15, I observed members of two separate voter review panels, which were adjudicating ballots containing Presidential votes. I understood that there were two Republican review panel members who had not shown up. Two credentialed Republican floor monitors were allowed to serve on the review panels. When two Republican gentlemen did show up for the review panels, the floor monitors did not want to relinquish their roles and Fulton county officials agreed to let them stay.

17. At no time did I see or hear of any counting errors. The process appeared to be running smoothly.

18. On Sunday, November 15, I left around 12:30 p.m., after approximately 4 hours of observation. I left the Recount because the review panels I had been watching were essentially done.

19. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

20. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 18th day of November 2020.

(signed)

Robin Lourie

Sworn to and subscribed to before me this 18th day of November 2020.

Notary Public

My commission expires:
10/24/2023



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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04651-SDG

AFFIDAVIT OF OLIVIA ALSTON

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, Olivia Alston, who being duly sworn, deposed and stated as follows:

1. My name is Olivia Alston. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Fulton County, Georgia.

3. On November 15, 2020, I was present as an observer credentialed by the Democratic Party of Georgia ("DPG") to observe the statewide hand recount of

ballots cast in the 2020 Presidential Election in Fulton County, Georgia (the "Recount"). As part of becoming credentialed, I received training in what the Recount would entail and what I would expect to observe.

4. I arrived at the Georgia World Congress Center, where the Recount was held, at approximately 8:00 a.m.

5. On arrival, I had no problems accessing the Center where the Recount was happening, though I was unable at first to connect with fellow credentialed observers. By 8:30 a.m., I had connected with fellow observers and learned that there were more DPG-credentialed observers than were permitted to access the floor at that time.

6. I volunteered to stand by for the moment and observed the Recount at a distance where others viewing as well.

7. Both parties had credentialed observers in the space where the audit teams were conducting the Recount.

8. At no time did I see or hear of a credentialed observer being denied access to the Recount, other than for the reason that the observer's political party already had the maximum permitted number of credentialed observers in the space.

9. Based on my training nothing seemed out of the ordinary.

10. I did not observe anyone claiming that the Recount had "just finished" or was otherwise complete. To the contrary, the Recount was ongoing when I arrived. When I arrived my understanding was that the recount was almost complete.

11. While observing, I spoke with a Fulton County elections employee, who explained that many of the votes had been counted, which was why the number of audit team were fewer in number than expected.

12. Around 9:40 a.m., I left the Recount because there were sufficient numbers of DPG-credentialed observers on site and I had other commitments that day.

13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

14. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 17th day of November 2020.

Olivia B. Alston

OLIVIA ALSTON

Sworn to and subscribed to before me this 17th day of November 2020.

Laura Tucker

Notary Public



My commission expires: March 28, 2023

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

DECLARATION (AND AFFIDAVIT) OF RUSSELL CASON

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, RUSSELL CASON, who being duly sworn, deposed and stated as follows:

1. My name is RUSSELL CASON. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of Fulton County and registered elector in Fulton County, Georgia.

3. On November 15, 2020, I was present as an observer credentialed by the Democratic Party of Georgia to observe the statewide hand recount of ballots cast in the 2020 Presidential Election in Fulton County, Georgia (the "Recount").

4. I arrived at the Georgia World Congress Center, where the Recount was held, at approximately 8:00 a.m.

5. On arrival, there was no exterior signage to indicate the entrance and a group of 15 to 20 people near me were milling around trying to figure out how to access the facility. Ultimately, we gained access to the building, though the absence of signage required some exploration before we found the table where we could sign in and then be sworn in between 8:30 am and 9:00 am.

6. As a Democratic representative, during our virtual training session, it was suggested that we wear blue clothing and judging from the numbers of observers dressed in red, it is likely someone told the Republicans representatives to wear that color. As was the case on the exterior of the building, inside there was no indication where Democrats or Republicans could or should congregate. As we entered the large room where the recount was being conducted, several tables were set up and individuals were checking people in. On the sign-up sheet, we were instructed to write our names and the political party we were representing. Immediately before my name on the sign-up sheet were at least five people with

GOP written beside their names. After being sworn in, at one point a woman approached me and asked where the Republican table was located. I was not able to help her, but a short while later I saw the woman gathered with a group of 20-25, so I took them to be Republican observers. Eventually, I was able to locate the table where the Democratic observers were gathered and checked in there as well.

7. At this juncture, announcements were being broadcast over the public address system. Due to an echo caused by the size of the room, I had difficulty making much sense of what was being said. The Democratic table was adjacent to the news media bullpen in the back of the room. We were told to "hang tight."

8. At approximately 10 am, the election officials declared they had too many people on the floor and that they wanted each party to thin its ranks of observers to 17 people each. This was accomplished, and I held my station for the moment at the Democratic table.

9. At approximately 10:15 am, a cheer rang through the hall as it was announced that the inventory of ballots was complete. The election officials now instructed that the number of observers be reduced to 5 observers for each political party. Anyone who wanted to go was released.

10. In the absence of any further need for my services, I was happy to depart, which I did.

11. In conclusion, while appearing for service, I didn't ever get assigned to monitor the space where the counting of paper ballots was on-going. My experience was shared by many people of both political parties in my vicinity who appeared that day. I, like they, observed no inaccuracies, improprieties, inconsistencies, or other problems during my limited exposure to the Recount.

12. At no time did I see or hear of a credentialed observer being denied access to the Recount.

13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

14. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 18th day of November 2020.

/s/ (signed)
RUSSELL CASON

Sworn to and subscribed to
before me this 18 day of
November 2020.

Laura Tucker
Notary Public

LAURA TUCKER
NOTARY PUBLIC
COBB COUNTY, GEORGIA
MY COMMISSION EXPIRES
MAR 28 2023

My commission expires: March 28, 2023

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT / DECLARATION OF STEVE YOUNG

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, STEVE YOUNG, who being duly sworn, deposed and stated as follows:

1. My name is STEVE YOUNG. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Fulton County, Georgia.

3. On November 15, 2020, I was present as an observer credentialed by the Democratic Party of Georgia to observe the statewide hand recount of ballots cast in the 2020 Presidential Election in DeKalb County, Georgia (the "Recount").

4. I arrived at 2994 Turner Hill Road, Stonecrest, GA 30038, where the Recount was held, at approximately 7:30 a.m.

5. On arrival, I had no problems accessing the space where the Recount was happening.

6. While I was observing the Recount, there were approximately 18-20 other credentialed observers present, with 10-12 representing the Democratic Party of Georgia and about 8 representing the Georgia Republican Party.

7. At no time did I see or hear of a credentialed observer being denied access to the Recount.

8. I also saw members of the public and/or the media observing the Recount from a designated area.

9. While I observed the Recount, I only saw auditing teams counting ballots cast during advance voting and marked by ballot-marking devices. I understood from speaking with other observers and with county elections workers that by Sunday morning, when I was observing, DeKalb had already counted all of the hand-marked absentee ballots cast in the election. Some auditing teams on duty

while I was observing didn't even receive a batch of ballots to count, because DeKalb had gotten quite far in the process.

10. I saw a GOP-credentialed observer getting very close to the auditing team tables and looking right over peoples' shoulders. A gentleman in an orange vest approached her and asked her to step back. She resisted, claiming that she was more than six feet away. She was not. The gentleman in the orange vest informed her that she was closer than six feet from the auditing team and advised her again to step back. Once she complied, he returned to his station.

11. The Recount was very organized and efficiently run. The Recount workers and volunteers with whom I interacted were friendly and did not treat any observer or group of observers in a hostile way.

12. In short, there were few problems and no major problems while I observed the Recount. I left the Recount around 12:30 p.m.

13. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

14. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 18 day of November 2020.

STEVE YOUNG

Sworn to and subscribed to before me this 18 day of November 2020.

Laura Tucker
Notary Public

LAURA TUCKER
NOTARY PUBLIC
COBB COUNTY, GEORGIA
MY COMMISSION EXPIRES
MAR 28 2023

My commission expires: March 28, 2023

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT OF BETH GRAHAM

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, BETH GRAHAM, who being duly sworn, deposed and stated as follows:

1. My name is BETH GRAHAM. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Fulton County, Georgia.

3. On November 15, 2020, I was present as a monitor credentialed by the Democratic Party of Georgia to observe the statewide hand recount of ballots cast in the 2020 Presidential Election in Fulton County, Georgia (the "Recount").

4. I arrived at the Georgia World Congress Center, where the Recount was held, at approximately 8:30 a.m. I had no problems accessing the space where the Recount was happening.

5. Around 9:00 a.m., the election officials indicated that they did not need as many auditors as were present at that time. As auditors were released, each party gathered to count their number of monitors. Because the officials stated that they wanted only one monitor per party, per ten tables, the number of monitors was quickly reduced to about seventeen (17) per party, with only 5 per party allowed on the audit floor, and further reduced as the day went on. Additional monitors were told they could stay in the public viewing area.

6. When the day began, there were approximately 50 credentialed monitors present observing the Recount. Over the course of the day, that number decreased because there were fewer tables counting.

7. I did not observe anyone claiming that the Recount had "just finished" or was otherwise complete prior to 1 p.m., although new arrivals were told during the day that additional volunteers would not be needed.

8. I also saw approximately five (5) news cameras in the public viewing area and approximately six (6) observers from the Carter Center, who were circulating on the audit floor.

9. I never saw a credentialed observer being denied access to the Recount, however I did see a monitor who had to be corrected by election officials for improperly approaching the audit tables, attempting to talk to auditors, and attempting to touch ballot containers. This individual did not leave the facility after being corrected, but congregated with the Republican monitors and continued to walk the audit floor.

10. While observing, I had access to view each of the two-person audit teams from about six feet away. From this distance, I could hear the auditors announce and discuss the votes they counted on each ballot. I could also see the selections voters had made on the ballots that the audit teams were recounting if I chose to get that close. I could also see into what designated stack a given audit team placed each ballot.

11. During my time observing, I did not hear anyone call out a ballot and then place it into the wrong stack, or hear anyone complain to an elections official that ballots were being placed in the wrong stack.

12. Based on my observation, the audit teams I observed seemed to count correctly. I did see two tables who independently counted for a few minutes at the beginning of the process, but they self-corrected upon being observed and each counted as a team after that.

13. Around 12 p.m., when we were asked to reduce our numbers to two (2) per party, there were still four (4) Republican monitors walking around the audit floor looking for pieces of paper or documents lying on tables. I saw them approach an auditor and ask questions. The auditor told them she could not speak to them. They later approached another auditor, and one of the Democratic observers intervened to tell them they could not question auditors. He then escorted the Republican observers to an elections official whom I understood to be an attorney, who confirmed that observers should not speak to the auditors.

14. I continued as a monitor on the floor until around 1 p.m., and left shortly thereafter. By that time only 3-4 tables were still counting ballots, and I was no longer needed.

15. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

16. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 18th day of November 2020.

(signed)

BETH GRAHAM

Sworn to and subscribed to before me this 18TH day of November 2020.

Notary Public



My commission expires: March 28, 2023

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04651-SDG

AFFIDAVIT OF REBECCA SHORT

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, Rebecca Short, who being duly sworn, deposed and stated as follows:

1. My name is Rebecca Short. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Fulton County, Georgia. I am also an attorney and member of the State Bar of Georgia.

3. On November 15, 2020, I was present as an observer credentialed by the Democratic Party of Georgia to observe the statewide hand recount of ballots cast in the 2020 Presidential Election in Fulton County, Georgia (the "Recount").

4. I arrived at the Georgia World Congress Center, where the Recount was held, at approximately 8:20/8:30 a.m.

5. On arrival, I had no problems accessing the space where the Recount was happening.

6. I did not observe anyone claiming that the Recount had "just finished" or was otherwise complete. To the contrary, the Recount was ongoing when I arrived and was continuing when I left at about 12:10 p.m.

7. While I was observing the Recount, there were numerous other credentialed observers present. At one point, Fulton County elections officials asked us to gather by party and asked both the Democratic Party of Georgia and the Republican Party of Georgia to cull themselves down to 17 credentialed observers. I would estimate the Democratic Party had approximately 30 credentialed observers there so some 13 Democratic Party observers were asked to leave. I do not know how many credentialed observers the Republican party had present, but they were also asked to limit their number to 17.

8. Fulton County officials then came back and asked both the Democratic and Republican parties to limit the number on the floor at any given time to five credentialed observers. Officials noted that county employees had made progress in counting ballots and officials had dismissed approximately two-thirds of the counters, thus less observers were needed on the floor. The same instructions were given to both the Democratic and Republican parties.

9. I was one of the five credentialed observers to remain behind. I was able to walk on the floor where the counting was taking place and observe the two-person teams hand counting ballots. There was nothing extraordinary to note as the county employees looked at ballots, moved the ballots to one of 4 piles and then tallied the votes in each pile. I observed the piles to contain Trump votes, Biden votes and Jorgensen votes. The 4th pile was for questionable or undetermined ballots which were placed in an envelope and then someone from the County would retrieve the envelope and take it to the voter review panel. The process was very orderly.

10. I also was able to observe the voter review panels, which were adjudicating ballots containing Presidential votes which the two-person county team could not conclusively determine were meant for a given candidate. At one point, a County official stated that they need additional Republican reviewers for

the voter review panels but could not find any credentialed for that task. Instead the County official allowed two of the credentialed floor observers, both women, to serve on the panel. I observed one of the women chosen for the voter review panel to be taking her own notes during this process. I had also observed this same woman taking photos earlier when she was walking on the floor as an observer and heard a county official ask her to delete the photos and to delete them from the deleted file. This woman was eating, drinking and coughing while reviewing undetermined ballots.

11. I observed two gentlemen arrive who were credentialed for the voter review panel. At that point all parties, Republican observers, Democratic observers, and county officials, agreed to allow the two women to complete the review of ballots as they were almost done.

12. I also at one point observed a press conference with Fulton County officials and saw approximately 10-15 members of the news media in attendance. I also observed individuals and media in the designated general-public observation area.

13. Except for the number limitations imposed equally on both teams of credentialed observers, I did not see or hear of a credentialed observer being denied access to the Recount.

14. While observing, I had access to view each of the two-person audit teams from about six feet away. Some of the two-person teams were discussing audibly the votes and some were simply moving each ballot to a stack of ballots. After the team was finished separating the votes, they would count the number of ballots in each stack and then provide the numbers to be entered into a computer.

15. I was in the credentialed, ballot-counting area for approximately 4 hours and observed no inaccuracies, improprieties, inconsistencies, or other problems during the Recount. The process ran smoothly.

16. Around 12:10 p.m., after approximately 4 hours of observation, I left the Recount because the voter review panels had essentially wrapped up the work and that had been the focus of my observations.

17. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

18. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 17th day of November 2020.

_____ (signed)

Rebecca Hoelting Short

Sworn to and subscribed to before me this 17th day of November 2020.

Crystal Nicole G

Notary Public

My commission expires:

10/24/2023



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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT OF SARA GHAZAL

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, Sara Tindall Ghazal, who being duly sworn, deposed and stated as follows:

1. My name is Sara Tindall Ghazal.

2. I am over the age of 18, and I am a licensed attorney in the state of Georgia, and a resident and registered voter of Cobb County, Georgia.

3. From February 2018 until December 2019, I served as the voter protection director for the Democratic Party of Georgia.

4. In 2017, I served as the Cobb County Democratic Party's representative on the Cobb Elections Vote Review Panel during the Sixth District Special Election.

5. In 2020, I was a candidate for State House in Georgia.

6. Beginning on midday Wednesday, November 4, through Monday, November 9, I observed Cobb County officials undertake the intake, signature verification, separation of ballots from their envelopes, duplication and adjudication as necessary, and tabulation of absentee and provisional ballots, as a member of the public.

7. Beginning Friday, November 13, through Monday, November 16, I observed the audit of the Presidential race in Cobb County on behalf of the Democratic Party of Georgia at Jim Miller Park, which was used as the main site for Cobb County election processing, albeit not as a polling precinct.

8. On Wednesday, November 4, and subsequent days, I observed from the public observation area as Cobb County officials examined incoming absentee ballots that had arrived on Election Day in Room A of the Jim Miller Park facility.

9. I observed poll workers scan the bar codes with a hand-held bar code scanner, which subsequently pulled up the individual voter record. Poll workers at that point compared the voters' signatures on the back of the absentee ballot envelope with the signatures that were held on file.

10. While I could generally see the process of intake and signature comparison, I was not close enough to the poll workers to be able to evaluate any signature personally.

11. Monitors of each party who had been accredited in advance by their political party had access to this room. I observed credentialed monitors from both the Democratic Party of Georgia and the Georgia Republican Party present in the facility.

12. I observed that after absentee ballots had been accepted based on the verification of signatures from the outside of the ballot envelope against the exemplars that were maintained on file, these ballots were then taken to a machine in the back of room C that opened the envelopes in a rapid manner.

13. I understand, but did not personally witness, that after the envelopes were opened, the ballots were separated from the envelopes with signatures in such a manner as to guarantee the secrecy of the ballot, as is guaranteed under the Georgia Constitution, Art. II Sec. 1(1)

14. After these ballots were separated, I witnessed poll workers organizing them according to precinct. This batching process was conducted in room B.

15. In room C I witnessed multiple boxes that contained the ballot envelopes with signatures, stacked in the back of the room. I was told by Cobb County Registrar Beau Gunn that these documents must be retained for two years.

16. I witnessed batches of ballots then run through scanners in room C. In most batches that were run through the scanners, one or more ballots could not be read by the scanner. These ballots that could not be scanned were pulled from the stack of ballots and set aside.

17. I witnessed the ballots that were unable to be scanned by the scanners were subsequently delivered to tables, also in room C, where teams of two individuals supervised by a third staff person duplicated the unreadable ballots onto new, fresh absentee ballots that were not creased and had not been folded.

18. The process by which the rejected ballots were duplicated was as follows: one staff person read out the voter's choice while the other staff person filled in the bubble carefully. The third supervisor would thereafter compare the original ballot as completed by the voter against the duplicated ballot as completed by the staff person. These staff people all used black pens to complete the duplicated ballots.

19. In cases where the voter's intent was unclear, or where the voter had changed their mark, both the original unscannable ballot and the duplicated ballot

were submitted to a vote review panel, make up of representatives of both the county Democratic and the county Republican Party. On at least one occasion I also witnessed a representative of the Libertarian party on a vote review panel.

20. I witnessed the conduct of numerous vote review panels over the course of the five days that I observed the original processing and tabulation of absentee and provisional ballots. I did not observe a single occasion in which party officials disagreed about the voter intent.

21. I also witnessed Uniformed and Overseas Citizen Absentee Voting ACT (UOCAVA) ballots being processed.

22. Based on my knowledge and experience in Georgia election law, I am aware that Georgia law allows for UOCAVA ballots to be emailed to overseas and military voters. Voters then use their personal printers to print out their ballot on normal paper, then complete these ballots by hand.

23. I witnessed UOCAVA ballots that had been printed on a home printer being duplicated onto the normal absentee ballot forms so that they could be read by a scanner.

24. I did not witness any actions or behavior that led me to believe that poll workers were undertaking any activity aside from adhering to normal election procedures in processing and tabulating absentee ballots.

25. Beginning the morning of Friday, November 13, through Monday, November 16, I acted as an accredited monitor for the Democratic Party of Georgia.

26. Based on previous statements from Georgia Secretary of State Brad Raffensperger and conversations with Cobb County Election Supervisor Janine Eveler, I had understood that a statewide race other than the Presidential election would be selected for an audit, as per the requirements of OCGA 21-2-498.

27. I was quite surprised to learn that the race to be selected for an audit was the Presidential race. Given my understanding of Risk Limiting Audits (RLAs,) I knew that this meant a huge number of ballots would have to be pulled in order to ascertain whether the tabulation process had correctly identified the winner of that race.

28. It is my understanding that based on the extreme challenges of pulling more than 1,000,000 randomly selected ballots, the exercise of auditing the Presidential race would instead consist of hand-examining every ballot that was cast in that race.

29. Because Georgia law does not allow for a hand-recount of ballots except for the extremely limited circumstances of a court order or a lack of any functioning scanners, I am not aware of any pre-existing procedures to conduct an audit (or a hand-recount) of all ballots in Georgia.

30. In the absence of any written procedures, I witnessed Cobb officials instructing poll workers who had been brought back in on very short notice to recount the ballots without providing specific instruction as to how that counting should be conducted.

31. I heard a poll manager admonish poll workers to keep talking to a minimum so as not to distract the staff from the task at hand.

32. I witnessed up to 40 teams of individual poll workers hand reviewing and hand counting both machine-marked and absentee ballots.

33. I witnessed occasional mistakes caused by human error and fatigue, such as placing a single ballot in the wrong pile or ballots sticking together and being counted as a single sheet of paper. In every instance of a human error that I personally witnessed, another poll worker was able to correct this mistake.

34. During the process of the audit, I also witnessed additional vote review panels re-adjudicating duplicated ballots against the original ballots as completed by the voter to confirm both that the ballots had been accurately duplicated, and that the duplicated ballots had been accurately tabulated.

35. I witnessed Cobb officials pulling both the original ballots that had been rejected by the scanners, as well as the duplicated ballots that had been adjudicated during the original processing and subsequently tabulated.

36. The vote review panels first were presented with both the original ballot and the duplicated ballot, when they confirmed that the serial number that was provided to each matched, and that the Presidential race was accurately duplicated from the original to the new ballot.

37. After confirming that each duplicated ballot was matched up to its corresponding original ballot, each pile was counted to confirm a match.

38. The vote review panel members then separated the ballots according to the presidential candidate chosen by the voter, and thereafter counted the number of ballots for each candidate and recorded these numbers on their tally sheet.

39. Several of these panels adjudicated UOCAVA ballots as a part of their duties. Based on the comments of the panelists that I heard as observing, I believe that these vote review panel members did not understand how UOCAVA ballots are transmitted to overseas voters, or why they have to be duplicated onto a ballot paper that can be read by a scanner.

40. The same procedures were followed over multiple days and multiple panels.

41. I am aware that several affidavits submitted by the Plaintiff in this case suggest there was something suspicious or irregular about the fact that certain ballots appeared “pristine” or “impeccab[ly]” filled in, and that those same ballots lacked

folds or creases. However, as described above, both damaged ballots and certain UOCAVA ballots must be duplicated by election officials to be read by the vote tabulation scanners. These duplicated ballots are not folded, as they have not been mailed, are neatly filled in by election workers, and are clearly marked and tracked to as to indicate that they are official duplicates.

42. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

43. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 18th day of November 2020.

_____ (signed)

Sara Tindall Ghazal

Sworn to and subscribed to
before me this 18th day of
November 2020.

_____
Notary Public

My commission expires: 05/17/2024

EDDY PETIT-BOIS
Notary Public - State of Florida
Commission # HH537
Expires on May 17, 2024

Notarized online using audio-video communication
Electronic Notary Public

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT OF SHARON ZYDNEY

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, Sharon Zydney, who being duly sworn, deposed and stated as follows:

1. My name is Sharon Zydney. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in Fulton County, Georgia.

3. On November 16, 2020, I was present as an observer credentialed by the Democratic Party of Georgia to observe the statewide hand recount of ballots cast in the 2020 Presidential Election in Henry County, Georgia (the "Recount").

4. I arrived at 526 Industrial Boulevard, McDonough, Georgia where the Recount was held, at approximately 6:50 a.m.

5. On arrival, I was greeted by Ameika Pitts, Henry County Elections Director, who I recognized from the training I attended the previous Friday. I had with me the certified letter from the Democratic party that I was eligible to observe the Recount. I also took an oath before being allowed on the floor to observe.

6. At the training I had been told that observers were not allowed to have cell phones in the Recount area. I also observed signs in the Recount area stating no cell phones.

7. I was one of 2 Democratic observers joined by 2 Republican observers inside the rope where tables were set up for the recount. There were approximately 6 tables with 3 stations per table and 2 counting officials (auditors) at each station. There were approximately 12 teams of auditors during my time on the floor, with another team of auditors coming in around 11:00 The four observers, two from each party, were allowed to move amongst the tables where

the Recount was happening and observe the Recount. There were also 2 additional observers from each party assigned to the vote review panels.

8. After 8:00 a.m., additional observers with credentials from the Democratic party arrived and observed from behind the rope. There were also observers whose party affiliation was not obvious. As the morning went on, some Democrat certified observers did leave, and some individuals remained in the public viewing area behind the rope.

9. At approximately 11:00 a.m., the 2 Republican observers were replaced by 2 other Republican observers. At one point, all 4 were within the rope. The other Democratic observer working with me switched out with a Democratic observer who had been behind the rope.

10. While I was observing the Recount, an individual in the back called Ms. Pitts over claiming there was an urgent issue. I heard that one ballot had been put in the wrong pile and it sounded like it was a Trump ballot put in the Biden pile. Ms. Pitts came over and I watched as the auditors re-did the sorting for this pile of votes. Indeed one ballot was in the wrong pile and they found it and corrected the mistake when they re-counted the batch.

11. I also observed one audit team get out of sync when placing their ballots into piles. One woman was orally calling out the vote and the other person

was then orally calling out the vote and placing them in the appropriate pile. In the middle of the batch she started putting Biden ballots on the Trump pile and Trump ballots on the Biden pile. I called over a county election official who had the two counters redo the entire batch of ballots. I watched them redo and recount and it was corrected. I do not believe the mix up was intentional.

12. To me, the system for counting and observing was working as it was intended; when mistakes were made by human error, then those mistakes were corrected.

13. In my interactions with Ms. Pitts I found her friendly and welcoming. She did become focused and serious if a problem was identified. I would not characterize her behavior as hostile but attentive and matter-of-fact if a problem was brought to her attention.

14. A little after 1:00 p.m., after approximately 6 hours of observation, I left the Recount.

15. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

16. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 19th day of November 2020.

Sharon Zydney (signed)

Sharon Zydney

Sworn to and subscribed to before me this 19th day of November 2020.

Notary Public



My commission expires: March 28, 2023

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

L. Lin Wood, Jr., Plaintiff, v. Brad Raffensperger, in his official capacity as Secretary of the State of Georgia, et al., Defendants.	CIVIL ACTION FILE NO. 20-cv-04651-SDG

AFFIDAVIT OF KOMAL PATEL

Personally appeared before me, the undersigned subscribing officer, duly authorized to administer oaths, KOMAL PATEL, who being duly sworn, deposed and stated as follows:

1. My name is KOMAL PATEL. I am over 18 years of age, a citizen of the State of Georgia, suffer from no legal disabilities, and am otherwise competent to testify to the matters contained herein. I have personal knowledge of the facts here, and if called as a witness, can testify completely thereto.

2. I am a resident of and registered elector in DeKalb County, Georgia.

3. On November 16, 2020, I was present as an observer credentialed by the Democratic Party of Georgia to observe the statewide hand recount of ballots cast in the 2020 Presidential Election in Clayton County, Georgia (the "Recount").

4. I arrived at the Clayton County Police Department, where the Recount was held while I observed it, shortly after 8 a.m.

5. On arrival at the Police Department, I had no problems accessing the room where the Recount was happening.

6. The space was small. But at no point was I concerned about the ability to view what was happening in any part of the room. While waiting in the roped off area (for the public, media, and party volunteers who took turns observing the floor where people were counting), it was easy to see what was happening all around the room. Any observer could easily see what was happening in any part of the room merely by moving around a few steps.

7. While monitoring the counting floor – which involved actually walking around next to the tables with people who were counting – I had access to view each of the two-person audit teams at the tables. I could hear the auditors announce and discuss the votes they counted on each ballot. I could also see the selections voters had made on the ballots that the audit teams were recounting, and

could see into what designated stack a given audit team placed each ballot. Other credentialed observers had the same access as I did.

8. While I was present, I observed at least five individuals who I understand were associated with the Trump Campaign and/or Republican Party. I observed one of these individuals taking pictures and sending them to somebody on his phone. I observed a Trump-Pence logo on those messages.

9. Additionally, I observed at least three of these individuals causing disruptions in the Recount room. For example, one of the individuals began complaining to an election official that the County was not following the rules by permitting only one monitor per party even though there were 12 tables in the room. I understand this is the subject of the Affidavit submitted by Ibrahim Reyes. The individuals I observed were being highly combative and were disruptive. This resulted in an election official ultimately asking a couple of the individuals to temporarily leave the Recount room.

10. While I was observing the Recount, in addition to the 5 Republican observers, there were approximately 6 other credentialed observers present, with about 4 representing the Democratic Party, and 2 from the Carter Center (additional non-credentialed observers remained in the public viewing area).

11. Each party, both Republican and Democratic, as well as the Carter Center, had monitors present and on the floor of the Recount throughout the time I was present. The monitors for each party, and the Carter Center, alternated on the floor. The same rules were applied to all credentialed observers.

12. I also observed a group of individuals I understood to be the members of a vote review panel. I saw at least two of the individuals affiliated with the Republican Party serve on this panel.

13. I also saw two or three members of the news media and other members of the public observing the Recount from a designated area.

14. I observed no inaccuracies, improprieties, inconsistencies, or other problems during the Recount. The audit teams I observed appeared to be counting correctly. The process ran smoothly, minus the above-mentioned disruptions.

15. Around noon, after approximately 3 hours of observation, I left the Recount because the County took a break for lunch.

16. I learned from a notice posted by the County in the room where the morning Recount took place that the Recount was being moved to the Jackson Elementary School gymnasium in the afternoon of November 16, 2020 (beginning at 1:30 p.m.). I did not attend the afternoon session of the Recount on November 16, 2020.

17. I give this Declaration freely, without coercion, and without any expectation of compensation or other reward.

18. I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

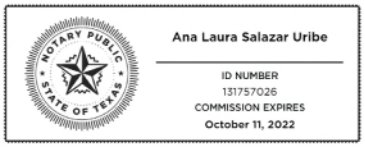
Executed this 18th day of November 2020.

Komal Patel
_____ (signed)

KOMAL PATEL

Sworn to and subscribed to before me this 18th day of November 2020.

Ana Salazar
_____
Notary Public



My commission expires: 10/11/2022

Notarized online using audio-video communication

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

NOTICE OF FILING OF AFFIDAVITS IN SUPPORT OF INTERVENOR-DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' EMERGENCY MOTION FOR INJUNCTIVE RELIEF

Intervenor-Defendants Democratic Party of Georgia, Inc. ("DPG"), DSCC, and DCCC (together, "Intervenors") hereby give notice of filing of the following sworn affidavits offered in support of their Response in Opposition to Plaintiffs' Emergency Motion for Injunctive Relief.

1. Attached hereto as Exhibit 1 is a true and correct copy of the Affidavit of Shameika Vailes, a DPG-credentialed recount observer for Fulton County.

2. Attached hereto as Exhibit 2 is a true and correct copy of the Affidavit of Angela Thomas, a DPG-credentialed recount observer for Fulton County.

3. Attached hereto as Exhibit 3 is a true and correct copy of the Affidavit of Kimberly Brandon, a DPG-credentialed recount observer for Cobb County.

4. Attached hereto as Exhibit 4 is a true and correct copy of the Affidavit of Doris Sumner, a DPG-credentialed recount observer for Gwinnett County.

5. Attached hereto as Exhibit 5 is a true and correct copy of the Affidavit of Robin Lourie, a DPG-credentialed recount observer for Fulton County.

6. Attached hereto as Exhibit 6 is a true and correct copy of the Affidavit of Olivia Alston, a DPG-credentialed recount observer for Fulton County.

7. Attached hereto as Exhibit 7 is a true and correct copy of the Affidavit of Russell Cason, a DPG-credentialed recount observer for Fulton County.

8. Attached hereto as Exhibit 8 is a true and correct copy of the Affidavit of Steve Young, a DPG-credentialed recount observer for DeKalb County.

9. Attached hereto as Exhibit 9 is a true and correct copy of the Affidavit of Beth Graham, a DPG-credentialed recount observer for Fulton County.

10. Attached hereto as Exhibit 10 is a true and correct copy of the Affidavit of Rebecca Short, a DPG-credentialed recount observer for Fulton County.

11. Attached hereto as Exhibit 11 is a true and correct copy of the Affidavit of Sara T. Ghazal, a DPG-credentialed recount observer for Cobb County.

12. Attached hereto as Exhibit 12 is a true and correct copy of the Affidavit of Sharon Zydney, a DPG-credentialed recount observer for Henry County.

13. Attached hereto as Exhibit 13 is a true and correct copy of the Affidavit of Komal Patel, a DPG-credentialed recount observer for Clayton County.

Dated: December 5, 2020

Adam M. Sparks
Halsey G. Knapp, Jr.
Joyce Gist Lewis
Susan P. Coppedge
Adam M. Sparks
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com

jlewis@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street, N.W., Suite 800
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
MElias@perkinscoie.com
ACallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: (206) 359-8000
Facsimile: (206) 359-9000
KHamilton@perkinscoie.com
ABeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, OR 97209
Telephone: (503) 727-2000
Facsimile: (503) 727-2222
MMertens@perkinscoie.com

Counsel for Intervenors-Defendants

**Admitted Pro Hac Vice*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: December 5, 2020.

Adam M. Sparks
Counsel for Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 5, 2020.

Adam M. Sparks
Counsel for Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

INTERVENORS' MOTION TO EXCLUDE TESTIMONY OF SHIVA AYYADURAI, RUSSELL JAMES RAMSLAND, JR., MATTHEW BRAYNARD, WILLIAM M. BRIGGS, RONALD WATKINS, BENJAMIN A. OVERHOLT, ERIC QUINNELL, S. STANLEY YOUNG, AND "SPYDER"

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I. INTRODUCTION

In an attempt to support their claims of a multi-national conspiracy to rig the results of the presidential election for President-Elect Joseph R. Biden, Jr.—which Plaintiffs allege was accomplished by methods ranging from "ballot stuffing" at voting machines via a hidden software algorithm to illegally processing tens of thousands of absentee ballots—Plaintiffs have filed multiple "expert" declarations and reports. But the individuals put forward by Plaintiffs as "experts" are wildly unqualified. For example, a former Trump staffer who has publicly stated that he is working hand in glove with the Trump campaign to get the election overturned and delivered to the President purports to offer a statistical analysis of election data despite having had no relevant training, skill, or experience. Others' grounding in their claimed areas of expertise is equally suspect. The analyses they offer rely on patently incomplete or faulty data. Over and over, the reports fail to disclose the methods employed by their authors, error rates, or even how underlying data was obtained. Where their methodology is discernable, Plaintiffs' "experts" regularly use methods that are not at all standard or trusted in the relevant field, and draw conclusions that are nothing more than speculation.[1]

[1] Some reports were attached as exhibits to the Complaint, while others are referenced in Plaintiffs' motion for temporary restraining order, and some are not

Plaintiffs attempt to use these unreliable reports written by unqualified individuals to seek extraordinary relief, including an order de-certifying the November 2020 election results and a declaration that Georgia's electoral college votes will be awarded to President Trump despite Georgia voters' clear decision choosing President-Elect Biden. None of these reports supports this relief, and none is sufficient to pass the *Daubert* standard for admissibility. All should be excluded.

II. LEGAL STANDARD

Courts may only admit expert testimony when "(1) the expert is qualified to testify regarding the subject of the testimony; (2) the expert's methodology is sufficiently reliable as determined by the sort of inquiry mandated in *Daubert* [*v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993)]; and (3) the expert's testimony will assist the trier of fact in understanding the evidence or determining a fact at issue." *Chapman v. Proctor & Gamble Distrib., LLC,* 766 F.3d 1296, 1304 (11th Cir. 2014) (quotation marks and citation omitted); *see also* Fed. R. Evid. 702. As proponents of the expert testimony at issue, Plaintiffs bear the burden to establish these requirements. *Chapman*, 766 F.3d at 1304.

An expert is qualified if they can testify competently regarding the matters

referenced in any motion or pleading at all. It is therefore unclear which reports Plaintiffs plan to rely on in support of their motion for temporary restraining order; in any event, all should be excluded.

addressed by virtue of their education, training, experience, knowledge, or skill. *United States v. Frazier*, 387 F.3d 1244, 1260-61 (11th Cir. 2004). Where a proposed expert fails to demonstrate experience, training, or other qualifications in the field and that methodologies that they utilize to provide their opinion, they cannot be qualified as an expert. *Smith v. Ortho Pharm. Corp*., 770 F. Supp. 1561, 1566 (N.D. Ga. 1991).

In determining whether proffered expert testimony is reliable, courts consider whether: (1) the expert's methodology has been tested or is capable of being tested; (2) the theory or technique has been subjected to peer review and publication; (3) there is a known or potential error rate of the methodology; and (4) the technique has been generally accepted in the relevant scientific community. *United Fire & Cas. Co. v. Whirlpool Corp.*, 704 F.3d 1338, 1341 (11th Cir. 2013) (per curiam) (*citing Daubert*, 509 U.S. at 593-94). Failure to disclose the data or methodology that form the basis of an expert's conclusions warrants exclusion. *Robinson v. City of Montgomery*, Civil Action No. 2:01cv40-CSC, 2005 WL 6743206, at *3 (M.D. Ala. March 2, 2005).

Finally, and most fundamentally, the Court must ensure that the expert's testimony "is relevant to the task at hand." *Chapman*, 766 F.3d at 1306 (quotation marks and citation omitted). If the Court determines that the testimony is not

relevant, the Court should exclude even reliable expert testimony. *See Daubert*, 509 U.S. at 591; *United States v. Wilk*, 572 F.3d 1229, 1235 (11th Cir. 2009).

III. ARGUMENT

A. Ayyadurai is not qualified and fails to disclose his methods.

Shiva Ayyadurai is an engineer with training in mechanical engineering and biomedical engineering. He seeks to testify regarding voting patterns in certain Georgia counties. *See* Declaration of Shiva Ayyadurai, ("Ayyadurai Decl.") ECF No. 6-1, at ¶¶ 3, 15-17, 30. Ayyadurai, however, does not possess relevant education, experience or background to offer opinions on these topics and, even if he did, he fails to disclose his methodology.

Ayyadurai is not qualified to opine on voting behavior, projections, statistical analysis of ethnicity data in relation to voting behavior, or cumulative voting analysis. He has not been previously qualified to speak on these topics and his report identifies no education or experience that equips him to offer these opinions. Though Ayyadurai has degrees in engineering and computer science, applied mechanics, and systems biology, he does not explain how these credentials qualify him to offer the opinions at issue. *See Horton v. Maersk Line Ltd.*, 603 Fed. App'x 791, 798-99 (11th Cir. 2015) (finding witness unqualified to opine on corner casing defects even though witness knew how to repair corner casings). Ayyadurai claims

to be "an engineer" with "vast experience in engineering systems, pattern recognition, [and] mathematical and computational modeling and analysis." Ayyadurai Decl. at ¶ 2. His report, however, does not indicate how this "vast experience" qualifies him to testify about or analyze voting behavior. *See Horton*, 603 Fed. App'x at 798-99. Indeed, it appears this is the first time in his entire career that he has even contemplated these issues. His lack of qualifications alone warrants exclusion. *See*, *e.g.*, *Smith*, 770 F. Supp. at 1566; *Chapman*, 766 F.3d at 1313-14.

In addition, Ayyadurai's report is inadmissible because he fails to disclose the methods he used and, even if any method can be discerned, it is obviously unreliable. *McDowell v. Brown*, 392 F.3d 1283, 1298 (11th Cir 2004). Ayyadurai summarizes his conclusions as follows: (1) there are improbable vote pattern anomalies, including instances of "High Republicans, Low Trump" vote patterns in certain precincts; (2) in three counties the "only plausible explanation for the vote distribution was that President Trump received near zero Black votes," Ayyadurai Decl. at 27-28; and, (3) an unidentified "'weighted race' algorithm" transferred "approximately 48,000 votes from President Trump to Mr. Biden," *id*. at 28. As noted by Intervenor's Rebuttal Expert Jonathan Rodden, however, Ayyadurai "provides no indications about his data sources," "does not explain how he measures his variables," and "[h]is claims about race and ethnicity are, frankly,

inscrutable, and thus difficult to evaluate with data analysis." Report of Jonathan Rodden ("Rodden Rep.") at 24.[2]

For but one example, Ayyadurai summarizes demographic data from undisclosed sources purportedly related to the percentage of Republican-, Democratic-, and Independent-affiliated individuals within certain counties, as well as the "ethnic" makeup of those counties, again by percentage. Ayyadurai Decl. at ¶¶ 14-21. Ayyadurai then references graphs that he claims show that as the percentage of Republicans in certain precincts increases, the overall percentage of Republican votes for President Trump decreases. *See id.* at ¶¶ 15-21. He does not explain why this is problematic or how, as he also contends, these graphs show fraud. As Dr. Rodden notes, such a pattern is not surprising—and it certainly is not an indication of election fraud. *See* Rodden Rep. at 24-35. In fact, Ayyadurai's "phrase—'high Republican but low Trump'—describes something that we saw not only in Savannah, [Georgia], but in metro areas around Georgia and the United States: white metro-area voters who typically vote for Republican candidates continued to do so in down-ballot races, but a number of them voted for the

[2] Dr. Rodden is a tenured Professor of Political Science at Stanford University and the founder and director of the Stanford Spatial Social Science Lab. *See* Rodden Rep. He is an established expert on election data analysis and has appeared—and been credited—as an expert in numerous voting rights and election-related lawsuits and litigation across the country. Rodden Rep. at 3-6.

Democratic candidate in the presidential race." *Id.* at 30. Ayyadurai does not account for the explanation provided by Dr. Rodden, provide the methodology used to reach his conclusion or identify the source of his data.

The entirety of Ayyadurai's report suffers from the same flaws: a conspicuous failure to disclose the source(s) of the data relied on, how conclusions were reached, and what methodology, if any, underlies the opinions. *See, e.g.*, Ayyadurai Decl. ¶¶ 15(g)-(h), 16(g)-(h), 17(g)-(h) (failing to identify source or relevance of data as well as method underlying opinion); ¶¶ 30-31 (lacking reference to data source, explanation of algorithm or how votes were transferred from Trump to Biden); Rodden Rep. at 24, 32-35. The report fails to disclose enough about the methods employed or relied upon so that those methods can be reviewed, tested, duplicated, and verified. *See McDowell*, 392 F.3d at 1298. Reports that omit even a minimal disclosure of the underlying methods are inadmissible. *See Frazier*, 387 F.3d at 1260. Ayyadurai's declaration should be excluded. *Id.* at 1265 ("'[t]he court's gatekeeping function requires more than simply 'taking the expert's word for it.'").

B. Ramsland is not qualified and fails to disclose his methods.

Russell James Ramsland, Jr. offers opinions regarding whether the use of certain voting machines influenced the outcome of the 2020 presidential election in

Georgia. *See, e.g.*, Declaration of Russell James Ramsland, Jr. ("Ramsland Decl.") ECF No. 1-10, ¶ 8. Ramsland's report should be excluded: because Ramsland is not qualified as an expert and fails to disclose the information relied on and the methodology he (or others) utilized to reach his conclusions.

First, Ramsland is a businessman who lacks the qualifications necessary to offer expert opinion testimony on the impact, if any, on the 2020 presidential election from the use of certain voting machines. *See id.* at ¶ 2. In his declaration, Ramsland candidly admits his lack of relevant knowledge, education and experience stating that he "relied on [his current employer's] experts and resources," noting that his employer, "which provides a range of security services," "contract[s] with statisticians when needed," and employs a "wide variety of cyber and cyber forensic analysts as employees, consultants and contractors." *Id*. Ramsland does not disclose, however, who these unidentified "experts" are, which of them were utilized, the sources of data they relied upon, the manner in which they performed whatever work they might have done and in what way Ramsland, in turn, relied on that work to prepare his own report. *Id.*; *Bowers v. Norfolk S. Corp.*, 300 Fed. App'x 700, 703 (11th Cir. 2008).

Instead, Ramsland appears to be parroting analyses from other unidentified individuals who claim to possess expertise that he does not. This alone is more than

sufficient to exclude his report. *See Redmond v. City of East Point, Georgia*, No. 1:00-CV-2492-WEJ, 2004 WL 6060552, at *15 (N.D. Ga. Mar. 29, 2004) (noting that, under *Daubert*, "[a] scientist, however well credentialed he may be, is not permitted to be the mouthpiece of a scientist in a different specialty").

Even if Ramsland were qualified (and he assuredly is not), his report is inadmissible because it utterly fails to disclose the data or methodology he (or others) used, as well as the bases for his (or other's) analyses and conclusions. *See Frazier*, 387 F.3d at 1264-65. Indeed, the report can be searched in vain for Ramsland's data sources, the statistical analyses conducted, margins of error, or virtually *anything* that might suggest serious scholarly or expert analysis.

And, to the extent *any* methodology can be discerned from the scant information in the report, that methodology is unreliable. *McDowell*, 392 F.3d at 1298. The proffered opinions are therefore inadmissible. *See* Fed. R. Evid. 702.

For example, Ramsland references a "regression analysis" used to "develop a model/equation to predict in any county what percentage of vote could reasonably be expected to go to candidate Biden," noting that the model does a "good job" predicting Biden's percentage of votes in "most counties." Ramsland Decl. at ¶ 8. But Ramsland fails to describe that "regression analysis," or the "model/equation" developed from it. He is remarkably silent as to the inputs for the regression

analysis, the method itself, any assumptions, the predictive findings, and the error rate. He claims that the undescribed model does a "good job" predicting Biden's percentage of votes in "most counties," but nothing more is provide: How accurate is a "good job"? How many counties is "most counties"? This isn't even close to an appropriate or reliable statistical analysis.

Similarly, Ramsland concludes that, in counties that used certain voting machines or devices, candidate Biden "over-performed" beyond the expected results using the undisclosed predictive model, resulting in 123,725 votes in Georgia that are "statistically invalid." *Id.* at ¶ 10. He opines that Biden's "overperformance" is "**highly indicative (and 99.9% statistically significant) that something strange is occurring with the [voting] machines**." *Id*. at ¶ 11 (emphasis in original). Again, no details regarding these calculations—including how it was determined that the results are statistically significant or how statistical significance of "strangeness" might be measured—are disclosed. The exact type of "strangeness" at issue is left to the reader's imagination. Ramsland's other opinions suffer from the same issues. *See, e.g.*, *id.* at ¶ 13 (failing to disclose data or explain method underlying plot purportedly showing widespread fraud); ¶¶ 15, 18-19 (estimating magnitude of "fraudulent[] and erroneous[]" vote attribution without providing data or explaining methodology).

Moreover, an examination of the possible methodologies underlying Ramsland's opinions reveal deep flaws. As noted in Dr. Rodden's rebuttal report, Ramsland relies on "idiosyncratic, non-standard statistical techniques" that are ill-suited for the analysis he attempts to conduct. Rodden Rep. at 36. Among the many identified by Dr. Rodden: (1) inappropriate reliance on a correlation that is driven primarily by cross-state variation; (2) failure to address causal inference problems including that Democratic leaning counties were more likely to adopt Dominion voting systems; and (3) failure to include fixed effects which is standard practice in the type of social science research Ramsland attempted. *Id*. at 36-43. In short, "the research design used in the Ramsland report is ill-equipped to detect differences in vote shares that are *caused* by use of particular voting systems." *Id*. at 46. The rebuttal report of Kenneth R. Mayer identifies additional errors including, for example, that the data Ramsland relies on from undisclosed sources does not match the actual data from the state. Report of Kenneth R. Mayer ("Mayer Rep.") at 4-5.[3]

Ramsland's failure to provide or even describe the methodology underlying his opinions as well as the lack of reliability in the methodology that can be

[3] Kenneth R. Mayer has a Ph.D. in political science from Yale University and is on the faculty of the political science department of the University of Wisconsin-Madison. Mayer Rep. at 2. He has authored articles on election administration and has been qualified as an expert in numerous matters. *Id.* at 2-3.

ascertained from his report mandate exclusion of Ramsland's testimony. *See, e.g.*, *McCorvey v. Baxter Healthcare Corp.*, 298 F.3d 1253, 1256 (11th Cir. 2002) (affirming exclusion of testimony where proffered expert did not test or consider alternatives); *McClain v. Metabolife Int'l, Inc.*, 401 F.3d 1233, 1240 (11th Cir. 2005) (determining it inappropriate to admit expert testimony that was "not support[ed] . . . with sufficient data or reliable principles" and did not "follow the basic methodology" used by experts in the relevant field).

C. Braynard is not qualified and his report does not utilize generally accepted methodology.

Nearly a week after filing their motion, on December 3, Plaintiffs filed a report from Matthew Braynard. Braynard seeks to offer opinions on the estimated number of Georgia voters: (1) who received an absentee ballot but did not request one; (2) who returned an absentee ballot but the state database reflects the voter as not having returned a ballot; (3) recorded as having voted but who deny voting; (4) who were not Georgia residents when they voted; (5) who were registered with a postal box disguised as a residential address; and (6) who voted in multiple states. Report of Matthew Braynard ("Braynard Rep.") ECF No. 45-1, at 7-10. Braynard, however, does not have the appropriate qualifications to opine on these topics, he does not follow standard methodology in the relevant scientific field, and the survey underlying several of his opinions is fatally flawed.

Braynard has a Bachelor of Business Administration and a Master of Fine Arts in "Writing." Braynard Rep. at Ex. 1. He has worked for, among others, the Republican National Committee and Donald J. Trump for President. *See id.* Braynard does not identify any education or experience in political science, statistics, or survey design, nor does he list any publications, research projects, or speaking engagements on those or any other subjects. He has not offered any expert testimony in court or deposition in the last four years, if ever. *Id.* at 4. While he has worked in the data analysis field, including in analysis of voter data, nothing in his resume indicates education, experience, or knowledge in survey design or statistical methods in social sciences. Because he lacks the requisite education, training, experience, knowledge, and skill to offer his opinions, his report should be excluded. *See*, *e.g.*, *Smith*, 770 F. Supp. at 1566; *Chapman*, 766 F.3d at 1313-14.

Even if Braynard could qualify as an expert in the relevant fields, his report is unreliable and therefore inadmissible. As more fully explained in the rebuttal report of Stephen Ansolabehere, "none of the[] claims meets scientific standards" in the appropriate field and Braynard has "no scientific basis for drawing any inferences or conclusions from the data presented."[4] Rebuttal Report of Stephen Ansolabehere

[4] Dr. Ansolabehere is the Frank G. Thompson Professor of Government in the Department of Government at Harvard University. Ansolabehere Rep. I at ¶ 10. His

Regarding Braynard ("Ansolabehere Rep. I") ¶ 3. Troublingly, none of Braynard's estimates are presented with a measure of statistical precision or uncertainty which is standard in the field. *Id.* at ¶¶ 17, 23. Measures of uncertainty such as standard errors, confidence intervals, or margins of error "are necessary for gauging how informative estimates are, and what inferences and conclusions may be drawn," and "[w]ithout such quantities it is impossible to draw statistical inferences from data." *Id.* at ¶¶ 22-23. Moreover, Braynard's conclusions are couched as having a "reasonable degree of scientific certainty," Braynard Rep. at 7-10, but that phrase is meaningless in scientific research. Ansolabehere Rep. I at ¶¶ 24-26. As Dr. Ansolabehere explains, errors in recordkeeping readily account for each of the claims made in Braynard's report. *See id.* at 30-33. Finally, the study on which several of Braynard's opinions rely is riddled with errors as more fully explained in Section III.D below. *See id.* at ¶¶ 34-68. Braynard's opinions should be excluded. *See McClain*, 401 F.3d at 1240 (determining it inappropriate to admit expert testimony that was "not supported with sufficient data or reliable principles" and did not "follow the basic methodology" used by experts in the relevant field).

areas of expertise include statistical methods in social sciences and survey research methods. *Id.* at ¶ 12.

D. Briggs' report is built on a faulty foundation and is not helpful.

Briggs has a Ph.D. in Statistics and considers himself a "statistical consultant." Declaration of William M. Briggs ("Briggs Decl.") ECF No. 1-1, at 3, 21. But his report, which purports to quantify the magnitude of "troublesome"[5] unreturned absentee ballots, is unreliable because, among other reasons, it rests entirely on faulty data collected by a fatally flawed survey and fails to account for a variety of unremarkable reasons for the existence of the so-called "troublesome" ballots. Additionally, Briggs' conclusion that there may have been "error[s] of some kind" for certain ballots does not assist the trier of fact in that Briggs does not conclude or even suggest that these purported "errors" had the possibility to change the result of the presidential election in Georgia.[6]

Briggs' report is based entirely on survey data from a survey performed by Braynard. *Id.* at 1. Briggs notes at the outset that his analysis "assume[s] survey respondents are representative and the data is accurate." *Id.* at 2. Briggs, however, offers no explanation as to why it is reasonable for him to assume the data is accurate

[5] Briggs categorizes an unreturned absentee ballot as "troublesome" if it is: (1) a ballot sent to a voter who did not request one, or (2) a voted ballot that was returned but not recorded. Briggs Rep. at 1.

[6] Briggs' report includes information relating to multiple states. Though there are errors in the survey methodology and data analysis for the other states, Intervenors focus only on issues relating to Briggs' analysis of Georgia ballots. *See, e.g.*, Ansolabehere Rep. II at ¶¶ 20-24, 63, 67-74.

or the sample size representative. *McDowell*, 392 F.3d at 1299 ("[S]omething doesn't become 'scientific knowledge' just because it's uttered by a scientist; nor can an expert's self-serving assertion that his conclusions were 'derived by the scientific method' be deemed conclusive." (citation omitted)).

As fully described in the Rebuttal Report of Stephen Ansolabehere Regarding Briggs ("Ansolabehere Rep. II"), Briggs' report is unreliable. First, the survey used to collect the data on which Briggs' opinions are based was flawed because, among other reasons, it allowed individuals other than the survey "target," individuals whose ballots were marked as unreturned, to answer survey questions. This error contaminates the data, "and is of sufficient magnitude to alter the results significantly." Ansolabehere Rep. II at ¶ 51. Second, Braynard's survey had an unacceptably low response rate. Braynard was only able to reach 0.4% of the individuals he sought to interview. *Id*. at ¶ 39. Put another way, 99.6% of the individuals targeted by the survey did not respond. *Id.* This is not an acceptable response rate. *Id*. at ¶ 41. Further compounding this issue, without information about the target population or the responding population, it is impossible to know whether the responding population is representative and therefore whether there is any scientific value to the survey. *Id.* at ¶ 42. Third, Briggs' report fails to account for unremarkable reasons, such as late arriving ballots, missing or mismatched signature

rejections, or spoiled or voided ballots, for why returned absentee ballots might not be recorded or counted. *Id.* at ¶ 58. These serious issues render the report unreliable and warrant its exclusion. *Chapman*, 766 F.3d at 1305-06 (finding a court "is free to 'conclude that there is simply too great an analytical gap between the data and the opinion proffered.'").

Finally, Briggs' report is not relevant to the question presented to the Court. Setting aside the problems with the data, Briggs does not opine regarding the exact nature of the "errors" or how any error would or even could have impacted the outcome of the election. Plaintiffs claim that "[t]ens of thousands of votes counted toward Vice President Biden's final tally were the product of illegality, and physical and computer-based fraud leading to 'outright ballot stuffing.'" Pl.'s Mot. for TRO, ECF No. 6, at 1. Briggs' report, however, does not speak to these issues and is therefore not helpful to the Court. The report should be disregarded on this ground as well. *See* Fed. R. Evid. 702(a).

E. Watkins is not qualified and his report rests entirely on speculation.

On December 1, Plaintiffs belatedly filed a declaration from Ronald Watkins. Watkins is a "network and information defense analyst and a network security engineer" with nine years of experience. Declaration of Ronald Watkins ("Watkins Decl.") ECF No. 31-1, at ¶ 5. He was the administrator of 8chan, an

anonymous online forum, and administered its successor forum, 8kun. Chris Francescani, *The men behind QAnon* (Sept. 22,2020), ABC NEWS, https://abcnews.go.com/Politics/men-qanon/story?id=73046374. Watkins seeks to provide testimony to "alert the public and let the world know the truth about actual voting tabulation software designed . . . to facilitate digital ballot stuffing." Watkins Decl. at ¶ 4. While the declaration is not labeled as an expert report (though Watkins claims he is an expert) and it is missing key components of an expert report (for example, Watkins' CV), to the extent Plaintiffs seek to offer Watkins as an expert in support of their motion, it should be excluded.

Plaintiffs present no evidence that Watkins is qualified to offer any opinion regarding election software. Watkins' stated experience—as a "network and information defense analyst and a network security engineer"—does not qualify him to offer testimony regarding purported vulnerabilities in voting systems. *See id.* at 5. Moreover, it is not clear whether Watkins has ever used or even examined the software at issue or whether he has any experience in election administration. Second, Watkins' opinions are not helpful. His declaration appears to consist entirely of unsupported speculation regarding purported vulnerabilities in election software based on a review of publicly available documents including user manuals. *See, e.g.*, *id.* at ¶¶ 6-13. If it wishes, the Court can review these public documents

itself; Watkins' speculation is not helpful. Such testimony should be disregarded. *See Frazier*, 387 F.3d at 1260; *see also Rider v. Sandoz Pharm. Corp.*, 295 F.3d 1194, 1202 (11th Cir. 2002) ("caution[ing courts] not to admit speculation, conjecture, or inference that cannot be supported by sound scientific principles").

F. Overholt discloses no relevant qualifications and his report contains serious errors.

Plaintiffs recently filed the Affidavit of Benjamin A. Overholt ("Overholt Aff."). Overholt seeks to offer opinions on whether "anomalies existed that could change the outcome of the presidential race in the 2020 General Election" based on a review of public data from the Georgia Secretary of State. Overholt Aff., ECF No. 45-3, at ¶ 4. As with many of the other proffered experts, Overholt provides only a cursory explanation of his credentials and his report is riddled with errors.

Overholt states that he has a Ph.D. in Applied Statistics and Research Methods, he is an "active federal civil servant" and has spent time reviewing "election results" for the Civil Rights Division of the Justice Department. *Id.* at ¶ 2. He does not further describe his education, experience or other credentials or how his prior work is similar or relates to, if at all, the work he performed for this matter. He does not appear to have any experience with Georgia elections or analyzing Georgia election data. The only other information that Overholt provides is his assertion that he is qualified "[b]ased on [his] experience and because of [his]

personal interest in the matter." *Id.* at ¶ 4. This is patently insufficient to qualify Overholt to offer opinions on whether there are "anomalies" in Georgia election data that could change the outcome of the 2020 presidential election, and his opinions should not be considered. *See*, *e.g.*, *Smith*, 770 F. Supp. at 1566; *Chapman*, 766 F.3d at 1313-14.

Even if the Court finds Overholt qualified, his affidavit contains serious errors. As Intervenor's rebuttal expert, Dr. Mayer, explains, "the claims made by . . . Overholt are unsupported and incorrect." Mayer Rep. at 1. Overholt does not know "even the basics of . . . election administration or how elections are actually conducted in Georgia or how election practices changed in 2020." *Id.* Moreover, Overholt's report contains "inaccurate definitions of crucial terms (such as what a 'spoiled' ballot is) make[s] completely unsubstantiated claims based on pure speculation and personal opinion, and reach[es] unsupported and incorrect inferences about what the data show." *Id.* For example, among other issues, Overholt's claim that there are 500,000 missing votes, is completely wrong. *See id.* at ¶ 20. There are, in fact, no missing votes, Overholt used the absentee voter request file for his analysis which is not a record of all individuals who voted in the 2020 election but instead is a record of all absentee ballot requests. Mayer Rep. at 9. This failure to understand the data being analyzed is a serious error and is one of many

examples demonstrating the unreliability of Overholt's report. *See* also, Mayer at 6-9. Overholt's report should be excluded. *See McClain*, 401 F.3d at 1240; *Rider*, 295 F.3d at 1202.

G. Quinnell and Young are not qualified and their declarations are unreliable.

The Court should exclude the declarations of Eric Quinnell and S. Stanley Young. Neither are qualified to offer opinions on voting patterns in Georgia, and, unsurprisingly, the opinions they do offer are not reliable. Two reports authored by Quinnell (the second in collaboration with S. Stanley Young) have been submitted in this matter. The first purports to analyze the results of the 2020 general election in Fulton County. Declaration of Eric Quinnell ("Quinnell Decl.") ECF No. 1-27. The second seeks to corroborate Quinnell's original findings. Declarations of Eric Quinnell and S. Stanley Young ("Quinnell/Young Decl.") ECF No. 45-2.

As pointed out by Intervenors' rebuttal expert Dr. Rodden, Quinnell's methodologies are nonsensical, and his data analysis is flawed and meaningless. Rodden Rep. at 7-8. Quinnell's novel opinion is that election results should display a normal distribution—a bell curve—and any departure from this indicates nefarious activity, such as voter fraud. Quinnell Decl. at ¶ 18. As Dr. Rodden explains, academically accepted literature dating back decades (as well as common sense) confirms that partisan preferences are not uniformly distributed. Rodden Rep. at 9-

11. More frequently—and simply digesting the news over the course of the last few decades would confirm—relevant social groups (such as young people, racial minorities, or college graduates) are clustered and it is typical to see skewed voting distributions. *Id*. at 11.

Quinnell's second report is equally flawed. In that report, Quinnell and Young sought to corroborate Quinnell's earlier findings and identify what they characterize as "anomalies in the voting patterns or new inferences that may explain some existing results." Quinnell/Young Decl. at ¶ 6. Primarily, they assert that their data shows that nearly all of the absentee ballots for Trump were received by November 4, while the vast majority of absentee votes for Biden were received on or after November 5, resulting in a distribution for Biden that "mathematically represents a peculiar, non-linear external constraint unexplainable and unrelated to the arrival and counting of absentee ballots." *Id*. at ¶ 13.

Rather than corroborate Quinnell's earlier report, the second report merely compounds its errors. As Dr. Rodden explains in detail in his supplemental report addressing the Quinnell/Young Declaration ("Rodden Supp. Rep."), the declaration utilizes unofficial data that may not reflect the running total of votes. Rodden Supp. Rep. at 3-4. The report is also riddled with numerous unexplained, unsubstantiated, and questionable assumptions built into their data and analysis (which, as before, is

not provided). Rodden Supp. Rep. at 4-7. In addition, the Quinnell/Young Declaration claims that there is a "pattern" that represents a worrying anomaly in voting patterns. Quinnell/Young Decl. at ¶ 6. But this is nonsense. As Dr. Rodden explains, this "pattern" they purportedly discovered, even if it did exist, is entirely consistent with *what could happen naturally* and is far from being anomalous. Rodden Supp. Rep. at 8-9. This is because, at a very high level, there are many precincts in Fulton County that are small and/or have very few absentee votes for Trump. *Id*. at 9-11.

In addition, Quinnell/Young make fundamental errors in their analysis. For instance, they note that "[a]ccording to the rules established in Georgia for the 2020 election, absentee ballots were allowed to be opened and counted for a full 3 weeks leading up to and including election day." Quinnell/Young Decl. at ¶ 20. But, as was widely reported, this is false; Georgia election workers were only permitted to open and scan—but not count—absentee ballots *15* days before election day.[7] In the analysis they conducted, where every day impacts the distribution, such a gross error speaks to the lack of familiarity with the subject matter. The Quinnell and Young

[7] *See*, *e.g.*, Mark Niesse, *Absentee ballots can begin to be opened, but not counted, in Georgia*, The Atlanta Journal-Constitution (Oct 19, 2020), https://www.ajc.com/politics/absentee-ballots-can-begin-to-be-opened-but-not-counted-in-georgia/BRBLHVUJOFHB5OEHAMZV34HPDA/.

declarations should be excluded.

H. It is impossible to assess the qualifications of the unnamed individual known as "Spyder" and his declaration consists of nothing more than speculation.

In support of their motion, Plaintiffs cite the "expert testimony" of an individual whose name is redacted but is referred to by Plaintiffs as "Spyder." *See* Mot. to File Under Seal, ECF 5 at 9. Spyder claims to be an "electronic intelligence analyst . . . with experience gathering SAM missile system electronic intelligence" and "extensive experience as a white hat hacker used by some of the top election specialists in the world." Declaration of "Spyder" ("Spyder Decl.") ECF No. 1-9, ‖ 2. Other than claiming to work for "top election specialists," Spyder does not disclose whether s/he has any experience with election administration or the companies, software and machines used by states to conduct elections. Because Spyder is not named, it is impossible to verify or even research what Spyder's credentials may be. On the record before the Court, Spyder cannot qualify as an expert given his/her lack of relevant education, training, experience, knowledge, and skill. *See*, *e.g.*, *Smith*, 770 F. Supp. at 1566.

Spyder's declaration should also be disregarded because it relies on nothing more than speculation and s/he uses no discernable methodology in reaching his/her conclusions. *See Frazier*, 387 F.3d at 1260; *see also Rider*, 295 F.3d at 1202; *Greater*

Hall Temple Church of God v. S. Mutual Church Ins. Co., 820 Fed. App'x 915, 919 (11th Cir. 2020). Following a dizzying array of screenshots, Spyder comes to the startling conclusion that "Dominion Voter Systems and Edison Research" were "accessible" and "compromised by rogue actors" and that these companies "intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020." Spyder. Decl. ¶ 21. It does not appear that Spyder applied any methodology other than a series of online and other searches in reaching this conclusion which appears to rest entirely on speculation regarding purported security issues and connections between various individuals and entities. *See McClain*, 401 F.3d at 1240. And, in any event, s/he does not opine that any alleged interference changed or had the ability to change the trajectory of the election making his/her opinions unhelpful to the Court. *See Chapman*, 766 F.3d at 1304, 1306-07; Fed. R. Evid. 702(a). Spyder's declaration should not be considered.

IV. CONCLUSION

For the reasons set forth above, Intervenors respectfully request that the Court exclude these "experts" and their reports in their entirety.

Dated: December 5, 2020

Respectfully submitted,

Adam M. Sparks
Halsey G. Knapp, Jr.
Joyce Gist Lewis
Susan P. Coppedge
Adam M. Sparks
KREVOLIN AND HORST, LLC
One Atlantic Center
1201 W. Peachtree Street, NW, Ste. 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
jlewis@khlawfirm.com
coppedge@khlawfirm.com
sparks@khlawfirm.com

Marc E. Elias*
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street, N.W., Suite 800
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
MElias@perkinscoie.com
ACallais@perkinscoie.com

Kevin J. Hamilton*
Amanda J. Beane*
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: (206) 359-8000
Facsimile: (206) 359-9000
KHamilton@perkinscoie.com
ABeane@perkinscoie.com

Matthew J. Mertens*
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, OR 97209
Telephone: (503) 727-2000
Facsimile: (503) 727-2222
MMertens@perkinscoie.com

Counsel for Intervenors-Defendants

**Admitted Pro Hac Vice*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: December 5, 2020.

Adam M. Sparks
Counsel for Intervenor-Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 5, 2020.

Adam M. Sparks
Counsel for Intervenor-Defendants

Exhibit A

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-14418

D.C. Docket No. 1:20-cv-04651-SDG

L. LIN WOOD, JR.,

Plaintiff-Appellant,

versus

BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia,
REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

(December 5, 2020)

Before WILLIAM PRYOR, Chief Judge, JILL PRYOR and LAGOA, Circuit Judges.

WILLIAM PRYOR, Chief Judge:

This appeal requires us to decide whether we have jurisdiction over an appeal from the denial of a request for emergency relief in a post-election lawsuit. Ten days after the presidential election, L. Lin Wood Jr., a Georgia voter, sued state election officials to enjoin certification of the general election results, to secure a new recount under different rules, and to establish new rules for an upcoming runoff election. Wood alleged that the extant absentee-ballot and recount procedures violated Georgia law and, as a result, his federal constitutional rights. After Wood moved for emergency relief, the district court denied his motion. We agree with the district court that Wood lacks standing to sue because he fails to allege a particularized injury. And because Georgia has already certified its election results and its slate of presidential electors, Wood's requests for emergency relief are moot to the extent they concern the 2020 election. The Constitution makes clear that federal courts are courts of limited jurisdiction, U.S. Const. art. III; we may not entertain post-election contests about garden-variety issues of vote counting and misconduct that may properly be filed in state courts. We affirm.

I. BACKGROUND

Secretary of State Brad Raffensperger is the "chief election official" of Georgia. Ga. Code Ann. § 21-2-50(b). He manages the state system of elections and chairs the State Election Board. *Id.* § 21-2-30(a), (d). The Board has the

authority to promulgate rules and regulations to ensure uniformity in the practices of county election officials and, "consistent with law," to aid "the fair, legal, and orderly conduct of primaries and elections." *Id.* § 21-2-31(1)–(2). The Board may also publish and distribute to county election officials a compilation of Georgia's election laws and regulations. *Id.* § 21-2-31(3). Many of these laws and regulations govern absentee voting.

Any voter in Georgia may vote by absentee ballot. *Id.* § 21-2-380(b). State law prescribes the procedures by which a voter may request and submit an absentee ballot. *Id.* §§ 21-2-381; 21-2-384; 21-2-385. The ballot comes with an oath, which the voter must sign and return with his ballot. *Id.* § 21-2-385(a). State law also prescribes the procedures for how county election officials must certify and count absentee ballots. *Id.* § 21-2-386(a). It directs the official to "compare the identifying information on the oath with the information on file" and "compare the signature or mark on the oath with the signature or mark" on file. *Id.* § 21-2-386(a)(1)(B). If everything appears correct, the official certifies the ballot. *Id.* But if there is a problem, such as a signature that does not match, the official is to "write across the face of the envelope 'Rejected.'" *Id.* § 21-2-386(a)(1)(C). The government must then notify the voter of this rejection, and the voter may cure the problem. *Id.*

In November 2019, the Democratic Party of Georgia, the Democratic Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee challenged Georgia's absentee ballot procedures as unconstitutional under the First and Fourteenth Amendments. They sued Secretary Raffensperger and members of the Board for declaratory and injunctive relief. Secretary Raffensperger and the Board maintained that the procedures were constitutional, but they agreed to promulgate regulations to ensure uniform practices across counties. In March 2020, the parties entered into a settlement agreement and dismissed the suit.

In the settlement agreement, Secretary Raffensperger and the Board agreed to issue an Official Election Bulletin regarding the review of signatures on absentee ballots. The Bulletin instructed officials to review the voter's signature with the following process:

> If the registrar or absentee ballot clerk determines that the voter's signature on the mail-in absentee ballot envelope does not match any of the voter's signatures on file . . . , the registrar or absentee ballot clerk must seek review from two other registrars, deputy registrars, or absentee ballot clerks. A mail-in absentee ballot shall not be rejected unless a majority of the registrars, deputy registrars, or absentee ballot clerks reviewing the signature agree that the signature does not match any of the voter's signatures on file . . . .

Secretary Raffensperger and the Board also agreed to train county election officials to follow this process.

This procedure has been in place for at least three elections since March, including the general election on November 3, 2020. Over one million Georgians voted by absentee ballot in the general election. No one challenged the settlement agreement until the filing of this action. By then, the general election returns had been tallied and a statewide hand recount of the presidential election results was underway.

On November 13, L. Lin Wood Jr. sued Secretary Raffensperger and the members of the Board in the district court. Wood alleged that he sued "in his capacity as a private citizen." He is a registered voter in Fulton County, Georgia, and a donor to various 2020 Republican candidates. His amended complaint alleged that the settlement agreement violates state law. As a result, he contends, it violates the Election Clause of Article I; the Electors Clause of Article II; and the Equal Protection Clause of the Fourteenth Amendment. *See* U.S. Const. art. I, § 4, cl. 1; *id.* art. II, § 1, cl. 2; *id.* amend. XIV, § 1. Wood also alleged that irregularities in the hand recount violated his rights under the Due Process Clause of the Fourteenth Amendment. *Id.* amend. XIV, § 1.

State law requires that such recounts be done in public view, and it permits the Board to promulgate policies that facilitate recounting. Ga. Code Ann. § 21-2-498(c)(4), (d). Secretary Raffensperger directed county election officials to designate viewing areas for members of the public and the news media to observe

the recount. He also permitted the Democratic and Republican Parties to designate special recount monitors.

Wood alleged that officials ignored their own rules and denied Wood and President Donald Trump's campaign "meaningful access to observe and monitor the electoral process." Although Wood did not personally attempt to observe or monitor the recount, he alleged that Secretary Raffensperger and the Board violated his "vested interest in being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered . . . and . . . otherwise free, fair, and transparent."

Wood submitted two affidavits from volunteer monitors. One monitor stated that she was not allowed to enter the counting area because there were too many monitors already present, and she could not be sure from a distance whether the recount was accurate. The other explained that the counting was hard for her to follow and described what she thought were possible tabulation errors.

Wood moved for extraordinary relief. He asked that the district court take one of three steps: prohibit Georgia from certifying the results of the November election; prevent it from certifying results that include "defective absentee ballots, regardless of whether said ballots were cured"; or declare the entire election defective and order the state to fix the problems caused by the settlement agreement. He also sought greater access for Republican election monitors, both at

a new hand recount of the November election and in a runoff election scheduled for January 5, 2021.

Wood's lawsuit faced a quickly approaching obstacle: Georgia law requires the Secretary of State to certify its general election results by 5:00 p.m. on the seventeenth day after Election Day. Ga. Code Ann. § 21-2-499(b). And it requires the Governor to certify Georgia's slate of presidential electors by 5:00 p.m. on the eighteenth day after Election Day. *Id.* Secretary Raffensperger's deadline was November 20, and Governor Brian Kemp had a deadline of November 21.

To avoid these deadlines, Wood moved to bar officials from certifying the election results until a court could consider his lawsuit. His emergency motion reiterated many of the requests from his amended complaint, including requests for changes to the procedures for the January runoff. He also submitted additional affidavits and declarations in support of his motion.

The district court held a hearing on November 19 to consider whether it should issue a temporary restraining order. It heard from Wood, state officials, and two groups of intervenors. Wood also introduced testimony from Susan Voyles, a poll manager who participated in the hand recount. Voyles described her experience during the recount. She recalled that one batch of absentee ballots felt different from the rest, and that that batch favored Joe Biden to an unusual extent. At the end of the hearing, the district court orally denied Wood's motion.

On November 20, the district court issued a written opinion and order that explained its denial. It first ruled that Wood lacked standing because he had alleged only generalized grievances, instead of injuries that affected him in a personal and individual way. It next explained that, even if Wood had standing, the doctrine of laches prevented him from challenging the settlement agreement now: he could have sued eight months earlier, yet he waited until two weeks after the election. Finally, it explained why Wood would not be entitled to a temporary restraining order even if the district court could reach the merits of his claims. On the same day, Secretary Raffensperger certified the results of the general election and Governor Kemp certified a slate of presidential electors.

II. STANDARD OF REVIEW

"We are required to examine our jurisdiction *sua sponte*, and we review jurisdictional issues *de novo*." *United States v. Lopez*, 562 F.3d 1309, 1311 (11th Cir. 2009) (citation omitted).

III. DISCUSSION

This appeal turns on one of the most fundamental principles of the federal courts: our limited jurisdiction. Federal courts are not "constituted as free-wheeling enforcers of the Constitution and laws." *Initiative & Referendum Inst. v. Walker*, 450 F.3d 1082, 1087 (10th Cir. 2006) (en banc). As the Supreme Court "ha[s] often explained," we are instead "courts of limited jurisdiction." *Home Depot*

U.S.A., Inc. v. Jackson, 139 S. Ct. 1743, 1746 (2019) (internal quotation marks omitted). Article III of the Constitution establishes that our jurisdiction—that is, our judicial power—reaches only "Cases" and "Controversies." U.S. Const. art. III, § 2. Absent a justiciable case or controversy between interested parties, we lack the "power to declare the law." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998).

When someone sues in federal court, he bears the burden of proving that his suit falls within our jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Wood had the choice to sue in state or federal court. Georgia law makes clear that post-election litigation may proceed in a state court. Ga. Code Ann. §§ 21-2-499(b), 21-2-524(a). But Wood chose to sue in federal court. In doing so, he had to prove that his suit presents a justiciable controversy under Article III of the Constitution. *See Flast v. Cohen*, 392 U.S. 83, 95 (1968) (listing examples of problems that preclude our jurisdiction). He failed to satisfy this burden.

We divide our discussion in two parts. We first explain why Wood lacks standing to sue. We then explain that, even if he had standing, his requests to recount and delay certification of the November election results are moot. Because this case is not justiciable, we lack jurisdiction. *Id.* And because we lack the power to entertain this appeal, we will not address the other issues the parties raise.

A. Wood Lacks Standing Because He Has Not Been Injured in a Particularized Way.

Standing is a threshold jurisdictional inquiry: the elements of standing are "an indispensable part of the plaintiff's case." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). To prove standing, Wood "must prove (1) an injury in fact that (2) is fairly traceable to the challenged action of the defendant and (3) is likely to be redressed by a favorable decision." *Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236, 1245 (11th Cir. 2020). If he cannot satisfy these requirements, then we may not decide the merits of his appeal. *Steel Co.*, 523 U.S. at 94.

Wood lacks standing because he fails to allege the "first and foremost of standing's three elements": an injury in fact. *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016) (alteration adopted) (internal quotation marks omitted). An injury in fact is "an invasion of a legally protected interest that is both concrete and particularized and actual or imminent, not conjectural or hypothetical." *Trichell v. Midland Credit Mgmt., Inc.*, 964 F.3d 990, 996 (11th Cir. 2020) (internal quotation marks omitted). Wood's injury is not particularized.

Wood asserts only a generalized grievance. A particularized injury is one that "affect[s] the plaintiff in a personal and individual way." *Spokeo*, 136 S. Ct. at 1548 (internal quotation marks omitted). For example, if Wood were a political candidate harmed by the recount, he would satisfy this requirement because he could assert a personal, distinct injury. *Cf. Roe v. Alabama ex rel. Evans*, 43 F.3d

574, 579 (11th Cir. 1995). But Wood bases his standing on his interest in "ensur[ing that] . . . only lawful ballots are counted." An injury to the right "to require that the government be administered according to the law" is a generalized grievance. *Chiles v. Thornburgh*, 865 F.2d 1197, 1205–06 (11th Cir. 1989) (alteration adopted) (internal quotation marks omitted). And the Supreme Court has made clear that a generalized grievance, "no matter how sincere," cannot support standing. *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013).

A generalized grievance is "undifferentiated and common to all members of the public." *Lujan*, 504 U.S. at 575 (internal quotation marks omitted). Wood cannot explain how his interest in compliance with state election laws is different from that of any other person. Indeed, he admits that any Georgia voter could bring an identical suit. But the logic of his argument sweeps past even that boundary. All Americans, whether they voted in this election or whether they reside in Georgia, could be said to share Wood's interest in "ensur[ing] that [a presidential election] is properly administered."

Wood argues that he has two bases for standing, but neither satisfies the requirement of a distinct, personal injury. He first asserts that the inclusion of unlawfully processed absentee ballots diluted the weight of his vote. To be sure, vote dilution can be a basis for standing. *Cf. Jacobson*, 974 F.3d at 1247–48. But it requires a point of comparison. For example, in the racial gerrymandering and

malapportionment contexts, vote dilution occurs when voters are harmed compared to "irrationally favored" voters from other districts. *See Baker v. Carr*, 369 U.S. 186, 207–08 (1962). By contrast, "no single voter is specifically disadvantaged" if a vote is counted improperly, even if the error might have a "mathematical impact on the final tally and thus on the proportional effect of every vote." *Bognet v. Sec'y Commonwealth of Pa.*, __ F.3d __, 2020 WL 6686120, at *12 (3d Cir. Nov. 13, 2020) (internal quotation marks omitted). Vote dilution in this context is a "paradigmatic generalized grievance that cannot support standing." *Id.* (internal quotation marks omitted).

Wood's second theory—that Georgia "value[d] one person's vote over that of another" through "arbitrary and disparate treatment"—fares no better. He argues that Georgia treats absentee voters as a "preferred class" compared to those who vote in person, both by the terms of the settlement agreement and in practice. In his view, all voters were bound by law before the settlement agreement, but the rules for absentee voting now run afoul of the law, while in-person voters remain bound by the law. And he asserts that in practice Georgia has favored absentee voters because there were "numerous irregularities" in the processing and recounting of absentee ballots. Setting aside the fact that "[i]t is an individual voter's *choice* whether to vote by mail or in person," *Bognet*, 2020 WL 6686120, at *15, these complaints are generalized grievances. Even if we assume that absentee voters are

favored over in-person voters, that harm does not affect Wood as an individual—it is instead shared identically by the four million or so Georgians who voted in person this November. "[W]hen the asserted harm is . . . shared in substantially equal measure by . . . a large class of citizens," it is not a particularized injury. *Warth v. Seldin*, 422 U.S. 490, 499 (1975). And irregularities in the tabulation of election results do not affect Wood differently from any other person. His allegation, at bottom, remains "that the law . . . has not been followed." *Dillard v. Chilton Cnty. Comm'n*, 495 F.3d 1324, 1332 (11th Cir. 2007) (quoting *Lance v. Coffman*, 549 U.S. 437, 442 (2007)).

Wood's attempts to liken his injury to those we have found sufficient in other appeals fall short. In *Common Cause/Georgia v. Billups*, we ruled that "[r]equiring a registered voter either to produce photo identification to vote in person or to cast an absentee or provisional ballot is an injury sufficient for standing." 554 F.3d 1340, 1351–52 (11th Cir. 2009). But the injury there was the burden of producing photo identification, not the existence of separate rules for in-person and absentee voters. *Id.* And the burden to produce photo identification affected each voter in a personal way. For example, some plaintiffs in *Common Cause* alleged that they "would be required to make a special trip" to obtain valid identification "that is not required of voters who have driver's licenses or passports." *Id.* at 1351 (internal quotation marks omitted). By contrast, even Wood

agrees that he is affected by Georgia's alleged violations of the law in the same way as every other Georgia voter. "This injury is precisely the kind of undifferentiated, generalized grievance that the Supreme Court has warned must not be countenanced." *Dillard*, 495 F.3d at 1335 (internal quotation marks omitted).

Roe v. Alabama ex rel. Evans, 43 F.3d 574, also does not support Wood's argument for standing. In *Roe*, we ruled that the post-election inclusion of previously excluded absentee ballots would violate the substantive-due-process rights of Alabama voters and two political candidates. *Id.* at 579–81. But no party raised and we did not address standing in *Roe*, so that precedent provides no basis for Wood to establish standing. *Cf. Lewis v. Casey*, 518 U.S. 343, 352 n.2 (1996) (noting that in cases where "standing was neither challenged nor discussed . . . the existence of unaddressed jurisdictional defects has no precedential effect"). And Wood's purported injury is far more general than the voters' injury in *Roe*. The voters in *Roe* bore individual burdens—to obtain notarization or witness signatures if they wanted to vote absentee—that state courts post-election retroactively permitted other voters to ignore. *Roe*, 43 F.3d at 580–81. In contrast, Georgia applied uniform rules, established before the election, to all voters, who could choose between voting in person or by absentee ballot, and Wood asserts that the

effect of those rules harmed the electorate collectively. That alleged harm is not a particularized injury.

Wood suggested in his amended complaint that his status as a donor contributed to standing and aligned his interests with those of the Georgia Republican Party. But he forfeited this argument when he failed to raise it in his opening brief. *Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1335 (11th Cir. 2004); *see also Nat'l All. for the Mentally Ill v. Bd. of Cnty. Comm'rs*, 376 F.3d 1292, 1296 (11th Cir. 2004) (ruling standing claims forfeited for failure to comply with the Federal Rules of Appellate Procedure). And the donor argument fails on its own terms. True, a donor can establish standing based on injuries that flow from his status as a donor. *See, e.g.*, *Wilding v. DNC Servs. Corp.*, 941 F.3d 1116, 1125 (11th Cir. 2019). But donors, like voters, "have no judicially enforceable interest in the *outcome* of an election." *Jacobson*, 974 F.3d at 1246. Nor does a donation give the donor a legally cognizable interest in the proper administration of elections. Any injury to Wood based on election irregularities must flow from his status as a voter, unrelated to his donations. And that fact returns him to the stumbling block of particularization.

"[T]he 'injury in fact' test requires . . . that the party seeking review be himself among the injured." *Lujan*, 504 U.S. at 563 (internal quotation marks omitted). Wood's allegations suggest that various nonparties might have a

particularized injury. For example, perhaps a candidate or political party would have standing to challenge the settlement agreement or other alleged irregularities. Or perhaps election monitors would have standing to sue if they were denied access to the recount. But Wood cannot place himself in the stead of these groups, even if he supports them. *Cf. Glanton ex rel. ALCOA Prescription Drug Plan v. AdvancePCS Inc.*, 465 F.3d 1123, 1127 (9th Cir. 2006) (explaining that "associational standing . . . does not operate in reverse," so a member cannot represent an association). He is at most a "concerned bystander." *Koziara v. City of Casselberry*, 392 F.3d 1302, 1305 (11th Cir. 2004) (internal quotation marks omitted). So he is not "entitled to have the court[s] decide the merits of [his] dispute." *Warth*, 422 U.S. at 498.

B. Wood's Requested Relief Concerning the 2020 General Election Is Moot.

Even if Wood had standing, several of his requests for relief are barred by another jurisdictional defect: mootness. We are "not empowered to decide moot questions." *North Carolina v. Rice*, 404 U.S. 244, 246 (1971) (internal quotation marks omitted). "An issue is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief." *Christian Coal. of Fla., Inc. v. United States*, 662 F.3d 1182, 1189 (11th Cir. 2011) (alteration rejected) (internal quotation marks omitted). And an issue can become moot at any

stage of litigation, even if there was a live case or controversy when the lawsuit began. *Id.* at 1189–90.

Wood asked for several kinds of relief in his emergency motion, but most of his requests pertained to the 2020 election results. He moved the district court to prohibit either the certification of the election results or certification that included the disputed absentee ballots. He also asked the district court to order a new hand recount and to grant Republican election monitors greater access during both the recount and the January runoff election. But after the district court denied Wood's motion, Secretary Raffensperger certified the election results on November 20. And Governor Kemp certified the slate of presidential electors later that day.

Because Georgia has already certified its results, Wood's requests to delay certification and commence a new recount are moot. "We cannot turn back the clock and create a world in which" the 2020 election results are not certified. *Fleming v. Gutierrez*, 785 F.3d 442, 445 (10th Cir. 2015). And it is not possible for us to delay certification nor meaningful to order a new recount when the results are already final and certified. *Cf. Tropicana Prods. Sales, Inc. v. Phillips Brokerage Co.*, 874 F.2d 1581, 1582 (11th Cir. 1989) ("[A]n appeal from the denial of a motion for preliminary injunction is mooted when the requested effective end-date for the preliminary injunction has passed."). Nor can we reconstrue Wood's previous request that we temporarily prohibit certification into a new request that

we undo the certification. A district court "must first have the opportunity to pass upon [every] issue," so we may not consider requests for relief made for the first time on appeal. *S.F. Residence Club, Inc. v. 7027 Old Madison Pike, LLC*, 583 F.3d 750, 755 (11th Cir. 2009).

Wood's arguments reflect a basic misunderstanding of what mootness is. He argues that the certification does not moot anything "because this litigation is ongoing" and he remains injured. But mootness concerns the availability of relief, not the existence of a lawsuit or an injury. *Fla. Wildlife Fed'n, Inc. v. S. Fla. Water Mgmt. Dist.*, 647 F.3d 1296, 1304 (11th Cir. 2011). So even if post-election litigation is not always mooted by certification, *see, e.g.*, *Siegel v. LePore*, 234 F.3d 1163, 1172–73 (11th Cir. 2000) (en banc), Wood's particular requests are moot. Wood is right that certification does not moot his requests for relief concerning the 2021 runoff—although Wood's lack of standing still forecloses our consideration of those requests—but the pendency of other claims for relief cannot rescue the otherwise moot claims. *See, e.g.*, *Adler v. Duval Cnty. Sch. Bd.*, 112 F.3d 1475, 1478–79, 1481 (11th Cir. 1997) (instructing the district court to dismiss moot claims but resolving other claims on the merits). Wood finally tells us that President Trump has also requested a recount, but that fact is irrelevant to whether Wood's requests remain live.

Nor does any exception to mootness apply. True, we often review otherwise-moot election appeals because they are "capable of repetition yet evading review." *ACLU v. The Fla. Bar*, 999 F.2d 1486, 1496 (11th Cir. 1993) (internal quotation marks omitted). We may apply this exception when "(1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again." *Nat'l Broad. Co. v. Commc'ns Workers of Am.*, 860 F.2d 1022, 1023 (11th Cir. 1988) (quoting *Weinstein v. Bradford*, 423 U.S. 147, 149 (1975)). But we will not apply this exception if there is "some alternative vehicle through which a particular policy may effectively be subject to" complete review. *Bourgeois v. Peters*, 387 F.3d 1303, 1308 (11th Cir. 2004).

The "capable of repetition yet evading review" exception does not save Wood's appeal because there is no "reasonable expectation" that Wood will again face the issues in this appeal. Based on the posture of this appeal, the challenged action is the denial of an emergency injunction against the certification of election results. *See Fleming*, 785 F.3d at 446 (explaining that whether the issues in an interlocutory appeal are "capable of repetition, yet evading review" is a separate question from whether the issues in the overall lawsuit are capable of doing so). That denial is the decision we would review but for the jurisdictional problems. But Wood cannot satisfy the requirement that there be a "reasonable expectation"

that he will again seek to delay certification. Wood does not suggest that this situation might recur. *Cf. FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 463–64 (2007). And we have no reason to think it would: he is a private citizen, so the possibility of a recurrence is purely theoretical. *Cf. Hall v. Sec'y, Ala.*, 902 F.3d 1294, 1305 (11th Cir. 2018).

IV. CONCLUSION

We **AFFIRM** the denial of Wood's motion for emergency relief.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 05, 2020

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 20-14418-RR
Case Style: L. Lin Wood, Jr. v. Brad Raffensperger, et al
District Court Docket No: 1:20-cv-04651-SDG

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Pursuant to Fed.R.App.P. 39, costs taxed against appellant.

Please use the most recent version of the Bill of Costs form available on the court's website at www.ca11.uscourts.gov.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Regina A. Veals-Gillis, RR at (404) 335-6163.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jeff R. Patch
Phone #: 404-335-6151

OPIN-1A Issuance of Opinion With Costs

Exhibit B

An official website of the United States government Here's how you know
TLP:WHITE
EMAIL US CONTACT SITE MAP

JOINT STATEMENT FROM ELECTIONS INFRASTRUCTURE GOVERNMENT COORDINATING COUNCIL & THE ELECTION INFRASTRUCTURE SECTOR COORDINATING EXECUTIVE COMMITTEES

Original release date: November 12, 2020

WASHINGTON – The members of Election Infrastructure Government Coordinating Council (GCC) Executive Committee – Cybersecurity and Infrastructure Security Agency (CISA) Assistant Director Bob Kolasky, U.S. Election Assistance Commission Chair Benjamin Hovland, National Association of Secretaries of State (NASS) President Maggie Toulouse Oliver, National Association of State Election Directors (NASED) President Lori Augino, and Escambia County (Florida) Supervisor of Elections David Stafford – and the members of the Election Infrastructure Sector Coordinating Council (SCC) – Chair Brian Hancock (Unisyn Voting Solutions), Vice Chair Sam Derheimer (Hart InterCivic), Chris Wlaschin (Election Systems & Software), Ericka Haas (Electronic Registration Information Center), and Maria Bianchi (Democracy Works) - released the following statement:

“The November 3rd election was the most secure in American history. Right now, across the country, election officials are reviewing and double checking the entire election process prior to finalizing the result.

“When states have close elections, many will recount ballots. All of the states with close results in the 2020 presidential race have paper records of each vote, allowing the ability to go back and count each ballot if necessary. This is an added benefit for security and resilience. This process allows for the identification and correction of any mistakes or errors. **There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.**

“Other security measures like pre-election testing, state certification of voting equipment, and the U.S. Election Assistance Commission’s (EAC) certification of voting equipment help to build additional confidence in the voting systems used in 2020.

“While we know there are many unfounded claims and opportunities for misinformation about the process of our elections, we can assure you we have the utmost confidence in the security and integrity of our elections, and you should too. When you have questions, turn to electi

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Case 1:20-cv-04809-TCB Document 61-2 Filed 12/05/20 Page 3 of 3

trusted voices as they administer elections."

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Topics: Election Security

Keywords: CISA, Election security

Last Published Date: November 12, 2020

TLP:WHITE

Exhibit C

HISTORIC FIRST STATEWIDE AUDIT OF PAPER BALLOTS UPHOLDS RESULT OF PRESIDENTIAL RACE

(ATLANTA)-Today, Secretary of State Brad Raffensperger announced the results of the Risk Limiting Audit of Georgia's presidential contest, which upheld and reaffirmed the original outcome produced by the machine tally of votes cast. Due to the tight margin of the race and the principles of risk-limiting audits, this audit was a full manual tally of all votes cast. The audit confirmed that the original machine count accurately portrayed the winner of the election. The results of the audit can be viewed HERE , HERE , and HERE .

"Georgia's historic first statewide audit reaffirmed that the state's new secure paper ballot voting system accurately counted and reported results," said Secretary Raffensperger. "This is a credit to the hard work of our county and local elections officials who moved quickly to undertake and complete such a momentous task in a short period of time."

"Georgia's first statewide audit successfully confirmed the winner of the chosen contest and should give voters increased confidence in the results," said Ben Adida, Executive Director of VotingWorks. "We were proud to work with Georgia on this historic audit. The difference between the reported results and the full manual tally is well within the expected error rate of hand-counting ballots, and the audit was a success."

By law, Georgia was required to conduct a Risk Limiting Audit of a statewide race following the November elections. Understanding the importance of clear and reliable results for such an important contest, Secretary Raffensperger selected the presidential race in Georgia for the audit. Meeting the confidence threshold required by law for the audit meant conducting a full manual tally of every ballot cast in Georgia.

The Risk Limiting Audit reaffirmed the outcome of the presidential race in Georgia as originally reported, with Joe Biden leading President Donald Trump in the state.

The audit process also led to counties catching making mistakes they made in their original count by not uploading all memory cards. Those counties uploaded the memory cards and re-certified their results, leading to increased accuracy in the results the state will certify.

The differential of the audit results from the original machine counted results is well within the expected margin of human error that occurs when hand-counting ballots. A 2012 study by Rice University and Clemson University found that "hand counting of votes in postelection audit or recount procedures can result in error rates of up to 2 percent." In Georgia's recount, the highest error rate in any county recount was .73%. Most counties found no change in their finally tally. The majority of the remaining counties had changes of fewer than ten ballots.

Because the margin is still less than 0.5%, the President can request a recount after certification of the results. That recount will be conducted by rescanning all paper ballots.

Click here for the Risk Limiting Audit Report

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Key Election Dates and Information | Military and Overseas Voting

Register to Vote | Where do I vote? (MVP)

QUICK LINKS

2020 General Recount Info by County
Risk Limiting Audit Public Notice
2020 Presidential Electors
GA Voter ID Info.
State Election Board
Secure The Vote
Elections Advisory Council
2019 Official Directory
Vote Safe
SAFE Commission
Voter Registration Drive
Stop Voter Fraud
Reexamination Costs
Online Complaints
Information for Voter Registrations Pending Due to Citizenship
Proposed Constitutional Amendments
Intent to Tabulate Early
Great Seal
SD 4 Qualified Candidates
iVote - Students / Educators
Advance Voting Info.
Check Your Provisional Ballot Status for November 6, 2018 Election
2019 List Maintenance
FAQs

LATEST ELECTIONS NEWS

Secretary Raffensperger Launches Investigation of Florida Attorney Looking to Fraudulently Register and

Vote in Georgia's Runoff Election
Thursday, December 03rd 2020

Secretary Raffensperger Launches Investigation Into Groups Encouraging Fraudulent Registrations
Wednesday, December 02nd 2020

Secretary Raffensperger and Spalding Legislative Delegation Call for Resignation of Spalding County Elections Director Following Serious Management Issues
Tuesday, December 01st 2020

Historic First Statewide Audit of Paper Ballots Upholds Result of Presidential Race
Thursday, November 19th 2020

Number of Absentee Ballots Rejected for Signature Issues in the 2020 Election Increased 350% from 2018
Wednesday, November 18th 2020

CONTACT

214 State Capitol
Atlanta, Georgia 30334
404.656.2881
E-Mail

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Risk-Limiting Audit Report

Georgia Presidential Contest, November 2020

November 19th, 2020

From November 11 to November 19, 2020, county election officials in Georgia, conducted a statewide risk-limiting audit of the Presidential Contest from the November 2020 General Election, as ordered by the Georgia Secretary of State. Georgia's original machine count resulted in a margin of 0.3% between candidates Joe Biden and Donald Trump, requiring a full manual count of just over 5 million ballots to complete an efficient risk-limiting audit. Audit boards from all 159 Georgia counties examined 41881 batches, hand-sorting and counting each ballot as part of the process, which was the largest hand count of ballots in United States history. This document summarizes the findings of the audit.

Audit Outcome

The audit confirmed the original result of the election, namely that Joe Biden won the Presidential Contest in the State of Georgia. Like any risk-limiting audit, this audit does not confirm or correct the exact margin of victory. It only provides sufficient evidence that the correct winner was reported.

Hand-Count Variations

Prior research indicates that the expected variance between hand and machine counts, assuming no issues beyond normal human error in the counting process, ranges anywhere from 1.0 - 1.5% across all ballot types.

Georgia shows a **0.1053% (0.001053) variation** in statewide total vote count, and a **0.0099% (0.000099) variation** in the overall margin. The audited vote totals from the hand tally for the three candidates were:

Trump	**2,462,857**
Biden	**2,475,141**
Jorgensen	**62,587**

In addition, no individual county showed a variation in margin larger than 0.73%, and 103 of the 159 counties showed a margin variation of less than 0.05%.

Exhibit D

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

L. LIN WOOD, JR.,	)	
	)	
Plaintiff,	)	**Civil Action No.**
	)	**1:20-cv-04651-SDG**
	)	
v.	)	
	)	
BRAD RAFFENSPERGER, in his official capacity as the Secretary of State of the State of Georgia; REBECCA N. SULLIVAN, in her official capacity as the Vice Chair of the Georgia State Election Board; DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board; MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board; and AHN LE, in her official capacity as a member of the Georgia State Election Board,	)	
	)	
Defendants.	)	

DECLARATION OF CHRIS HARVEY

Pursuant to 28 U.S.C. § 1746, I, Chris Harvey, make the following declaration:

1.

My name is Chris Harvey. I am over the age of 21 years, and I am under no legal disability that would prevent me from giving this declaration. If called to testify, I would testify under oath to these facts.

2.

I currently am the Director of Elections for the State of Georgia. I have held that position since July 2015. From August 2007 to July 2015, I was the Chief Investigator and Deputy Inspector General for the Secretary of State's office, investigating, among other things, potential violations of state election law. For more than a decade, I have acquired firsthand knowledge of Georgia's election processes at both the state and county level.

3.

In Georgia, elections are administered at the county level, and the counties are responsible for receiving and processing absentee ballots. Thus, the counties are responsible for verifying the elector's information and signature on the outer envelope of the absentee ballot when it is received before processing and tabulating the ballot. The Secretary of State's office strengthened the signature verification process for the 2020 general election. County elections officials received training on signature matching from experts with the Georgia Bureau of Investigation.

Additionally, voter signatures go through two layers of signature verification in the absentee ballot process. The voter's signature is first checked against the signatures on file with the county elections office when the voter submits an application for an absentee ballot. If the voter requests an absentee ballot through the Secretary's online absentee ballot request portal, the voter's identity is verified by matching the voter's name, date of birth, and Georgia driver's license or state identification card number contained in the state voter registration system pursuant to State Election Board Emergency Rule 183-1-14-0.10-.16. The voter's signature is matched a second time when the absentee ballot is received by the county election office.

4.

In my capacity as Director of Elections, I occasionally send out Official Election Bulletins to county elections officials and county registrars, which provide updates on changes in state election laws and rules and guidance on election administration to assist county officials in their duties. The guidance is simply recommendations on best practices and does not supplant or replace Georgia law; county officials are still bound to follow the election code and the rules and regulations of the State Election Board.

5.

On May 1, 2020, my office distributed an OEB providing guidance on absentee ballot signature review. A true and correct copy of this guidance is attached as **Exhibit 1**. The purpose of the OEB was to remind county elections officials of the recent updates to Georgia law and regulations regarding verifying signatures on absentee ballots and provide guidance on the procedures that should be followed when a signature on an absentee ballot does not match. The OEB advised county officials on HB 316's reforms to absentee ballot procedures set forth in O.C.G.A. § 21-2-386, as well as State Election Board Rule 183-1-14-.13, which addressed how quickly and by what methods electors need to be notified concerning absentee ballot issues. The OEB in no way is contrary to or inconsistent with the procedures in O.C.G.A. § 21-2-386(a)(1)(C). To the contrary, the OEB clearly states, **"If the signature does not appear to be valid, registrars and clerks are required to follow the procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C)."**

6.

Following the November 3, general election, the Secretary of State's office conducted an analysis of the number of absentee ballot rejections for signature issues for 2020 as compared to 2018. We found that the total number of absentee ballot rejections for signature issues in the November 2020 election increased 343% from the 2018 election, about the same rate of increase as the total number of absentee

ballots accepted. The rejection rate for absentee ballots with missing or non-matching signatures in the 2020 General Election was 0.15%, the same rejection rate for signature issues as the 2018 General Election.

7.

Out of the 1,322,529 absentee ballots cast in the November 2020 election, 2,011 absentee ballots were rejected for missing or non-matching signatures. For the November 2018 election, 454 absentee ballots were rejected for missing or non-matching signatures out of 284,393 absentee ballots cast. The 0.15% rejection rate for signature issues was the same in both the 2018 and 2020 General Elections. The rejection numbers from 2018 cited above are the ones cited by the plaintiffs in the *Democratic Party of Georgia, et al. v. Raffensperger, et al.*, Civil Action No. 1:19cv5028.

8.

Last week, the Secretary of State ordered a statewide audit of all ballots cast in the presidential election, which was conducted by manual tabulation. Political parties were permitted to have certified monitors present in every county to observe the audit. An OEB was distributed to county election officials that included the following instructions: "The State Executive Committee of each political party

(Republicans and Democrats) shall have the right to have one properly designated person act as monitor of the audit for each ten audit teams that are conducting the audit, with a minimum of two designated monitors in each county per party per room where the audit is being conducted." A true and correct copy of the OEB is attached as **Exhibit 2**.

9.

The results of the audit are still being tabulated and will be released prior to certification of the election results. Four counties discovered that some ballots had not been tabulated in the original count, and those counties are re-certifying their results to include those ballots.

10.

The Secretary of State also ordered Pro V&V, an independent certified testing laboratory, to conduct an additional audit of a random sample of the Dominion Systems voting equipment to determine if it had been tampered with or hacked. Pro V&V conducted an audit of a random sample of Dominion Voting Systems voting machines throughout the state using forensic techniques, including equipment from Cobb, Douglas, Floyd, Morgan, Paulding, and Spalding Counties. ICP (precinct

ballot scanners), ICX (ballot marking devices), and ICC (central absentee ballot scanners) components were all subject to the audit. In conducting the audit, Pro V&V extracted the software or firmware from the components to check that the only software or firmware on the components was certified for use by the Secretary of State's office. The testing was conducted on a Pro V&V laptop independent of the system. According to the Pro V&V audit, all of the software and firmware on the sampled machines was verified to be the software and firmware certified for use by the Office of the Secretary of State.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of November, 2020.

CHRIS HARVEY

EXHIBIT 1

OFFICIAL ELECTION BULLETIN

May 1, 2020

TO: County Election Officials and County Registrars

FROM: Chris Harvey, State Elections Director

RE: Absentee Ballot Signature Review Guidance

Verifying that a voter's signature on his or her absentee ballot matches his or her signature on the absentee ballot application or in the voter registration record is required by Georgia law and is crucial to secure elections. Ensuring that signatures match is even more crucial in this time of increased absentee voting due to the COVID-19 crisis. The purpose of this OEB is to remind you of some recent updates to Georgia law and regulations regarding verifying signatures on absentee ballots and to make you aware of the procedures that should be followed when a signature on an absentee ballot does not match. HB 316, which passed in 2019, modified the absentee ballot laws and the design of the oath envelope. The State Election Board also adopted Rule 183-1-14.13 this year, which addresses how quickly and by what methods electors need to be notified concerning absentee ballot issues. What follows are the procedures that should be followed when the signature on the absentee ballot does not match the voter's signature on his or her application or voter registration record:

> **County registrars and absentee ballot clerks are required, upon receipt of each mail-in absentee ballot, to compare the signature or mark of the elector on the mail-in absentee ballot envelope with the signatures or marks in eNet and on the application for the mail-in absentee ballot. If the signature does not appear to be valid, registrars and clerks are required to follow the procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C).**

When reviewing an elector's signature on the mail-in absentee ballot envelope, the registrar or clerk must compare the signature on the mail-in absentee ballot envelope to each signature contained in such elector's voter registration record in eNet and the elector's signature on the application for the mail-in absentee ballot.[1] If the registrar or absentee ballot clerk determines that the voter's signature on the mail-in absentee ballot envelope does not match any of the voter's signatures on file in eNet or on the absentee ballot application, the registrar or absentee ballot clerk must seek review from two other registrars, deputy registrars, or absentee ballot clerks.

A mail-in absentee ballot shall not be rejected unless a majority of the registrars, deputy registrars, or absentee ballot clerks reviewing the signature agree that the signature does not match any of the voter's signatures on file in eNet or on the absentee ballot application. If a determination is made that the elector's signature on the mail-in absentee ballot envelope does not match any of the voter's signatures on file in eNet or on the absentee ballot application, the registrar or absentee ballot clerk shall write the names of the three elections officials who conducted the signature review across the face of the absentee ballot envelope, which shall be in addition to writing "Rejected" and the reason for the rejection as required under OCGA 21-2-386(a)(1)(C). Then, the registrar or absentee ballot clerk shall commence the notification procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C) and State Election Board Rule 183-1-14-.13.

---

[1] Once the registrar or clerk verifies a matching signature, they do not need to continue to review additional signatures for the same voter.

RULE 183-1-14-.13 Prompt Notification of Absentee Ballot Rejection

When a timely submitted absentee ballot is rejected, the board of registrars or absentee ballot clerk shall send the elector notice of such rejection and opportunity to cure by mailing written notice, and attempt to notify the elector by telephone and email, if a telephone number or email is on the elector's voter registration record or absentee ballot application, no later than the close of business on the third business day after receiving the absentee ballot. However, for any timely submitted absentee ballot that is rejected within eleven days of Election Day, the board of registrars or absentee ballot clerk shall send the elector notice of such rejection and opportunity to cure by mailing written notice, and attempt to notify the elector by telephone and email, if a telephone number or email is on the elector's voter registration record or absentee ballot application, no later than close of business on the next business day.

EXHIBIT

OFFICIAL ELECTION BULLETIN

November 12, 2020

TO: **County Election Officials and County Registrars**

FROM: **Chris Harvey, Elections Division Director**

RE: **Audit Instructions**

Pursuant to O.C.G.A. § 21-2-498 and SEB Rule 183-1-15-.04, the Secretary has selected the contest for President of the United States to audit. While many risk-limiting audits rely on samples of ballots, the design of risk-limiting audits combined with the margin of this race mean that this risk-limiting audit is required to be a full manual tally of the votes cast. SEB Rule 183-1-15-.04 requires that the Superintendent follow instructions issued by the Secretary of State on how to specifically conduct the audit. While there will be additional instructions issued regarding more specific processes, initial instructions are below:

1. Start and Completion Times

Each county must start their audit no later than 9:00 a.m. on Friday, November 13, 2020 and must complete their audit no later than 11:59 p.m. on Wednesday, November 18, 2020.

Public notice of the date, time, and location of the audit must be posted on the county election office's website, or, if the county election's office does not have a website, in another prominent location.

2. Public Access and Political Party Monitors

The audit shall be open to the public and the press, but no person except the persons designated by the Superintendent shall touch any ballot or ballot container. The Superintendent shall designate a viewing area from which members of the public and press may observe the audit for the purpose of good order and maintaining the integrity of the audit. The Superintendent may also choose to make the audit proceeding available via livestream or webcast. If any member of the public or press interferes with

the process or persists in not following reasonable regulations and instructions set by the Superintendent, that person shall be removed.

The State Executive Committee of each political party (Republicans and Democrats) shall have the right to have one properly designated person act as monitor of the audit for each ten audit teams that are conducting the audit, with a minimum of two designated monitors in each county per party per room where the audit is being conducted. Properly designated monitors shall have complete access to monitor the audit. They do not have to remain in the public viewing areas. The designated monitors shall be given a letter by the designating entity containing the name of the monitor, his or her address, and the county in which he or she may monitor the audit. A copy of the letter shall be delivered to the county elections superintendent prior to the monitor being allowed to monitor the process. The designating entity shall provide their monitors with name tags that clearly indicate their names and the entity the designated them. Such name tags shall be worn at all times while monitoring the audit.

The Superintendent may make reasonable regulations, including regulations regarding social distancing measures and required personal protective equipment, that designated monitors and public observers shall follow so that they do not interfere with the auditing process. If a designated monitor or public observer interferes with the audit after being warned by an election official, or if he or she violated any of the prohibited activities listed herein, the superintendent may revoke the person's designation to monitor the process, remove them from any further monitoring or observing, and refer the incident to the Secretary of State's office for investigation. Any infraction or irregularity observed by a monitor or observer shall be reported to the superintendent or to the Secretary of State. If a monitor's designation is revoked by the Superintendent, the designating entity shall have the right to designate a new monitor in the manner set forth herein.

While monitoring the process, designated monitors are prohibited from:

(a) In any way interfering with the audit process;

(b) Speaking to any member of the audit team or vote review panel;

(c) When outside of the public viewing area, using any photographic, electronic monitoring or recording devices, cellular telephones, or other electronic equipment;

(d) Touching any ballot or ballot container; or

(e) Engaging in any form of campaigning or campaign activity.

Before being allowed to monitor the process, each designated monitor shall execute an oath swearing or affirming, under penalty of perjury, that they understand the prohibitions set forth above, that they will not engage in any prohibited activity, and that

they understand any violations of this rule will be punishable by the State Election Board.

3. Audit Teams

Audit teams shall consist of at least two sworn designees. The Superintendent may designate non-employees to be a member of an audit team, but any non-employees designated to audit teams shall be residents of the State of Georgia. Every member of the audit team shall be a person of good moral character and shall take and sign an oath that they will conduct the audit fairly and accurately prior to conducting the audit. In determining the candidate for which the vote was cast, the audit teams shall refer to and rely on SEB Rule 183-1-15-02 (Definition of a Vote) for Optical Scan Voting Systems.

4. Vote Review Panels

Any ballot where the audit team does not agree on the selection for President shall be sent to a Vote Review Panel. Each Vote Review Panel shall consist of a designee of the Election Superintendent and a nominee of the county or state executive committee of each political party (Republican and Democrat) designated via letter provided to the Superintendent. Notice of the members and location of any Vote Review Panels shall be posted prominently at the office of the Superintendent. Prior to beginning its work, each member of the Vote Review Panel shall take and sign an oath The panel shall manually review all ballots sent to it by any audit team and shall determine by a majority vote "if the elector has marked his or her ballot in such a manner that he or she has indicated ***clearly and without question*** the candidate for whom he or she desires to cast his or her vote." O.C.G.A. 21-2-438(c). The determination of the Vote Review Panel shall be final. The Superintendent may create multiple Vote Review Panels

In making its determination, the Vote Review Panel shall refer to and rely on SEB Rule 183-1-15-.02 (Definition of a Vote) for Optical Scan Voting Systems.

5. Re-Certifying if Vote Counts Change

In cases like this, where the risk-limiting audit of the selected contest has led to a full manual tally of the ballots cast, the vote counts according to the manual tally shall replace the vote previously reported vote counts and each county shall re-certify the new counts for the audited race, if necessary, prior to November 20, 2020.

OFFICIAL ELECTION BULLETIN

November 13, 2020

TO: **County Election Officials and County Registrars**

FROM: **Chris Harvey, Elections Division Director**

RE: **Allowing More Credentialed Monitors at Risk Limiting Audit**
Allowing Libertarian Party Monitors

There has been some concern about the appropriate number of political party monitors eligible to view the audit process. The rules that the Secretary of State's office put out require that Superintendents allow a minimum of two political party monitors from each party, with additional monitors if there are more than twenty audit teams. For example, if DeKalb has 75 audit teams, they would have to allow a minimum of 8 designated monitors for each party. Additionally, as the Libertarian Party (technically a political body) has a candidate on the ballot for President, the same standards should be applied to the designated monitors from the Libertarian Party.

As an addendum to the rules on political parties monitors and because transparency should be a guiding principle throughout this process, if Election Superintendents can safely allow more than the minimum number of designated political party monitors consistent with maintaining an orderly process, space limitations, social distancing/public health guidelines then you should. Please allow as much transparency as you can while maintaining a secure, orderly process and abiding your public health regulations.

Exhibit E

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

FAIR FIGHT ACTION, INC., *et al.*, **Plaintiffs,** **v.** **BRAD RAFFENSPERGER, *et al.*,** **Defendants.**	**CIVIL ACTION FILE NO.** **1:18-CV-5391-SCJ**

ORDER

This matter is before the Court on Plaintiffs' Motion for Preliminary Injunction concerning the State of Georgia's recent voter list maintenance activities in which the status of a large number of Georgia voters on the State's inactive elector list was changed to cancelled status. Doc. No. [159].[1]

[1] The Court recognizes that Plaintiffs use the words "removed" and "purged" throughout their arguments. However, Defendants have presented evidence and assert that the use of these words to describe the present circumstances is not correct, because no voter is ever removed from the voter rolls. In the process of voter list maintenance (which is permitted under applicable federal law, specifically the National Voter Registration Act, "NVRA," 52 U.S.C. § 20501, *et al.*), the affected voter's

According to a press release from the Secretary of State's Office, the list was comprised of 313,243 inactive voters.[2] Of these 313,243, there were 108,306, who had filed a change of address request with the United States Postal Service showing they have moved to a different county or state and 84,376, who had election mail returned as undeliverable, totaling 192,682. For purposes of the pending motion, Plaintiffs are **not** contesting the cancellation of the registrations of these 192,682 voters. It is the remaining 120,561 voters (defined as having had no contact with their county election officials since January 1, 2012 and did not respond to two notices), which are at issue. Subsequent to the filing of Plaintiffs' motion, the Secretary of State returned 22,000 of the 120,561 voters to the voting roll (after review of Plaintiffs' briefing

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status is changed from inactive to cancelled, which means that the voter is no longer eligible to vote. Doc. No. [172], p. 10, n.6 (citing Harvey Dec. ¶ 5). Notwithstanding Defendants' argument, the Court recognizes that the applicable Georgia statute utilizes the word "removed." See O.C.G.A. § 21-2-235(b) ("the elector shall be *removed* from the inactive list of electors.") (emphasis added).

[2] https://sos.ga.gov/index.php/elections/georgia_secretary_of_states_office_cleans_voter_file_by_4_as_required_by_law (last visited Dec. 23, 2019); see also Defs. Hearing Ex. 1 (Dec. 19, 2019).

and based upon the definition of a calendar year). Thus, it is now approximately 98,000 voters that are at issue.[3]

I. BACKGROUND[4]

In 2018, Plaintiffs Fair Fight Action, Inc. ("Fair Fight Action"), Care in Action, Inc. ("Care in Action"), Ebenezer Baptist Church of Atlanta, Georgia, Inc. ("Ebenezer"), Baconton Missionary Baptist Church, Inc. ("Baconton"), Virginia-Highland Church, Inc. ("Virginia-Highland"), and The Sixth Episcopal District, Inc. ("Sixth Episcopal District") (collectively, the "Plaintiffs") sued Defendants Brad Raffensperger (in his official capacity as Secretary of State of the State of Georgia and as Chair of the State Election Board of Georgia), Members of the State Election Board in their official capacities (Rebecca N. Sullivan, David J. Worley, and Seth Harp), and the State Election

[3] At the December 16, 2019 hearing, Defense Counsel indicated that there were about 50,000 of these individuals who would have been canceled under Plaintiffs' interpretation of the law. However, Plaintiffs state that this number is incorrect and was probably based on the misunderstanding as to the calendar year for purposes of counting inactivity. Plaintiffs expert also explained that other corrections were also made by the Secretary of State based on a data transfer issue. See Dec. 19, 2019 Hearing Transcript at 27:7–10.

[4] All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

Board (collectively, the "Defendants"), alleging that there are "serious and unconstitutional flaws in Georgia's elections process" and that Defendants' actions have "deprived Georgia citizens . . . particularly citizens of color, of their fundamental right to vote." Doc. No. [41], ¶ 2. More specifically, Plaintiffs allege that Defendants enforced unconstitutional and otherwise unlawful legislation, such as O.C.G.A. § 21-2-234, which Plaintiffs refer to as "Use it or Lose it" and Defendants characterize as voter list maintenance.[5]

At the time of the filing of Plaintiffs' lawsuit, Georgia's statutory voter list maintenance authority was found in O.C.G.A. §§ 21-2-234 and 235 and required the Secretary of State to send a postcard to voters with whom there had been "no contact" for *three* calendar years. If the voter failed to return the postcard, the voter's status was changed to "inactive." If the voter still did not vote in the next two general elections, he or she was removed from the registration rolls (or as Defendants' assert, the registration status was changed to cancelled).

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[5] Plaintiffs also refer to the statute as "voter list purge," which as stated above, Defendants have presented evidence showing that this is an inaccurate description. See n.1, *supra*.

During the 2019 Legislative Session, the Georgia General Assembly passed House Bill 316 ("HB 316"). HB 316, which was signed into law by the Governor on April 2, 2019, amends the Georgia Election Code to, among other things, provide for more notice under Georgia's voter-list-maintenance process. HB 316 amended O.C.G.A. § 21-2-234 to mandate that the Secretary of State cannot remove voters from registrations rolls unless there has been "no contact" with them for *five* calendar years—as opposed to the previous *three* calendar years. See O.C.G.A. § 21-2-234(a)(2). HB 316 also amended O.C.G.A. § 21-2-234 to require notice to the voter not less than thirty days but no more than sixty days prior to the cancellation of the voter's registration. Id. § 235(b).

The approximately 98,000 voters presently at issue are the voters who were placed on the inactive list (for no contact) under the prior statutory provision of three years "no contact" and prior to the enactment of HB 316's five year "no contact" provisions. Defendants do not see HB 316 as retroactive or "backward" looking and have subjected the voters at issue to voter registration cancellation, even though they had less than five calendar years of no contact prior to being placed on the inactive elector list. Doc. No. [159-2], p. 11.

In Count IV of their Complaint, *as amended*, Plaintiffs allege that Georgia's voter-list-maintenance process violates Georgia voters' rights to procedural Due Process under the First and Fourteenth Amendments of the United States Constitution. Doc. No. [41], ¶¶ 69–81, 205. The Complaint further states: "[t]he "use it or lose it" statute, as well as its enforcement by Defendants, unlawfully disenfranchise voters or severely burden their right to vote by penalizing voters based on their voting choices, providing voters inadequate notice, and failing to ameliorate the [registration cancellations] by offering same-day registration." Id. ¶ 77.

On December 16, 2019, Plaintiffs filed an emergency Motion for Temporary Restraining Order and Preliminary Injunction in which they seek to enjoin Defendants from canceling the voter registrations of 98,561 "inactive" voters. Doc. No. [159].[6] The Court held a hearing on the same date. During this hearing, Defense Counsel indicated that the "nuclear silo start process" began

[6] Plaintiffs indicated at the hearing that a supplemental pleading was unnecessary to address the recent circumstances presented in their motion. However, the Court finds that because the events at issue happened after the filing of the complaint, the better practice is to supplement the complaint. See Fed. R. Civ. P. 15(d) ("On motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented.").

on September 24, 2019 and the system completes the program on December 16, 2019, without anyone taking an action to "push the button," to complete the process. Counsel also indicated that undoing the coding to stop the process, was challenging because there were other categories of cancellation in the program (besides the active voter cancellation). Counsel further indicated that if the already-running automated list maintenance process were stopped, the process becomes manual, which introduces the possibility for human error. Counsel also indicated that the State of Georgia was already within the ninety-day federal statutory timeline in which it could perform list maintenance and stopping the process would render the State of Georgia not being able to perform list maintenance again until the year 2021. Counsel further indicated that it is easier to reinstate the voters rather than stop the ongoing automated process, because the voter registrations could be restored in an overnight, twenty-four to forty-eight-hour process.

The Court declined to grant an emergency restraining order, finding the absence of imminent irreparable injury, based in large part on Defense Counsel's representation as to the ease of ability to restore the registrations of the voters at issue within twenty-four to forty-eight hours. Doc. No. [164].

The parties thereafter briefed the preliminary injunction portion of the motion (Doc. Nos. [172] and [177]) and the Court held a second hearing on December 19, 2019. Doc. No. [180]. As stated above, in the interim time period between the emergency December 16, 2019 hearing and the December 19, 2019 preliminary injunction hearing, Defendants returned approximately 22,000 Georgia voters to the voter roll by changing their status from cancelled to inactive status. During the December 19, 2019 hearing, the parties presented testimony (from expert witness, Dr. Michael McDonald and Georgia Elections Director, Chris Harvey) and exhibits. Doc. Nos. [180], [181].

Post-hearing, the Court posed two additional questions to the parties, concerning the asserted injury and state interests.[7] The parties submitted their responses on December 23, 2019. Doc. Nos. [184], [185].

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[7] The Court's exact questions are as follows:

> The Court notes the parties' different statutory interpretations of HB 316.
>
> Pursuant to Anderson v. Celebrezze, 460 U.S. 779 (1983), the Court must consider "the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendment that the plaintiff[s] seek[] to vindicate." Id. at 789. The Court asks Plaintiffs to address the following question: What is the precise injury that will be suffered by the

This matter is now ripe for review.

II. LEGAL STANDARD

The Court considers four factors when deciding whether to issue a preliminary injunction pursuant to Federal Rule of Civil Procedure 65: (1) whether there is a substantial likelihood of success on the merits of the complaint;[8] (2) whether the preliminary injunction is necessary to prevent

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approximately 120,000 people at issue here if this preliminary injunction is denied?

Additionally, pursuant to Anderson, the State must put forward "precise interests" as "justifications for the burden imposed by its rule." Id. at 789. "[T]he Court must not only determine the legitimacy and strength of those interests, it must also consider the extent to which those interests make it necessary to burden the plaintiff's rights." Id. The Court asks Defendants to address the following question: Notwithstanding its Eleventh Amendment argument, what interest does the State have in applying its interpretation of H.B. 316 to the approximately 120,000 people at issue here?

[8] It appears to the Court that Plaintiffs are arguing the likelihood of success on the merits of their motion for preliminary injunction; however, the Court's review of applicable authority indicates that the standard involves likelihood of success on the merits of the *complaint*. See Forsyth Cty. v. U.S. Army Corps of Engineers, 633 F.3d 1032, 1042 (11th Cir. 2011) (noting that "[t]he County failed to establish a substantial likelihood of success on the merits of its complaint."); Mann v. Palmer, 713 F.3d 1306, 1310 (11th Cir. 2013) (indicating that the petitioner had to establish "a substantial likelihood of success on the merits of his complaint."); Indigo Room, Inc. v. City of Fort Myers, 710 F.3d 1294, 1299 (11th Cir. 2013) (noting that the district court did not

irreparable injury; (3) whether the threatened injury outweighs the harm that the preliminary injunction would cause to the non-movant; and (4) whether the preliminary injunction would be adverse to the public interest.[9] Parker v. State Bd. of Pardons and Paroles, 275 F.3d 1032, 1034–35 (11th Cir. 2001). Injunctive relief is an extraordinary and drastic remedy and should not be granted unless the movant clearly establishes the burden of persuasion as to each of these four factors. Siegel v. LePore, 234 F. 3d 1163, 1176 (11th Cir. 2000).[10] In addition, "[a]t the preliminary injunction stage, a district court may rely on affidavits and hearsay materials which would not be admissible evidence for a permanent injunction, if the evidence is 'appropriate given the character and objectives of

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abuse its discretion in denying injunction motion because it properly concluded that movants failed to show a substantial likelihood of success on the merits of two counts of their complaint); and Common Cause/Georgia v. Billups, 554 F.3d 1340, 1348 (11th Cir. 2009) (noting that the district court ruled that the organizations and voters had proved a substantial likelihood of success on the merits of their complaint).

[9] Factors three and four also involve consideration of whether the movant has shown reasonable diligence. See Benisek v. Lamone, --- U.S. ----, 138 S. Ct. 1942, 1944, 201 L. Ed. 2d 398 (2018) ("a party requesting a preliminary injunction must generally show reasonable diligence.").

[10] However, if a movant is unable to show a substantial likelihood of success on the merits, the court need not consider the other preliminary injunction requirements. See Bloedorn v. Grube, 631 F.3d 1218, 1229 (11th Cir. 2011).

the injunctive proceeding.'" Levi Strauss & Co. v. Sunrise Int'l Trading Inc., 51 F.3d 982, 985 (11th Cir. 1995). The decision to grant preliminary injunctive relief is within the broad discretion of the district court. Majd–Pour v. Georgiana Cmty. Hosp., Inc., 724 F.2d 901 (11th Cir. 1984).

III. ANALYSIS

The crux of Plaintiffs' preliminary injunction motion involves the question of what should happen to the approximately 98,000 voters that were placed on the State of Georgia's inactive list (for no contact) prior to the enactment of HB 316. Plaintiffs assert that a constitutional question is presented by the circumstances and this Court should apply the Supreme Court's Anderson-Burdick balancing test (involving consideration of the asserted injury and the state's interest) to evaluate whether the voting restriction at issue violates Due Process or the First Amendment. Plaintiffs also assert that the State of Georgia has no interest in removing voters from the rolls in violation of its own laws. Doc. No. [176], p. 2. In contrast, Defendants assert the Eleventh Amendment and the Pullman Doctrine *inter alia* to challenge the propriety of Plaintiffs' motion. As the Defendants' arguments are

jurisdictionally based, the Court will consider those arguments first.[11] The Court will thereafter consider Plaintiffs' constitutional claim.

A. Eleventh Amendment

In opposition to Plaintiffs' motion, Defendants argue that Plaintiffs' motion and legal theory are barred by the Eleventh Amendment, because Plaintiffs are essentially asking this Court to adjudicate state law for the first time (and otherwise address state-law claims in federal court). Doc. No. [172], pp. 2, 8, 16. More specifically, Defendants' argument recognizes that Plaintiffs and Defendants have different interpretations of the effect of HB 316 on the approximately 98,000 voters at issue. Defendants argue that Plaintiffs' requested injunctive relief requires this Court to endorse Plaintiffs' interpretation of state law, which is barred by the Eleventh Amendment and State sovereign immunity. Id. at p. 16. Defendants assert that the reality of

[11] "Because the Eleventh Amendment represents a constitutional limitation on the federal judicial power established in Article III, federal courts lack jurisdiction to entertain claims that are barred by the Eleventh Amendment." McClendon v. Ga. Dep't of Cmty. Health, 261 F.3d 1252, 1256 (11th Cir. 2001) (citations omitted); see also Edelman v. Jordan, 415 U.S. 651, 678 (1974) ("the Eleventh Amendment defense . . . partakes of the nature of a jurisdictional bar") and Duke v. James, 713 F.2d 1506, 1510 (11th Cir. 1983) (discussing the Pullman abstention (from the exercise of federal jurisdiction) doctrine).

Plaintiffs' motion is that "it is a declaratory judgment claim regarding compliance with HB 316 masquerading as a constitutional argument." Id. at p. 17. Defendants further argue that "Plaintiffs cannot succeed in suggesting their relief is based in federal law when it requires this Court to determine a novel issue of state law." Id. at p. 18.

In opposition, Plaintiffs state that their claims arise from the First and Fourteenth Amendments of the United States Constitution, not state law—and that their arguments do not require the Court to analyze novel issues of state law. Doc. No. [177], p. 3.

The Eleventh Amendment states in relevant part: "[t]he Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State . . . ." U.S. Const. amend. XI. The United States Supreme Court has held that "a suit against state officials on the basis of state law contravenes the Eleventh Amendment." Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 117 (1984).[12] The Court also indicated that when injunctive relief is

[12] "The Supreme Court [in Pennhurst] has explained that the rationale for the

sought, "an error of law by state officers acting in their official capacities will not suffice to override the sovereign immunity of the State where the relief effectively is against it." Id. at 113 (citations omitted). The Court further stated: "it is difficult to think of a greater intrusion on state sovereignty than when a federal court instructs state officials on how to conform their conduct to state law." Id. at 106.

The Eleventh Circuit Court of Appeals has addressed the Pennhurst decision on numerous occasions. In their briefing, Plaintiffs primarily rely upon the Eleventh Circuit's 1989 decision in Brown v. Georgia Department of Revenue, 881 F.2d 1018, 1023 (11th Cir. 1989). In Brown, the Eleventh Circuit held that the Supreme Court's decision in Pennhurst does not apply when a plaintiff alleges a violation of the federal Constitution. Id. at 1023. The Eleventh Circuit stated that under Pennhurst, "the determinative question is not the relief ordered, but whether the relief was ordered pursuant to state or federal

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[exception to the Eleventh Amendment that allows state officials to be sued for prospective relief, i.e., *Ex parte* Young doctrine] 'rests on the need to promote the vindication of federal rights,' but in a case alleging that a state official has violated state law, this federal interest 'disappears.'" Ala. v. PCI Gaming Auth., 801 F.3d 1278, 1290 (11th Cir. 2015) (citations omitted).

law." Id. In the case *sub judice*, no relief has been ordered, so the Court cannot necessarily answer this determinative question.[13]

Additional Eleventh Circuit authority indicates that when the gravamen of the complaint appears to be that the State improperly interpreted and failed to adhere to a state statute, there is a Pennhurst problem—as despite references to the United States Constitution in the pleadings, the claims necessarily rely on a determination that a state official has not complied with state law,[14] a determination that is barred by sovereign immunity. See S&M Brands, Inc. v. Georgia ex rel. Carr, 925 F.3d 1198, 1205 (11th Cir. 2019) and DeKalb Cty. Sch. Dist. v. Schrenko, 109 F.3d 680, 688 (11th Cir. 1997); see also Hand v. Scott, 888 F.3d 1206, 1213–14 (11th Cir. 2018) (holding that "the district court cannot

[13] Phrased a different way, in Pennhurst, the Supreme Court indicated that "the general criterion for determining when a suit is in fact against the sovereign is the *effect* of the relief sought." Pennhurst, 465 U.S. at 107 (emphasis added). In the case *sub judice*, the Court finds that the effect of the relief sought by Plaintiffs is a determination by this Court that Defendants have not complied with state law.

[14] For example, Plaintiffs use the phrase "violation of state law" at numerous times in their briefing and hearing exhibit/PowerPoint. See e.g., Doc. Nos. [159-1], p. 23; [176], pp. 2, 7 n.1.

enjoin [a state] to follow the district court's interpretation of [the state's] own constitution.").[15]

While the Court recognizes Plaintiffs' arguments and citation of authority to the contrary, as well as its ability to review state statutes,[16] the gravamen of the Plaintiffs' pending motion appears to be that the Secretary of State (and therefore the State of Georgia) has improperly interpreted and failed to adhere to Georgia's new voter list maintenance statute (HB 316).[17] This is evidenced by the motion's numerous references to violation of state law and the fact that Plaintiffs are not seeking an injunction as to the entirety of the

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[15] This Court's independent research only found one case to the contrary, Duncan v. Poythress, 657 F.2d 691 (5th Cir. 1981); however, the applicability and precedential weight of that case is doubtful, considering that it was decided pre-Pennhurst and involved a substantive due process claim, as opposed to the procedural due process claim at issue here.

[16] As stated by Judge Gerald Tjoflat, the Supremacy Clause of the United States Constitution "allows federal courts to review state statutes, but federal courts are limited to refusing to apply the provisions they find unconstitutional." Democratic Exec. Comm. of Fla. v. Lee, 915 F.3d 1312, 1348 (11th Cir. 2019) (Tjoflat, J., dissenting). Here, the Court is not being asked to find a statute unconstitutional. Plaintiffs are asking the Court to find a state official's interpretation of a statute unconstitutional.

[17] More specifically, the case of Democratic Executive Committee v. Lee, 915 F.3d 1312 (11th Cir. 2019) cited by Plaintiffs is distinguishable in that the arguments in that case did not center upon a violation of state law.

approximately 300,000 voter registrations that were subject to cancellation. Accordingly, in light of the above-stated authority, the Eleventh Amendment bars Plaintiffs' motion to the extent that it requires a conclusion by this Court that Plaintiffs' interpretation of HB 316 is correct.[18]

B. Pullman Doctrine

While the Court considers the Eleventh Amendment analysis determinative, in the interest of caution, the Court will consider Defendants' Pullman abstention doctrine argument. Defendants assert the Pullman abstention doctrine, on the ground that "Plaintiffs' Motion is predicated upon only one discrete subset of list-maintenance activities that has not been adjudicated by state courts [and further argue that] this Court should refrain from adopting Plaintiffs' arguments on an unsettled issue of state law." Doc. No. [172], p. 20.

"Under the Pullman abstention doctrine, a federal court will defer to 'state court resolution of underlying issues of state law,'" before a substantial

[18] The Court recognizes that Plaintiffs also present an alternative argument in the event that the Court declines to engage in statutory interpretation or otherwise finds that HB 316 is ambiguous as to the voters at issue. To this regard, the Court will continue with its analysis and consider the constitutional question, *infra*.

federal constitutional question can be decided. Siegel, 234 F.3d at 1174; see also Railroad Comm'n v. Pullman Co., 312 U.S. 496 (1941). In considering abstention, the court "must take into account the nature of the controversy and the importance of the right allegedly impaired." Id. In light of said consideration, the Eleventh Circuit has held that "voting rights cases are particularly inappropriate for abstention." Id. In lieu of abstention, the Eleventh Circuit has indicated that "the preferable way to obtain state court resolution of those state law issues is through the certification process established by" the state supreme court. Pittman v. Cole, 267 F.3d 1269, 1288 (11th Cir. 2001); cf. Roe v. State of Ala., 43 F.3d 574, 582 (11th Cir. 1995) ("We agree that federal courts should refrain from holding a state election law unconstitutional when a reasonable alternative course of action exists. We are, therefore, reluctant to reach a final decision in this case while the proper application of the [State] Election Code remains muddled. There are two ways to show deference to the state decisionmakers in this matter: we can leave the plaintiffs to their state remedies; or we can certify a question to the Supreme Court of [the state], retain jurisdiction, and await that court's answer.") (citations omitted). In light of this authority, the Court finds that it would not

be appropriate to apply the Pullman abstention doctrine to this voting rights case. Nevertheless, the Court still does not proceed to interpreting the statute, because from this Court's brief review, the answer as to how HB 316 applies to the voters who were already on the State of Georgia's inactive elector list (prior to enactment of HB 316) is not clear cut and both Plaintiffs and Defendants have offered reasonable interpretations for how HB 316 affects the voters at issue. Cf. Duncan, 657 F.2d at 699 (providing an overview of authority concerning clear and vague statutes in the context of the Pullman abstention doctrine). In essence, HB 316 is open to interpretation and could reasonably be interpreted as either party contends. In addition, an interpretation of HB 316 by this Court at this stage of the case creates a possibility for conflicting interpretations in the event that a state court later decides the issue—there would be an interpretation by the federal court and an interpretation by the state court. Cf. Pennhurst, 465 U.S. at 122 n.32 ("when a federal decision on state law is obtained, the federal court's construction often is uncertain and ephemeral").

As stated above, the preferable way to obtain resolution of the state law issue is through the certification process by the state supreme court. However,

neither party has asked to certify a question to the Georgia Supreme Court.[19] Plaintiffs also have an additional remedy in the form of seeking a mandamus in the state courts. Nevertheless, as stated above, the Court considers the Eleventh Amendment analysis, *supra*, determinative to the extent that the issues involve proper interpretation (and violation) of state law.[20]

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[19] The Court recognizes that it may *sua sponte* certify a question the Georgia Supreme Court; however, as indicated at the December 19, 2019 hearing, the Court is concerned as to timing in that the date that the Georgia Supreme Court will return an answer is unknown and Plaintiffs have continuously expressed a desire to resolve this case in March of 2020.

[20] The interplay between the Pennhurst/Eleventh Amendment ruling and the Pullman abstention doctrine has been described as follows.

> The configuration of the Pennhurst litigation was identical to the litigation in Pullman. Both cases involved lawsuits filed in federal court, which raised both state claims and federal constitutional claims against state officials, but which could have been resolved on the state law claims alone. The Supreme Court, however, did not consider Pullman abstention as a potential resolution of the Pennhurst litigation. Instead, the Court replaced the methodology of a discretionary stay envisioned in Pullman with a rule of mandatory dismissal. As a result, the role of Pullman abstention in allocating decisionmaking responsibility in suits against state officials was transmuted substantially without a word of explanation by the Court.

Keith Werhan, Pullman Abstention After Pennhurst: A Comment on Judicial Federalism, 27 Wm. & Mary L. Rev. 449, 454 (1986).

C. Constitutional Claim

Assuming, *arguendo,* that Plaintiffs' motion does not seek a ruling by the Court regarding the correct statutory interpretation of HB 316 and whether the three-year or five-year "no contact" provision applies to the approximately 98,000 voters at issue, the Court proceeds with the following constitutional analysis of HB 316 and, in particular, the "no contact" scheme therein.

The Supreme Court "has made clear that a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction." Dunn v. Blumstein, 405 U.S. 330, 336 (1972). This equal right to vote, however, "is not absolute; the States have the power to impose voter qualifications, and to regulate access to the franchise in other ways." Id.; see also Burdick v. Takushi, 504 U.S. 428, 433 (1992) ("It does not follow, however, that the right to vote in any manner and the right to associate for political purposes through the ballot are absolute.").

"The Supreme Court has rejected a litmus-paper test for constitutional challenges to specific provisions of a State's election laws and instead has applied a flexible standard." Common Cause/Georgia v. Billups, 554 F.3d 1340, 1351 (11th Cir. 2009) (internal quotation marks omitted). Consequently, a

reviewing court must first "consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate." Anderson v. Celebrezze, 460 U.S. 780, 789 (1983). A court must then "identify and evaluate the interests put forward by the State as justifications for the burden imposed by its rule." Id. "Only after weighing all these factors is the reviewing court in a position to decide whether the challenged provision is unconstitutional." Id.; see also Burdick, 504 U.S. at 434. If a State's election law imposes only "reasonable, nondiscriminatory restrictions" upon the First and Fourteenth Amendment rights of voters, "the State's important regulatory interests are generally sufficient to justify" the restrictions. Burdick, 504 U.S. at 434 (citing Anderson, 460 U.S. at 788). But if a State's election law imposes a "severe" burden, it must be "narrowly drawn to advance a state interest of compelling importance." Id. (citing Norman v. Reed, 502 U.S. 279, 289 (1992)). In other words, "lesser burdens . . . trigger less exacting review." Timmons v. Twin Cities Area New Party, 520 U.S. 351, 358 (1997).

Accordingly, the Court begins by evaluating the burden of this "no contact" scheme on Plaintiffs' First and Fourteenth Amendment rights.

"Ordinary and widespread burdens, such as those requiring nominal effort of everyone, are not severe." Crawford v. Marion Cty. Election Bd., 553 U.S. 181, 205 (2008) (Scalia, J., concurring) (quotation omitted). However, burdens "are severe if they go beyond the merely inconvenient." Id. Plaintiffs argue that the burden imposed on voters by the "no contact" scheme is "severe" and that, should their motion for preliminary injunction be denied, the "precise injury" the approximately 98,000 voters at issue will suffer is "complete disenfranchisement." See generally Doc. Nos. [159-1]; [184]. Plaintiffs contend that removing voters solely due to inactivity—without any other evidence that said voters have moved—raises a substantial risk that individuals will be erroneously deprived of their constitutional right to vote. See Doc. No. [169-1], p. 19. They specifically cite to a 2018 Election Assistance Commission Report, in which statistics show that the State of Georgia mailed 478,295 voter confirmation notices in advance of the 2018 election to individuals it suspected of having moved. See Doc. No. [184-2]. Of those confirmation notices, more than 75% of the notices were neither responded to nor returned as

undeliverable, suggesting that a substantial number of the notices were never read.[21] Id.

Additionally, Plaintiffs argue that once a voter is removed from the voter roll under the "no contact" scheme, the likelihood of complete disenfranchisement is high for two reasons. See Doc. No. [184], pp. 3–5. First, the State of Georgia does not notify individuals that their voter registration has been cancelled. Thus, Plaintiffs argue that the first moment that many voters learn that they have been removed from the voter rolls is when they arrive at the polls on Election Day. Because the State of Georgia does not offer same-day registration, said individuals are therefore ineligible to vote. Second, for the individuals who have learned that they have been removed from the voter rolls, there is only a narrow window of time for said individuals to re-register before the next election, as Georgia law requires voters to register weeks before any election. See O.C.G.A. § 21-2-224.

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[21] Plaintiffs also point to Mr. Harvey's testimony at the preliminary injunction hearing, in which he acknowledged that "[t]here are a lot of people that don't check their mail" and that, upon receiving confirmation notices, voters may think it's a "mailer," "an advertisement," or "marketing things that look like . . . official documents." See Dec. 19, 2019 Hearing Transcript at 79:1–79:18.

Defendants, in response, argue that Plaintiffs have provided no evidence of *any* burden that the "no contact" scheme imposes on the right to vote, let alone a "severe" burden. See generally Doc. Nos. [172]; [185]. In support of this contention, Defendants rely on the Eleventh Circuit's ruling in Billups. Therein, the Eleventh Circuit upheld the constitutionality of a state law requiring voters to produce photo identification prior to casting a ballot. See 554 F.3d at 1355. Employing the Anderson-Burdick balancing test, the Eleventh Circuit found that the plaintiffs "failed to prove that any individual would bear a significant burden" because they could not "identify a single individual who would be unable to vote because of the Georgia statute or would face an undue burden to obtain a free voter identification card." Id. at 1354. Accordingly, the Eleventh Circuit found that "the burden on Georgia voters is 'slight'" and, thus, that the state interest need not be "compelling." Id. (citing Burdick, 504 U.S. at 439).

Defendants argue that, like the plaintiffs in Billups, Plaintiffs have failed to prove that any individual would bear a significant or "severe" burden due to the "no contact" scheme. Namely, in support of their motion, Plaintiffs include eight declarations from Georgia voters. See Doc. Nos. [159-3]; [159-4]; [159-5]; [159-6]; [159-7]; [159-8]; [159-9]; [159-12]. Plaintiffs initially stated that

all eight of these voters were due to be removed from the voter rolls under the "no contact" scheme despite that fact that none of these voters had ever moved. Doc. No. [159-1], p. 15. In response, however, Defendants contend that four of the voters (Linda Bradshaw, Keme Hawkins, Tommie Jordan, and Deepak Eidnani) remain on the official list of voters as "active" voters. See Doc. No. [172], pp. 13–14. Thus, these four voters are eligible and able to vote.

Moreover, Defendants contend that the other four voters (Clifford Thomas, David Hopkins, Charlesetta Young, and Kilton Smith) were removed from the voter rolls after failing to respond to the two confirmation notices sent pursuant to the "no contact' scheme under HB 316.[22] At this time, there is no evidence that any of these four voters were burdened or precluded from returning the two confirmation notices, which are prepaid and preaddressed.

[22] The Court notes that these four voters dispute that they ever actually received confirmation notices. However, Defendants contend that Secretary of State records show that confirmation notices were in fact sent to these four voters. See Doc. No. [172-1]. "The common law has long recognized a rebuttable presumption than an item properly mailed was received by the addressee." Chung v. JPMorgan Case Bank, N.A., 975 F. Supp. 2d 1333, 1348 (N.D. Ga. 2013) (quoting In re Farris, 365 F. App'x 198, 199 (11th Cir. 2010)). Plaintiffs' conclusory allegation that these four voters never actually received confirmation notices "is insufficient to rebut the presumption." In re Farris, 365 F. App'x at 200 ("The mere denial of receipt, without more, is insufficient to rebut the presumption.").

Additionally, there is no evidence at this time that any of the four voters are precluded or burdened by registering to vote again. In fact, at the preliminary injunction hearing, Mr. Harvey testified that re-registering to vote after being removed from the voter rolls for "no contact" is no different from registering to vote in the first instance. See Dec. 19, 2019 Hearing Transcript at 47:23–48:4. A voter can re-register to vote by going online to use the Online Voter Registration system or renewing one's driver's license or identification card with the Department of Driver Services. Id.

Based on the limited factual record before the Court, the Court finds that Plaintiffs have not shown a substantial likelihood of success that the burden imposed by the "no contact" scheme (*i.e.*, returning a prepaid, preaddressed confirmation notice and/or re-registering to voter) is severe.

The Court now turns to the State's purported interests in enforcing the "no contact" provision under its interpretation of HB 316. Because the burden of said provision is "slight," the state interest need not be "compelling . . . to tip the constitutional scales in its direction." Burdick, 504 U.S. at 439. Rather, "the State's important regulatory interests are generally sufficient to justify" the restrictions. Id. at 434.

Defendants have identified three State interests in enforcing the "no contact" provision under its interpretation of HB 316. First, Defendants state that State of Georgia has an interest—both generally and as compelled by federal law—in maintaining reliable lists of electors. See Doc. No. [185], p. 4. Under the NVRA, states are required to make "a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters."[23] 52 U.S.C. § 21083(a)(4)(a). Congress mandates this, in part, "to protect the integrity of the electoral process; and . . . [to] ensure that accurate and current voter registration rolls are maintained." 52 U.S.C. §§ 20501(b)(3) and (b)(4). Second, Defendants state that the State of Georgia and the Secretary of State have an interest in applying election laws as written specifically. See Doc. No. [185], p. 5. Finally, Defendants maintain that the "no contact" scheme eliminates voter confusion and improves election-day operations. Doc. No. [185], p. 5. For example, Defendants argue that inaccurate voter lists that

[23] The method employed by the State of Georgia—both prior to and after the enactment of HB 316—is contemplated by the NVRA and has been upheld by the Supreme Court in Husted v. A. Philip Randolph Inst., ---U.S.----, 138 S. Ct. 1833, 1842 (2018). As Plaintiffs correctly note, however, the Supreme Court in Husted only addressed whether the challenged voter-list-maintenance process complied with the NVRA and did not address the constitutionality of said process.

incorporate individuals who have moved and are no longer eligible may cause local election officials to improperly assess where equipment and personnel should be deployed on election day in 2020. Id. at pp. 5–6.

Plaintiffs, in response, argue that the State has waived or disclaimed any such interest in applying a three-year "no contact" provision to the approximately 98,000 individuals at issue since HB 316 amended the "no contact" provision to require five years of inactivity. In doing so, Plaintiffs overstate the burden on the State under the Anderson-Burdick test. As discussed *supra*, Plaintiffs failed to show a substantial likelihood of success that the burden imposed by the "no contact" scheme is "severe." Accordingly, under the Anderson-Burdick, the State is only required to articulate an important regulatory interest in enforcing their interpretation of said provision. See Burdick, 504 U.S. at 439. The Court finds that all three of the above-stated regulatory interests are sufficient to satisfy that obligation under the Anderson-Burdick test.

The Court therefore concludes that, at this time, Plaintiffs have not met their burden of showing a substantial likelihood of success that the "no contact" scheme set forth in HB 316 violates the First and Fourteenth Amendments.

Because Plaintiffs have failed to establish a substantial likelihood of success on the merits, the Court need not examine whether Plaintiffs have will irreparable harm, or whether a balance of hardships weighs in Plaintiffs' favor, or, finally, whether the public interest would support the issuance of a preliminary injunction. See Bloedorn, 631 F.3d at 1242.

IV. CONCLUSION

Plaintiffs' Motion for Preliminary Injunction (Doc. No. [159]) is **DENIED** on the ground that the Eleventh Amendment of the United States Constitution and the principles of sovereign immunity do not permit a federal court to enjoin a state (or its officers) to follow a federal court's interpretation of the State of Georgia's laws. Such interpretation is within the province of the state court. As to the remainder of Plaintiffs' constitutional claim, the motion is also **DENIED** on the ground that Plaintiffs have failed to show a substantial likelihood of success on the merits of their claim that the "no contact" provision violates the First and Fourteenth Amendments. It is important to note that the Court has not conclusively determined the rights of the parties, but in accordance with

applicable authority, only balanced the equities in the interim as this litigation proceeds.[24]

While the denial of this motion is based upon the Eleventh Amendment and respect for state sovereignty, the Court has not ignored the fundamental significance of voting under our constitutional structure.[25] In recognition of this important right, the Court would be remiss not to express its serious concern that there needs to be an immediate and accurate interpretation by the state court of HB 316 as to its effect on the voters who were already on the State's inactive list prior to the effective date of HB 316. To this regard, the Court will allow Plaintiffs, upon request, to stay the pending litigation to seek emergency relief at the state court level (or otherwise certify a question the Georgia Supreme Court). In light of the immediacy of the situation in District 171, it is within the authority of the Secretary of State to return any cancelled voters to inactive status to allow Plaintiffs reasonable time to seek a decision from the state court.

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[24] See Democratic Exec. Comm. of Fla. v. Lee, 915 F.3d 1312, 1327 (11th Cir. 2019) (noting that "the purpose of the injunction is not to conclusively determine the rights of parties, but only to balance the equities in the interim as the litigation proceeds.").

[25] Burdick, 504 U.S. at 432.

The Court also, pursuant to its inherent authority to control the conduct of the parties, **ORDERS** Defendants to make additional diligent and reasonable efforts (through notices on the Secretary of State's website and press releases) to inform the general public (especially those in House District 171, who face a December 30, 2019 deadline to re-register) of this Court's order in regard to the voter list maintenance process and the need for the canceled voters to re-register to vote during the applicable registration time period. [26]

IT IS SO ORDERED this 27th day of December, 2019.

s/Steve C. Jones
HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

[26] See generally Martin v. Automobili Lamborghini Exclusive, Inc., 307 F.3d 1332, 1335 (11th Cir. 2002) (discussing inherent authority).

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

CORECO JA' AN PEARSON, ,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	1:20-cv-4809-TCB
	)	
BRIAN KEMP, ,	)	
	)	
Defendants.	)	

DEFENDANTS' CONSOLIDATED BRIEF IN SUPPORT OF THEIR MOTION TO DISMISS AND RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF

Christopher M. Carr Attorney General Bryan K. Webb Deputy Attorney General Russell D. Willard Senior Assistant Attorney General Charlene S. McGowan Assistant Attorney General Office of the Georgia Attorney General 40 Capitol Square SW Atlanta, GA 30334 r d	Carey Miller Josh Belinfante Melanie Johnson Robbins Ross Alloy Belinfante Littlefield LLC 500 14th Street NW Atlanta, GA 30318

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INTRODUCTION

Plaintiffs, a group of disappointed Republican presidential electors, filed a Complaint alleging widespread fraud in the November general election in Georgia, weaving an unsupported tale of "ballot stuffing," the switching of votes by an "algorithm" uploaded to the state's electronic voting equipment that switched votes from President Trump to Joe Biden, hacking by foreign actors from Iran and China, and other nefarious acts by unnamed actors. Plaintiffs did not bring this election challenge in state court as provided by Georgia's Election Code. Instead, they ask this Court to change the election outcome by judicial fiat and order the Governor, the Secretary, and the State Election Board to "de-certify" the results of the election and replace the presidential electors for Joe Biden (who were selected by a majority of Georgia voters by popular vote as provided by state law) with presidential electors for President Trump. Their claims would be extraordinary if true, but they are not. Much like the mythological "kraken" monster[1] after which Plaintiffs have named this lawsuit, their claims of election fraud and malfeasance belong more to the kraken's realm of mythos than they do to reality.

[1] A "kraken" is a mythical sea monster appearing in Scandinavian folklore, being "closely linked to sailors' ability to tell tall tales." https://en.wikipedia.org/wiki/Kraken.

The truth is that the 2020 general election was, according to the federal agency tasked with overseeing election security, "the most secure in history." (**Exhibit B**.)[2] Cybersecurity experts have determined that there is "***no evidence that an voting s stem deleted or lost votes changed votes or was in an wa compromised***." (d) The accuracy of the presidential election results has been confirmed through at least (1) the statewide risk-limiting audit (2) a hand recount and (3) independent testing, which has confirmed that the security of the state's electronic voting equipment was not compromised.

As a threshold matter, the Eleventh Circuit issued an opinion today that mandates dismissal of this action for lack of standing and mootness in the related case of d r r, No. 20-14418, which raised many of the same claims as this case and sought similar relief. (slip opinion attached as **Exhibit A**). In affirming the district court's decision denying Wood's motion to enjoin certification of the election results, the panel held:

> We agree with the district court that Wood lacks standing to sue because he fails to allege a particularized injury. And because Georgia has already certified its election results and its slate of presidential electors, Wood's requests for emergency relief are moot to the extent they concern the 2020 election. The Constitution makes clear that

[2] Cybersecurity & Infrastructure Security Agency's Joint Statement From Elections Infrastructure Government Coordinating Council & the Election Infrastructure Selector Coordinating Committees, November 12, 2020. A true and correct copy of this statement is attached as **Exhibit B**.

> federal courts are courts of limited jurisdiction, U.S. Const. art. III we may not entertain post-election contests about garden-variety issues of vote counting and misconduct that may properly be filed in state courts.

(slip op. at 1). This decision squarely controls, and the Court should dismiss the action because Plaintiffs lack an injury in fact sufficient to establish Article III standing. Certification of the election results also moots Plaintiffs' claims, as the Court has no authority under federal law to undo what has already been done.

Other threshold issues bar the relief Plaintiffs seek. Even if they were not moot, Plaintiffs' claims are barred by laches because of their inexcusable delay in raising their challenge to the State's electronic voting system and absentee ballot procedures until after their preferred candidate lost. Plaintiffs' claims are also barred by the Eleventh Amendment to the U.S. Constitution, which bars suits for retrospective relief against state officials acting in their official capacity absent a waiver by the State. Similarly, despite their attempts to raise constitutional claims, Plaintiffs' lawsuit is really an election contest challenging the Presidential election, which can and should be brought in a Georgia court as some of Plaintiffs' allies have recently done.

But most importantly, there is no credible evidence to support the drastic and unprecedented remedy of substituting certified presidential election results with the Plaintiffs' preferred candidate. Without this, Plaintiffs cannot clearly establish the

required elements for injunctive relief. Like every state, Georgia has a compelling interest in preserving the integrity of its election process. "Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." r , 549 U.S. 1, 4 (2006). Public confidence in the electoral process would certainly be undermined by a court invalidating the certified results of a presidential election in which nearly 5 million Georgians cast ballots. This Court should decline Plaintiffs' unsupportable efforts to overturn the expressed will of the voters, and should deny their request for relief and dismiss this action.

FACTUAL BACKGROUND

I. Georgia's Electronic Voting System is Secure and Has Not Been Compromised.

Plaintiffs allege wide-ranging conspiracy theories that Georgia's electronic voting system has been compromised by Hugo Chavez and the Venezuelan government (or China and Iran, depending on which "expert" is asked), is infected with a vaguely described "weighted" algorithm that switches votes between candidates, and otherwise produces fraudulent results. In support of their argument, Plaintiffs cite to the un-signed declaration of Dr. Shiva Ayyadurai,[3] other redacted

[3] Dr. Ayyadurai claims he is "an engineer with vast experience in engineering systems, pattern recognition, mathematical and computational modeling and analysis." [Doc. 6-1, 2]. Elsewhere, Dr. Ayyadurai claims to be the inventor of

declarations, hearsay in the form of various news articles, and contested evidentiary filings in the case r r r, No. 1:17-cv-2989 (N.D. Ga.).[4]

The Plaintiffs—blinded by either willful ignorance or a lack of basic knowledge of Georgia elections—are incorrect. Georgia's electronic voting system was adopted in compliance with state and federal law, is certified by the Election Assistance Commission following inspection and testing conducted by independent Voting System Test Laboratories ("VSTLs"), and has not been compromised. A review of the , as opposed to Plaintiffs' conspiracies, confirms the inaccuracy of Plaintiffs' allegations.

A. Adoption and selection of Georgia's electronic voting system.

In 2019, the Georgia General Assembly enacted House Bill 316 ("HB 316"), a sweeping and comprehensive reform of Georgia's election laws, which also modernized and further secured Georgia's voting system. Specifically, the General Assembly chose to require a new unified system of voting throughout the State—

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electronic mail. Sam Biddle, r r M r d d , Business Insider (Mar. 6, 2012), https://www.businessinsider.com/the-crazy-story-of-the-man-who-pretended-to-invent-email-2012-3. State Defendants object to any consideration of Dr. Ayyadurai's report as he is not qualified to offer the opinions proffered and utilizes unreliable methodology.

[4] The r matter is now subject to two appeals pending in the Eleventh Circuit Court of Appeals, docket numbers 20-13730 and 20-14067.

moving the State away from the secure, but older, direct-recording electronic ("DRE") voting system to a voting system utilizing Ballot-Marking Devices ("BMDs") and optical scanners. The General Assembly determined this replacement of DREs with BMDs should occur "as soon as possible." O.C.G.A. § 21-2-300(a)(2). The legislation placed the responsibility of selecting the equipment for the new voting system on the Secretary of State. O.C.G.A. § 21-2-300(a). However, contrary to Plaintiffs' assertions that Governor Kemp and Secretary Raffensperger "rushed through the purchase of Dominion voting machines and software," (Doc. 6, p. 15), the procurement of Georgia's new voting system was completed through an open and competitive bidding process as required by Georgia's State Purchasing Act, O.C.G.A. § 50-5-50. Secretary Raffensperger did not make the purchasing decision alone, but established a Selection Committee comprised of seven individuals who were tasked with reviewing bid proposals.[5] Selection Committee members evaluated those proposals using criteria and processes set forth on a Master Technical Evaluation spreadsheet.[6] Of the three requests for proposals evaluated by the Selection Committee, Dominion Voting Systems ("Dominion") received the highest overall score. d

5 https://sos.ga.gov/admin/uploads/Selection_20Committee_20Bios.pdf

6 https://sos.ga.gov/admin/uploads/MasterTechnicalEvaluation_redacted.xls

On July 29, 2019, Secretary Raffensperger posted a Notice of Intent to Award the contract for the statewide voting system to Dominion. No bid protests were received by the State, and Secretary Raffensperger issued a final Notice of Intent to Award on August 9, 2019. d The voting system consists of BMDs that print ballots by way of a connected printer and optical scanners connected to a locked ballot box. The Dominion BMD allows the voter to make selections on a screen and then prints those selections onto a paper ballot. The voter has an opportunity to review the paper ballot for accuracy before placing it into the scanner. After scanning, the paper ballot drops into a locked ballot box connected to the scanner. BMDs thus create an auditable, verifiable ballot, as required by statute. O.C.G.A. § 21-2-300(a)(2) ("electronic ballot markers shall produce paper ballots which are marked with the elector's choices **in a format readable by the elector**") (emphasis added).

B. Testing and certification of Georgia's voting system.

Georgia's voting system is subject to two different certification requirements. First, the voting system must have been certified by the United States Election Assistance Commission ("EAC") at the time of procurement. O.C.G.A. § 21-2-300(a)(3). Second, the voting system must also be certified by the Secretary of State as safe and practicable for use. Georgia's BMD system meets both requirements.

The Help America Vote Act ("HAVA") created the EAC, which set up a rigorous process for voting-equipment certification, working with committees of experts and coordinating with the National Institute of Standards and Technology. 52 U.S.C. § 20962 52 U.S.C. §§ 20962, 20971 (test lab standards). The EAC certifies voting systems as in compliance with the Voluntary Voting System Guidelines ("VVSG"), version 1.0, and does so by utilizing approved, independent Voting System Test Laboratories ("VSTL"). In the case of the voting system utilized in Georgia, SLI Compliance served as the VSTL tasked with testing the system for EAC purposes. The system utilized by Georgia, Democracy Suite 5.5-A, was certified by the EAC on January 30, 2019.[7]

Separately, the Secretary of State utilized another independent EAC-certified VSTL, Pro V&V, to conduct testing for certification of the voting system. Following the VSTL's testing, the Secretary issued a Certification of the Dominion Voting Systems as meeting all applicable provisions of the Georgia Election Code and Rules of the Secretary of State on August 9, 2019.[8] That certification has been

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[7] United States Election Assistance Commission, Agency Decision — Grant of Certification, https://www.eac.gov/sites/default/files/voting system/ files/Decision.Authority.Grant.of.Cert.D-Suite5.5-A.pdf

[8] Plaintiffs erroneously claim that both the Certificate and a test report signed by Michael Walker were "undated" and have attached altered documents that have been cropped to remove the dates of the documents. Compl., 12 and Exhibits 5 and 6 thereto. A correct copy of the Certificate showing the date of August 9,

updated due to de minimis changes in system components on two different occasions since, on February 19, 2020, and again on October 5, 2020.

C. Georgia's electronic voting system has not been compromised and Plaintiffs' assertions to the contrary are disproven by the Risk-Limiting Audit.

Plaintiffs' conjecture and speculation does not rebut the reality that Georgia's voting system has not been compromised. Not only have two separate EAC-Certified independent VSTLs confirmed that the system operates as intended, but Georgia's risk-limiting audit ("RLA") further confirms that no "weighted" vote switching occurred.

Shockingly, the basis for Plaintiffs' outlandish claims of system compromise are rooted in suspect statistical—not software—analyses that they suggest irrefutably proves vote switching occurred. For example, in Dr. Ayyadurai's unsigned declaration, the author references (without citation) vote totals in certain precincts for the proposition that a "weighted race" algorithm must be responsible. (r Doc. 6-1.) The author, however, makes no attempt to evaluate any other reasons voters may have chosen not to vote for President Trump. Indeed, the

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2019 may be viewed at https://sos.ga.gov/admin/uploads/Dominion_Certification.pdf. A copy of the test report showing a date of August 7, 2019 may be found at https://sos.ga.gov/admin/uploads/Dominion_Test_Cert_Report.pdf.

author of that declaration speculates that 48,000 of 373,000 votes cast in Dekalb County were switched in this manner from Trump to Biden, (Doc. 6-1, p. 28), meaning that (under the author's theory) the results in Dekalb County would be 106,373 for Trump to 260,227 for Biden (or approximately 28.6 to 70). Of course, this would be extraordinarily unusual for heavily democratic Dekalb County, in which President Trump received 51,468 votes (16.47) in 2016, when the State was using an entirely different voting system.[9]

Moreover, the existence of such a "weighted" algorithm would have been detected in the RLA conducted this year. Following the counties' tabulation of the November election results, but prior to certification, Secretary Raffensperger was required by law to conduct a risk-limiting audit in accordance with O.C.G.A. § 21-2-498. State Election Board Rule 183-1-15-.04 provides that the Secretary of State shall choose the particular election contest to audit. Recognizing the importance of clear and reliable results for such an important contest, Secretary Raffensperger selected the presidential race for the audit.[10] **Exhibit C**.

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[9] Dekalb County Election Results, 2016, https://results.enr.clarityelections.com/GA/DeKalb/64036/183321/en/summary.html.

[10] Statement of Secretary Raffensperger, "Historic First Statewide Audit of Paper Ballots Upholds Results of Presidential Race, attached as Exhibit C hereto and available at

County election officials were then required to count by hand all absentee ballots and paper ballots printed by the Dominion BMDs. d. The audit confirmed the same outcome of the presidential race as the original tabulation using the Dominion voting systems equipment. d While there was a slight differential between the audit results and the original machine counts, the differential was well within the expected margin of error that occurs when hand-counting ballots. d A 2012 study by Rice University and Clemson University found that hand counting ballots in post-election audit or recount procedures can result in error rates of up to 2 percent. d In Georgia's audit, the highest error rate reported in any county recount was 0.73 , and most counties found no change in their final tally. d

The audit results refute Plaintiffs' speculation that Dominion machines or software might have somehow flipped, switched, or "stuffed" ballots in the 2020 presidential election. d Because Georgia voters can verify that their paper ballots (whether hand-marked absentee ballots or ballots marked by BMDs) accurately reflect their intended votes, any actual manipulation of the initial electronic vote count would have been revealed when the hand count of paper ballots presented a different result. The fact that this did not happen forecloses the possibility that

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https://sos.ga.gov/index.php/elections/historic first statewide audit of paper ballots upholds result of presidential race

Dominion equipment or software had been manipulated to somehow record false votes for one candidate or to eliminate votes from another.

In sum, the components of Georgia's voting system have been evaluated, tested, and certified by two different independent laboratories as compliant with both state and federal requirements and safe for use in elections. Neither of those two VSTLs identified any "weighted" vote counting algorithm, nor any other impropriety. And, in Georgia's 2020 general election, the correct operation of the voting system was again confirmed by the state's risk-limiting audit.

II. Absentee Ballots Were Validly Processed According to Law

Plaintiffs' claim that the rules under which county elections officials verified absentee ballots are contrary to Georgia law is also without merit. Absentee ballots for the 2020 general election were processed by county election officials according to the procedures established by the Georgia legislature. These procedures were part of HB 316, bipartisan legislation passed in 2019 to reform the state's election code and implement a new electronic voting system. The reforms kept in place Georgia's policy of "no excuse" absentee voting, but modified the technical requirements for absentee ballots. HB 316 modified the language of the oath on the outer absentee ballot envelope to leave the signature requirement but remove the elector's address and date of birth. O.C.G.A. § 21-2-384. Further, HB 316 added a "cure"

provision, which requires election officials to give a voter until three days after the date of the election to cure an issue with the voter's signature before rejecting an absentee ballot for a missing or mismatched signature on the outer envelope. O.C.G.A. § 21-2-386(a)(1)(C). The "cure" provision was added to the statute's requirement that election officials "promptly notify" the voter of a rejected absentee ballot due to a missing or mismatched signature.

On November 6, 2019, the Democratic Party of Georgia, DSCC, and DCCC (collectively, "Political Party Organizations") sued the State Defendants, alleging that the "promptly notify" language of O.C.G.A. § 21-2-386(a)(1)(C) was vague and ill-defined and left counties without standards for verifying signatures on absentee ballots. (App'x Vol. I at 144-49).

While that action was pending, the State Election Board ("SEB") approved a rule that established a uniform standard for counties to follow to "promptly notify" voters when their absentee ballot is rejected as required by O.C.G.A. § 21-2-386(a)(1)(C). The rule provides that when a timely submitted absentee ballot is rejected, the board of registrars or absentee ballot clerk must send the voter notice of the rejection and opportunity to cure within three business days, or by the next business day if within ten days of Election Day. Ga. Comp. R. & Regs. r. 183-1-14-.13 (the "Prompt Notification Rule").

The Prompt Notification Rule was adopted pursuant to the SEB's rule-making authority under O.C.G.A. § 21-2-31(2). It provides a uniform three-day standard for "prompt" notification required by O.C.G.A. § 21-2-386(a)(1)(C) when an absentee ballot is rejected, so that all counties give notice in a uniform manner. The Prompt Notification Rule was promulgated pursuant to the Georgia Administrative Procedure Act, published for public comment, and discussed at multiple public hearings before it became effective on March 22, 2020.

Because the Prompt Notification Rule resolved the issues in the pending lawsuit, the parties resolved the matter in a settlement agreement that included, among other terms, an agreement that (1) the State Election Board would promulgate and enforce the Prompt Notification Rule and (2) the Secretary of State would issue guidance to county election officials regarding the signature matching process.

On May 1, 2020, the Secretary of State distributed an Official Election Bulletin ("OEB"), advising county election officials of the Prompt Notification Rule and providing guidance for reviewing signatures on absentee-ballot envelopes. (Declaration of Chris Harvey 5).[11] The OEB instructed that after an election official makes an initial determination that the signature on the absentee ballot envelope does

[11] The Harvey Declaration was submitted in the related case of d r r, Civil Action No. 1:20-CV-4651-SDG and is attached as **Exhibit D**.

not match the signature on file for the voter pursuant to O.C.G.A. § 21-2-386(a)(1)(B) and (C), two additional registrars, deputy registrars, or absentee ballot clerks should also review the signature, and the ballot should be rejected if at least two of the three officials agree that the signature does not match. (d) The OEB expressly instructs county officials to comply with state law. (d)

Contrary to Plaintiff's claim that the Prompt Notification Rule and the OEB have significantly disrupted the signature verification process, these measures have had no detectable effect on the absentee ballot rejection rate since the last general election in 2018. (Harvey Dec. 6, 7). An analysis of the number of absentee-ballot rejections for signature issues for 2020 as compared to 2018 found that the rejection rate for absentee ballots with missing or non-matching signatures in the 2020 general election was 0.15 the same rejection rate for signature issues as in 2018 before the new measures were implemented. (d)

ARGUMENT AND CITATION OF AUTHORITIES

I. The Court Lacks Subject Matter Jurisdiction because Plaintiffs Cannot Establish Article III Standing.

Plaintiffs raise three constitutional counts in their Complaint: (1) that the State Defendants violated the Electors and Elections Clauses of Articles I and II ("Count I") that the State Defendants violated the equal protection clause of the U.S. Constitution ("Count II") that the State Defendants denied Plaintiffs Due Process

related to "alleged disparate treatment of absentee/mail-in voters among different counties" ("Count III") and that the State Defendants denied Plaintiffs Due Process "on the right to vote" ("Count IV"). Plaintiffs also bring a state law election contest claim against Defendants pursuant to O.C.G.A. § 21-5-522, invoking the Court's supplemental jurisdiction under 28 U.S.C. § 1367. However, because Plaintiffs cannot establish standing as to any of these causes of action, the Court lacks jurisdiction to consider the merits of Plaintiffs' claims and the case should be dismissed.

Federal courts have an independent obligation to ensure that subject-matter jurisdiction exists before reaching the merits of a dispute.

, 974 F.3d 1236, 1245 (11th Cir. 2020) (vacating and ordering dismissal of voting rights case due to lack of standing). "For a court to pronounce upon . . . the constitutionality of a state or federal law when it has no jurisdiction to do so is, by very definition, for a court to act ultra vires." d (citation omitted). "If at any point a federal court discovers a lack of jurisdiction, it must dismiss the action." d

Article III of the Constitution limits the subject-matter jurisdiction of federal courts to "Cases" and "Controversies." U.S. Const. art. III, § 2. A party invoking federal jurisdiction bears the burden of establishing standing at the commencement of the lawsuit. d r d , 504 U.S. 555, 561 (1992). As an

irreducible constitutional minimum, Plaintiffs must show they have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision. , 504 U.S. at 561. As the party invoking federal jurisdiction, Plaintiffs bear the burden at the pleadings phase of "clearly alleg[ing] facts demonstrating each element."

, 136 S. Ct. 1540, 1547 (2016).

A. Plaintiffs have not Alleged an Injury in Fact Sufficient to Form a Basis for Standing.

Injury in fact is the "first and foremost" of the standing elements. , 136 S. Ct. at 1547. An injury in fact is "an invasion of a legally protected interest that is both concrete and particularized and actual or imminent, not conjectural or hypothetical." r M d d r d M , 964 F.3d 990, 996 (11th Cir. 2020) , No. 20-3214, 2020 U.S. App. LEXIS 35639 at 16 (3d Cir. Nov. 13, 2020) ("To bring suit, you—and you personally—must be injured, and you must be injured in a way that concretely impacts your own protected legal interests.").

The alleged injury must be "distinct from a generally available grievance about government." rd, 138 S. Ct. 1916, 1923 (2018). This requires more than a mere "keen interest in the issue." r , 138 S. Ct. 2392, 2416 (2018) , 549 U.S. 437, 440 41 (2007) ("Our refusal

to serve as a forum for generalized grievances has a lengthy pedigree. . . . [A] generalized grievance that is plainly undifferentiated and common to all members of the public" is not sufficient for standing).

It is for this reason that the Eleventh Circuit found lack of standing in the d case. The plaintiff in that case could not "explain how his interest in compliance with state election laws is different from that of any other person. Indeed, he admits that any Georgia voter could bring an identical suit. But the logic of his argument sweeps past even that boundary. All Americans, whether they voted in this election or whether they reside in Georgia, could be said to share [plaintiff's] interest in "ensur[ing] that [a presidential election] is properly administered." (slip op., **Ex. A**, at 11).

Plaintiffs have fared no better at articulating a particularized grievance that is somehow different than that of the general voting public. In fact, throughout their Complaint, Plaintiffs allege that their interests are one and the same as any Georgia voter. Compl. at 156 ("Defendants diluted the lawful ballots of Plaintiffs and of other Georgia voters and electors ") 163 ("Defendants further violated Georgia voters' rights "), 199 ("all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process"). Having

confirmed that their interests are no different than the interests of all Georgia voters, Plaintiffs have articulated only generalized grievances insufficient to confer standing upon them to pursue their claims.

B. Plaintiffs do not have Standing as Presidential Electors.

Plaintiffs assert that by virtue of their status as Republican presidential electors, they are "candidates" that have standing to raise whatever variety of election complaints that they may choose. For this proposition, they cite to only a single case: r , 978 F.3d 1051 (8th Cir. 2020). However, r was predicated on Minnesota election laws that differ from Georgia's and upon facts that are distinguishable from the Plaintiffs' case. Further, the Third Circuit in recently rejected Plaintiff's broad reading of r . In that case, the court found that a congressional candidate lacked standing to pursue claims under the Elections and Elector clauses based on a generalized "right to run." It specifically noted its disagreement with r , saying "The Carson court appears to have cited language from [d d , 564 U.S. 211 (2011)] without considering the context—specifically, the Tenth Amendment and the reserved police powers—in which the U.S. Supreme Court employed that language. There is no precedent for expanding Bond beyond this context, and the r court cited none." 2020 U.S. App. LEXIS 35639 at 24, fn. 6 , No. 4:20-CV-03709, 2020 WL

6437668 at 2 (S.D. Tex. Nov. 2, 2020) (holding candidate lacked standing under Elections Clause) r , 958 F.Supp. 341, 344 (M.D. Tn. 1997) (candidate lacked standing to claim that violations of state election laws had disenfranchised voters as "[h]ow other people vote does not in any way relate to plaintiff's own exercise of the franchise and further does not constitute concrete and specific judicially cognizable injury.") M r , 1 F.Supp.3d 854 (E.D. Tn. 2014) (plaintiff denied opportunity to be placed on ballot as candidate for judicial office shared the same generalized grievance as a large class of citizens and failed to demonstrate concrete and particularized injury).

In finding that presidential elector did have standing to challenge purported violations of state election laws, r relies heavily on specific provisions of Minnesota elections law that treated presidential electors the same as other candidates for office. However, in Georgia, unlike in Minnesota, all persons possessing the qualifications for voting and who have registered in accordance with the law are considered "Electors." O.C.G.A. § 21-2-2(7). Presidential electors in Georgia are not elected to public office, but perform only a limited ministerial role in which they appear at the Capitol on the designated date and time to carry out the expressed will of Georgia's electors by casting their votes for President and Vice President in the Electoral College. O.C.G.A. § 21-2-11. Presidential electors need

not file notices of candidacy otherwise required of political candidates. O.C.G.A. § 21-2-132. Their names do not appear on the ballot instead, the names of the candidates for President and Vice President appear on the ballot. O.C.G.A. § 21-2-325. Georgia electors do not elect any presidential electors individually instead, "that slate of candidates shall be elected to such office which receives the highest number of votes cast." O.C.G.A. § 21-2-501(f).

The Eleventh Circuit has held that voters do not suffer a "concrete and particularized injury" simply because their preferred candidate loses an election (974 F.3d at 1252), and that such a harm would be based on "generalized partisan preferences" which are insufficient to establish standing. d rd 138 S.Ct. 1916, 1933 (2018) (rejecting standing based on "group political interests, not individual legal rights"). Plaintiffs have failed to articulate how they, as presidential electors, have suffered any injury not common to their partisan group political interests, or that would not have also been suffered by all Georgia electors generally.

C. Plaintiffs' Alleged Injuries are not Traceable to the State Defendants.

Not only have Plaintiffs failed to demonstrate an injury in fact, they cannot satisfy the causation requirement of standing, which requires that "a plaintiff's injury must be fairly traceable to the challenged action of the defendant, and not the result

of the independent action of some third party not before the court.'" , 974 F.3d at 1253 (citation omitted) d M d r , 641 F.3d 1259, 1265 (11th Cir. 2011) (holding that an injury sufficient to establish standing cannot "result [from] the independent action of some third party not before the court.").

Plaintiffs have introduced declarations and affidavits from witnesses that raise disparate complaints about a variety of events that occurring at various times and places during the November election and subsequent audit. These complaints focus on actions allegedly taken by local elections officials and other third parties that are not named as defendants in this case.[12] Whatever one might conclude from these varied allegations, they all have one thing in common: none of the actions complained of are attributable in any way to any of the State Defendants. Instead, they were taken by local elections officials not named as parties to this case, and any

[12] Examples of these complaints include allegations that Dekalb County elections workers were "more hostile" to Republican observers than Democratic observers (Silva Aff. 06-9 Ex. 18, 14), that a Cobb County volunteer audit monitor witnessed "already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray" (Johnson Aff., Compl., Ex. 17, 4-5), and that an audit observer at the Lithonia location was too far away from ballots to see how they had been voted and that some auditors were validating ballots without reading them aloud to another auditor. (O'Neal Aff., 6-10, Exhibit J, 5-8).

injuries that might have resulted from those actions are not traceable to and cannot be redressed by the State Defendants.

With regard to Plaintiffs' conspiratorial claims related to Dominion equipment and software, there has been no allegation whatsoever that any of the State Defendants participated in any conspiracy or collusion with Dominion or any other third party malicious actor to cause any harm to Plaintiffs or any Georgia voters. The only allegation made against any of the State Defendants is that Governor Kemp and Secretary Raffensperger somehow "rushed" through the equipment selection process. However, this process was an open, competitive bidding process, conducted pursuant to Georgia procurement law, and during r hearings, and no allegation has been made as to how action or inaction taken by any of the State Defendants during that bidding process might have caused any of Plaintiffs' alleged injuries.

Finally, to the extent that Plaintiffs claim injury as a result of any improprieties in the mailing, processing, validation or tabulation of absentee ballots, these injuries again would not be traceable to any of the State Defendants. Absentee ballots are mailed, processed, validated, and tabulated by local elections officials. O.C.G.A. § 21-2-386. Having failed to establish that any of their purported injuries are traceable to or redressable by the State Defendants, Plaintiffs lack standing and their

claims should be dismissed. , 974 F.3d at 1253. d r

r r, 1:20-CV-03263, 2020 WL 6048048, at 22 (N.D. Ga. Oct. 13, 2020) (applying to dismiss election related claims against State Defendants).

II. Plaintiffs' Claims are Moot.

The Eleventh Circuit held in the d decision today that federal challenges to the certification of the presidential election results in Georgia are now moot. " We cannot turn back the clock and create a world in which' the 2020 election results are not certified." d r r, slip op. at 17 (quoting rr , 785 F.3d 442, 445 (10th Cir. 2015)). Accordingly, the case "no longer presents a live controversy with respect to which the court can give meaningful relief." r r r ., 382 F.3d 1276, 1282 (11th Cir. 2004). Mootness is jurisdictional—because a federal court may only adjudicate cases and controversies, and a ruling that cannot provide meaningful relief is an impermissible advisory opinion. d.

The Court "cannot prevent what has already occurred." , 679 F. App'x 932, 933 (11th Cir. 2017) M M r , No. 1:10-CV-02546-RWS, 2010 WL 5316550, at 2 (N.D. Ga. Dec. 17, 2010) ("The Court is powerless to enjoin what has already occurred."). While Plaintiffs purportedly seek "decertification" of the certifications that Secretary Raffensperger

and Governor Kemp have already executed, they cite no authority whatsoever to support the notion that a court could order such relief. If the Plaintiffs believed that the results certified by Secretary Raffensperger and Governor Kemp were invalid for fraud or other grounds specified in O.C.G.A. § 21-2-522, Georgia provides an adequate remedy at law by setting forth the procedures for a state law election contest to be initiated in the Superior Court of Fulton County. O.C.G.A. §§ 21-2-520, . However, there is simply no precedent for a federal court to issue an injunction requiring either Governor Kemp or Secretary Raffensperger to "decertify" their already-issued certifications or to certify results in direct contravention of the actual election result.

III. Plaintiffs' Claims are Barred by the Eleventh Amendment.

Plaintiffs' federal claims are asserted against the individually named State Defendants in their official capacities. (Doc. 1 at 31-33). These claims are barred by the Eleventh Amendment. The Eleventh Amendment bars suit against a State or one of its agencies, departments or officials, absent a waiver by the State or a valid congressional override, when the State is the real party in interest.

r , 473 U.S. 159, 169 (1985). Because claims against public officials in their official capacities are merely another way of pleading an action against the entity of which the officer is an agent, "official capacity" claims against a state officer are

included in the Eleventh Amendment's bar. , 473 U.S. at 165. While an exception to Eleventh Amendment immunity exists under r , 209 U.S. 123 (1908), it is limited to suits against state officers for **prospective** injunctive relief. r r r , 520 U.S. 43, 69 n. 24 (1997). "A federal court cannot award retrospective relief, designed to remedy past violations of federal law." d

Plaintiffs' claims for injunctive and declaratory relief, premised on the conduct of the November 3, 2020 General Election and the certification of results that have already taken place, are barred because they are retrospective in nature. "Retrospective relief is backward-looking, and seeks to remedy harm resulting from a past breach of a legal duty on the part of the defendant state officials.'" r , 750 F.3d 1238, 1249 (11th Cir. 2014) (quoting d rd 415 U.S. 651, 668 (1974)). "Simply because the remedy will occur in the future, does not transform it into prospective' relief. The term, prospective relief,' refers to the ongoing or future threat of harm, not relief." d r d , 194 F. Supp. 2d 1378, 1387 (S.D. Ga. 2002). Plaintiffs' claims for any relief related to the rules and regulations governing the conduct of the November 3, 2020, election or any alleged past security lapses, miscounting of votes,

or election irregularities are entirely retrospective and barred by the Eleventh Amendment.

IV. Laches Bars Plaintiffs' Claims for Post-Election Relief.

In d r r, 2020 U.S.Dist. LEXIS 218058 (Nov. 20. 2020), this Court found that claims raised by Plaintiffs' counsel Lin Wood were barred by the doctrine of laches. While Plaintiffs' claims overlap significantly with Wood's claims, the facts here are even more compelling when it comes to a finding of laches. Plaintiffs waited even longer than Wood did to file this action. As in d virtually all of the complaints that Plaintiffs allege regarding the security of Georgia's voting system or the propriety of State Election Board rules or regulations could have been raised prior to the election.

To establish laches, State Defendants must show "(1) there was a delay in asserting a right or a claim, (2) the delay was not excusable, and (3) the delay caused [them] undue prejudice." d r d, 396 F.3d 1144, 1150 (11th Cir. 2005) r , 915 F.3d 1312, 1326 (11th Cir. 2019) ("To succeed on a laches claim, [defendant] must demonstrate that [p]laintiffs inexcusably delayed bringing their claim and that the delay caused it undue prejudice.").

Where, as here, a challenge to an election procedure is not filed until r an election has already been conducted, the prejudice to the state and to the voters that have cast their votes in the election becomes particularly severe. Once the election has been conducted, any harm that might arise from a purported constitutional violation must be weighed against "such countervailing equitable factors as the extremely disruptive effect of election invalidation and the havoc it wreaks upon local political continuity." r , 849 F.2d 1176, 1177 (9th Cir. 1988). For this reason, "if aggrieved parties, without adequate explanation, do not come forward before the election, they will be barred from the equitable relief of overturning the results of the election." d. at 1180-81 (d r r d , 710 F.2d 177, 182-83 (4th Cir. 1983) r d , No. 1:20-cv-0546, 2020 U.S. Dist. LEXIS 98627, 16-17 (E.D. Va. May 29, 2020) (rejecting a similar challenge to state official guidance as barred by laches due to plaintiffs' failure to raise the challenge prior to the election). To hold otherwise "permit[s], if not encourage[s], parties who could raise a claim to lay by and gamble upon receiving a favorable decision of the electorate and then, upon losing, seek to undo the ballot results in a court action." , 488 F.2d 310, 314 (5th Cir. 1973).

Plaintiffs delayed considerably in asserting their claims. To the extent that they had any concerns regarding the vulnerability of Dominion's voting systems, they could have raised those claims long before the election. Each of the absentee ballot regulations and procedures that Plaintiffs now complain of were adopted well before the November 3, 2020 election, and any claims related to the application of those rules during that election are subject to dismissal here for the same reasons that they were dismissed in d. And, with regard to the purported "irregularities" reported by Plaintiffs' voter and observer declarants, Plaintiffs offer no explanation why they did not attempt to address those issues with the relevant local election officials at the time, but instead waited until after the election officials completed the initial count and audit and certified those results.

As the d court recognized, Defendants and the public at large would be significantly injured if Plaintiffs were permitted to raise these challenges after the election has already taken place. 2020 U.S.Dist. LEXIS 218058 at 23 ("Wood's requested relief could disenfranchise a substantial portion of the electorate and erode the public's confidence in the electoral process.") r d r , No. 5:20-cv-5193, 2020 WL 6472651, at 5 (W.D. Ark. Nov. 3, 2020) ("[T]he equities do not favor intervention where the election is already in progress and the requested relief would change the rules of the game mid-play.").

V. The Court should Abstain from Granting Relief.

The relief Plaintiffs seek is nothing short of overturning the November election. The ad damnum clause asks this Court to (1) order the Defendants to de-certify the election results (2) enjoin the Governor from transmitting the certified results to the Electoral College and instead (3) require the Governor to transmit a certification that President Trump received the majority of votes in Georgia. (Doc. 1 211(1-3) Doc. 101 at 100.) There are numerous problems with this proposed relief. First, it violates the principles of federalism. Second, the doctrine warrants dismissal. Finally, and at the very least, this lawsuit should be stayed pending the outcome of state election challenges pursuant to the r d r doctrine.

On federalism, the Eleventh Circuit recently held that it is "doubtful" that a federal court could compel a state to promulgate a regulation. , 974 F.3d at 1257. First, federal courts are only able to order state defendants from "refrain[ing] from violating federal law." d (citing r r d r , 563 U.S. 247, 255 (2011)). Much of Plaintiffs' proposed relief cannot be reconciled with this binding precedent. Specifically, Plaintiffs do not seek to just refrain the Governor and the Secretary, they seek to compel them to certify a different candidate than the election laws demand, which is wholly inconsistent with Georgia's Election

Code and the thrice-audited results. The relief sought is particularly offensive to federalism principles in the light of the election challenges pending in state court that significantly mirror the claims brought in this lawsuit. As the Plaintiffs themselves now recognize, "Georgia law makes clear that post-election litigation may proceed in state Court." d r r, slip op. at 9. Indeed, Plaintiffs' Complaint repeatedly claims that they are bringing their lawsuit pursuant to Georgia statutes that provide the very basis to challenge elections. (Doc. No. 1 150 (O.C.G.A. § 21-2-522), 183-207 (O.C.G.A. §§ 21-2-521, 21-2-522). It is hard to imagine a more significant challenge to federalism than for a party to come to federal court asking that court to reverse certified election results without giving the State an opportunity to act pursuant to its own statutory scheme.

These concerns are recognized by the doctrine, which is "appropriate in cases presenting a federal constitutional issue which might be mooted or presented in a different posture by a state court determination of pertinent state law.'" r M , 314 F. Supp. 3d 1320, 1334 (S.D. Fla. 2018) (citing M M , 756 F.Supp.2d 1370, 1372 (S.D. Fla. 2010) (quoting r , 625 F.2d 653, 656 57 (5th Cir. 1980)). Here, the constitutional issue presented—whether the legislature's delegation of rulemaking authority to the SEB is valid, and whether the SEB exceeded that authority when

promulgating various emergency rules—violates the federal constitution. In other words, the Court cannot answer the constitutional question without first deciding that the state agency exceeded its authority d r . This is a classic situation, which examines and requires that "(1) there must be an unsettled issue of state law and (2) there must be a possibility that the state law determination will moot or present in a different posture the federal constitutional questions raised." d at 1372 73 (citing , 625 F.2d at 657). Judge Jones reached the same conclusion last December in another election-related lawsuit, r r r.[13] This Court should do the same and dismiss the lawsuit.

For a similar reason, Plaintiffs' requested relief violates the r d r r There are numerous pending challenges to the November election that have properly been filed in Georgia's courts, including, according to press statements by Mr. Wood's counsel in the d litigation, one filed late on December 4, 2020, by President Trump. At least one seeks nearly identical relief as the Plaintiffs' lawsuit. Under similar circumstances, the Eleventh Circuit has indicated that a stay of federal proceedings is warranted under the r d r doctrine, which "authorizes a federal district court to dismiss or stay an action when there is an ongoing parallel action in state court.'" M r r r r

[13] A true and accurate copy of the December Order is attached as **Exhibit E**.

r d , 374 F.3d 994, 997 98 (11th Cir. 2004) (citing r r r r r d 879 F.2d 1556, 1558 (7th Cir.1989)). Factors considered in the r d r analysis include: the desire to "avoid piecemeal litigation," whether state or federal law governs the issue, and whether the state court can protect all parties' rights. d at 987 (citation omitted).

Each of these factors warrants staying the litigation. The bulk of Plaintiffs' complaint addresses issues of state law: how absentee ballot requests and ballots are inspected, the authority of the General Assembly to delegate authority to the SEB and the Secretary, and the criteria for certifying elections. Moreover, the state court election challenges are to move swiftly. Thus, the possibility of piecemeal litigation is real and concrete. Finally, the relief that the parties in the state court challenges can obtain would protect all parties' rights. The remedies available to Georgia courts when ruling on election challenges are spelled out in state law. O.C.G.A. § 21-2-527(d). Under these circumstances, r d r factors are satisfied, and the election challenge should proceed in state court under the same state laws that the Plaintiffs raised in their Complaint.

VI. Plaintiffs' Motion for Injunctive Relief Should be Denied.

Even if Plaintiffs could overcome the jurisdictional defects that are fatal to their claims, they still fail to satisfy the requirements for the extraordinary injunctive relief they seek.

"A preliminary injunction is an extraordinary remedy never awarded as of right." r r , 555 U.S. 7, 24 (2008). To prevail on their motion, Plaintiffs are required to show: (1) a substantial likelihood of prevailing on the merits (2) that the plaintiff will suffer irreparable injury unless the injunction issues (3) that the threatened injury to the movant outweighs whatever damages the proposed injunction may cause the opposing party and (4) the injunction would not be adverse to the public interest. d, 954 F.2d 1526, 1529 (11th Cir. 1992). The Court "should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." r, 555 U.S. at 24.

A. Plaintiffs are not likely to succeed on the merits of their claims.

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d d r r d r r

Plaintiffs' equal protection claims fail for the same reason their counsel's equal protections claims failed in d In the voting rights context, equal protection means that "[h]aving once granted the right to vote on equal terms, the state may

not, by later arbitrary and disparate treatment, value one person's vote over that of another." r 531 U.S. 98, 104 (2000) (citation omitted). Typically, when deciding a constitutional challenge to state election laws, federal courts apply the d r rd framework that balances the burden on the voter with the state's interest in the voting regulation. r rd M r d , 553 U.S. 181, 190 (2008) r 915 F.3d 1312, 1318-19 (11th Cir. 2019).

But, as the d court recognized, Plaintiffs' claims do not fit within this framework. 2020 U.S. Dist. LEXIS 218058 at 25. Plaintiffs have not articulated a cognizable harm that invokes the Equal Protection Clause. Any actions taken by the State Defendants were taken "in a wholly uniform manner across the entire state." d at 26. No voters including the Plaintiffs were treated differently than any other voter. d (r , 978 F.3d 93, 100 (4th Cir. 2020).

Nor have Plaintiffs set forth a "vote dilution" claim. None of the Plaintiffs have alleged that any action of Defendants have burdened their ability to cast their own votes. Instead, their claims, like Wood's, appear to be that because some votes were improperly counted or illegally cast, these illegal or improperly counted votes somehow caused the weight of ballots cast lawfully by Georgia voters to be somehow weighted differently than others. d at 27. Both the district court in d

court and the Third Circuit Court of Appeals in "squarely rejected" this theory. , 2020 WL 6686120, at 31-2 ("if dilution of lawfully cast ballots by the unlawful' counting of invalidly cast ballots were a true equal-protection problem, then it would transform every violation of state election law into a potential federal equal-protection claim") , 974 F.3d at 1247 (rejecting partisan vote dilution claim).

The Supreme Court's decision in r does not support Plaintiff's case (Doc. 6 at 16-17), as that case found a violation of equal protection where certain counties were utilizing varying standards for what constituted a legal vote in the 2000 Florida recount. 531 U.S. at 105 ("The question before us is whether the recount procedures are consistent with its obligation to avoid arbitrary and disparate treatment of the members of its electorate"). Here, any actions taken by the State Defendants were undertaken state-wide. The isolated "irregularities" complained of by Plaintiff's various declarants, if true, would have taken place at the county level under the supervision of elections officials that are not parties to this case. All actions of the State Defendants have been uniform and applicable to all Georgia counties and voters, in order to avoid the kind of ad hoc standards that varied from county to county as found unconstitutional in . They are the exact opposite of arbitrary and disparate treatment.

d r r d

The electors clause of the United States Constitution provides that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, "who, in turn, cast the State's votes for president. U.S. Const. art. II, § 1, cl. 2. The General Assembly established the manner for the appointment of presidential electors in O.C.G.A. § 21-2-10, which provides that electors are d r in a general election. Plaintiffs fail to show how any act of the State Defendants has altered this process.

Similarly, Plaintiffs fail to show how State Defendants have violated the elections clause, which provides that "[t]he Times, Places, and Manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." U.S. Const. art. I, § 4, cl. 1. Plaintiffs complain about a variety of regulations or procedures related to absentee ballot processing, without articulating precisely how those regulations or procedures run afoul of the elections clause. In any event, the State Election Board has the authority, delegated by the legislature, "[t]o formulate, adopt, and promulgate such rules and regulations as will be conducive to the fair, legal, and orderly conduct of primaries and elections" so long as those rules are "consistent with law." O.C.G.A. 21-2-31(2). Thus, while no one disagrees that State Defendants are not members of the Georgia legislature,

Plaintiff's claim depends on the assumption that the rules and procedures used to process absentee ballots during the November 3, 2020, election were somehow inconsistent with Georgia's election code.

But this simply is not so. The SEB Rule is consistent with State law, and a Georgia court would likely say the same. Under Georgia precedent, when an agency empowered with rulemaking authority (like the SEB is), the test applied to regulation challenges is quite deferential. Georgia courts ask whether the regulation is authorized by statute and reasonable. r ,
257 Ga. App. 636, 637 (2002). The answer to both questions is an unqualified "yes."

As shown, the SEB is empowered to promulgate regulations. O.C.G.A. § 21-2-31(1). As recognized by Judge Grimberg in d, it is normal and constitutional for state legislatures to delegate their authority in such a manner. 2020 U.S.Dist. LEXIS 218058 at 10. The regulations are also reasonable. There is no conflict between the signature verification regulation and statutes cited by the Plaintiffs, O.C.G.A. §§ 21-2-386(a)(1)(C). (Doc. No. 1 at 23.) The statute requires an absentee ballot where a signature "does not appear to be valid" to be rejected and notice provided to the voter. d. The challenged SEB Rule, which merely requires "an additional safeguard to ensure election security by having more than one individual review an absentee ballot's information and signature for accuracy before the ballot

is rejected," is consistent with this approach. d, 2020 U.S.Dist. LEXIS 218058 at 10. No statute cited by the Plaintiffs mandates that only one county official examine the absentee ballot, and that the review process involves several officials does not make it any less rigorous or inconsistent with the statutory law. (Harvey Decl. 3, 5). A Georgia court would likely hold the same, because state courts have said that a "regulation must be upheld if the agency presents d to support the regulation." r , 257 Ga. App. 636, 640 (2002). Mr. Harvey's declaration certainly satisfies that standard, and it should be obvious that having a verification process in place designed to ensure uniform statewide application of the laws for determining consideration of an absentee ballot does not lead to invalid votes.

Any remaining doubt must be resolved in the State's favor, as the Plaintiffs have not identified any conflict in the language. This is what Judge Grimberg rightly concluded when he held that: "The record in this case demonstrate that, if anything, Defendants' actions in entering into the Settlement Agreement sought to achieve consistency among county election officials in Georgia, which ***furthers*** Wood's stated goals of conducting "[f]ree, fair, and transparent elections." d at 10 (emphasis and brackets in original). This ends the inquiry and is fatal to Plaintiffs' claims in Counts I, III, IV, and V.

d r

Plaintiffs' motion fails to articulate a discernable claim under the due process clause. It is unclear what process Plaintiffs claim that they were due or how any of the State Defendants failed to provide that process. Count II of Plaintiffs' Complaint, while captioned "Denial of Due Process" vaguely describes an undefined "disparate treatment" with regard to cure processes and argues that the disparate treatment "violates Equal Protection guarantees." Compl. at 172. Count IV of Plaintiffs' Complaint is captioned "Denial of Due Process on the Right to Vote", and appears to describe a claim of vote dilution or debasement citing to various equal protection cases. Compl. at §176-80. Plaintiffs' Motion for Preliminary Injunction does not include any discussion of due process at all.

Plaintiffs have not articulated a cognizable procedural due process claim. A procedural due process claim raises two inquires: "(1) whether there exists a liberty or property interest which has been interfered with by the State and (2) whether the procedures attendant upon that deprivation were constitutionally sufficient." rd , 978 F.3d 220, 229 (5th Cir. 2020) (citing rr , 490 U.S. 454, 460 (1989)). The party invoking the Due Process Clause's procedural protections bears the "burden . . . of establishing a cognizable liberty or property interest." rd , 978 F.3d at 229

(citing , 545 U.S. 209, 221 (2005)). Plaintiffs have not clearly articulated what liberty or property interest has been interfered with by the State Defendants, or how any procedures attendant to the purported deprivation were constitutionally sufficient. As the d court noted:

> the Eleventh Circuit does "assume that the right to vote is a liberty interest protected by the Due Process Clause." r r , 975 F.3d 1016, 1048 (11th Cir. 2020). But the circuit court has expressly declined to extend the strictures of procedural due process to "a State's election procedures." r r r, 976 F.3d 1278, 1282 (11th Cir. 2020) ("The generalized due process argument that the plaintiffs argued for and the district court applied would stretch concepts of due process to their breaking point.").

2020 U.S. Dist. LEXIS 218058 at 33.

Nor have Plaintiffs articulated a cognizable substantive due process claim. The types of voting rights covered by the substantive due process clause are considered narrow. rr r, 802 F.2d 1302, 1314 (11th Cir. 1986). This does not extend to examining the validity of individual ballots or supervising the administrative details of an election. d In only "extraordinary circumstances will a challenge to a state election rise to the level of a constitutional deprivation." d.

As the d court recognized:

> Although Wood generally claims fundamental unfairness, and the declarations and testimony submitted in support of his motion speculate as to wide-spread impropriety, the actual harm alleged by Wood concerns merely a "garden variety" election dispute.

2020 U.S. Dist. LEXIS 218058 at 35. Further, "[p]recedent militates against a finding of a due process violation regarding such an ordinary dispute over the counting and marking of ballots." d (rr , 619 F.2d 449, 453 (5th Cir. 1980) for the proposition that "If every state election irregularity were considered a federal constitutional deprivation, federal courts would adjudicate every state election dispute.").

The same is true here. Plaintiffs have introduced only speculative, conclusory and contradictory testimony from "experts" that would do no more than establish a possibility of irregularities if their analysis were correct, along with a hodge-podge of disparate claims by third-party voters and observers claiming that they observed a variety of different purported irregularities in a handful of different counties (none of which are parties to this action). Plaintiffs have failed to demonstrate the "extraordinary circumstances" rising to the level of a constitutional deprivation that are necessary to support a substantive due process claim. Plaintiffs have therefore failed to demonstrate a substantial likelihood of success on the merits of any claim for violation of the 14th Amendment's guarantee of either procedural or substantive Due Process.

As shown, the Plaintiffs have effectively filed an election challenge under Georgia law. Seeking to stop certification does not save the Plaintiffs' Complaint for at least two additional reasons. First, it has long been the rule that electors are state and not federal officials. r d , 93 F.2d 383, 388 (8th Cir. 1937). Consequently, it is state law that determines how challenges to electors are made, and Georgia law sets forth that process as explained above. This also demonstrates why abstention is appropriate. Second, to the extent that the Plaintiffs argue that county election officials did not properly count mail-in and absentee ballots, there are state remedies available to challenge the acts of those county officials. Indeed, Georgia's laws governing election challenges provide for just that.

Finally, and as addressed elsewhere in this brief, the decision makes clear that challenges to acts of county officials must be brought against those county officials. 974 F.3d at 1254. It is insufficient to rely on the Secretary's general powers "to establish traceability." d r , 2020 WL 6048048 at 23. Similarly, reliance on the phrase "chief election official" or statements about the uniformity in the administration of election laws have been deemed insufficient by the d r court when it applied . d

In sum, because Plaintiffs are not likely to succeed on the merits of any of their claims, injunctive relief must be denied.

B. The loss of Plaintiffs' preferred candidate is not irreparable harm.

Plaintiffs fail to articulate any specific harm that he faces if his requested relief is not granted, other than the vague claim that an infringement on the right to vote constitutes irreparable harm. However, Plaintiffs do not allege that their right to vote was denied or infringed in any way—only that their preferred candidate lost. It is not irreparable harm if they are not able to "cast their votes in the Electoral College for President Trump," because "[v]oters have no judicially enforceable interest in the outcome of an election." , 974 F.3d at 1246 ("Voters have no judicially enforceable interest in the outcome of an election.").

Irreparable harm goes to the availability of a remedy—not a particular outcome. Certifying the expressed will of the electorate is not irreparable harm, but rather inevitable and legally required within our constitutional framework. There is a remedy available to extent that the losing candidate—rather than a dissatisfied voter, supporter, or presidential elector—seeks post-certification remedies, and such election contests have been filed in state court and remain pending.

C. The balance of equities and public interest weigh heavily against an injunction.

These remaining injunction factors—balancing the equities and public interest—are frequently considered "in tandem" by courts, "as the real question posed in this context is how injunctive relief at this eleventh-hour would impact the public interest in an orderly and fair election, with the fullest voter participation possible." r , 334 F. Supp. 3d 1303, 1326 (N.D. Ga. 2018), d r d d r , 761 F. App'x 927 (11th Cir. 2019) r , 549 U.S. at 4. The Court must "balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief," paying "particular regard as well for the public consequences in employing the extraordinary remedy of injunction." r, 555 U.S. at 24.

Here, "the threatened injury to Defendants as state officials and the public at large far outweigh any minimal burden on [Plaintiffs]. d, 2020 U.S. Dist. LEXIS 218058 at 38. "Confidence in the integrity of our electoral process is essential to the functioning of our participatory democracy," and court orders affecting elections "can themselves result in voter confusion and consequent incentive to remain away from the polls." r , 549 U. S. at 4-5. For this reason, the Supreme Court "has repeatedly emphasized that lower federal courts should ordinarily not alter the

election rules on the eve of an election." r

., 140 S.Ct. 1205, 1207 (April 6, 2020) (per curiam).

The Eleventh Circuit recently held that the r principle applies with even greater force when voting has already occurred. r

r r, 976 F.3d 1278, 1283 (11th Cir. 2020) ("[W]e are not on the eve of the election—we are in the middle of it, with absentee ballots already printed and mailed. An injunction here would thus violate r 's well-known caution against federal courts mandating new election rules—especially at the last minute.")

r r d r , 344 F.3d 914, 919 (9th Cir. 2003) ("Interference with impending elections is extraordinary, and interference with an election after voting has begun is unprecedented.").

Here, the election r d d d, and the slate of presidential electors has been certified. Granting Plaintiffs' extraordinary relief would only serve to "disenfranchise [] voters or sidestep the expressed will of the people." d r r r d 2020 U.S. App. LEXIS 37346 at 28. As the district court in d correctly recognized, "To interfere with the result of an election that has already concluded would be unprecedented and harm the public in countless ways." 2020 U.S. Dist. LEXIS 218058 at 37-38. Plaintiffs seek even broader relief than that sought in d If granted, Plaintiffs' requested relief would disenfranchise not

only Georgia's absentee voters but would invalidate **all** votes cast by Georgia electors.

CONCLUSION

For the foregoing reasons, Plaintiffs' emergency motion for injunctive relief must be denied and the Court should dismiss the action with prejudice. Furthermore, the current TRO entered by the Court should be immediately dissolved to prevent ongoing harm to the ability of county elections officials to begin early voting for the January run-off, for the reasons shown in State Defendants' motion to modify the TRO.

Respectfully submitted, this 5th day of December, 2020.

Christopher M. Carr 112505
Attorney General
Bryan K. Webb 743580
Deputy Attorney General
Russell D. Willard 760280
Senior Assistant Attorney General

/s/ r M
Charlene S. McGowan 697316
Assistant Attorney General
40 Capitol Square SW
Atlanta, GA 30334
cmcgowan law.ga.gov
404-458-3658 (tel)

Carey Miller
Georgia Bar No. 976240
cmiller robbinsfirm.com
Josh Belinfante
Georgia Bar No. 047399
jbelinfante robbinsfirm.com
Melanie Johnson
Georgia Bar No. 466756
mjohnson robbinsfirm.com

Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street NW
Atlanta, GA 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

r r d

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been formatted using Times New Roman font in 14-point type in compliance with Local Rule 7.1(D).

/s/ r M
Charlene S. McGowan
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **STATE DEFENDANTS' CONSOLIDATED BRIEF IN SUPPORT OF THEIR MOTION TO DISMISS AND RESPONSE TO PLAINTIFF'S EMERGENCY MOTION FOR INJUNCTIVE RELIEF** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for all parties of record via electronic notification.

Dated: December 5, 2020.

/s/ r M
Charlene S. McGowan
Assistant Attorney General

Response to Matthew Braynard Expert Report

Stephen Ansolabehere

December 4, 2020

I. Statement of Inquiry

1. I was asked to evaluate the expert report of Matthew Braynard dated November 20, 2020, and to determine whether the claims made therein and the related data collection supporting them meet scientific standards for reliability and accuracy in my fields of research, which include survey research and design, data science, and election analysis.

II. Summary

2. Matthew Braynard's report makes six Claims:

(1) 18.39 percent of registered voters of Georgia who were sent but did not return absentee ballots did not request absentee ballots;

(2) 33.29 percent of voters who were sent absentee ballots but were not recorded as having returned absentee ballots stated that they did mail their ballots back;

(3) 1.53 percent of registered voters of Georgia who changed addresses before the election and were recorded as having voted stated that they did not cast a vote;

(4) 20,312 absentee voters were not residents of the State of Georgia when they voted, and

(5) 1,043 early and absentee ballots were cast by people who were registered at post office box addresses; and

(6) 234 Georgians voted in multiple states.

3. None of these claims meets scientific standards of my fields of research, including survey research, political science, statistics and data sciences. There is no scientific basis for drawing any inferences or conclusions from the data presented. None of the estimates are presented with statistical measures that meet standards for evaluating evidence.

4. Each of the claims is couched with the phrase "to a reasonable degree of scientific certainty." This phrase is meaningless in scientific journals and disciplines. The National Institute of Standards and Technology has warned against use of such a phrase by experts in legal proceedings and concluded that "the term 'reasonable degree of scientific [or discipline] certainty' has no place in the judicial process.'" It has no place in the scientific research process.

5. The survey on which Claims (1) and (2) are based is riddled with errors and biases that render it invalid for purposes of drawing inferences about the quantities at issue here. There are data errors in the topline summaries of the survey data and obvious errors in the design of the survey that produced the results.[1] Specifically, individuals who may not have been the correct person were allowed to answer the survey. Further, registration-based surveys such as this rely on matching phone numbers to registration records, a process that is prone to error. The results observed by Mr. Braynard can easily be explained by mismatches of phone numbers to voter records in conducting the survey.

6. The survey used to support Claims (1) and (2) and the survey used to support Claim (3) have unacceptably low response rates, and no effort is made to correct for non-response bias. Less than one percent of people who were targeted for contact ultimately responded to these surveys. The report naively extrapolates from the data, assuming that the 99 percent of people who could not be contacted or who refused to participate are just like the 1 percent who did participate. In my professional experience, data with such low response rates are either not accepted as valid or must be proven to be representative and accurate before they are relied on to draw scientifically valid inferences and conclusions. The report provides no information about the descriptive

[1] "Topline" data generally represents a summary of the figures collected and relied upon in a survey or study.

characteristics of the sample or the population studied and provides no assessment of whether the data are in fact representative or accurate.

7. Claims (3), (4), and (6) are based on list matching. The list matching methodologies are not described adequately. The lack of a complete description of list matching methodology fails to meet scientific standards of transparency and data presentation. What little information is presented suggests that it is based on methodologies that have been debunked by statisticians and by the US Civil Rights Commission for producing large numbers of incorrect matches.

8. Claim (5) is based on analysis of addresses. This analysis does not meet scientific standards of my fields of research. The statistics that are presented reveal that there is no uniformity of coding and assessment and that the results are not reliable.

9. Claim (6) is asserted but there is no further information in Mr. Braynard's report to support it beyond the claim.

III. Qualifications

10. I am the Frank G. Thompson Professor of Government in the Department of Government at Harvard University in Cambridge, MA. Formerly, I was an Assistant Professor at the University of California, Los Angeles, and I was Professor of Political Science at the Massachusetts Institute of Technology, where I held the Elting R. Morison Chair and served as Associate Head of the Department of Political Science. I am the Principal Investigator of the Cooperative Congressional Election Study (CCES), a survey research consortium of over 250 faculty and student researchers at more than 50 universities, directed the Caltech/MIT Voting Technology Project from its inception in 2000 through 2004, and served on the Board of Overseers of the American National Election Study from 1999 to 2013. I am a consultant to CBS News'

Election Night Decision Desk. I am a member of the American Academy of Arts and Sciences (inducted in 2007). My curriculum vitae is attached to this report as Appendix B.

11. I have worked as a consultant to the Brennan Center in the case of *McConnell v. FEC*, 540 U.S. 93 (2003). I have testified before the U.S. Senate Committee on Rules, the U.S. Senate Committee on Commerce, the U.S. House Committee on Science, Space, and Technology, the U.S. House Committee on House Administration, and the Congressional Black Caucus on matters of election administration in the United States. I filed an amicus brief with Professors Nathaniel Persily and Charles Stewart on behalf of neither party to the U.S. Supreme Court in the case of *Northwest Austin Municipal Utility District Number One v. Holder*, 557 U.S. 193 (2009) and an amicus brief with Professor Nathaniel Persily and others in the case of *Evenwel v. Abbott* 138 S.Ct. 1120 (2015). I have served as a testifying expert for the Gonzales intervenors in *State of Texas v. United States* before the U.S. District Court in the District of Columbia (No. 1:11-cv-01303); the Rodriguez plaintiffs in *Perez v. Perry*, before the U. S. District Court in the Western District of Texas (No. 5:11-cv-00360); for the San Antonio Water District intervenor in *LULAC v. Edwards Aquifer Authority* in the U.S. District Court for the Western District of Texas, San Antonio Division (No. 5:12cv620-OLG); for the Department of Justice in *State of Texas v. Holder*, before the U.S. District Court in the District of Columbia (No. 1:12-cv-00128); for the Guy plaintiffs in *Guy v. Miller* in U.S. District Court for Nevada (**No. 11-OC-00042-1B);** for the Florida Democratic Party in *In re Senate Joint Resolution of Legislative Apportionment* in the Florida Supreme Court (Nos. 2012-CA-412, 2012-CA-490); for the Romo plaintiffs in *Romo v. Detzner* in the Circuit Court of the Second Judicial Circuit in Florida (No. 2012 CA 412); for the Department of Justice in *Veasey v. Perry*, before the U.S. District Court for the Southern District of Texas, Corpus Christi Division (No. 2:13cv00193); for the Harris plaintiffs in *Harris v.*

McCrory in the U. S. District Court for the Middle District of North Carolina (No. 1:2013cv00949); for the Bethune-Hill plaintiffs in *Bethune-Hill v. Virginia State Board of Elections* in the U.S. District Court for the Eastern District of Virginia (No. 3: 2014cv00852); for the Fish plaintiffs in *Fish v. Kobach* in the U.S. District Court for the District of Kansas (No. 2:16-cv-02105-JAR); and for intervenors in *Voto Latino, et al. v. Hobbs*, in the U.S. District Court for the District of Arizona (No. 2:19-cv-05685-DWL). I served as an expert witness and filed an Affidavit in the North Carolina State Board of Elections hearings regarding absentee ballot fraud in the 2018 election for Congressional District 9 in North Carolina.

12. My areas of expertise include American government, with particular expertise in electoral politics, representation, and public opinion, as well as statistical methods in social sciences and survey research methods. I have authored numerous scholarly works on voting behavior and elections, the application of statistical methods in social sciences, legislative politics and representation, and distributive politics. This scholarship includes articles in such academic journals as the Journal of the Royal Statistical Society, American Political Science Review, American Economic Review, the American Journal of Political Science, Legislative Studies Quarterly, Quarterly Journal of Political Science, Electoral Studies, and Political Analysis. I have published articles on issues of election law in the Harvard Law Review, Texas Law Review, Columbia Law Review, New York University Annual Survey of Law, and Election Law Journal, for which I am a member of the editorial board. I have coauthored three scholarly books on electoral politics in the United States, The End of Inequality: Baker v. Carr and the Transformation of American Politics, Going Negative: How Political Advertising Shrinks and Polarizes the Electorate, and The Media Game: American Politics in the Media Age. I am coauthor with Benjamin Ginsberg, and Ken Shepsle of American Government: Power and Purpose. I am being

compensated at the rate of $550 an hour. My compensation is not dependent on my conclusions in any way.

IV. Sources

13. I have relied on the expert report of Matthew Braynard in this case.

14. I have relied on the report of Dr. William Briggs in *King v. Whitmer* in the District Court in the Eastern District of Michigan (No. 2:20-cv-13134). The Topline Tables appended to Dr. Briggs' report provide information on the response rates, design and implementation of, and responses to the surveys used in Claims (1) and (2) of Matthew Braynard's report. This information was not disclosed in Mr. Braynard's report in this case.

15. I have relied on the Election Assistance Commission, "Election Administration and Voting Survey (EAVS) for 2018: https://www.eac.gov/research-and-data/studies-and-reports. I present data from 2018 because it is the most recent federal election for which data on absentee and permanent absentee voting is available. The 2018 data are instructive about the magnitude of permanent absentee voters and of the magnitude of unreturned, late, rejected, and spoiled absentee ballots. The 2020 data are not yet reported.

V. Findings

16. Matthew Braynard's report makes six Claims:

(1) 18.39 percent of registered voters of Georgia who were sent absentee but did not return absentee ballots did not request absentee ballots;

(2) 33.29 percent of voters who were sent absentee ballots but were not recorded as having returned absentee ballots stated that they did mail their ballots back;

(3) 1.53 percent of registered voters of Georgia who changed addresses before the election and were recorded as having voted stated that they did not cast a vote;

(4) 20,312 absentee voters were not residents of the State of Georgia when they voted;

(5) 1,043 early and absentee ballots were cast by people who were registered at post office box addresses; and

(6) 234 Georgians voted in multiple states.

17. There is no scientific basis for reaching any of these conclusions. Mr. Braynard prefaces each claim with the phrase "to a reasonable degree of scientific certainty," a phrase that the National Institutes of Standards and Technology concludes has no scientific mean and which, as a journal editor, is not acceptable in the fields of survey research, data science, or political science. Mr. Braynard presents no standard errors or confidence intervals, which are necessary to gauge how informative estimates are.

18. The estimates in Claims (1), (2), and (3) are extrapolations to a population of 138,000 registered voters from a few hundred responses to surveys that have design flaws that make the survey unrepresentative of the population that is being studied.

19. The basic information about these surveys is never disclosed by Mr. Braynard, in violation of standards of transparency set by the American Association of Public Opinion Researchers. From what information I have found in the reports of Dr. William Briggs about one of the surveys, it is riddled with questionnaire design flaws and spread sheet errors, indicative of quality control failures in the conduct of the survey, which render unreliable the calculation of any estimates using it.

20. The surveys have unacceptably high rates of non-response. In the state of Georgia the response rate to this survey was only 0.4 percent, meaning that of the entire set of people that Mr. Braynard set out to study 99.6 percent could not be reached or would not answer the survey.

19. An error in the branching of the survey questionnaire allows people who were not the person that the survey targeted to answer Question 2 (did you request an absentee ballot?). More people were improperly asked Question 2 (255) than responded that they did not return an absentee vote (128).

20. Claims (3), (4) and (6) are based on list matching and record linkage. There is no disclosure of the methods used, especially which fields are used. Recent studies have found millions of errors in list matching methodologies using first name, last name, and date of birth.

21. The design of the survey and the resulting claims fail to account for features of absentee voting and registration in Georgia. The surveys do not account for the fact that Georgia has "rollover" absentees, which allow people to sign up to have ballots sent to them without requesting them. According to estimates of the Georgia Office of the Secretary of State that were reported in the media, there were approximately 580,000 rollover ballots in 2020. That figure far exceeds the numbers "unrequested" absentees in Mr. Braynard's report. The surveys do not separate rollover voters from other absentee voters. Moreover, many absentee ballots arrive late or are rejected for various reasons (e.g., lack of signatures). None of the Claims made by Mr. Braynard, then, are supported by the data or analyses or meet standards of scientific inference.

A. This report is not up to scientific standards of evidence.

i. The report offers no conclusions based on scientifically accepted standards of evidence.

22. Scientific standards in survey research, statistics and data science, and political science, require that when researchers present statistics and estimates, such as Mr. Braynard does in each

of his claims, the estimates be accompanied by statistical measures of the researcher's confidence or uncertainty about the estimates. Most frequently, researchers present a standard error, confidence interval, or margin of error. Such quantities are necessary for gauging how informative estimates are, and what inferences and conclusions may be drawn. Survey research is not accepted for publication without such information.

23. Mr. Braynard's report offers no measures of statistical precision or uncertainty in association with any of the estimates presented in Claims 1, 2, 3, 4, 5, or 6. Without such quantities it is impossible to draw statistical inferences from data. And, without such measures of the amount of information in or uncertainty about estimates, the estimates are not accepted in scientific research journals and publications as scientific evidence.

ii. The report couches its conclusions as having "Reasonable Scientific Certainty," which is meaningless in scientific research.

24. The only expression of a foundation for the conclusion for each of the six factual claims made in Braynard's report is the following assertion: "it is my opinion, to a reasonable degree of scientific certainty."

25. The expression "a reasonable degree of scientific certainty" is not a standard by which scientific inferences and conclusions are made. It is not used in any of the journals in which I have published, which includes the top journals in the fields of statistics, political science, and economics, or journals on whose editorial boards I have served or have served as an editor, including the *Harvard Data Science Review* and *Public Opinion Quarterly*.

26. The standard-setting bodies that provide guidance to researchers have concluded that "a reasonable degree of scientific certainty" should not be used to characterize scientifically drawn conclusions or inferences in a judicial setting. Researchers across all fields follow the guidance on the use of terminology from their own professions and from standard setting institutions, such

as the National Institutes of Standards and Technology of the Department of Commerce. The National Commission on Forensic Science of the National Institute of Standards and Technology in its report "Testimony Using the Term 'Reasonable Degree of Scientific Certainty'" acknowledges that "The legal community should recognize that medical professionals and other scientists do not routinely use 'to a reasonable degree of scientific certainty' when expressing conclusions outside of the courts. Such terms have no scientific meaning and may mislead factfinders [jurors or judges] when deciding whether guilt has been proved beyond a reasonable doubt." The NIST report concludes, "the term 'reasonable degree of scientific [or discipline] certainty' has no place in the judicial process.'"[2]

iii. There is no disclosure of the methodologies and data used in this report.

27. Mr. Braynard does not disclose sampling methodologies, sample sizes, questionnaires, or response and breakoff rates. Mr. Braynard states that he conducted "randomized" surveys, but the topline tables appended to Dr. Briggs' report indicate, in my professional assessment, that at the outset of the studies all people in the target population could have been included in the study and that no randomization in fact occurred. Mr. Braynard does not disclose the number of correctly matched phone numbers and the number of wrong numbers, though the toplines appended to Dr. Briggs report reveal some statistics related to wrong numbers and records for which no phone number was available.

28. Mr. Braynard does not disclose list matching methodologies used for matching the registration records to NCOA lists and voter files. It is my professional experience, based on my own research and that of other scholars in my fields of study, that many of the algorithms

[2] National Commission on Forensic Science of the National Institute of Standards and Technology, U.S. Department of Commerce, "Testimony on Using the Term 'Reasonable Scientific Certainty,"
https://www.justice.gov/archives/ncfs/file/795336/download.

commonly used for list matching are highly susceptible to errors of omission from the lists (false negatives) and errors of inclusion of people who should not have been considered matches (false positives). It is standard for scientific research using list matching and record linkage to provide detailed information about the matching algorithms and to include measures of the accuracy of the algorithms used.[3] No indicators of accuracy of matching methods, such as false positives and false negatives, are included in Mr. Braynard's report.

29. The lack of transparency in Mr. Braynard's report violates basic standards for scientific evidence. The report does not disclose the basic features of the survey, including the survey selection and contact procedures, the questionnaire design, and contact, response, and breakoff rates. This violates accepted rules of scientific evidence in academic survey research and the Code of Professional Ethics and Practices of the American Association of Public Opinion Researchers (AAPOR). Journals such as Public Opinion Quarterly, which is the flagship journal of AAPOR, require reporting of such information as a condition for publication of scientifically sound survey research.[4] Mr. Braynard's description of the research conducted is not up to the scientific standards of fields in which I have published or serve in an editorial capacity.

B. Errors in record keeping can readily explain all six claims made in this study.

30. Past academic research on the accuracy of information on voter files nationwide has found small rates of errors, on the order of 1 to 4 percent, in various fields on voter files, including whether someone voted and how they voted. Specifically, past research that I have conducted has found that nationwide the record of whether an individual voted is incorrect 2 percent of the time.

[3] W. E. Winkler, "Matching and Record Linkage" Statistical Research Division, U.S. Bureau of the Census (1993). https://www.census.gov/srd/papers/pdf/rr93-8.pdf.
[4] American Association for Public Opinion Research, Disclosure Standards, https://www.aapor.org/Standards-Ethics/AAPOR-Code-of-Ethics/Disclosure-Standards.aspx.

These errors are omissions (neglecting to record that someone voted) and typos.[5] The state of Georgia has over 7.2 million registration records. An error of 2 percent would correspond to 144,000 incorrect recordings of whether an individual voted. That number far exceeds the magnitudes of the estimates that Mr. Braynard offers.

31. Clerical errors in voter files make it difficult to conduct surveys based on these files to determine whether or how an individual registrant or survey respondent voted. Research by Matthew Berent and Jon Krosnick finds that such record keeping errors create errors in surveys that are linked to voter files, such as the surveys conducted by Mr. Braynard, and make problematic any attempts to draw inferences about whether a particular individual did or did not in fact vote.[6] These clerical errors result in discrepancies between votes counted according to the voter registration rolls and votes counted in the official certification.[7] Record keeping errors and inconsistencies are sufficient to account for Claims (1), (2), and (3) in Mr. Braynard's report.

32. Clerical error and inconsistencies in fields such as name, address, and date of birth can create errors in attempts to link records across different lists, such as a voter file to NCOA or across different states' voter files. Specifically, typographical errors, variations in names, and omitted information can lead to incorrect matches of voter registration records to commercial phone lists, National Change of Address lists, and official government lists (including other states' registration lists). Both false positives (matches that should not have occurred) and false negatives (matches that did not occur but should have) arise. The quality of such matches is highly dependent

[5] Stephen Ansolabehere and Eitan Hersh, "The Quality of Voter Registration Records: A State-by-State Analysis" Caltech-MIT Voting Technology Project Report Number 6 (July 14, 2010), http://vote.caltech.edu/reports/6.
[6] Matthew Berent, Jon Krosnick, and Arthur Lupia, "Measuring Voter Registration and Turnout in Surveys: Do Government Records Yield More Accurate Assessments?" Public Opinion Quarterly 80 (2016): DOI: 10.1093/poq/nfw021.
[7] Ansolabehere & Hersh, *op. cit*., page 16.

on the algorithms used.[8] Based on past research on the accuracy of voter files, the number of clerical errors on statewide voter files across the nation is sufficiently high as to plausibly be larger than any of the numbers presented in Mr. Braynard's report.

33. It is unclear from Mr. Braynard's report what efforts he made, if any, to verify the correctness of the information on the voter registration lists. Also, it is unclear what effort was made to make sure that the algorithms used had very low rates of false positive and false negative matches and were robust to the sorts of errors and inconsistencies encountered on registration and commercial lists. None of the algorithms for matching phone numbers to registration records or for matching registered voters to Georgia to NCOA or other states' registration lists are disclosed.

C. The survey reported in the study is not of sufficient quality to support the claims made.

34. Mr. Braynard relies on a phone survey of people linked to registration records to assert Claim (1) and Claim (2). The survey has a very high non-response rate which makes inferences suspect. Claim (3) is evidently based on a second survey. Sample design problems, such errors linking of commercial lists with phone numbers to voter registration lists, high rates of non-response, and flaws in the questionnaires used, can easily account for the observed results.

35. Some information about the survey used to support Claim (1) and Claim (2) is disclosed in the report of Dr. William Briggs. Matthew Braynard did not disclose this information in this case. Examination of that data revealed fatal flaws in the design of the survey that render it useless for reaching conclusions about Claim (1) and Claim (2).

i. The surveys used to support Claims 1, 2, and 3 have high non-response rates.

[8] Stephen Ansolabehere and Eitan Hersh, "ADGN: An Algorithm for Record Linkage Using Address, Date of Birth, Gender, and Name," Statistics and Public Policy 4 (2017): 1-10.

36. The Braynard report does not present a response rate, which violates accepted rules of scientific evidence in academic survey research. The American Association of Public Opinion Researchers (AAPOR) sets standards for reporting of response rates for surveys. Journals such as Public Opinion Quarterly and the American Journal of Political Science require reporting of response rates to surveys for all published papers.[9] Surveys with very low response rates, below 5 percent, are never accepted in scientific journals.

37. According to the information in the Briggs Report, the response rate to Mr. Braynard's Georgia survey is approximately one half of one percent—four times lower than the response rate of the survey rejected by the court in *Texas v. Holder*. That is, 99.5 percent of all people that Matthew Braynard's firm sought to contact either could not be contacted, did not respond to the survey calls, or refused to participate in the survey. The survey originally targeted the entire set of 138,029 absentee ballots than had not been returned. The appendix to William Briggs survey shows that the firm was able to obtain potentially-correct phone numbers for 34,355 people. Attempts to contact these people winnowed the set of respondents to 1,175 people (those who answered Question 1 of the survey, which ascertains who the person is.) Just 964 people were asked Question 2 of the survey, which is whether the person requested an absentee ballot. Of these people, 128 hung up or refused to answer, reducing the number of respondents to 736. That is only 736 people responded to the survey out of the original 138,029 that the firm sought to interview. Table 1 summarizes the number of people sought in the survey, the number of match phone numbers, the number of Completes, and the number of people responding to Questions 1, 2 and 5 (the final question of the survey).

[9] American Association for Public Opinion Research, Response Rates, https://www.aapor.org/Education-Resources/For-Researchers/Poll-Survey-FAQ/Response-Rates-An-Overview.aspx.

38. The response rate is not reported for the second survey, used in making Claim 3. Based on figures in Mr. Braynard's report, I calculate the response rate to be 1.7 percent, which is again unacceptably low.

39. In my work as an expert witness for the Department of Justice, it is my experience that surveys similar to this one with response rates of 2 percent (higher than the surveys here) are not acceptable as evidence because of potential biases due to the unrepresentativeness of the respondents who do answer the surveys. Specifically, in *Texas v. Holder*, Professor Daron Shaw offered evidence based on phone surveys of registration lists. These surveys had very low response rates of 2 percent, and the court rejected the data because of serious questions about accuracy and reliability of surveys with very low response rates. See *Texas v. Holder*, 888 F. Supp. 2d 113, 131 (D.D.C. 2012), *vacated and remanded,* 570 U.S. 928, 133 S. Ct. 2886, 186 L. Ed. 2d 930 (2013).

40. In my experience as a researcher and journal editor, survey data with such a low response rate are generally not accepted in academic research, as the potential non-response bias errors are substantial. Researchers sometimes do use data with very low response rates, but only upon affirmatively demonstrating that the data are representative of the population being studied or upon correcting for potential non-response bias. Mr. Braynard's report does neither—it makes no attempt to show that the 736 people in Georgia who the survey ultimately asked whether they returned their absentee ballots are representative of the 138,029 that the researchers originally sought to interview, and it makes no attempt to correct for potential non-response bias.

41. Mr. Braynard presents survey data with unacceptably high rates of non-response. He offers no accounting of or explanation for this very low response rate, but instead without explanation treats the one half of one percent who did respond as if they were representative of the 99.5 percent of people who did not respond. This fails to meet standards of scientific research.

ii. Registration-Based samples typically have many incorrect matches to phone numbers, and these can explain the findings.

42. The surveys used in this report to support Claim 1, 2, and 3 are based on an attempt to match phone numbers to records on the voter files.

43. There is no information reported on the methodology for matching phone numbers to voter files. Specifically, there is no information on the specific algorithm used for matching phone numbers to voter records and its accuracy. There is no report of the rate of successful matches, erroneous matches (both false positives and false negatives), and non-matches, or of the rate of obsolete and wrong numbers on the voter file. It is standard in academic research using registration-based sampling to report such information in connection with registration-based sample surveys.[10] Transparency in reporting algorithm is part of the scientific practice because some algorithms are known to be more accurate than others, and because reporting such information allows for replication of research. I have published on this list matching and voter validation in academic journals, and journals expect publication information on rates of successful matches and erroneous matches when publishing scientific research on this topic.[11] I served as an expert for the Department of Justice in two cases (*Texas v. Holder* and *United States v. Texas*) involving matching voter registration lists to other records, and information on correct and incorrect matches was expected as part of the disclosure in those cases.

44. Prior research has documented that there are substantial errors matching phone numbers to voter files. Professors Donald Green and Alan Gerber have documented that a third of records on voter files have no phone number; approximately 10 percent of numbers on voter

[10] Donald P. Green & Alan S. Gerber, "Can Registration-Based Sampling Improve the Accuracy of Midterm Election Forecasts," Public Opinion Quarterly 70 (2006): 197-223.
[11] Stephen Ansolabehere & Eitan D. Hersh, "ADGN: An Algorithm for Record Linkage Using Address, Date of Birth, Gender, and Name," Statistics and Public Policy 4 (2017): 1-10.

files are incorrect.[12] Studies conducted by the Pew Research Center on Methodology have found that in conducting surveys in which phone numbers are matched to voter registration lists that 40 percent of cell phone and 70 percent of landline respondents are not the correct person.[13]

45. Table 1 provides evidence of a high level of incorrect phone numbers in the survey relied on by Mr. Braynard. First, of the 15,719 Completes, 4,902 (32.3 percent) are flagged for wrong numbers and language. That indicates a high rate of mismatches even among the phone numbers that were matched. Second, of the 1,175 responses to Question 1, 255 (21.7 percent) could not be verified to be the Target of the survey.

46. Errors of that magnitude in matching phone numbers to voter files and in existing phone numbers on voter files can easily explain the estimates provided in the report. For example, using the figures from the Pew Study cited in paragraph 43, if 40 percent of the 1,170 people who actually answered Mr. Braynard's survey were the wrong person then the study would have started with 470 wrong people interviewed. That number far exceeds the number who answered No to Question 2 or Yes to Question 3. The magnitudes of other potential errors, such as wrong phone numbers on registration lists or list matching errors, are also of sufficient magnitude to account for Claims (1), (2), and (3).

iii. The data for Claims 1 and 2 include people who should not have been interviewed.

47. Mr. Braynard states that his staff first determined that the person was the correct person, and then asked of that person whether they requested an absentee ballot. (See page 6 of

[12] Green and Gerber, *op. cit.*, page 202.
[13] Pew Research Center, "Comparing Survey Sampling Strategies: Random-Digit Dialing vs. Voter Files," Pew Research Center: Methods at 24-25 (October 9, 2018), https://www.pewresearch.org/methods/2018/10/09/performance-of-the-samples/.

his report.) The toplines reported in the appendix to the report of William Briggs reveal that this is not the protocol of the survey.

48. According to the toplines, Question 1 asks "May I please speak to <lead on the screen>?" Lead on the screen is the name of the registered voter. 767 cases were recorded as "Reached Target [Go to Q2]." 255 cases were recorded as blank, but the instructions also state "[Go to Q2]". Responses to the same survey conducted in other states indicate that these 255 people were of "uncertain" status. They may or may not have been the correct person. Nonetheless, they were kept in the pool. As a consequence, 25 percent of the people interviewed in the survey did not affirmatively state that they were in fact the person that the interviewer wished to speak to.

49. Question 2 asks "Did you request an absentee ballot?" 591 people said yes. 128 people said no. In his analysis, Mr. Braynard also includes as yes the 39 people are listed as "member confirmed 'Yes'", and the 14 respondents listed as "member confirmed 'No'" as no. It is my understanding from the topline reports for other states appended to Dr. Briggs' report that these are family members who were interviewed, and not the actual registrant. The 255 people who were not the "Reached Target" according to Q1 is larger than the number of people who said they did not request an absentee ballot on Q2 (128) or the number of people and their family members who indicated that they did not request a ballot (142). As a result, the entire result of this survey can be explained by improper inclusion of 255 people who were not the Target of the survey in the pool of respondents to Question 2 and Question 3.

50. Responses to Question 2 indicate that family members are interviewed and treated as valid and reliable responses for a given voter. That contradicts the description of the survey as interviews of the specific people on the voter files who requested absentee ballots.

51. In addition to the branching error from Question 1 to Question 2, there is also a branching error from Question 2 to Question 3. Question 3 includes people who said that they were Uncertain as to whether they requested an absentee ballot.

52. This branching error is a fatal error in the design of the survey. It means that the pool of respondents has people in it who were not in fact part of the target population. The survey allowed people who were not supposed to be asked Question 2 to nonetheless be asked Question 2. These are critical errors in survey design. They mean that the set of people who responded to the survey and were asked Questions 2 and 3 included people should not have been asked Questions 2 and 3. On its face, the respondents who answered Questions 2 and 3 are not an accurate representation of those people in the small set of people who responded to the survey who should have been interviewed.

iv. There are inconsistencies in the accounting of the number of cases across Questions in the survey used for Claims 1 and 2.

53. There are unexplained missing cases running throughout the topline tables for this survey. Table 2 presents the Toplines for the questions as reported in Dr. Briggs' report. From Table 1 we can calculate the number of people eligible for Question 1, these are "Complete" cases that are coded as Q5=1 or 2 or Early Hangup/Refused. There are 1,700 cases. Table 2 shows that 1,175 respondents made it to Question 1 in the survey. Hence, 525 respondents are not included in the total number of responses to Question 1.

54. The total number of responses to Question 1 that are assigned to Question 2 is 1,022. That is the number of people listed as "1 Reached Target [Go to Q2]" or as "[Go to Q2]." Of the original, 58 (5.7% of those assigned to Q2) are unaccounted for.

54. The total number of responses to Question 2 that are assigned to Question 3 is 670. That is the number of people listed as "Yes [Go to Q3]" or as "Member confirmed "Yes" [Go to

Q3]" or as "5. Unsure [Go to 3]." Of the 670 respondents assigned to Q3, only 623 are accounted for, a slippage of 47 cases (or 7%).

55. In my professional judgment as a survey researcher, such discrepancies in the accounting of cases are flags for failures in quality control. A total of 105 cases are not accounted for in the jumps from Question 1 to Question 2 and from Question 2 to Question 3. Another 525 are not accounted for in the launching of Question 1. Combined, 630 cases are lost in the toplines. These unaccounted-for cases are on top of the people who refused or hung up. That is a considerable number of unaccounted cases, given that Claims 1 and Claims 2 are based are only 142 and 257 survey respondents.

56. I checked the topline tables for the survey data that Dr. Briggs appended to his report and that Dr. Briggs attributes to Mr. Braynard. Other states show inconsistencies and data errors. For example, for the state of Wisconsin, the Sum of Respondents for Question 1 is less than the sum of cases. There are more cases for assigned to Question 2 than answer Question 2 in some states. In other states there are fewer cases assigned to Question 2 than answer Question 2. The integrity checks in these other states lead me to believe that the inconsistencies in the Georgia data are systematic and widespread in these data.

57. In my experience, when such discrepancies arise during routine integrity checks, they are either spreadsheet errors or programming logic errors in the survey system (i.e., the logic that assigns individuals to questions). That these errors appear in the toplines indicates that there was not a high level of scrutiny into the quality or integrity of the survey data produced in this study.

58. Based on this assessment, I have no confidence that the data in the survey used to study Claims 1 and 2 are correct. Basic integrity checks for the data evidently were not performed or reported. This creates doubt about the survey data for Claim 3, as well.

v. The survey does not ascertain Rollover Absentee Voters or disambiguate Rollover Absentee Voters from Other Absentee Voters.

59. Question 2 is not sufficiently clear and specific regarding the meaning of "request an absentee ballot." The survey does not ascertain whether respondents are rollover absentee voters or have a designated person who may request a ballot on their behalf. Georgia allows voters who are over 65 or incapacitated to receive an absentee ballot automatically without requesting one, so long as they sign up for that service each year. These are called rollover absentee voters because their absentee status rolls over from one election to the next in a given year, such as from the primary to the general election. They do not have to make a request for an absentee to be sent to them for a specific election.

60. There were approximately 582,000 "rollover" ballots in Georgia in the November 3, 2020, general election.[14]

61. The substantial number of rollover absentee voters in Georgia creates ambiguity in the interpretation of the Question 2 of the survey and the meaning of Claim 1. Some permanent absentee voters may answer "yes" because they registered for permanent absentee status, while others may say no because they do not need to request a ballot before each election to receive one. The ambiguity of Question 2, and the failure to disambiguate permanent absentee voters from other absentee voters in the responses, introduces measurement error in the survey. Additional survey questions would be required to distinguish different types of absentee voters. Without disambiguating the voters, the survey data cannot be used to draw the conclusion that some survey respondents received an absentee ballot in error, or that they received an absentee ballot without requesting one because that is their absentee status.

[14] Stephen Fowler, "Nearly 800,000 Georgians Have Already Requested Absentee Ballots for November," Ga. Today, (September 2, 2020) https://www.gpb.org/news/2020/09/02/nearly-800000-georgians-have-already-requested-absentee-ballots-for-november.

vi. The survey cannot determine whether the respondent properly mailed a ballot to the election office.

62. Claim 2 holds that 33.29 percent of the 138,029 people who requested an absentee ballot mailed one to the election office.

63. This is based on an extrapolation from 257 responses to Question 3. As already described, the survey has an unacceptably low response rate, a flawed questionnaire design, and accounting inconsistencies. Moreover, Question 3 is inadequate to measure whether the election office should have recorded a mailed ballot as received.

64. It is my experience working with election administrators and researching election administration as part of the Caltech/MIT Voting Technology Project that many absentee ballots are not recorded or counted because they are not received on time or are not properly prepared and submitted. Late absentees are not accepted, and they are usually not recorded in the tally of ballots received. Ballots that are spoiled, unsigned or in the incorrect envelopes or rejected for some other reason are not counted. The fact that there is no record of a vote or of a received absentee ballot is not necessarily evidence of an error in the handling of the ballot. Instead it may be evidence of correct treatment of ballots by the election officials in accordance with state laws.

65. According to figures reported by the county election offices in the State of Georgia to the Election Assistance Commission, there were 3,525 late absentee ballots and 36,255 unaccounted absentee ballots in Georgia in 2018.[15] In addition, there were 7,512 rejected absentees and 2,322 undeliverable absentees in the State in 2018. These figures far exceed the total number of survey responses.

[15] I compiled these figures from the spreadsheets published by the Election Assistance Commission for the 2018 Election Administration and Voting Comprehensive Survey (EAVS), last accessed December 2, 2020, https://www.eac.gov/research-and-data/studies-and-reports.

66. Question 3 does not ascertain when the ballot was sent, whether it was signed, and other factors that would affect whether it was received on time (and thus recorded) or was in fact a valid ballot. Without accounting for those variables, the conclusion based on the data from Question 3 is unreliable.

vii. Question 3, which asks whether the respondent mailed the ballot, is subject to social desirability bias and memory errors.

67. Question 3 asks people whether they voted. Specifically, it asks people who said that they requested an absentee ballot whether they returned an absentee ballot, that is, whether they voted that ballot.

68. It has long been understood in political science that respondents to surveys overreport voting in elections. The most commonly identified sorts of biases are memory errors and social desirability bias in questions asking people whether they voted.[16] In the context of this survey such biases would lead to overstatement of Yes responses to Question 3. Mr. Braynard's report gives no indication that he attempted to account or correct for these biases.

D. The list matching methodology that links registration records to NCOA and to other states' voter databases likely has sufficient errors to account for Claims 3, 4, and 6.

69. Claims 3, 4, and 6 rely on data derived from matching voter registration records to NCOA files or to other states voter files.

70. The exact methods used for matching the state's voter files to the NCOA list and to other states' voter files are not described. The lack of transparency in reporting the specific fields for matching and the algorithms used violates academic standards in this field. Exhibit 2 of

[16] See, e.g., Allyson L. Holbrook and Jon A. Krosnick, "Social Desirability Bias in Voter Turnout Reports: Test Using the Item Count Technique," *Public Opinion Quarterly* 74 (2010): 37-67. See also Stephen Ansolabehere and Eitan Hersh, ,"Validation: What Big Data Reveal About Survey Misreporting and the Real Electorate," *Political Analysis* 20 (2012): 437-459

Matthew Braynard's report does mention use of complete date of birth, but no other fields are mentioned for list matching. It is standard scientific practice to report algorithms used, match rates, non-match rates, rates of false positives and false negatives, and sensitivity analyses in scientific reports and articles using matching and record linkage.[17] Without such information it is impossible to evaluate the reliability of methods used. No such information is reported here.

71. Recent academic research on attempts to match voter registration records to other state's voter files or to national lists, such as NCOA has shown that this task can be prone to high rates of error. Crosscheck, a collaboration of 28 states, matches people across states based on first name, last name, and date of birth. This approach has been determined to be unreliable because it yields a very high number of incorrect matches. One study found that Crosscheck's methodology identified almost 3 million "matching individuals who voted twice nationwide." All but 600 of these records were deemed to be false positives, in which the method says two people are the same but in fact they are not. For those 600 other cases, it could not be determined whether they were or were not the same individual.[18] The Crosscheck experience suggests that it is quite easy to link records incorrectly when matching voter files to national lists (such as NCOA) or other states' registration databases. This example underscores the need to disclose algorithms and provide evidence that there are no large numbers of false positives and false negatives. Matching on name and date of birth, as was done using Crosscheck, will likely produce huge numbers of false positives.

E. Claim 5 argues that 1,034 individuals disguised their addresses.

[17] W. E. Winkler, "Matching and Record Linkage" Statistical Research Division, U.S. Bureau of the Census, 1993. https://www.census.gov/srd/papers/pdf/rr93-8.pdf.

[18] United States Commission on Civil Rights, An Assessment of Minority Voting Rights Access in the United States: 2018 Statutory Enforcement Report. Transmitted to the President September 12, 2018. https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf, at pages 112-113.

72. Voter registration forms for the State of Georgia allow for separate residential and mailing addresses. The form provides a space for apartment numbers but not PO Boxes in mailing addresses. In my experience working with state databases and performing record linkage, it is entirely plausible that individuals put PO Box numbers in this blank because the form does not provide a specific space for that information in mailing addresses.

73. The list of records appended to Mr. Braynard's report in Exhibit 3 does not specify whether the address listed is the residential address or the mailing address of the individual.

74. It is unclear who these individuals are and why they might use a PO Box address. These may, for example, be homeless sex offenders or domestic abuse victims. In my experience working with election administrators through the Caltech/MIT Voting Technology Project I have learned that many jurisdictions across the United States are not allowed to enforce address rules for voter registration in special circumstances. I do not know the degree to which Georgia election administration procedures are flexible about address fields, but certainly the information provided in Mr. Braynard's report does not determine whether these might be such circumstances.

75. There is no description of the procedures used in making this list, especially what fields are used. No program or code was appended to the report or included, so it is impossible to verify if the analysis was done correctly.

F. Summary

76. None of the six claims made in Matthew Braynard's report reach acceptable standards of scientific research. There is a lack of transparency in reporting the survey, matching, and coding methods, and errors in matching could completely account for any reported numbers or claims. There are demonstrable and fatal flaws in the survey research, especially unacceptable response rates, branching errors and data inconsistencies.

77. The design of the studies does not test for the obvious explanations of any findings. The ballots that were received and not requested could be the result of nothing more than the 500,000 rollover absentee voters in the state, who receive ballots without requesting them. The surveys did not explore this very likely explanation. Many or all of the "unreturned" ballots are likely late ballots or respondents saying they voted when in fact they had not.

78. None of the estimates offered as support of the five claims are presented with appropriate measures of statistical certainty or inferences. Instead, Mr. Braynard prefaces each claim with the phrase "to a reasonable degree of scientific certainty," a phrase that has no scientific meaning and that the National Institutes of Standards and Technology and the Attorney General of the United States has warned experts not to use.[19] There is no scientific basis offered for the conclusions reached.

[19] Office of the Attorney General, *Recommendations of the National Commission on Forensic Science; Announcement for NCFS Meeting Eleven*, https://www.justice.gov/opa/file/891366/download.

APPENDIX A

TABLES

Table 1. Phone Survey Targets, Attempts and Completes		
	Number of Cases	Percent of Targets for Survey Remaining in the Survey Process
People the Survey Sought to Reach (all Unreturned Ballots) [Targets for Survey]	138,029	100%
List Penetration	No number reported	58.45%
Data Loads (Phone Numbers Loaded into the Survey System)	34,355	24.89%
"Completes"		
Wrong Numbers/Language	4,902	
Answering Machines	13,479	
Early Hang Up/Refused	1,516	
Q5= 01 or 02	184	
Subtotal: "Completes"	15179	11.00%
Completes Eligible for Survey (Q5 or Early Hang Up/Refused)	1,700	1.23%

Asked Q1	1,175	0.85%
Completed Q1 (not Refused or Hangup to Q1)	1,022	0.74%
Offered a Response to Q2 (without hanging up or refusing)	736	0.53%
Completed Entire Survey (Q5)	185	0.13%
Source: William Briggs Report; Briggs states that Matthew Braynard provided him these data.		

Table 2. Toplines for the Georgia Survey conducted by Mr. Matthew Braynard as reported in the report of Dr. William Briggs

Q1 – May I Please Speak to <lead on screen>?	
1. Reached Target [Go to Q2]	767
[Go to Q2]*	255
X = Refused <Go to CLOSE A>	153
Q= Hangup <Go to CLOSE A>	385
Sum of All Responses	**1,175**
* Note: Toplines for other states in Briggs' report list the second response category as "Uncertain."	

Q2 – Did you request an absentee ballot?

1. Yes [Go to Q3]	591
2. No [Go to Q4]	128
Member confirmed "Yes" [Go to*	39
Member confirmed "No" [Go to 4*	14
5. .Unsure [Go to 3]	40
Moment. [Go to Close A]	82
X = Refused <Go to CLOSE A>	70
Q= Hangup <Go to CLOSE A>	58
Sum of All Responses	**964**
*Note: Toplines for Wisconsin in Briggs' report describe these as "per Spouse/family Member."	

Q3 – Did you mail back that ballot?	
1. Yes [Go to Q4]	240
2. No [Go to Close A]	317
Member confirmed "Yes" [Go to*	17
Member confirmed "No" [Go to Close A]*	9
5. .Unsure [Go to Close A]	24
Moment. [Go to Close A]	11

X = Refused <Go to CLOSE A>	5
Q= Hangup <Go to CLOSE A>	7
Sum of All Responses	**623**
*Note: Toplines for Wisconsin in Briggs' report describe these as "per Spouse/family Member."	

Signed at Boston, Massachusetts, on the date below.
Date: December 4, 2020



Stephen Ansolabehere

STEPHEN DANIEL ANSOLABEHERE

Department of Government
Harvard University
1737 Cambridge Street
Cambridge, MA 02138
sda@gov.harvard.edu

EDUCATION

Harvard University	Ph.D., Political Science	1989
University of Minnesota	B.A., Political Science	1984
	B.S., Economics	

PROFESSIONAL EXPERIENCE

ACADEMIC POSITIONS

2016-present	Frank G. Thompson Professor of Government, Harvard University
2008-present	Professor, Department of Government, Harvard University
2015-present	Director, Center for American Politics, Harvard University
1998-2009	Elting Morison Professor, Department of Political Science, MIT (Associate Head, 2001-2005)
1995-1998	Associate Professor, Department of Political Science, MIT
1993-1994	National Fellow, The Hoover Institution
1989-1993	Assistant Professor, Department of Political Science, University of California, Los Angeles

FELLOWSHIPS AND HONORS

American Academy of Arts and Sciences	2007
Carnegie Scholar	2000-02
National Fellow, The Hoover Institution	1993-94
Harry S. Truman Fellowship	1982-86

PUBLICATIONS

Books

2019 *American Government*, 15th edition. With Ted Lowi, Benjamin Ginsberg and Kenneth Shepsle. W.W. Norton.

2014 *Cheap and Clean: How Americans Think About Energy in the Age of Global Warming*. With David Konisky. MIT Press. Recipient of the Donald K. Price book award.

2008 *The End of Inequality: One Person, One Vote and the Transformation of American Politics*. With James M. Snyder, Jr., W. W. Norton.

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2012 "Validation: What Big Data Reveals About Survey Misreporting and the Real Electorate" *Political Analysis* (with Eitan Hersh)

2012 "Arizona Free Enterprise v. Bennett and the Problem of Campaign Finance" *Supreme Court Review* 2011(1):39-79

2012 "The American Public's Energy Choice" *Daedalus* (with David Konisky)

2012 "Challenges for Technology Change" *Daedalus* (with Robert Fri)

2011 "When Parties Are Not Teams: Party positions in single-member district and proportional representation systems" *Economic Theory* 49 (March) DOI: 10.1007/s00199-011-0610-1 (with James M. Snyder Jr. and William Leblanc)

2011 "Profiling Originalism" *Columbia Law Review* (with Jamal Greene and Nathaniel Persily).

2010 "Partisanship, Public Opinion, and Redistricting" *Election Law Journal* (with Joshua Fougere and Nathaniel Persily).

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2008 "Voter Fraud in the Eye of the Beholder" (with Nathaniel Persily) *Harvard Law Review* (May)

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2005 "Studying Elections" *Policy Studies Journal* (with Charles H. Stewart III and R. Michael Alvarez).

2005 "Legislative Bargaining under Weighted Voting" *American Economic Review* (with James M. Snyder, Jr., and Michael Ting)

2005 "Voting Weights and Formateur Advantages in Coalition Formation: Evidence from Parliamentary Coalitions, 1946 to 2002" (with James M. Snyder, Jr., Aaron B. Strauss, and Michael M. Ting) *American Journal of Political Science*.

2005 "Reapportionment and Party Realignment in the American States" *Pennsylvania Law Review* (with James M. Snyder, Jr.)

2004 "Residual Votes Attributable to Voting Technologies" (with Charles Stewart) *Journal of Politics*

2004 "Using Term Limits to Estimate Incumbency Advantages When Office Holders Retire Strategically" (with James M. Snyder, Jr.). *Legislative Studies Quarterly* vol. 29, November 2004, pages 487-516.

2004 "Did Firms Profit From Soft Money?" (with James M. Snyder, Jr., and Michiko Ueda) *Election Law Journal* vol. 3, April 2004.

2003 "Bargaining in Bicameral Legislatures" (with James M. Snyder, Jr. and Mike Ting) *American Political Science Review,* August, 2003.

2003 "Why Is There So Little Money in U.S. Politics?" (with James M. Snyder, Jr.) *Journal of Economic Perspectives*, Winter, 2003.

2002 "Equal Votes, Equal Money: Court-Ordered Redistricting and the Public Spending in the American States" (with Alan Gerber and James M. Snyder, Jr.) *American Political Science Review*, December, 2002.
Paper awarded the Heinz Eulau award for the best paper in the American Political Science Review.

2002 "Are PAC Contributions and Lobbying Linked?" (with James M. Snyder, Jr. and Micky Tripathi) *Business and Politics* 4, no. 2.

2002 "The Incumbency Advantage in U.S. Elections: An Analysis of State and Federal Offices, 1942-2000" (with James Snyder) *Election Law Journal,* 1, no. 3.

2001 "Voting Machines, Race, and Equal Protection." *Election Law Journal*, vol. 1, no. 1

2001 "Models, assumptions, and model checking in ecological regressions" (with Andrew Gelman, David Park, Phillip Price, and Larraine Minnite) *Journal of the Royal Statistical Society,* series A, 164: 101-118.

2001 "The Effects of Party and Preferences on Congressional Roll Call Voting." (with James Snyder and Charles Stewart) *Legislative Studies Quarterly* (forthcoming).
Paper awarded the *Jewell-Lowenberg Award* for the best paper published on legislative politics in 2001. Paper awarded the *Jack Walker Award* for the best paper published on party politics in 2001.

2001 "Candidate Positions in Congressional Elections," (with James Snyder and Charles Stewart). *American Journal of Political Science* 45 (November).

2000 "Old Voters, New Voters, and the Personal Vote," (with James Snyder and Charles Stewart) *American Journal of Political Science* 44 (February).

2000 "Soft Money, Hard Money, Strong Parties," (with James Snyder) *Columbia Law Review* 100 (April):598 - 619.

2000 "Campaign War Chests and Congressional Elections," (with James Snyder) *Business and Politics*. 2 (April): 9-34.

1999 "Replicating Experiments Using Surveys and Aggregate Data: The Case of Negative Advertising." (with Shanto Iyengar and Adam Simon) *American Political Science Review* 93 (December).

1999 "Valence Politics and Equilibrium in Spatial Models," (with James Snyder), *Public Choice.*

1999 "Money and Institutional Power," (with James Snyder), *Texas Law Review* 77 (June, 1999): 1673-1704.

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1996 "The Effects of Ballot Access Rules on U.S. House Elections," (with Alan Gerber), *Legislative Studies Quarterly* 21 (May 1996).

1994 "Riding the Wave and Issue Ownership: The Importance of Issues in Political Advertising and News," (with Shanto Iyengar) *Public Opinion Quarterly* 58: 335-357.

1994 "Horseshoes and Horseraces: Experimental Evidence of the Effects of Polls on Campaigns," (with Shanto Iyengar) *Political Communications* 11/4 (October-December): 413-429.

1994 "Does Attack Advertising Demobilize the Electorate?" (with Shanto Iyengar), *American Political Science Review* 89 (December).

1994 "The Mismeasure of Campaign Spending: Evidence from the 1990 U.S. House Elections," (with Alan Gerber) *Journal of Politics* 56 (September).

1993 "Poll Faulting," (with Thomas R. Belin) *Chance* 6 (Winter): 22-28.

1991 "The Vanishing Marginals and Electoral Responsiveness," (with David Brady and Morris Fiorina) *British Journal of Political Science* 22 (November): 21-38.

1991 "Mass Media and Elections: An Overview," (with Roy Behr and Shanto Iyengar) *American Politics Quarterly* 19/1 (January): 109-139.

1990 "The Limits of Unraveling in Interest Groups," *Rationality and Society* 2: 394-400.

1990 "Measuring the Consequences of Delegate Selection Rules in Presidential Nominations," (with Gary King) *Journal of Politics* 52: 609-621.

1989 "The Nature of Utility Functions in Mass Publics," (with Henry Brady) *American Political Science Review* 83: 143-164.

Special Reports and Policy Studies

2010 *The Future of Nuclear Power*, Revised.

2006 *The Future of Coal*. MIT Press. Continued reliance on coal as a primary power source will lead to very high concentrations of carbon dioxide in the atmosphere, resulting in global warming. This cross-disciplinary study – drawing on faculty from Physics, Economics, Chemistry, Nuclear Engineering, and Political Science – develop a road map for technology research and development policy in order to address the challenges of carbon emissions from expanding use of coal for electricity and heating throughout the world.

2003 *The Future of Nuclear Power*. MIT Press. This cross-disciplinary study – drawing on faculty from Physics, Economics, Chemistry, Nuclear Engineering, and Political Science – examines the what contribution nuclear power can make to meet growing electricity demand, especially in a world with increasing carbon dioxide emissions from fossil fuel power plants.

2002 "Election Day Registration." A report prepared for DEMOS. This report analyzes the possible effects of Proposition 52 in California based on the experiences of 6 states with election day registration.

2001 *Voting: What Is, What Could Be.* A report of the Caltech/MIT Voting Technology Project. This report examines the voting system, especially technologies for casting and counting votes, registration systems, and polling place operations, in the United States. It was widely used by state and national governments in formulating election reforms following the 2000 election.

2001 "An Assessment of the Reliability of Voting Technologies." A report of the Caltech/MIT Voting Technology Project. This report provided the first nationwide assessment of voting equipment performance in the United States. It was prepared for the Governor's Select Task Force on Election Reform in Florida.

Chapters in Edited Volumes

2016 "Taking the Study of Public Opinion Online" (with Brian Schaffner) *Oxford Handbook of Public Opinion*, R. Michael Alvarez, ed. Oxford University Press: New York, NY.

2014 "Voter Registration: The Process and Quality of Lists*" The Measure of American Elections*, Barry Burden, ed..

2012 "Using Recounts to Measure the Accuracy of Vote Tabulations: Evidence from New Hampshire Elections, 1946-2002" in Confirming Elections, R. Michael Alvarez, Lonna Atkeson, and Thad Hall, eds. New York: Palgrave, Macmillan.

2010 "Dyadic Representation" in Oxford Handbook on Congress, Eric Schickler, ed., Oxford University Press.

2008 "Voting Technology and Election Law" in *America Votes!,* Benjamin Griffith, editor, Washington, DC: American Bar Association.

2007 "What Did the Direct Primary Do to Party Loyalty in Congress" (with Shigeo Hirano and James M. Snyder Jr.) in *Process, Party and Policy Making: Further New Perspectives on the History of Congress*, David Brady and Matthew D. McCubbins (eds.), Stanford University Press, 2007.

2007 "Election Administration and Voting Rights" in *Renewal of the Voting Rights Act*, David Epstein and Sharyn O'Hallaran, eds. Russell Sage Foundation.

2006 "The Decline of Competition in Primary Elections," (with John Mark Hansen, Shigeo Hirano, and James M. Snyder, Jr.) *The Marketplace of Democracy*, Michael P. McDonald and John Samples, eds. Washington, DC: Brookings.

2005 "Voters, Candidates and Parties" in *Handbook of Political Economy*, Barry Weingast and Donald Wittman, eds. New York: Oxford University Press.

2003 "Baker v. Carr in Context, 1946 – 1964" (with Samuel Isaacharoff) in *Constitutional Cases in Contex*t, Michael Dorf, editor. New York: Foundation Press.

2002 "Corruption and the Growth of Campaign Spending"(with Alan Gerber and James Snyder). *A User's Guide to Campaign Finance*, Jerry Lubenow, editor. Rowman and Littlefield.

2001 "The Paradox of Minimal Effects," in Henry Brady and Richard Johnston, eds., *Do Campaigns Matter*? University of Michigan Press.

2001 "Campaigns as Experiments," in Henry Brady and Richard Johnson, eds., Do *Campaigns Matter*? University of Michigan Press.

2000 "Money and Office," (with James Snyder) in David Brady and John Cogan, eds., *Congressional Elections: Continuity and Change*. Stanford University Press.

1996 "The Science of Political Advertising," (with Shanto Iyengar) in *Political Persuasion and Attitude Change*, Richard Brody, Diana Mutz, and Paul Sniderman, eds. Ann Arbor, MI: University of Michigan Press.

1995 "Evolving Perspectives on the Effects of Campaign Communication," in Philo Warburn, ed., *Research in Political Sociology*, vol. 7, JAI.

1995 "The Effectiveness of Campaign Advertising: It's All in the Context," (with Shanto Iyengar) in *Campaigns and Elections American Style*, Candice Nelson and James A. Thurber, eds. Westview Press.

1993 "Information and Electoral Attitudes: A Case of Judgment Under Uncertainty," (with Shanto Iyengar), in *Explorations in Political Psychology*, Shanto Iyengar and William McGuire, eds. Durham: Duke University Press.

Working Papers

2009 "Sociotropic Voting and the Media" (with Marc Meredith and Erik Snowberg), American National Election Study Pilot Study Reports, John Aldrich editor.

2007 "Public Attitudes Toward America's Energy Options: Report of the 2007 MIT Energy Survey" CEEPR Working Paper 07-002 and CANES working paper.

2006 "Constituents' Policy Perceptions and Approval of Members' of Congress" CCES Working Paper 06-01 (with Phil Jones).

2004 "Using Recounts to Measure the Accuracy of Vote Tabulations: Evidence from New Hampshire Elections, 1946 to 2002" (with Andrew Reeves).

2002 "Evidence of Virtual Representation: Reapportionment in California," (with

Ruimin He and James M. Snyder).

1999 "Why did a majority of Californians vote to lower their own power?" (with James Snyder and Jonathan Woon). Paper presented at the annual meeting of the American Political Science Association, Atlanta, GA, September, 1999. Paper received the award for the best paper on Representation at the 1999 Annual Meeting of the APSA.

1999 "Has Television Increased the Cost of Campaigns?" (with Alan Gerber and James Snyder).

1996 "Money, Elections, and Candidate Quality," (with James Snyder).

1996 "Party Platform Choice - Single- Member District and Party-List Systems,"(with James Snyder).

1995 "Messages Forgotten" (with Shanto Iyengar).

1994 "Consumer Contributors and the Returns to Fundraising: A Microeconomic Analysis," (with Alan Gerber), presented at the Annual Meeting of the American Political Science Association, September.

1992 "Biases in Ecological Regression," (with R. Douglas Rivers) August, (revised February 1994). Presented at the Midwest Political Science Association Meetings, April 1994, Chicago, IL.

1992 "Using Aggregate Data to Correct Nonresponse and Misreporting in Surveys" (with R. Douglas Rivers). Presented at the annual meeting of the Political Methodology Group, Cambridge, Massachusetts, July.

1991 "The Electoral Effects of Issues and Attacks in Campaign Advertising" (with Shanto Iyengar). Presented at the Annual Meeting of the American Political Science Association, Washington, DC.

1991 "Television Advertising as Campaign Strategy: Some Experimental Evidence" (with Shanto Iyengar). Presented at the Annual Meeting of the American Association for Public Opinion Research, Phoenix.

1991 "Why Candidates Attack: Effects of Televised Advertising in the 1990 California Gubernatorial Campaign," (with Shanto Iyengar). Presented at the Annual Meeting of the Western Political Science Association, Seattle, March.

1990 "Winning is Easy, But It Sure Ain't Cheap." Working Paper #90-4, Center for the American Politics and Public Policy, UCLA. Presented at the Political Science Departments at Rochester University and the University of Chicago.

Research Grants

1989-1990	Markle Foundation. "A Study of the Effects of Advertising in the 1990 California Gubernatorial Campaign." Amount: $50,000
1991-1993	Markle Foundation. "An Experimental Study of the Effects of Campaign Advertising." Amount: $150,000
1991-1993	NSF. "An Experimental Study of the Effects of Advertising in the 1992 California Senate Electoral." Amount: $100,000
1994-1995	MIT Provost Fund. "Money in Elections: A Study of the Effects of Money on Electoral Competition." Amount: $40,000
1996-1997	National Science Foundation. "Campaign Finance and Political Representation." Amount: $50,000
1997	National Science Foundation. "Party Platforms: A Theoretical Investigation of Party Competition Through Platform Choice." Amount: $40,000
1997-1998	National Science Foundation. "The Legislative Connection in Congressional Campaign Finance. Amount: $150,000
1999-2000	MIT Provost Fund. "Districting and Representation." Amount: $20,000.
1999-2002	Sloan Foundation. "Congressional Staff Seminar." Amount: $156,000.
2000-2001	Carnegie Corporation. "The Caltech/MIT Voting Technology Project." Amount: $253,000.
2001-2002	Carnegie Corporation. "Dissemination of Voting Technology Information." Amount: $200,000.
2003-2005	National Science Foundation. "State Elections Data Project." Amount: $256,000.
2003-2004	Carnegie Corporation. "Internet Voting." Amount: $279,000.
2003-2005	Knight Foundation. "Accessibility and Security of Voting Systems." Amount: $450,000.
2006-2008	National Science Foundation, "Primary Election Data Project," $186,000

2008-2009 Pew/JEHT. "Measuring Voting Problems in Primary Elections, A National Survey." Amount: $300,000

2008-2009 Pew/JEHT. "Comprehensive Assessment of the Quality of Voter Registration Lists in the United States: A pilot study proposal" (with Alan Gerber). Amount: $100,000.

2010-2011 National Science Foundation, "Cooperative Congressional Election Study," $360,000

2010-2012 Sloan Foundation, "Precinct-Level U. S. Election Data," $240,000.

2012-2014 National Science Foundation, "Cooperative Congressional Election Study, 2010-2012 Panel Study" $425,000

2012-2014 National Science Foundation, "2012 Cooperative Congressional Election Study," $475,000

2014-2016 National Science Foundation, "Cooperative Congressional Election Study, 2010-2014 Panel Study" $510,000

2014-2016 National Science Foundation, "2014 Cooperative Congressional Election Study," $400,000

2016-2018 National Science Foundation, "2016 Cooperative Congressional Election Study," $485,000

2018-2020 National Science Foundation, "2018 Cooperative Congressional Election Study," $844,784.

2019-2022 National Science Foundation, RIDIR: "Collaborative Research: Analytic Tool for Poststratification and small-area estimation for survey data." $942,607

Professional Boards

Editor, Cambridge University Press Book Series, Political Economy of Institutions and Decisions, 2006-2016

Member, Board of the Reuters International School of Journalism, Oxford University, 2007 to present.

Member, Academic Advisory Board, Electoral Integrity Project, 2012 to present.

Contributing Editor, *Boston Review*, The State of the Nation.

Member, Board of Overseers, American National Election Studies, 1999 - 2013.

Associate Editor, Public Opinion Quarterly, 2012 to 2013.

Editorial Board of Harvard Data Science Review, 2018 to present.
Editorial Board of American Journal of Political Science, 2005 to 2009.
Editorial Board of Legislative Studies Quarterly, 2005 to 2010.
Editorial Board of Public Opinion Quarterly, 2006 to present.
Editorial Board of the Election Law Journal, 2002 to present.
Editorial Board of the Harvard International Journal of Press/Politics, 1996 to 2008.
Editorial Board of Business and Politics, 2002 to 2008.
Scientific Advisory Board, Polimetrix, 2004 to 2006.

Special Projects and Task Forces

Principal Investigator, Cooperative Congressional Election Study, 2005 – present.

CBS News Election Decision Desk, 2006-present

Co-Director, Caltech/MIT Voting Technology Project, 2000-2004.

Co-Organizer, MIT Seminar for Senior Congressional and Executive Staff, 1996-2007.

MIT Energy Innovation Study, 2009-2010.
MIT Energy Initiative, Steering Council, 2007-2008
MIT Coal Study, 2004-2006.
MIT Energy Research Council, 2005-2006.
MIT Nuclear Study, 2002-2004.
Harvard University Center on the Environment, Council, 2009-present

Expert Witness, Consultation, and Testimony

2001	Testimony on Election Administration, U. S. Senate Committee on Commerce.
2001	Testimony on Voting Equipment, U.S. House Committee on Science, Space, and Technology
2001	Testimony on Voting Equipment, U.S. House Committee on House Administration
2001	Testimony on Voting Equipment, Congressional Black Caucus
2002-2003	*McConnell v. FEC*, 540 U.S. 93 (2003), consultant to the Brennan Center.
2009	Amicus curiae brief with Professors Nathaniel Persily and Charles Stewart on behalf of neither party to the U.S. Supreme Court in the case of *Northwest*

	Austin Municipal Utility District Number One v. Holder, 557 U.S. 193 (2009).
2009	Testimony on Voter Registration, U. S. Senate Committee on Rules.
2011-2015	*Perez v. Perry*, U. S. District Court in the Western District of Texas (No. 5:11-cv-00360). Exert witness on behalf of Rodriguez intervenors.
2011-2013	*State of Texas v. United States,* the U.S. District Court in the District of Columbia (No. 1:11-cv-01303), expert witness on behalf of the Gonzales intervenors.
2012-2013	*State of Texas v. Holder*, U.S. District Court in the District of Columbia (No. 1:12-cv-00128), expert witness on behalf of the United States.
2011-2012	*Guy v. Miller* in U.S. District Court for Nevada (No. 11-OC-00042-1B), expert witness on behalf of the Guy plaintiffs.
2012	*In re Senate Joint Resolution of Legislative Apportionment*, Florida Supreme Court (Nos. 2012-CA-412, 2012-CA-490), consultant for the Florida Democratic Party.
2012-2014	*Romo v. Detzner*, Circuit Court of the Second Judicial Circuit in Florida (No. 2012 CA 412), expert witness on behalf of Romo plaintiffs.
2013-2014	*LULAC v. Edwards Aquifer Authority*, U.S. District Court for the Western District of Texas, San Antonio Division (No. 5:12cv620-OLG,), consultant and expert witness on behalf of the City of San Antonio and San Antonio Water District
2013-2014	*Veasey v. Perry*, U. S. District Court for the Southern District of Texas, Corpus Christi Division (No. 2:13-cv-00193), consultant and expert witness on behalf of the United States Department of Justice.
2013-2015	*Harris v. McCrory,* U. S. District Court for the Middle District of North Carolina (No. 1:2013cv00949), consultant and expert witness on behalf of the Harris plaintiffs. (later named *Cooper v. Harris*)
2014	Amicus curiae brief, on behalf of neither party, Supreme Court of the United States, *Alabama Democratic Conference v. State of Alabama*.
2014- 2016	*Bethune-Hill v. Virginia State Board of Elections*, U. S. District Court for the Eastern District of Virginia (No. 3:2014cv00852), consultant and expert on behalf of the Bethune-Hill plaintiffs.
2015	Amicus curiae brief in support of Appellees, Supreme Court of the United States, *Evenwell v. Abbott*
2016-2017	*Perez v. Abbott*, U. S. District Court in the Western District of Texas (No. 5:11-cv-00360). Exert witness on behalf of Rodriguez intervenors.
2017-2018	Fish v. Kobach, U. S. District Court in the District of Kansas (No. 2:16-cv-02105-JAR). Expert witness of behalf of the Fish plaintiffs.

Response to Report of William Briggs

Stephen Ansolabehere

December 4, 2020

I. Statement of Inquiry

1. I have been asked by counsel for the Democratic Party of Georgia, the DSCC, and the DCCC to evaluate the report of Dr. William Briggs. I am compensated at the rate of $550 an hour.

2. A brief summary of my high-level opinions and conclusions is below. Overall, however, based on my review, I find the estimates and analyses in Dr. Briggs report to be unreliable, and the analysis is not up to scientific standards of survey research, statistics and data science, or election analysis. There are substantial errors in the design of the survey, and errors and inconsistencies in the data used in the analysis that are sufficient to invalidate any calculations or estimates based on these data. The survey design and implementation fail to meet basic scientific standards of survey research and statistical analysis of surveys. And, the interpretation of the data does not account for obvious and important features of absentee voting, including permanent absentee voters who do not need to request ballots to receive them, and late, rejected, invalid, and spoiled absentee ballots. The errors in design, analysis, and interpretation of the data are of sufficient magnitude that there is no foundation for drawing any conclusions or inferences based on Dr. Briggs' report.

II. Summary Assessment

3. In his report, Dr. Briggs evaluates survey data that was provided to him by a third party and assumes that "the respondents [to the survey] are representative and the data are accurate."[1] There is no indication in his report that any analysis was conducted by him, or by those who provided the data to him, to verify the correctness or integrity of the data provided, the quality of the survey, or the representativeness of the sample on which Dr. Briggs based his analysis. It is standard scientific practice in the field of survey research to give careful scrutiny to data before

[1] William M. Briggs, "An Analysis of Surveys Regarding Absentee Ballots Across Several States," November 23, 2020, page 1.

conducting any statistical analysis, including understanding the structure and wording of the survey questions, the sampling method and response rate, and the characteristics of the sample, such as demographic and behavioral indicators. It is never the practice to assume that survey data are representative and correct.

4. In his report, Dr. Briggs defines two types of errors. People who received absentee ballots even though the survey indicates they did not request an absentee ballot are designated "Error #1." People who returned absentee ballots even though the election office did not record an absentee vote from them are designated "Error #2." Combined, Dr. Briggs calls these two errors "troublesome ballots." Based on the information in Dr. Briggs' report, it is my conclusion that neither assumed "error" is justified. The estimates of Error #1 and Error #2 he presents reflect defects in the design of the survey, fatal data errors evident in the survey toplines, calculation errors, and errors in the interpretation of the data. It is my professional judgment that none of the estimates and projections in his report are valid.

5. The design of the survey contaminates the data and any estimates, rendering them invalid. Specifically, in Question 1 of the survey, the surveyor asks to speak to a specific person. Some of the respondents are flagged as "Reached Target," while others are flagged as "Uncertain" or "What is this about?" Both groups of people (Reached Target and Uncertain) are then asked Question 2, Did you request an absentee ballot? This is a serious survey design error because some or perhaps all of the people flagged as "Uncertain" are not the Target of the interview. As a result, the structure of the very beginning of the survey allows non-Target people to be treated as if they were the Target in the remaining questions. This flaw leads to the contamination of all results. It also means that, on its face, the sample is not representative of the population being studied because the set of people who responded to the survey include a large number of respondents who were

not supposed to be interviewed. This fact is evident in the tables that characterize the survey responses, called Topline Tables or "toplines," that were attached to Dr. Briggs' report.

6. The survey suffers from ambiguously worded questions, which introduces measurement errors in any estimates it makes. Question 2 asks respondents whether they requested an absentee ballot. The question does not follow up and clarify different ways that people obtain absentee ballots or whether the ballot was actually received. Perhaps the largest category of voters for whom this question is vexing are those who are registered to receive ballots without requesting them, called permanent absentee and early voters or rollover absentee voters (PEVs). A PEV is sent an absentee ballot automatically without needing to request a ballot for a particular election. Four of the states in question (Arizona, Michigan, Pennsylvania, and Wisconsin) allow permanent absentee voting for all voters, and Georgia allows rollover absentee voting each election cycle for those 65 years of age or older, military voters, and incapacitated voters. For these voters, both "yes" and "no" may be viewed as correct answers to the question of whether they requested an absentee ballot. A respondent who is a PEV might respond yes because they did sign up for that status, or they might as correctly respond no because they did not have to request a ballot in order to have one sent to them. The questionnaire provides no way to clarify such cases; there is no follow up question to disambiguate permanent absentee voters from others. This is just one example of the substantial problems with the wording and structure of Question 2.

7. The wording of Question 3 is also problematic. First, it does not ascertain whether the ballot was mailed back in a timely manner so as to be included in the record of ballots cast. Some or possibly all of the ballots at issue are late ballots and thus may not be included in the absentee vote record. Second, Question 3 asks whether someone voted. As is well known among political

scientists and survey researchers, survey questions asking whether someone voted are notoriously subject to social desirability biases that lead to inflation in the estimated number of voters.

8. There are also errors and inconsistencies in the survey data, as is evident in the summary of the survey appended to Dr. Briggs' report. The appended summary includes a series of tables, called Topline Tables ("toplines"), for each state. The toplines provide basic statistics about the survey reported for each question, as well as the questions themselves and the response categories for each. There are errors in the spreadsheet of toplines that indicate data inconsistencies. For example, responses to Question 1 for the state of Wisconsin sum to more than the reported total number of cases. In the tables for Arizona, Michigan, Pennsylvania, and Wisconsin, the number of respondents to Question 1 who are supposed to be asked Question 2 does not sum to the number of respondents to Question 2. In two cases, there are too many respondents to Question 2 (Arizona and Michigan). And in two cases, there are too few respondents to Question 2 (Pennsylvania and Wisconsin). These errors infect and bias responses to Q2 and Q3. Generally, such errors indicate fundamental problems with the management of the survey and the databases generated by the survey. In standard survey practice, the presence of discrepancies in these Topline Tables indicates fatal flaws in the data that prompt researchers to clarify the problems and possibly discard the data altogether. Dr. Briggs' report makes no mention of these inconsistencies and errors and assumes that the underlying data are correct. These errors and inconsistencies reveal that the data are not correct.

9. The survey has extremely low response rates. The highest response rate is 1.5 percent (in Pennsylvania). The other four states have response rates of fractions of one percent, meaning that over 99 percent of people who the firm surveyed in the target group could not be contacted, refused to participate, or were not in fact the correct person. High non-response rates generally

create biases in survey results because the samples are rarely representative of the population under study. Surveys with as low a response rate as here are not accepted in scientific publications, except on rare occasions and with proper analyses that ensure the respondents are in fact representative. When researchers have low response rates, they must offer affirmative proof of representativeness or attempt to correct for biases. Neither has been done here.

10. In performing his analysis, Dr. Briggs extrapolates from the poorly designed survey with an extraordinarily high non-response rate and evident data errors and inconsistencies. The high non-response rate, data errors, and survey design flaws are all evident in the Topline Tables that Dr. Briggs appended to his report. These data should not have been relied on for this analysis given that they are not correct and that the respondents to the survey are highly unlikely to represent the population in question. The data, and Dr. Briggs' interpretation of it, are not up to scientific standards.

11. Dr. Briggs' interpretation that the data evinces voting "errors" and "troublesome ballots" fails to account for the rules and realities of absentee voting. First, Dr. Briggs designates as Error #1 absentee ballots that were received by voters but were not "requested." This interpretation fails to consider permanent absentee voters, who receive ballots without requesting them. All five states in the report allow for permanent absentee voting for some or all registrants. Second, Dr. Briggs designates as Error #2 ballots that were sent by voters but not recorded. This interpretation fails to account for late, undeliverable, rejected, and spoiled ballots. Most jurisdictions, for example, do not record late ballots in the tally of returned absentee ballots. The results in his analysis, if they are real, are likely the consequence of the normal practice of absentee voting.

III. Qualifications

12. I am the Frank G. Thompson Professor of Government in the Department of Government at Harvard University in Cambridge, MA. Formerly, I was an Assistant Professor at the University of California, Los Angeles, and I was Professor of Political Science at the Massachusetts Institute of Technology, where I held the Elting R. Morison Chair and served as Associate Head of the Department of Political Science. I am the Principal Investigator of the Cooperative Congressional Election Study (CCES), a survey research consortium of over 250 faculty and student researchers at more than 50 universities, directed the Caltech/MIT Voting Technology Project from its inception in 2000 through 2004, and served on the Board of Overseers of the American National Election Study from 1999 to 2013. I am an election analyst for and consultant to CBS News' Election Night Decision Desk. I am a member of the American Academy of Arts and Sciences (inducted in 2007). My curriculum vitae is attached to this report as Appendix B.

13. I have worked as a consultant to the Brennan Center in the case of *McConnell v. FEC*, 540 U.S. 93 (2003). I have testified before the U.S. Senate Committee on Rules, the U.S. Senate Committee on Commerce, the U.S. House Committee on Science, Space, and Technology, the U.S. House Committee on House Administration, and the Congressional Black Caucus on matters of election administration in the United States. I filed an amicus brief with Professors Nathaniel Persily and Charles Stewart on behalf of neither party to the U.S. Supreme Court in the case of *Northwest Austin Municipal Utility District Number One v. Holder*, 557 U.S. 193 (2009), and an amicus brief with Professor Nathaniel Persily and others in the case of *Evenwel v. Abbott* 138 S.Ct. 1120 (2015). I have served as a testifying expert for the Gonzales intervenors in *State of Texas v.*

United States before the U.S. District Court in the District of Columbia (No. 1:11-cv-01303); the Rodriguez plaintiffs in *Perez v. Perry* before the U. S. District Court in the Western District of Texas (No. 5:11-cv-00360); the San Antonio Water District intervenor in *LULAC v. Edwards Aquifer Authority* in the U.S. District Court for the Western District of Texas, San Antonio Division (No. 5:12cv620-OLG); the Department of Justice in *State of Texas v. Holder* before the U.S. District Court in the District of Columbia (No. 1:12-cv-00128); the Guy plaintiffs in *Guy v. Miller* in U.S. District Court for Nevada (No. 11-OC-00042-1B); the Florida Democratic Party in *In re Senate Joint Resolution of Legislative Apportionment* in the Florida Supreme Court (Nos. 2012-CA-412, 2012-CA-490); the Romo plaintiffs in *Romo v. Detzner* in the Circuit Court of the Second Judicial Circuit in Florida (No. 2012 CA 412); the Department of Justice in *Veasey v. Perry* before the U.S. District Court for the Southern District of Texas, Corpus Christi Division (No. 2:13cv00193); the Harris plaintiffs in *Harris v. McCrory* in the U. S. District Court for the Middle District of North Carolina (No. 1:2013cv00949); the Bethune-Hill plaintiffs in *Bethune-Hill v. Virginia State Board of Elections* in the U.S. District Court for the Eastern District of Virginia (No. 3: 2014cv00852); the Fish plaintiffs in *Fish v. Kobach* in the U.S. District Court for the District of Kansas (No. 2:16-cv-02105-JAR); and intervenors in *Voto Latino, et al. v. Hobbs* in the U.S. District Court for the District of Arizona (No. 2:19-cv-05685-DWL). I served as an expert witness and filed an Affidavit in the North Carolina State Board of Elections hearings regarding absentee ballot fraud in the 2018 election for Congressional District 9 in North Carolina.

14. My areas of expertise include American government—with particular expertise in electoral politics, representation, and public opinion—as well as statistical methods in social sciences and survey research methods. I have authored numerous scholarly works on voting behavior and elections, the application of statistical methods in social sciences, legislative politics

and representation, and distributive politics. This scholarship includes articles in such academic journals as the Journal of the Royal Statistical Society, American Political Science Review, American Economic Review, the American Journal of Political Science, Legislative Studies Quarterly, Quarterly Journal of Political Science, Electoral Studies, and Political Analysis. I have published articles on election law issues in the Harvard Law Review, Texas Law Review, Columbia Law Review, New York University Annual Survey of Law, and Election Law Journal, for which I am a member of the editorial board. I am associate editor of the Harvard Data Science Review and have served as associate editor of the Public Opinion Quarterly. I have coauthored three scholarly books on electoral politics in the United States, The End of Inequality: Baker v. Carr and the Transformation of American Politics, Going Negative: How Political Advertising Shrinks and Polarizes the Electorate, and The Media Game: American Politics in the Media Age. I am coauthor, with Benjamin Ginsberg and Ken Shepsle, of American Government: Power and Purpose.

IV. Sources

15. I have relied on the report of Dr. William Briggs, especially the appended Topline Tables.

16. I have relied on the Election Assistance Commission, "Election Administration and Voting Survey (EAVS) for 2018: https://www.eac.gov/research-and-data/studies-and-reports. I present data from 2018 because it is the most recent federal election for which data on absentee and permanent absentee voting is available. The 2018 data are instructive about the magnitude of permanent absentee voters and of the magnitude of unreturned, late, rejected, and spoiled absentee ballots. The 2020 data are not yet reported.

V. Findings

18. In my professional judgment there are fundamental flaws in the survey design and survey data that Dr. Briggs relied on, as well as in his interpretation of answers to the survey questions. These flaws create biases in his estimates and analyses of the survey results. The survey is likely highly unrepresentative because it has a response rate of less than 1 percent. The survey data are contaminated by respondents who should not have been included in the survey. The basic data in the Topline summaries of the data do not add up, indicating fatal flaws in the implementation of the survey. These flaws in the survey design, implementation, and data mean that the respondents to the survey cannot be assumed to be representative of the population being studied, and the survey data cannot be assumed to be accurate.

A. Critique of Interpretation

i. The survey data and its interpretation does not account for Permanent Absentee and Early Voters (PEV).

19. The analysis of Question 2 is used to estimate the number of people who received but did not request an absentee ballot. Briggs calls this Error #1.

20. The interpretation of these data as an Error in balloting does not account for the presence of a large number of Permanent Absentee and Early Voters (PEVs) in Arizona, Michigan, Pennsylvania, and Wisconsin. Georgia automatically mails ballots for voters who qualify for "rollover" ballots—people who are over 65, disabled, or in the military, and who sign up annually to have ballots automatically sent to them. I consider rollover ballots to be a form of PEV, but the voter does need to sign up each year.

21. PEVs are automatically sent their absentee ballots. They do not need to request that a ballot be sent for a particular election.

22. There are a sizable number of PEVs in the five states under study. Table 1 presents data from the number of absentee ballots sent in 2018 and the number of permanent absentee ballots sent to voters in Arizona, Georgia (rollover ballots), Michigan, Pennsylvania, and Wisconsin. The number of permanent absentee ballots sent in Arizona, Michigan, and Wisconsin far exceeds the estimated Error #1 in the first table in Briggs' report. The EAC reports no data on permanent absentee ballots for Georgia in 2018. Those data cover 2018 and are presented to indicate the likely magnitude of PEVs in the states in 2020.

23. There were at least 582,000 "rollover" ballots in Georgia in 2020.[2] This figure far exceeds the total number of absentee ballots that Dr. Briggs classifies as Error #1—those who received ballots without requesting them.

24. The survey makes no effort to distinguish PEVs from other sorts of absentee voters. Not accounting for PEVs is a serious error in survey design and interpretation of the survey numbers.

Table 1. Permanent Absentee Voters in Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin in 2018

	Total Absentee Ballots Sent	Permanent Absentee Ballots Sent	Permanent Absentee Ballots as a Percent of Total

[2] Stephen Fowler, "Nearly 800,000 Georgians Have Already Requested Absentee Ballots for November" GA Today gpb.org, September 2, 2020. https://www.gpb.org/news/2020/09/02/nearly-800000-georgians-have-already-requested-absentee-ballots-for-november

		(i.e., ballots sent automatically without a specific ballot request)	
Arizona	2,672,384	2,545,198	95.2%
Georgia	281,490	*	*
Michigan	1,123,415	549,894	48.9%
Pennsylvania	216,575	6,340	2.9%
Wisconsin	168,788	54,113	32.1%
Source: EAC, EAVS 2018. Note: * means no data reported.			

ii. The interpretation of Question 3 fails to account for the proper handling of late, invalid, and spoiled absentee ballots by Local Election Offices.

25. The analysis of Question 3 is used to estimate the number of people who stated they returned an absentee ballot, but for whom no vote was recorded. Dr. Briggs calls this Error #2.

26. His interpretation does not account for absentee ballots that are in fact not received or counted by election officers because the ballots are not returned by the postal system, are spoiled, are returned late, or are rejected. Such ballots are the obvious explanation for the data observed. No effort in the survey or the analysis is made to ascertain the likelihood that a voter cast a late or invalid absentee ballot. As noted below there are other problems with this question that make it impossible to take the Error #2 estimates at face value.

27. It is my experience researching elections over the past two decades that "uncounted" absentees are a normal part of the election process. Table 2 presents counts of rejected, late, undelivered, and voided absentee ballots in Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin for 2018, the most recent federal election for which systematic data on absentee voting are available. An undeliverable absentee ballot is one that was returned to the election office as not being deliverable to the address on the voter registration lists. The final column presents the number of sent absentee ballots not received by voters and for which the status of the ballot is unknown. It is likely these ballots were simply not returned by voters or were lost or delayed in the US Postal System. Delays in the postal system was a particular concern in 2020, as there were widespread reports of staffing problems during COVID for USPS, delays in mail delivery, and declines in the rate of on-time delivery.[3]

28. The magnitude of ballots that are returned to the office but are rejected, spoiled, or late is quite large. The sum of the columns reflecting these numbers is comparable in magnitude to that of "Error #2" in Dr. Briggs' report. These figures are not definitive of the numbers in 2020, which have not yet been reported. Rather, they demonstrate the fact that there are sound, documented administrative reasons that returned absentee ballots are not recorded as having been voted, especially tardiness, spoilage, and rejection for lack of signatures, valid envelopes, and the like. These are ballots that are not allowed to be counted under law, and they are comparable in magnitude to the estimates of Error #2 reported by Dr. Briggs for each state.

Table 2. Rejected, Undelivered, Voided, and Late Absentees in Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin in 2018

[3] Hailey Fuchs, "Some Regions Still Experience Slow Delivery of Mail Ballots," New York Times, November 3, 2020, Section A, Page 23. https://www.nytimes.com/2020/11/02/us/politics/mail-ballot-usps.html

	Rejected Absentee Ballots	Undeliverable Absentee Ballots	Spoiled/Voided Absentee Ballots	Late Absentee Ballots	Status Unknown
Arizona	8,567	102,896	27,804	2,515	642,210
Georgia	7,512	2,322	252	3,525	36,255
Michigan	6,013	791	19,679	2,207	41,120
Pennsylvania	8,714	*	*	8,162	20,622
Wisconsin	2,517	1,718	2,794	1,445	12,407

Source: EAC, EAVS 2018.

Note: * means no data reported.

B. Critique of Survey Design

29. Dr. Briggs offers no assessment of the design of the survey that generated the data that he presents. Rather, he assumes that the data are accurate. Also, there is no report of the survey design, beyond the information embedded in the Topline Tables. It would be standard for any scientifically sound report of survey data to describe fully the survey instrument used in the study and to make it publicly available.

30. It is my understanding that Matthew Braynard designed and conducted these surveys. The methodology he used is described in his expert report, submitted December 4, 2020.

i. The surveys have unacceptably high non-response rates.

31. The response rate to the survey is measured as the number of people who answered the first substantive question (Q2) in the survey divided by the number of people whom the

surveyor sought to contact. The response rate is less than 1 percent in Arizona, Georgia, Michigan, and Wisconsin, and it is 1.5 percent in Pennsylvania. These response rates are extremely low and a critical threat to any inferences one might draw from the data.

32. In his report, Mr. Braynard identifies that the survey attempts to interview all registered voters who were recorded as requesting but not returning an absentee ballot. Mr. Braynard's firm attempted to match phone numbers to records of registered voters in each of the states and then attempted to interview all the people associated with each registration record of interest.

33. The appendix to Dr. Briggs' report presents a set of tables, the first of which is for the state of Georgia and is titled: Unreturned_Absentee Live ID Topline Tables. Each of the five states that Dr. Briggs studies have similar Topline Tables. It is evident from the toplines that there are significant shortcomings in the ability of the survey firm to match phone numbers to registration records. The field called "Data Loads" corresponds to the number of matched phone numbers that were loaded into the survey system to be called. They are only a fraction of the population of all Unreturned Absentees.

34. The toplines also list Completes. These are phone numbers for which an interview commenced, an answering machine was reached, or a returned call was requested. For example, in the topline table for Georgia, the first three rows of the first table (QA5, Answering Machines, and up/RC) sum to 15,179, which is the number of Completes listed on the top of the table.

35. There is no description in Dr. Briggs' report of the generation of Data Loads or the methodology used for determining matches of phone numbers to registration records. Matching is a difficult process. Mismatches, either false positives or false negatives, will generate errors in surveys. Incorrectly matched phone numbers will lead the surveyor to interview the wrong person

(a false positive), and errors in matching may lead the researcher to exclude the person from the survey when in fact a valid number could have been found (a false negative).[4]

36. The percent of registered voters with Unreturned Absentees who were recorded as "Completes" in the Toplines is 10 percent or less in every state. The Completes as a percent of Unreturned Absentee Ballots is the middle column of Table 3. The rate of Completes is as low as 1 percent (in Arizona) and as high as 11 percent (Georgia). Thus, 90 percent of the potential respondents to the survey were lost even before the survey began. There is no analysis as to why the survey failed to identify a higher number of valid phone numbers for the people the researchers sought to interview, and there is no attempt to ensure that the people for whom a valid phone number could be found are similar to those for whom a valid phone number could not be found.

37. Once the survey commences, there is first a screener question to determine whether the person interviewed should continue with the interview. That is Question 1. Question 2 is the first question of interest in Dr. Briggs' analysis. It asks, "Did you request an Absentee Ballot in the State of <state name>?" Respondents could answer Yes, No, some other answer, Refuse to answer, or Hang up.

38. The response rate to the survey is the number of valid responses to Question 2, i.e. the total number of responses to the question less the number of people who refused to answer or hung up. The second column of Table 3 is the percent of people the researchers sought to interview (all Unreturned Absentee Ballots) who ultimately gave a valid response to Question 2.

39. The response rates to this survey are perilously low. Pennsylvania has the highest response rate of 1.5 percent. Michigan comes next at .8 percent (eight-tenths of one percent);

[4] Alan S. Gerber and Donald P. Green, "Can Registration-Based Sampling Improve the Accuracy of Midterm Election Forecasts?" Public Opinion Quarterly 70 (2006): 197-223, esp. page 202.

Arizona has a response rate of .6 percent (six-tenths of one percent); and Georgia and Wisconsin each have response rates of .4 percent (four-tenths of one percent).

40. Once the entire survey process had been completed, over 99 percent of people whom the researcher sought to interview were not interviewed in Arizona, Georgia, Michigan, and Wisconsin. In Pennsylvania, 98.5 percent of those the researchers set out to study were ultimately not included in the study for one reason or another.

41. This is an extremely high non-response rate. In most disciplines of study that I am familiar with, these response rates would indicate that the underlying sample on which a survey relied is not scientifically acceptable or reliable. For example, I am an associate editor of the Harvard Data Sciences Review, which broadly covers fields of statistics and data sciences, and specialty fields—such as political science, public opinion, survey methodology, and economics—in which I have published. Papers with high non-responses like those in Dr. Briggs' report are rejected on their face as not plausibly valid studies.

42. Dr. Briggs' assumption that those who responded to the question are representative of the relevant population under study (i.e. the other 99 percent of people who could not or would not participate in the survey) is heroic. When surveys have high non-response rates, it is standard practice to analyze information about the sample and the target population, such as demographic characteristics or behavioral and attitudinal statistics, to confirm that the assumption of representativeness of a sample can be maintained. In fact, this is done even when response rates are quite high. When the response rates are very low, however, such an analysis is *necessary* in order to determine whether there is any scientific value to the survey. No such analysis is offered here.

Table 3. Response Rates to Surveys Reported by Dr. William Briggs		
State	"Completes"/ Unreturned Absentee Ballots	Question 2 Valid Response/ Unreturned Absentee Ballots
Arizona	.011	.006
Georgia	.110	.004
Michigan	.027	.008
Pennsylvania	.109	.015
Wisconsin	.048	.004
Note: Ballots is the number of registered voters the survey sought to reach. See Table 1 of Briggs' report. "Completes" is the number of "complete" contacts in the firsts part of each state's topline report. Question 2 Response is the number of respondents who answered Question 2 and did not Refuse or Hangup.		

ii. The survey has an unacceptably high interview breakoff rate.

43. The breakoff rate in surveys is the rate at which people who start the survey breakoff, for whatever reason. The interview may be stopped by the respondent or by the surveyor. In the toplines, these are indicated as refusals and hang ups. The breakoff rate is measured as the number of people answering the last question in the survey divided by the number of Completes. The opposite of the breakoff rate is the survey completion rate.

44. The breakoff rates are extremely high in these surveys. The breakoff rates are 87.8 percent in Arizona, 98.8 percent in Georgia, 93.5 percent in Michigan, 95.4 percent in

Pennsylvania, and 90.6 percent in Wisconsin. In Georgia the breakoff rate of 98.8 percent means that once the survey began, only 1.2 percent of respondents made it to the end.

45. The breakoff rate is a quality control indicator. Very high breakoff rates, such as those observed here, are signs of quality control problems with the survey itself, such as hostile or poorly trained interviewers or poorly worded questions. Any experienced survey researcher uses high breakoff rates to catch quality control failures. The surveys here have extremely high rates of survey failures, which indicates the data produced are of very poor quality.

iii. The screening question improperly allows people to take the survey who should not.

46. A second substantial flaw in the survey is that the instructions allow people who are not affirmatively determined to be the correct person to take the survey.

47. Past research has documented that phone surveys using registered voter lists are often answered by someone other than the person who was listed on the registered voter file. The two most common problems are that the wrong number was matched to the voter list and that someone other than the person the research sought to speak with answered the phone. The latter occurs most often with landlines.[5]

48. Question 1 (Q1) of the survey asks, "May I please speak to <lead on screen>?" "Lead on screen" is the name from the voter registration list that is linked to the phone number the survey has dialed. Responses to Q1 are listed as reached target, other/uncertain, refused, and hang up. For example, in the first table (Georgia), the responses are "Reached Target [Go to Q2]" and "[Go to Q2]," without further explanation. For other states, the toplines describe this second response

[5] Pew Research Center, "Comparing Survey Sampling Strategies: Random-Digit Dialing vs. Voter Files," 2018. https://www.pewresearch.org/methods/2018/10/09/comparing-survey-sampling-strategies-random-digit-dial-vs-voter-files/, See page 25-26.

category as "Uncertain" or "What's this about?" Importantly, cases classified as "Reached Target" and as "Uncertain" are both instructed to "Go to Q2."

49. This is an error in the branching design of the survey. People who are not affirmatively identified as the correct person for the interview are allowed to answer the remaining questions in the survey. For example, responses to Questions 2 and 3 evince that spouses and other family members were asked Questions 2 and 3 even though they were not the people whose absentee voting records were in question.

50. A significant percent and number of respondents who are listed as not giving an affirmative answer to Question 1 are in fact kept in the survey and asked Question 2. Table 4 shows the percent and number of respondents who were asked Questions 2 and 3 inappropriately because they were not affirmatively identified as "the target." This error in the survey design affects 13 percent of cases in Arizona and Michigan, 16 percent of cases in Pennsylvania, and 25 percent of cases in Georgia. It is not possible to calculate the percent in Wisconsin because the topline report pools the "Reached Target" and "Uncertain" in a single response category.

51. This survey branching error contaminates all the results and is of sufficient magnitude to alter the results significantly, perhaps explaining away all the survey findings entirely. The number of respondents in Georgia who were improperly asked Question 2 is larger than the number of respondents who said that they did not request an absentee ballot. In Pennsylvania, it explains most of the people who did not request an absentee ballot. In Arizona and Michigan, it can explain half of those who did not request an absentee ballot.

52. As shown in Part D, this branching error in the survey design can completely account for the number of people who answered that they did not request an absentee ballot in the State of

Georgia. In the survey data for Georgia, there were 255 people who were classified as "Uncertain" in Question 1 and 142 respondents who answered that they did not request a ballot.

53. These figures and aspects of the survey design show that the data for Q2 and Q3 were contaminated by improper branching from Q1. This information was available to, and even reported by, Dr. Briggs, but he did not take it into account in calculating or interpreting his Error #1 and Error #2.

Table 4. Respondents Who Were Not the Target of the Survey Were Allowed to Answer the Survey	
State	Percent and Number of respondents to Q1 who were NOT the target registrant, but who were asked Q2
Arizona	12.6% [N=335]
Georgia	25.0% [N=255]
Michigan	12.9% [N=142]
Pennsylvania	15.7% [N=422]
Wisconsin	*
* The Topline Table for Wisconsin pools respondents who were coded as "Reached Target" and "Uncertain" and "What is this about?" It is not possible to identify how many Wisconsin respondents were inappropriately asked Question 2.	

iv. Question 2 (did you request an absentee ballot) does not ascertain Permanent Absentee Voters or disambiguate Permanent Absentee Voters from Other Voters.

54. Question 2 is not sufficiently clear and specific to answer the question the researcher wants to answer. The survey does not ascertain whether respondents are permanent absentee voters or have a designated person who may request a ballot on their behalf, even though Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin allow for some or all voters to be permanent absentee voters. Permanent absentee voters do not need to request a ballot in order for one to be sent to them for a specific election.

55. The presence of permanent absentee voters in the registration system creates ambiguity in the interpretation of the question. Some permanent absentee voters may answer yes because they registered for permanent absentee status, while others may say no because they do not need to request a ballot to receive one. The ambiguity of Question 2, and the failure to disambiguate permanent absentee voters from other absentee voters in the responses, introduces measurement error in the survey. Additional survey questions are required to distinguish different types of absentee voters.

56. The measurement error will create errors in the survey that are of the form of Error #1 described by Dr. Briggs. These "errors" reflect cases that would be wrongly identified as people who were erroneously sent a ballot, even though they did not request one. In fact, they did not need to request one. The survey data cannot be used to draw the conclusion that some survey respondents received an absentee ballot in error.

v. The survey cannot determine whether there was an error in handling of the ballot.

57. Dr. Briggs describes a second sort of error in absentee balloting that arises because people say they returned a ballot, but no absentee ballot is received or recorded by the election office.

58. It is my experience working with election administrators and researching election administration as part of the Caltech/MIT Voting Technology Project that many absentee ballots are not recorded or counted because they are not received on time or are not properly prepared and submitted. Late absentees are not accepted, and they are usually not recorded in the tally of ballots received. Ballots that are spoiled, unsigned, or in the incorrect envelopes or rejected for some other reason are not counted. The fact that there is no record of a vote or of a received absentee ballot is not necessarily evidence of an error in the handling of the ballot. Instead, it may be evidence of correct treatment of ballots by the election officials in accordance with state laws.

59. Question 3 does not ascertain when the ballot was mailed back or how it was mailed. There is no follow up question asking when the ballot was sent, whether it was signed, whether it was witnessed (in states where that is a requirement), and in what envelope it was sent. In short, the question does not allow one to determine whether or not the ballot was returned in compliance with state laws, and thus whether there was or was not an error in handling the ballot. It is incorrect for Dr. Briggs to conclude that ballots that were not received or recorded are in fact errors.

vi. Question 3 is subject to memory errors and social desirability bias.

60. Question 3 asks people whether they voted. Specifically, it asks people who said they requested an absentee ballot whether they returned an absentee ballot—that is, whether they voted that ballot.

61. It has long been understood in political science that respondents to surveys over-report voting in elections. Typically, the overstatement is approximately 10 to 20 percentage points. That

is, if 65 percent of people in a sample actually voted, the reported vote rates in surveys are usually around 75 to 85 percent. The most commonly identified sorts of biases are memory errors and social desirability bias in questions asking people whether they voted.[6] In the context of this survey, such biases would lead to overstatement of Yes responses to Question 3.

C. Critique of the Survey Databases and Data Analyses

62. There are obvious data errors and inconsistencies revealed in the toplines that are appended to Dr. Briggs' report. As I understand his report, the toplines are based on the data and reports that he relied on in making his estimates and projections. Dr. Briggs states that he assumes "the data is accurate." I have examined the accounting in the Topline Tables and discovered that the data do not add up. A routine analysis to check the consistency and integrity of data reported in the toplines is standard practice in the survey research field. I have performed such a check, and it reveals that the data lack integrity and are not correct. They should not be assumed to be accurate.

i. The figures on responses to Q1 simply do not add up for the State of Wisconsin.

63. The Topline table for Wisconsin reports that 2,261 people were coded as either "A-Reached Target" or "B-What Is This About?/Uncertain." An additional 1,677 respondents were coded as "X=Refused." No other response categories are reported. The sum of 1,677 and 2,261 is 3,938. The bottom of the table reports the "Sum of All Responses" is 3,495. The rows clearly do not total to the reported bottom line.

64. All other survey questions and calculations for this table branch off of Question 1. Therefore, errors in this question infect responses to Questions 2 and 3 and make it unacceptable

[6] See for example, Allyson L. Holbrook and Jon A. Krosnick, "Social Desirability Bias in Voter Turnout Reports: Test Using the Item Count Technique," *Public Opinion Quarterly* 74 (2010): 37-67. See also Stephen Ansolabehere and Eitan Hersh, ,"Validation: What Big Data Reveal About Survey Misreporting and the Real Electorate," *Political Analysis* 20 (2012): 437-459.

for anyone to rely on the table to form conclusions. The branching error is a red flag for survey researchers indicating lack of data integrity. It should have signaled to the analyst, in this instance Dr. Briggs, that there is a problem with the programs that generated the data for this and other states. This red flag was the first one indicating to me that the data cannot be assumed to be accurate.

ii. The survey data for Questions 1 and 2 cannot be reconciled.

65. I have examined the accounting across questions to make sure the number of cases that are indicated as passing from Question 1 to Question 2 are the same as the number of cases reported for Question 2. For Georgia, the data across questions are consistent, but for Arizona, Michigan, Pennsylvania, and Wisconsin there are substantial and idiosyncratic discrepancies. The accounting for Q1 and Q2 is shown in Table 5.

66. First, consider Georgia. Question 1 has two categories: Reached Target and Uncertain. There are 767 Reached Target and 255 Uncertain. Those sum to 1,022. Those two groups are then asked Question 2. Question 2 has several response categories. There are 591 Yes responses, 128 No responses, 175 "other" responses across various options (e.g., "member [Go to Q3]"), 70 Refused, and 58 Hang ups. These sum to 1,022. For Georgia, the total number of responses to Q2 equals the total number of respondents coded for Q2, and the data appear to be okay. But, looking at the other states reveals inconsistencies that lead me to doubt the integrity and veracity of any of the data presented here, including Georgia.

67. Second, consider Arizona. The topline table for Q1 has 2,147 respondents who are either "Reached Target" or "Uncertain" and are instructed to Go to Q2. Applying the same accounting used for Georgia in Arizona, there are 2,489 respondents listed in Q2. That is, there are more than 300 respondents who answered Q2 but were not indicated in the accounting for Q1 as

directed to that question. There is no other way indicated in the survey data to get to Q2 without going through Q1.

68. Third, consider Michigan. The topline for Q1 has 1,100 respondents who are either "Reached Target" or "Uncertain." However, there are 1,515 respondents to Q2. Thus, 415 people were asked Q2 that were not allowed to do so under the branching rules of the survey.

69. Fourth, consider Pennsylvania. The topline table for Q1 has 2,684 respondents who are either "Reached Target" or "Uncertain." However, there are 2,537 respondents to Q2. That is, 147 fewer people were asked Q2 than were supposed to have been asked.

70. Fifth, consider Wisconsin. The topline for Q1 has 3,938 respondents who are either "Reached Target" or "Uncertain." However, there are 2,723 respondents to Q2. That is, 1,215 fewer people were asked Q2 than were supposed to have been asked.

Table 5. Accounting Discrepancies in the number of cases reported in Toplines for Question 1 and Question 2 by State

State	Question 1 Number of Cases "Reached Target" or "Uncertain/Other"	Question 2 Number of Cases "Sum of All Responses"	Difference Number (%)
Arizona	2,147	2,489	-342*
Georgia	1,022	1,022	0
Michigan	1,100	1,515	-415
Pennsylvania	2,684	2,537	+147
Wisconsin	3,938	2,723	+1,215

Source: Toplines appended with Dr. William Briggs' report.

* Negative values mean there are fewer Reached Target or Uncertain responses to Question 1 than there are to Question 2. Positive values mean there are more Reached Target or Uncertain responses to Question 1 than there are to Question 2.

71. I attempted to resolve these discrepancies by removing refusals and hang ups, but different discrepancies arose. The discrepancies in the accounting in Arizona or Michigan were not resolved by removing the hang ups or refusals. And, doing so created accounting discrepancies elsewhere. Georgia developed a deficit of cases, and the deficits in Pennsylvania and Wisconsin worsened.

72. These errors in the spreadsheets will also contaminate the data in Q3, as the classification of respondents according to Q1 and Q2 determines whether the individual is asked Q3.

73. In my experience running, designing, and analyzing large scale surveys through the Cooperative Congressional Election Study and serving on the board of the American National Election Study, errors such as these usually have two sources: (i) errors in the program that assigns questions to people, or (ii) errors in the program that generates the spreadsheet. Either sort of error is catastrophic for this analysis, and they render the estimates, projections, and inferences in Dr. Briggs' report entirely unreliable.

74. In sum, the Topline Tables indicate that the survey data fail the most rudimentary data integrity checks. There are inconsistencies throughout the data that Dr. Briggs relied on. This leads me to conclude that the programs used to generate the survey spreadsheets for the survey, or the underlying survey themselves, are not reliable or correct. Dr. Briggs assumed that the data are

accurate. The inconsistencies in the spreadsheets and failures in the integrity checks lead me to conclude that the data, on their face, cannot be assumed to be correct or accurate.

iii. There are inconsistencies in calculations.

75. I performed a sensitivity analysis of Dr. Briggs' calculations of the estimated ranges of Error #1 and Error #2. Specifically, I sought to explore how various discrepancies in the accounting might affect the estimates presented in Dr. Briggs' report. The figures he presents are extrapolations from a few hundred survey responses to tens of thousands of absentee requests. Thus, errors in a few dozen cases out of the few hundred survey responses that he identifies as errors would be highly consequential.

76. In performing the sensitivity analysis, I discovered that there were substantial inconsistencies in the way that Dr. Briggs calculated the rates of Error #1 and Error #2 using the survey data.

77. Consider, first, the calculation of Error #1. I converted the first table in Dr. Briggs' report from counts to percentages. I did this by dividing his lower and upper bound estimates for Error #1 by the total number of ballots. These are reported in the second column of Table 6. Second, I calculated the percent of people who responded No or No on behalf of their spouse to Question 2 and divided by the number of responses to Question 2. Third, I report two different Numbers of Cases used in making the calculations: the number of cases reported as "Sum of All Responses" in the Topline Tables, and that number less respondents who refused to answer. Finally, I calculated the percent of respondents who answered No to Q2 or whose spouse answered No to Q2 using the two different numbers of cases in column 4. I underline the number that was used by Dr. Briggs to estimate Error #1 for each state. These calculations are shown in the fifth column of Table 6.

Table 6. Calculation Inconsistencies in the Estimates for Error #1				
State	Range Of Error #1 Expressed in Percentages	Question 2 Number of Cases "Sum of All Responses"	Number of Cases	Percent of Respondents Who answered No to Q2
Arizona	40.2 to 44.3%	885 No 21 Spouse - No	2,489 2,126 (less refusals)	36.4% 42.6%
Georgia	12.3 to 16.5%	128 No 14 Spouse - No	964 894 (less refusals)	14.7% 15.9%
Michigan	21.3 to 26.2%	239 No 17 Spouse - No	1,515 1,106 (less refusals)	16.9% 23.1%
Pennsylvania	19.6 to 22.6%	531 No 25 Spouse - No	2,537 2,430 (less refusals)	21.9% 22.9%
Wisconsin	16.9 to 19.9%	379 No 4 Spouse - No	2,723 2,162 (less refusals)	14.1% 17.7%
Source: Toplines appended with Dr. William Briggs' report.				

78. Dr. Briggs is inconsistent in his calculations. In Georgia and Pennsylvania, the denominator is the sum of all responses (that is, all cases who reach Q2). But in Arizona, Michigan, and Wisconsin, he excludes some respondents from the total number of cases. The effect of excluding those cases is to inflate the estimates by 6.2 percentage points for Arizona, by 6.2

percentage points for Michigan, and by 3.6 percentage points for Wisconsin. In Arizona and Wisconsin, the estimate using all cases in the denominator lies outside of the range of possible rates of Error #1 provided by Dr. Briggs. The estimates he offers are highly sensitive to which denominator he chooses to use in making his calculations. This inconsistency shows a lack of rigor in performing the analysis that was presented.

79. Similar inconsistencies arise in the analysis of Question 3 for the estimation of the rate of Error #2. Table 7 parallels Table 6, but for Question 3. The second column shows the ranges of Error #2 expressed in Percentages. The third column shows the Number of respondents who answered Yes or Yes on behalf of their spouse. The fourth column is the number of respondents to Q2 and to Q3. The fifth column is the Percent of Survey Respondents who Answered Yes to Question 3.

80. Different denominators are used for the calculation of Error #2 in different states. In two instances (Georgia and Pennsylvania), Dr. Briggs uses the number of responses to Q2 as the denominator. In three instances (Arizona, Michigan, and Wisconsin), Dr. Briggs uses the number of responses to Q3 and does not adjust for refusals, as was done in Table 6. He offers no explanation of his calculations or why he chose different denominators in different instances. It is highly unusual to see different statistical formulas used for the computation of what is supposed to be the same quantity for different cases (in this instance the states) in the same report. The basic statistical methods deployed here lack rigor.

81. Dr. Briggs' estimates fail the sensitivity analysis suggested by his own calculations. The ranges presented in his report are not robust to variations in the formulas that he himself uses. In his report, he reports a range of possible values for Error #1 and Error #2. Values outside of those ranges are highly unlikely to occur. The sensitivity analysis I have conducted reveals that

simply using the different formulas he deploys yields values that fall outside the ranges that he presents. He uses the Number of Cases for Q2 in calculating Error #2 for Georgia and Pennsylvania, and the Number of Cases for Q3 in calculating Error #2 for Arizona, Michigan, and Wisconsin. Consistently using the Number of Cases for Q2 produces estimated values of Error #2 that are below the lower bound estimates for Arizona (14.3 versus 15.2), for Michigan (16.0 versus 20.6), and for Wisconsin (11.9 versus 14.4). Hence, the estimated range of Error #2 presented in Dr. Briggs' report is not robust even to variations in the way he calculates that rate from the survey data.[7]

Table 7. Calculation Inconsistencies in the Estimates for Error #2

State	Range Of Error #2 Expressed in Percentages	Question 2 Number of Cases "Sum of All Responses"	Number of Cases	Percent of Respondents Who answered Yes to Q3
Arizona	15.2 to 18.3%	344 Yes 11 Spouse - Yes	Q2: 2,489 Q3: 2,129	14.3% 16.7%
Georgia	22.9 to 28.2%	240 Yes 17 Spouse - Yes	Q2: 964 Q3: 623	26.4% 41.3%
Michigan	20.6 to 24.9%	232 Yes 10 Spouse - Yes	Q2: 1,515 Q3: 1,090	16.0% 22.2%
Pennsylvania	16.3 to 19.1%	452 Yes	Q2: 2,537	18.2%

[7] By robust, I mean that variations in the numbers used fall outside of the ranges of likely values predicted by the analysis. In this particular instance, the conclusions are not robust for the variation in the formula used.

		11 Spouse - Yes	Q3: 1,137	40.7%
Wisconsin	14.4 to 17.3%	316 Yes 9 Spouse - Yes	Q2: 2,723 Q3: 2,154	11.9% 15.1%
Source: Toplines appended with Dr. William Briggs' report.				

D. Sensitivity

82. A further exercise in sensitivity analysis is to measure the effect on the analysis of Q2 of the inclusion of people who should not have been included. To see the potential effect of the inclusion of these people in the analysis, assume that all of the people who answered Uncertain Q1 in fact answered No to Question 2. That is an assumption for the sake of sensitivity analysis.

83. What is the potential effect of this branching error alone (excluding all other issues) on the survey estimates? Table 8 entertains that possibility. The Adjusted Percent who Responded No to Q2 subtracts the Number of Uncertain Cases from the Numerator *and* the Denominator. The rate of Error #1 cases is substantially reduced in every one of the states by the exclusion of these cases. In every case, the adjusted rate is far below the estimate provided in Dr. Briggs' report. In Georgia, that rate falls entirely to 0. That is, the branching error can completely account for his Error #1 results in Georgia. The data and estimates are highly sensitive to the problems of survey design and computational formulas used.

Table 8. Calculation Inconsistencies in the Estimates for Error #1

State	Range Of Error #1 Expressed in Percentages	Question 2 Number of Cases "Sum of All Responses"	Number of "Uncertain" Responses to Q1	Adjusted Percent of Respondents Who answered No to Q2 (without "Uncertain" cases)
Arizona	40.2 to 44.3%	885 No 21 Spouse - No	335	26.7%
Georgia	12.3 to 16.5%	128 No 14 Spouse - No	255	0%
Michigan	21.3 to 26.2%	239 No 17 Spouse - No	142	13.9%
Pennsylvania	19.6 to 22.6%	531 No 25 Spouse - No	422	5.3%
Wisconsin	16.9 to 19.9%	379 No 4 Spouse - No	unknown	No calculation Possible
Source: Toplines appended with Dr. William Briggs' report.				

E. Conclusion

84. The estimates and projections presented by Dr. Briggs are based on survey data collected in Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin. My overall assessment of these data is that they are unreliable and riddled with accounting and survey design errors. These errors are of sufficient magnitude and severity as to make the estimates completely uninformative.

85. The data are not accurate. The Topline summaries of the survey data appended to Dr. Briggs' report reveal fatal accounting errors in the data. No sound estimates or inferences can be drawn based on these data.

86. Each of these problems would create significant biases in the estimates and projections offered in Dr. Briggs' report, and no valid estimates and conclusions can be made based on these data. Dr. Briggs assumed at the outset that the respondents to the surveys are representative and the data are accurate. Neither assumption is correct. Indeed, the information contained in and appended to Dr. Briggs' report showed that to be evident. Even the most basic review of the information about the survey reveals deep flaws in the design and errors and inconsistencies in the accounting of the survey design. These data, and the analyses based on them, do not meet the standards for scientifically acceptable research and should not be relied on at all.

Signed at Boston, Massachusetts, on the date below.
Date: December 4, 2020



Stephen Ansolabehere

STEPHEN DANIEL ANSOLABEHERE

Department of Government
Harvard University
1737 Cambridge Street
Cambridge, MA 02138
sda@gov.harvard.edu

EDUCATION

Harvard University	Ph.D., Political Science	1989
University of Minnesota	B.A., Political Science	1984
	B.S., Economics	

PROFESSIONAL EXPERIENCE

ACADEMIC POSITIONS

2016-present	Frank G. Thompson Professor of Government, Harvard University
2008-present	Professor, Department of Government, Harvard University
2015-present	Director, Center for American Politics, Harvard University
1998-2009	Elting Morison Professor, Department of Political Science, MIT (Associate Head, 2001-2005)
1995-1998	Associate Professor, Department of Political Science, MIT
1993-1994	National Fellow, The Hoover Institution
1989-1993	Assistant Professor, Department of Political Science, University of California, Los Angeles

FELLOWSHIPS AND HONORS

American Academy of Arts and Sciences	2007
Carnegie Scholar	2000-02
National Fellow, The Hoover Institution	1993-94
Harry S. Truman Fellowship	1982-86

PUBLICATIONS

Books

2019 *American Government*, 15th edition. With Ted Lowi, Benjamin Ginsberg and Kenneth Shepsle. W.W. Norton.

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2005 "Voters, Candidates and Parties" in *Handbook of Political Economy*, Barry Weingast and Donald Wittman, eds. New York: Oxford University Press.

2003 "Baker v. Carr in Context, 1946 – 1964" (with Samuel Isaacharoff) in *Constitutional Cases in Contex*t, Michael Dorf, editor. New York: Foundation Press.

2002 "Corruption and the Growth of Campaign Spending"(with Alan Gerber and James Snyder). *A User's Guide to Campaign Finance*, Jerry Lubenow, editor. Rowman and Littlefield.

2001 "The Paradox of Minimal Effects," in Henry Brady and Richard Johnston, eds., *Do Campaigns Matter*? University of Michigan Press.

2001 "Campaigns as Experiments," in Henry Brady and Richard Johnson, eds., Do *Campaigns Matter*? University of Michigan Press.

2000 "Money and Office," (with James Snyder) in David Brady and John Cogan, eds., *Congressional Elections: Continuity and Change*. Stanford University Press.

1996 "The Science of Political Advertising," (with Shanto Iyengar) in *Political Persuasion and Attitude Change*, Richard Brody, Diana Mutz, and Paul Sniderman, eds. Ann Arbor, MI: University of Michigan Press.

1995 "Evolving Perspectives on the Effects of Campaign Communication," in Philo Warburn, ed., *Research in Political Sociology*, vol. 7, JAI.

1995 "The Effectiveness of Campaign Advertising: It's All in the Context," (with Shanto Iyengar) in *Campaigns and Elections American Style*, Candice Nelson and James A. Thurber, eds. Westview Press.

1993 "Information and Electoral Attitudes: A Case of Judgment Under Uncertainty," (with Shanto Iyengar), in *Explorations in Political Psychology*, Shanto Iyengar and William McGuire, eds. Durham: Duke University Press.

Working Papers

2009 "Sociotropic Voting and the Media" (with Marc Meredith and Erik Snowberg), American National Election Study Pilot Study Reports, John Aldrich editor.

2007 "Public Attitudes Toward America's Energy Options: Report of the 2007 MIT Energy Survey" CEEPR Working Paper 07-002 and CANES working paper.

2006 "Constituents' Policy Perceptions and Approval of Members' of Congress" CCES Working Paper 06-01 (with Phil Jones).

2004 "Using Recounts to Measure the Accuracy of Vote Tabulations: Evidence from New Hampshire Elections, 1946 to 2002" (with Andrew Reeves).

2002 "Evidence of Virtual Representation: Reapportionment in California," (with

Ruimin He and James M. Snyder).

1999 "Why did a majority of Californians vote to lower their own power?" (with James Snyder and Jonathan Woon). Paper presented at the annual meeting of the American Political Science Association, Atlanta, GA, September, 1999. Paper received the award for the best paper on Representation at the 1999 Annual Meeting of the APSA.

1999 "Has Television Increased the Cost of Campaigns?" (with Alan Gerber and James Snyder).

1996 "Money, Elections, and Candidate Quality," (with James Snyder).

1996 "Party Platform Choice - Single- Member District and Party-List Systems,"(with James Snyder).

1995 "Messages Forgotten" (with Shanto Iyengar).

1994 "Consumer Contributors and the Returns to Fundraising: A Microeconomic Analysis," (with Alan Gerber), presented at the Annual Meeting of the American Political Science Association, September.

1992 "Biases in Ecological Regression," (with R. Douglas Rivers) August, (revised February 1994). Presented at the Midwest Political Science Association Meetings, April 1994, Chicago, IL.

1992 "Using Aggregate Data to Correct Nonresponse and Misreporting in Surveys" (with R. Douglas Rivers). Presented at the annual meeting of the Political Methodology Group, Cambridge, Massachusetts, July.

1991 "The Electoral Effects of Issues and Attacks in Campaign Advertising" (with Shanto Iyengar). Presented at the Annual Meeting of the American Political Science Association, Washington, DC.

1991 "Television Advertising as Campaign Strategy: Some Experimental Evidence" (with Shanto Iyengar). Presented at the Annual Meeting of the American Association for Public Opinion Research, Phoenix.

1991 "Why Candidates Attack: Effects of Televised Advertising in the 1990 California Gubernatorial Campaign," (with Shanto Iyengar). Presented at the Annual Meeting of the Western Political Science Association, Seattle, March.

1990 "Winning is Easy, But It Sure Ain't Cheap." Working Paper #90-4, Center for the American Politics and Public Policy, UCLA. Presented at the Political Science Departments at Rochester University and the University of Chicago.

Research Grants

1989-1990 Markle Foundation. "A Study of the Effects of Advertising in the 1990 California Gubernatorial Campaign." Amount: $50,000

1991-1993 Markle Foundation. "An Experimental Study of the Effects of Campaign Advertising." Amount: $150,000

1991-1993 NSF. "An Experimental Study of the Effects of Advertising in the 1992 California Senate Electoral." Amount: $100,000

1994-1995 MIT Provost Fund. "Money in Elections: A Study of the Effects of Money on Electoral Competition." Amount: $40,000

1996-1997 National Science Foundation. "Campaign Finance and Political Representation." Amount: $50,000

1997 National Science Foundation. "Party Platforms: A Theoretical Investigation of Party Competition Through Platform Choice." Amount: $40,000

1997-1998 National Science Foundation. "The Legislative Connection in Congressional Campaign Finance. Amount: $150,000

1999-2000 MIT Provost Fund. "Districting and Representation." Amount: $20,000.

1999-2002 Sloan Foundation. "Congressional Staff Seminar." Amount: $156,000.

2000-2001 Carnegie Corporation. "The Caltech/MIT Voting Technology Project." Amount: $253,000.

2001-2002 Carnegie Corporation. "Dissemination of Voting Technology Information." Amount: $200,000.

2003-2005 National Science Foundation. "State Elections Data Project." Amount: $256,000.

2003-2004 Carnegie Corporation. "Internet Voting." Amount: $279,000.

2003-2005 Knight Foundation. "Accessibility and Security of Voting Systems." Amount: $450,000.

2006-2008 National Science Foundation, "Primary Election Data Project," $186,000

2008-2009 Pew/JEHT. "Measuring Voting Problems in Primary Elections, A National Survey." Amount: $300,000

2008-2009 Pew/JEHT. "Comprehensive Assessment of the Quality of Voter Registration Lists in the United States: A pilot study proposal" (with Alan Gerber). Amount: $100,000.

2010-2011 National Science Foundation, "Cooperative Congressional Election Study," $360,000

2010-2012 Sloan Foundation, "Precinct-Level U. S. Election Data," $240,000.

2012-2014 National Science Foundation, "Cooperative Congressional Election Study, 2010-2012 Panel Study" $425,000

2012-2014 National Science Foundation, "2012 Cooperative Congressional Election Study," $475,000

2014-2016 National Science Foundation, "Cooperative Congressional Election Study, 2010-2014 Panel Study" $510,000

2014-2016 National Science Foundation, "2014 Cooperative Congressional Election Study," $400,000

2016-2018 National Science Foundation, "2016 Cooperative Congressional Election Study," $485,000

2018-2020 National Science Foundation, "2018 Cooperative Congressional Election Study," $844,784.

2019-2022 National Science Foundation, RIDIR: "Collaborative Research: Analytic Tool for Poststratification and small-area estimation for survey data." $942,607

Professional Boards

Editor, Cambridge University Press Book Series, Political Economy of Institutions and Decisions, 2006-2016

Member, Board of the Reuters International School of Journalism, Oxford University, 2007 to present.

Member, Academic Advisory Board, Electoral Integrity Project, 2012 to present.

Contributing Editor, *Boston Review*, The State of the Nation.

Member, Board of Overseers, American National Election Studies, 1999 - 2013.

Associate Editor, Public Opinion Quarterly, 2012 to 2013.

Editorial Board of Harvard Data Science Review, 2018 to present.
Editorial Board of American Journal of Political Science, 2005 to 2009.
Editorial Board of Legislative Studies Quarterly, 2005 to 2010.
Editorial Board of Public Opinion Quarterly, 2006 to present.
Editorial Board of the Election Law Journal, 2002 to present.
Editorial Board of the Harvard International Journal of Press/Politics, 1996 to 2008.
Editorial Board of Business and Politics, 2002 to 2008.
Scientific Advisory Board, Polimetrix, 2004 to 2006.

Special Projects and Task Forces

Principal Investigator, Cooperative Congressional Election Study, 2005 – present.

CBS News Election Decision Desk, 2006-present

Co-Director, Caltech/MIT Voting Technology Project, 2000-2004.

Co-Organizer, MIT Seminar for Senior Congressional and Executive Staff, 1996-2007.

MIT Energy Innovation Study, 2009-2010.
MIT Energy Initiative, Steering Council, 2007-2008
MIT Coal Study, 2004-2006.
MIT Energy Research Council, 2005-2006.
MIT Nuclear Study, 2002-2004.
Harvard University Center on the Environment, Council, 2009-present

Expert Witness, Consultation, and Testimony

2001	Testimony on Election Administration, U. S. Senate Committee on Commerce.
2001	Testimony on Voting Equipment, U.S. House Committee on Science, Space, and Technology
2001	Testimony on Voting Equipment, U.S. House Committee on House Administration
2001	Testimony on Voting Equipment, Congressional Black Caucus
2002-2003	*McConnell v. FEC*, 540 U.S. 93 (2003), consultant to the Brennan Center.
2009	Amicus curiae brief with Professors Nathaniel Persily and Charles Stewart on behalf of neither party to the U.S. Supreme Court in the case of *Northwest*

	Austin Municipal Utility District Number One v. Holder, 557 U.S. 193 (2009).
2009	Testimony on Voter Registration, U. S. Senate Committee on Rules.
2011-2015	*Perez v. Perry*, U. S. District Court in the Western District of Texas (No. 5:11-cv-00360). Exert witness on behalf of Rodriguez intervenors.
2011-2013	*State of Texas v. United States,* the U.S. District Court in the District of Columbia (No. 1:11-cv-01303), expert witness on behalf of the Gonzales intervenors.
2012-2013	*State of Texas v. Holder*, U.S. District Court in the District of Columbia (No. 1:12-cv-00128), expert witness on behalf of the United States.
2011-2012	*Guy v. Miller* in U.S. District Court for Nevada (No. 11-OC-00042-1B), expert witness on behalf of the Guy plaintiffs.
2012	*In re Senate Joint Resolution of Legislative Apportionment*, Florida Supreme Court (Nos. 2012-CA-412, 2012-CA-490), consultant for the Florida Democratic Party.
2012-2014	*Romo v. Detzner*, Circuit Court of the Second Judicial Circuit in Florida (No. 2012 CA 412), expert witness on behalf of Romo plaintiffs.
2013-2014	*LULAC v. Edwards Aquifer Authority*, U.S. District Court for the Western District of Texas, San Antonio Division (No. 5:12cv620-OLG,), consultant and expert witness on behalf of the City of San Antonio and San Antonio Water District
2013-2014	*Veasey v. Perry*, U. S. District Court for the Southern District of Texas, Corpus Christi Division (No. 2:13-cv-00193), consultant and expert witness on behalf of the United States Department of Justice.
2013-2015	*Harris v. McCrory,* U. S. District Court for the Middle District of North Carolina (No. 1:2013cv00949), consultant and expert witness on behalf of the Harris plaintiffs. (later named *Cooper v. Harris*)
2014	Amicus curiae brief, on behalf of neither party, Supreme Court of the United States, *Alabama Democratic Conference v. State of Alabama*.
2014- 2016	*Bethune-Hill v. Virginia State Board of Elections*, U. S. District Court for the Eastern District of Virginia (No. 3:2014cv00852), consultant and expert on behalf of the Bethune-Hill plaintiffs.
2015	Amicus curiae brief in support of Appellees, Supreme Court of the United States, *Evenwell v. Abbott*
2016-2017	*Perez v. Abbott*, U. S. District Court in the Western District of Texas (No. 5:11-cv-00360). Exert witness on behalf of Rodriguez intervenors.
2017-2018	Fish v. Kobach, U. S. District Court in the District of Kansas (No. 2:16-cv-02105-JAR). Expert witness of behalf of the Fish plaintiffs.

December 5, 2020

***Pearson v. Kemp,* Case No. 1:20-cv-4809-TCB**

United States District Court for Northern District of Georgia

Expert Report of Jonathan Rodden, PhD

737 Mayfield Avenue
Stanford, CA 94305



Jonathan Rodden, PhD

I. INTRODUCTION AND SUMMARY

On Saturday, November 28, 2020 I received declarations from Dr. Eric Quinnell, Dr. Shiva Ayyadurai, and Mr. James Ramsland, Jr. Each of these declarations makes rather strong claims to have demonstrated "anomalies" or "irregularities" in the results of the presidential election in Georgia on November 3, 2020. I have been asked by Counsel to assess the validity of their claims. Unfortunately, these reports do not meet basic standards for scientific inquiry. For the most part, they are not based on discernable logical arguments. Without any citations to relevant scientific literature about statistics or elections, the authors identify common and easily explained patterns in the 2020 election results, and without explanation, assert that they are somehow "anomalous." Each of these reports lacks even a basic level of clarity or transparency about research methods that would be expected in a scientific communication. As detailed below, each of these reports is based on puzzling but serious mistakes and misunderstandings about how to analyze election data.

Dr. Quinnell's report amounts to an odd claim that there is something "anomalous" about the fact that Joseph Biden achieved sizable increases in votes over Hillary Clinton's totals in the fast-growing suburban precincts of Fulton County. Dr. Ayyadurai's report amounts to a claim that there is something "anomalous" about the fact that in a set of suburban counties that he chose to study,

Biden made gains in relatively white, Republican-leaning precincts. He does not explain why split-ticket voting or deviations from strict ethnic voting are indicative of fraud. Finally, Mr. Ramsland's report identifies a cross-state correlation between voting equipment and election outcomes, but the fact that Democratic and Republican regions of the country have adopted different types of voting equipment cannot possibly be taken as evidence of fraud.

II. QUALIFICATIONS

I am currently a tenured Professor of Political Science at Stanford University and the founder and director of the Stanford Spatial Social Science Lab ("the Lab")—a center for research and teaching with a focus on the analysis of geo-spatial data in the social sciences. In my affiliation with the Lab, I am engaged in a variety of research projects involving large, fine-grained geo-spatial data sets including ballots and election results at the level of polling places, individual records of registered voters, census data, and survey responses. I am also a senior fellow at the Stanford Institute for Economic Policy Research and the Hoover Institution. Prior to my employment at Stanford, I was the Ford Professor of Political Science at the Massachusetts Institute of Technology. I received my Ph.D. from Yale University and my B.A. from the University of Michigan, Ann Arbor, both in political science. A copy of my current C.V. is included as an Appendix to this report.

In my current academic work, I conduct research on the relationship between the patterns of political representation, geographic location of demographic and partisan groups, and the drawing of electoral districts. I have published papers using statistical methods to assess political geography, balloting, and representation in a variety of academic journals including *Statistics and Public Policy*, *Proceedings of the National Academy of Science*, *American Economic Review Papers and Proceedings*, the *Journal of Economic Perspectives*, the *Virginia Law Review*, the *American Journal of Political Science*, the *British Journal of Political Science*, the *Annual Review of Political Science*, and the *Journal of Politics*. One of these papers was recently selected by the American Political Science Association as the winner of the Michael Wallerstein Award for the best paper on political economy published in the last year, and another received an award from the American Political Science Association section on social networks.

I have recently written a series of papers, along with my co-authors, using automated redistricting algorithms to assess partisan gerrymandering. This work has been published in the *Quarterly Journal of Political Science*, *Election Law Journal*, and *Political Analysis*, and it has been featured in more popular publications like the *Wall Street Journal*, the *New York Times*, and *Boston Review*. I have recently completed a book, published by *Basic Books* in June of 2019, on the relationship between political districts, the residential geography of social groups, and their

political representation in the United States and other countries that use winner-take-all electoral districts. The book was reviewed in the *New York Times*, *New York Review of Books*, *Wall Street Journal*, *The Economist*, and *The Atlantic*, among others.

I have expertise in the use of large data sets and geographic information systems (GIS), and conduct research and teaching in the area of applied statistics related to elections. My PhD students frequently take academic and private sector jobs as statisticians and data scientists. I frequently work with geo-coded voter files and other large administrative data sets, including in recent paper published in the *Annals of Internal Medicine* and *The New England Journal of Medicine.* I have developed a national data set of geo-coded precinct-level election results that has been used extensively in policy-oriented research related to redistricting and representation.[1]

I have been accepted and testified as an expert witness in six recent election law cases: *Romo v. Detzner*, No. 2012-CA-000412 (Fla. Cir. Ct. 2012); *Missouri State Conference of the NAACP* v. *Ferguson-Florissant School District*, No. 4:2014-CV-02077 (E.D. Mo. 2014); *Lee v. Virginia State Board of Elections*, No. 3:15-CV-00357 (E.D. Va. 2015); *Democratic National Committee et al. v. Hobbs et al.*, No. 16-1065-PHX-DLR (D. Ariz. 2016); *Bethune-Hill v. Virginia State Board of*

[1] The dataset can be downloaded at http://projects.iq.harvard.edu/eda/home.

Elections, No. 3:14-cv-00852-REP-AWA-BMK (E.D. Va. 2014); and *Jacobson et al. v. Lee*, No. 4:18-cv-00262 (N.D. Fla. 2018). I also worked with a coalition of academics to file amicus briefs in the Supreme Court in *Gill v. Whitford*, No. 16-1161, and *Rucho v. Common Cause*, No. 18-422. Much of the testimony in these cases had to do with geography, voting, ballots, and election administration. I am being compensated at the rate of $500/hour for my work in this case. My compensation is not dependent upon my conclusions in any way.

III. DATA SOURCES

I have collected county-level data on presidential elections for each year from 1988 to 2020 from the Georgia Secretary of State. I have also collected 2016 precinct-level data on Georgia from the Metric Geometry and Gerrymandering Group at Tufts University. I obtained digitized 2020 Georgia precinct boundary files from the Voting and Election Science Team at the University of Florida and Wichita State University. I also obtained geo-spatial boundaries from the county GIS departments of DeKalb, Chatham, and Fulton Counties. I obtained precinct-level data on race among registered voters from the Georgia Secretary of State, as well as 2020 and 2016 precinct-level election results. I created a national county-level dataset on election results using information assembled from county election administrators by the New York Times and Associated Press, along with demographic data from the 2014-2018 American Community Survey (ACS), as well

as the September 2020 county-level unemployment rate from the Bureau of Labor Statistics, and as described in detail below, data on voting technologies used in each U.S. jurisdiction collected by Verified Voting. I have also collected yearly county-level population estimates for Georgia from the U.S. Census Department.

IV. QUINNELL REPORT

At the heart of Dr. Quinnell's analysis is a claim that, in my 25 years of election data analysis, I have never heard before. He claims that if one has a set of results from an election, the distribution of votes for candidates should approximate a normal, bell-shaped statistical distribution, and any departure from a normal distribution is unnatural and somehow suspicious: "As we often expect our data to be close to a normal distribution, significant deviations from these values can indicate an event that is statistically anomalous" (paragraph 18). Specifically, Dr. Quinnell claims that if votes for one of the candidates has a long tail—that is to say, he or she has a concentration of support in a small number of districts where the vote share is much greater than the average district—this is "anomalous" and indicative of fraud. He then goes on to analyze a highly flawed precinct-level data set from Fulton County, about which he makes a set of puzzling claims.

First, Dr. Quinnell's basic claims about the distribution of election data across geographic units are nonsensical and should be rejected out of hand. Second, his data analysis is fatally flawed and essentially meaningless. The skewed distribution of

Biden vote gains pointed out in his report is merely a reflection of Biden's success in rapidly-growing suburban areas.

The Geographic Distribution of Election Results

Dr. Quinnell begins with a tangential anecdote about Henri Poincaré's baker, who was caught dropping a set of values from a data set that fell below a certain threshold. In that case, the left side of the distribution—all of the low values—had been simply discarded. He also mentions the sub-prime mortgage crisis, but the relevance to his report is unclear. Neither of these anecdotes provides even the slightest intuition for his claim that election results from a set of geographic units should display a normal distribution, or why departures from the normal distribution are indicative of fraud.

He cites no academic literature. Nor does he attempt to articulate a theory of vote distributions and fraud. The reader is left to imagine how such a theory might work. If a nefarious election administrator or computer programmer were able to take votes from candidate B and give them to candidate A in some county, it is not clear why this action would affect the distribution of votes across precincts. The entire distribution would simply shift in the direction of candidate A. Perhaps Dr. Quinnell wishes to imply that such nefarious actors are only able to operate in a small minority of precincts. Perhaps this is why he believes it is suspicious if candidate A experiences a cross-precinct distribution with a long right tail—that is

to say, a distribution in which candidate A performs especially well in a set of precincts, without a corresponding set of precincts where candidate B does exceptionally well.

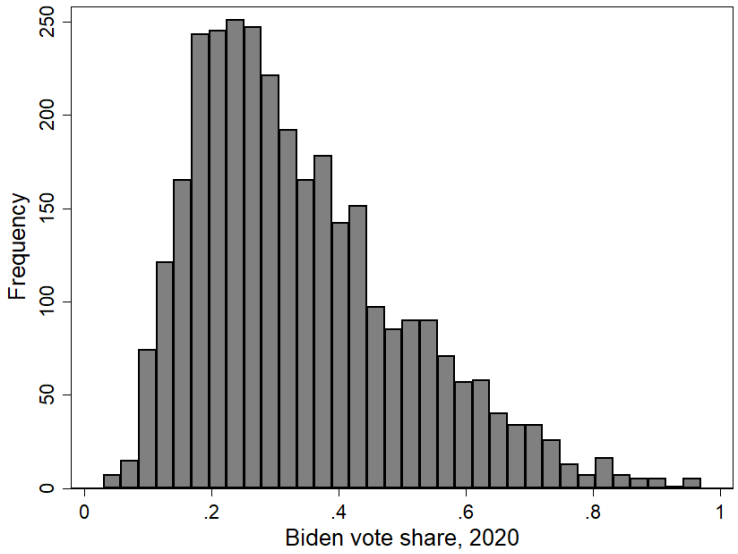
However, there are many far more plausible explanations for non-normal distributions of votes across precincts, counties, or districts. There is nothing even slightly unusual about skewed distributions of votes, vote shares, or changes over time in votes or vote shares, across geographic units. A very large literature dating back to the earliest mathematical analyses of elections has explained, and demonstrated using high-quality data analysis, that these distributions are very frequently non-normal. In their classic 1979 book, Graham Gudgin and Peter Taylor argue that if the partisan divide in a country with two political parties is correlated with some social characteristic (for instance race or social class) that is not uniformly distributed in space but is rather concentrated in certain districts, the distribution of vote shares will be skewed. They presented evidence that because working-class voters were concentrated in neighborhoods near factories, the distribution of support across electoral districts for Labor parties in Britain and Australia was highly skewed for much of the 20th century.[2] More recently, I have demonstrated that support for the Democratic Party in the United States typically has a pronounced right skew

[2] See Graham Gudgin and Peter Taylor, 1979, *Seats, Votes, and the Spatial Organisation of Elections*. London: Pion. For a literature review, see Jonathan Rodden, 2010, "The Geographic Distribution of Political Preferences." *Annual Review of Political Science* 13,55.

across districts, counties, and often precincts.[3] The fact that the Labour Party consistently wins by extremely large margins in urban districts in London, or that the Democrats win by extremely large margins in urban Atlanta or Austin, has nothing to do with fraud.

In Figure 1 below, I provide a histogram of Joe Biden's vote share across counties in 2020. Like the precinct-level histograms from Fulton County in Dr. Quinnell's report, the distribution is clearly right-skewed, but it is very difficult to imagine what this might have to do with fraud.

Figure 1: Distribution of Biden Vote Share Across U.S. Counties, 2020



[3] Jonathan Rodden. 2019. *Why Cities Lose: The Deep Roots of the Urban-Rural Divide*. New York: Basic Books.

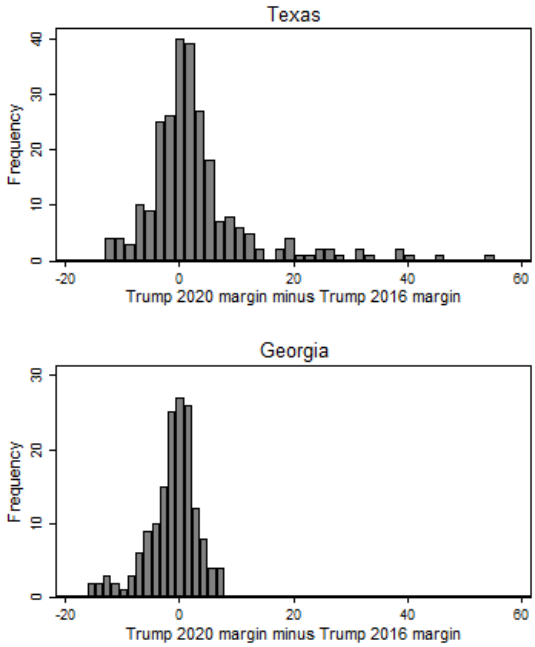
In short, there is no natural law suggesting that election results across geographic units should be normally distributed around the mean, especially if those units are asymmetric in their size. To the contrary, when relevant social groups are clustered in space, it is more typical to see a skewed distribution.

Dr. Qinnell's underlying theory of fraud, however, apparently relates to the *change* in vote share. Perhaps he means to argue that the distribution of the *change from one election to the next* in votes or vote shares across geographic units should always have a normal distribution. But this argument would make no more sense than an argument about voting levels. Members of politically relevant groups—for instance young people, racial minorities, or college graduates—are typically not uniformly or randomly distributed across geographic units, especially in the United States. If an incumbent candidate pursues policies and rhetoric that attract or repel a geographically clustered group, we can expect to see a non-normal distribution of changes in vote shares.

For instance, it appears that Donald Trump's appeals in the 2020 election resonated with Cuban and Venezuelan Americans in South Florida, and with *Tejano* voters in Texas. As a result, Trump experienced surprisingly large increases in vote shares in counties where those groups made up a large share of the population. This translated into a right-skewed distribution of *changes* in the Republican vote share from 2016 to 2020. We can see this in the top panel of Figure 2, which focuses on

Texas. I take the 2020 Trump margin of victory (or loss) in each county and subtract the 2016 margin so that higher numbers mean Trump *improved* his vote share over 2016, while lower numbers mean that he *lost* support relative to 2016.

Figure 2: County Histograms of Increase in Trump Margin, 2016-2020



In Texas, the distribution of Trump's gains across counties has a pronounced right skew—just as in Dr. Quinnell's graphs. On the left side of the graph, there are a large number of suburban counties in which Trump lost support, but some counties in the tail of the distribution experienced rather extraordinary *increases* in Republican vote share. Yet, according to Dr. Quinnell's rule, we must conclude that some nefarious actor committed fraud on behalf of President Trump in Texas. This is simply not a credible argument. The counties in the tail of the distribution are

majority-Hispanic counties along the border. A far more likely story is that President Trump experienced a non-fraudulent increase in support among this population of Hispanic voters.

The next panel in Figure 2 repeats this histogram for the counties of Georgia. In Georgia, there is a slight left skew, indicating that there are a handful of counties where Biden's gains were a bit further from the average county than in the rural counties on the right side of the histogram, where Trump was gaining. Note that the left side of the distribution in Georgia looks similar to that in Texas. As in Texas, there are some suburban counties, like Cobb, Forsyth, and Henry, where the Democratic margin increased substantially. Just as it makes little sense to blame the very long right tail of the Texas distribution on fraud, it makes little sense to blame the modest left tail of the Georgia distribution on fraud.

A much better explanation is that Georgia is similar to almost every other state in the country, in that Biden made especially large gains relative to Clinton in diverse, educated, and growing suburbs. Prior to 2020, many of these suburban counties had Republican majorities. This fact is relevant for conspiracy theories about nefarious actors, since in many of these counties in Georgia and around the country, election administrators were appointed by Republicans. It is difficult to comprehend why Republican election administrators would participate in a plot to help the Democratic presidential candidate.

In other words, just as with Republicans in Texas—where the story has to do with a shift among Hispanic voters—in Georgia there is an obvious reason why the distribution of changes in votes for the Democratic presidential candidate would be skewed relative to those of the Republican candidate. In Georgia, as in many other states, population growth is an important part of the story. Perhaps the most striking feature of the Georgia counties where Biden made the largest gains relative to Clinton is that they have been experiencing high population growth, above all due to in-migration from other places.

Figure 3: Population Change and Change in Democratic Vote Share, Georgia Counties

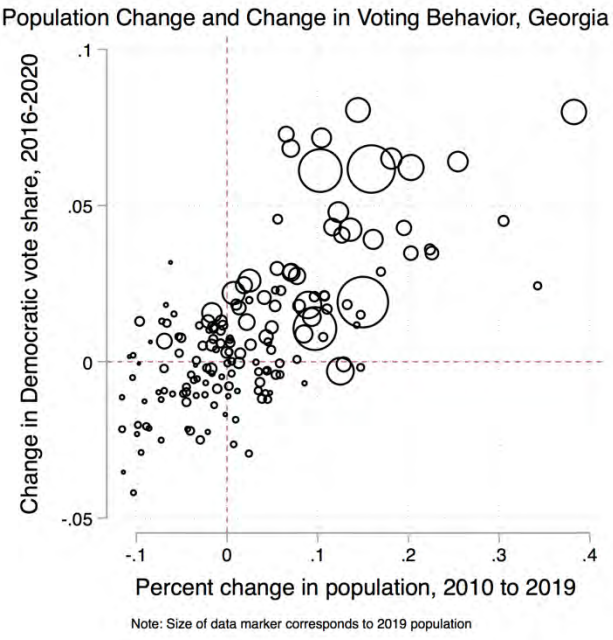


Figure 3 uses population estimates from the census department to calculate county-level population change over the last decade on the horizontal axis. On the vertical axis, it displays the change in county-level Democratic vote share from 2016 to 2020,

so that higher numbers correspond to higher Democratic vote share in 2020 than in 2016. The size of the data marker corresponds to the size of the county in 2019. We can see that throughout the state, Trump's support increased primarily in small, rural counties where the population has been declining over the last decade (the lower left-hand part of the graph). Relative to Clinton, Biden's support increased the most in counties where the population grew the most (the upper right-hand part of the graph). In fact, this is true in almost every U.S. state, and this trend was already quite strong prior to 2020.[4] Thus, there is nothing anomalous or nefarious about the fact that Biden added far more votes than Trump in the rapidly-growing suburban counties of Georgia.

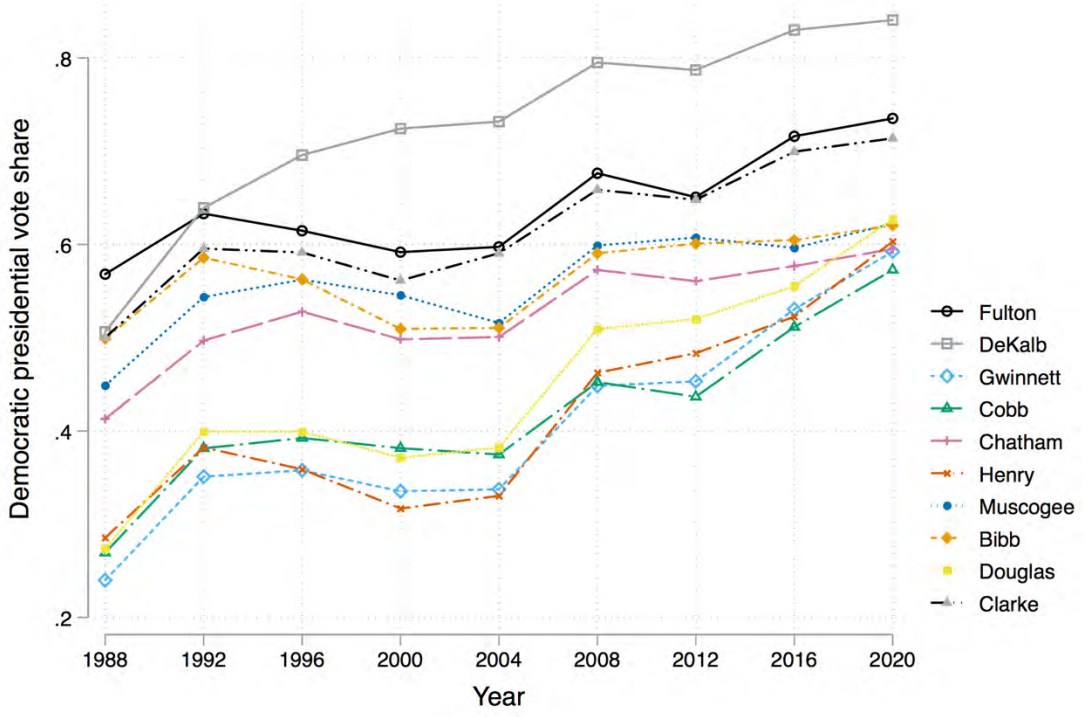
Precinct-level analysis of Fulton County

Perhaps for good reason, Dr. Quinnell did not test his "departure from normality" theory on county-level data. For reasons he does not explain, he examined only precinct-level data from Fulton County. His choice of Fulton County for a case study is rather odd. He seems to want to argue that the shift toward the Democrats in Fulton County was suspiciously high and anomalous. In order to examine whether this claim is plausible, Figure 4 displays the evolution of the Democratic vote share over time in Fulton County and several other Georgia counties. While Fulton County is indeed one of the most Democratic counties in the

[4] Rodden, *Why Cities Lose*, op cit, chapter 9.

state, there is no way to interpret the Fulton County time series as displaying a deviation from trend in 2020. In fact, the increase in Democratic vote share over the previous election was far lower in 2020 than in 2016. As described above, the Democratic vote share has been growing far more rapidly in suburban counties surrounding Fulton County, like Cobb, Douglas, Henry, and Gwinnett.

Figure 4: Democratic Presidential Vote, 1988 to 2020, Selected Georgia Counties



Even though there is little evidence that Fulton County's overall results are anomalous in any sense, let us examine Dr. Quinnell's claims about the distribution of votes across Fulton County's precincts. Dr. Quinnell's analysis focuses on the distribution of *changes* in raw vote totals for the two parties from 2016 to 2020 across precincts in Fulton County. Evidently, Dr. Quinnell downloaded precinct-

level results from 2016 and 2020 and attempted to merge the two datasets together based on their precinct identifiers. Unfortunately, constructing a meaningful time-series precinct-level data set is not so simple. County-level election administrators frequently combine or split precincts or change their boundaries. Sometimes only two or three precincts in an area are affected; other times, officials re-precinct a wide swath of territory. In order to draw inferences about changes in votes over time *within* precincts, one must be absolutely certain that the boundaries are identical in the two time periods. This was most certainly not the case in Fulton County between 2016 and 2020. In November of 2016, votes were recorded in 342 precincts in Fulton County, whereas in November of 2020, votes were recorded in 384 precincts—an increase of 42 precincts. This is a problem for Dr. Quinnell's analysis because he is comparing votes cast in two different systems of precincts. In many cases, precincts with the same name in 2016 and 2020 are quite different in the two years, especially in suburban areas.

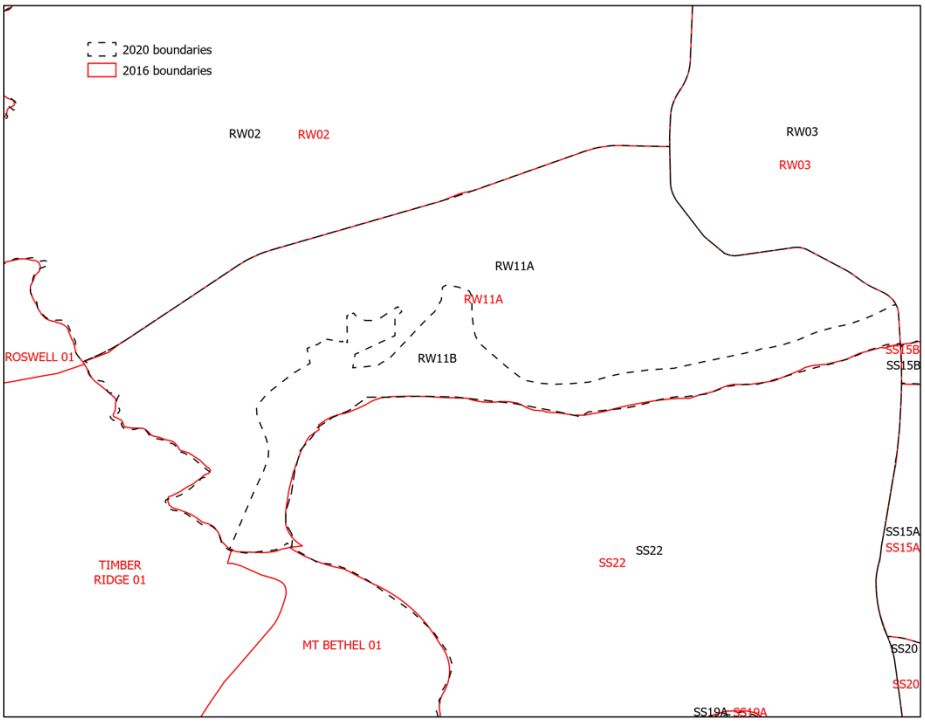
I have obtained digital boundary files for the precincts used in 2016 and 2020. Using geo-spatial software, I mapped the two boundary systems, and inspected each of the 384 precincts used in 2020 to ascertain which precincts used the same boundaries in 2016 and again in 2020. I discovered that only 260 of the precincts used the same boundaries in both years. It is not clear what Dr. Quinnell has done with the other 124 precincts. Some of them are completely new precincts that have

been carved out since 2016, such that there was no precinct by the same name in 2016. For many others, I discovered a mix of splits, combinations, and swaths of geography where the boundaries have been completely redrawn. It is often the case that a precinct still exists with the same name, but it has different boundaries and includes a different set of voters. For each of these precincts, it is completely meaningless to subtract the precinct-level vote total of one of the candidates in 2016 from the total in 2020 for the precinct with the same name. Many of the precincts that experienced boundary changes were in the rapidly-growing, suburban sections of South Fulton County, such as Chatahoochee Hills and Fairburn, where new real estate developments are bringing significant change to the built environment each year.

It seems that Dr. Quinnell was at least somewhat aware of this problem, because in his report, he placed asterisks by the precincts that he claims were redistricted. He does not explain, however, how he ascertained which precincts were redistricted. And something went wrong, because Dr. Quinnell's list is far from complete. For instance, just to take one example, in the table on page 15, he does not place an asterisk next to precinct RW11A (in Roswell). In Figure 5, I provide a map of the boundaries of precincts in that part of Fulton County in 2016, in solid red, and in 2020, with a dashed black line. We can see that the old precinct RW11A was

subdivided into RW11A and RW11B. A comparison of vote totals in the old and new versions of RW11A based on a simple name merge would not be meaningful.

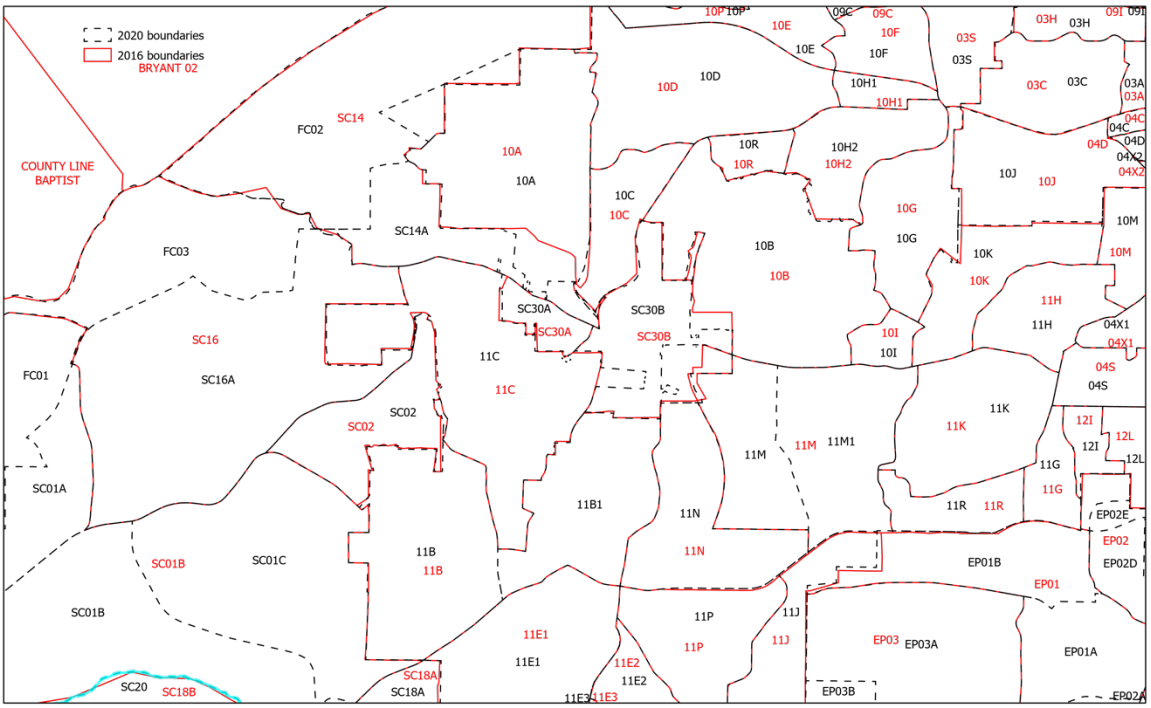
Figure 5
Selected Precinct Boundaries in Fulton County, Georgia



In fact, in much of Fulton County, the problem of matching precincts is far more complex than simple splits like RW11A and RW11B. For instance, consider the case of precinct SC30B, in the middle of Figure 6. The old boundary is in red. The new boundaries (marked with black dashes) carve out parts of SC30B and place fragments in 11C, 11M, and 10B. Meaningful over-time comparisons cannot be made in any of these precincts. Note that there are similar issues throughout Figure 6. For instance, fragments of the old SC14 have been placed in 10A, FC02, and

SC14A. Similar examples, where the red and dashed block lines are not directly on top of one another, can be found throughout Fulton County.

Figure 6
Selected Precinct Boundaries in Fulton County, Georgia



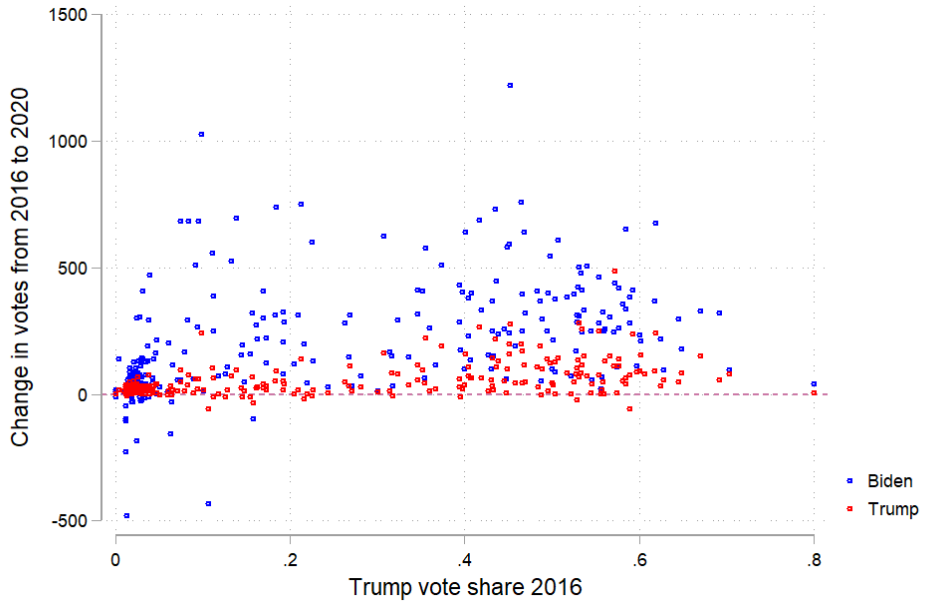
Perhaps in anticipation of this type of critique, Dr. Quinnell conducted some analysis in which he aggregated the data to the level of units he refers to as "counties." If I understand correctly, he aggregates 2016 and 2020 votes by clusters of precincts according to the first two letters of the precinct name (10, 11, EP, SC, FC, and so forth). Those beginning with numbers are based in the city of Atlanta. The others correspond loosely to names of other cities of Fulton County, e.g. EP = East Point, CP = College Park, and so on. This clustering, however, does not solve the problem at all because these units are not stable over time. That is to say, precinct

splits, combinations, and complete redraws frequently cross over from one of these clusters to another, as demonstrated in Figure 6. This problem is especially severe in suburban parts of Southern Fulton County.

In sum, I am skeptical that any inferences can be drawn from Dr. Quinell's data set at all—even the observations without asterisks. Fulton County's precinct structure has experienced far too much change for his data set to be useful. He wishes to characterize certain precinct-level vote changes as "anomalous," even though many of his so-called anomalies are likely completely meaningless because they compare different geographic units, and hence different voters, over time.

Let us examine the 260 precincts, for which I have verified that the precinct geography is common over time, and examine whether there is evidence of something odd about the data in these precincts for which valid over-time comparisons *can* be made. As explained above, Dr. Quinnell's main concern is that there are a number of precincts with very large increases in Democratic votes relative to the increases in Republican votes. Indeed, in my data set, which includes most of central and Northern Fulton County, there are 28 precincts in which Biden's total number of votes exceeded Clinton's by more than 500, and there is not a single precinct where Donald Trump's vote total increased by more than 500 votes since 2016.

Figure 7: Trump 2016 Vote Share and Increases in Votes for Both Candidates in 2020, Fulton County Precincts



What is going on with these precincts where votes for Biden increased by a great deal and votes for Trump did not? First of all, these precincts are not the extremely Democratic precincts of the Atlanta urban core. Figure 7 presents a scatter plot, where Donald Trump's 2016 vote share is displayed on the horizontal axis. On the vertical axis is, for each precinct, a red dot for the increase in raw votes for Trump vis-à-vis 2016, and blue dot for the increase in votes for Biden over Clinton's votes in 2016. It shows that there is not a strong relationship between precinct partisanship and the relative increase in Biden votes. If anything, Biden's gains were somewhat larger in more Republican precincts—a pattern that was also noted by Dr. Ayyadurai (see below).

Figure 8: Increase in Registered Voters and Increases in Votes for Both Candidates in 2020, Fulton County Precincts

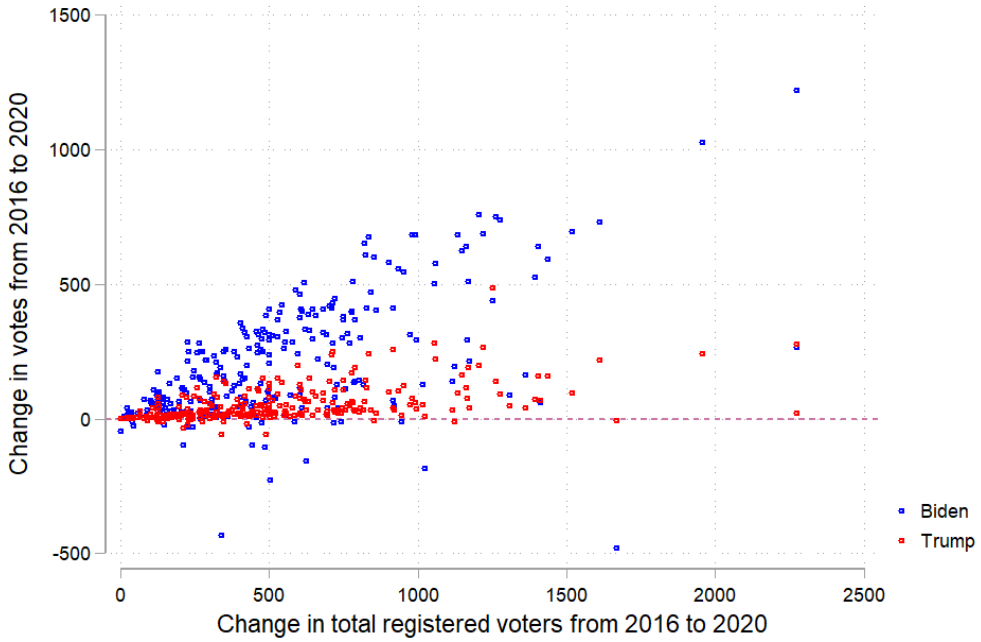


Figure 8 resolves any mystery about the precincts that experienced large asymmetric increases in Democratic votes in Fulton County. It once again plots the raw vote changes for the candidates on the vertical axis, but on the horizontal axis it plots the increase in the number of registered voters from 2016 to 2020. On the left side of the graph are precincts that did not experience much population gain over the last four years. Many of these are in the urban core of Atlanta. As we move to the right on the graph, we move into rapidly-growing precincts in more suburban parts of Fulton County, where new housing developments, and in some cases entirely new neighborhoods, have been built since 2016. In other words, the precinct-level results in Fulton County are entirely consistent with the county-level relationship discussed above, and indeed with the relationship that has been seen in

metro areas around the country: Biden's gains were modest in the stagnant urban core and largest in the most rapidly-growing suburban areas. There is nothing anomalous about Fulton County and nothing that would indicate fraud. Just as Trump's large gains in certain Hispanic neighborhoods do not indicate fraud, Biden's large gains in growing suburban neighborhoods do not indicate fraud.

V. AYYADURAI REPORT

Dr. Ayyadurai claims to have discovered "massive anomalies in Republican voting patterns and ethnic distribution of votes." First, he uses data from several counties to establish a pattern that he repeatedly calls "High Republican, But Low Trump." He provides no indications about his data sources and does not explain how he measures his variables. Yet he appears to claim, in essence, that split-ticket voting among white Republicans is evidence of fraud. His claims about race and ethnicity are, frankly, inscrutable, and thus difficult to evaluate with data analysis. Nevertheless, I have assembled precinct-level data in order to search for any possible anomalies that might be linked with the most reasonable possible interpretations of what Dr. Ayyadurai appears to be claiming.

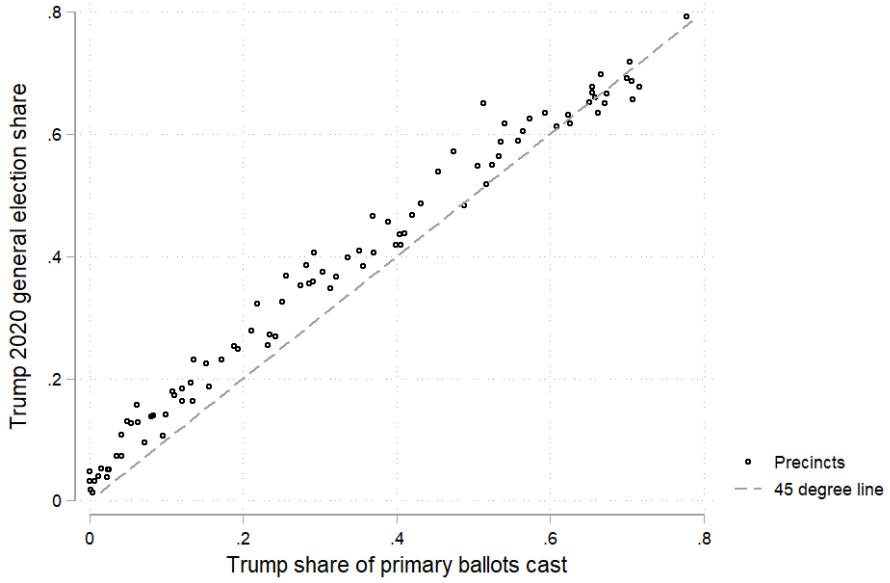
Let us begin, as does Dr. Ayyadurai, in Chatham County—home to Savannah. On page four of his report, Dr. Ayyadurai presents a graph that purports to show that "as the percentage of Republicans in precincts increases, President Trump gets fewer votes." He does not explain why this is problematic or what these graphs even mean.

If one takes some quantity of interest and then subtracts some number from it, it is quite likely to be negatively correlated with that number. He also does not explain how he determines "the percentage of Republicans in precincts." Partisanship is not an immutable characteristic, and in Georgia, one does not register with election administrators as a member of one party or the other. When participating in primaries, voters can request the ballot of any party they choose. Perhaps Dr. Ayyadurai has obtained precinct-level results of the most recent primary and determined that "the percentage of Republicans in a precinct" is simply the number of Republican ballots cast as a share of all ballots cast in the primary.

This would be a very poor measure of precinct-level partisanship, however, because relatively few voters participate in primaries, and their participation is likely to be driven by the competitiveness of the races for each party. For instance, President Trump was not being challenged in the June primary, while there was a competitive Democratic primary. In any case, in an effort to reverse engineer Dr. Ayyadurai's analysis, I have calculated the share of ballots cast for President Trump in the 2020 primary as a share of all ballots cast in either party's presidential primary. In Figure 9, I plot Trump's share of all primary ballots cast—my best guess of Ayyadurai's measure of Republican partisanship—on the horizontal axis, and Trump's share of the vote in the 2020 general election on the vertical axis. I also include a 45-degree

line, so that any observation above the line indicates that Trump over-performed in the general election vis-à-vis the primary.

Figure 9: Trump Share of 2020 Total Primary Ballots Cast and Trump Share of 2020 General Election Vote, Precincts, Chatham County



Given that there was considerable excitement about the primary among Democrats, and there was only a single uncontested candidate for the Republicans, it is not surprising that most of the dots are above the line. It appears that there was a participation gap in favor of Democrats in the primary, but this gap faded by election day. Only in the very Republican precincts were the observations clustered around the 45-degree line or slightly below.

Let us now transform this graph into the one presented by Dr. Ayyadurai. We can measure Trump's over-performance in the general election relative to the primary by subtracting the primary vote share from the election-day vote share. We

can then plot that quantity on the vertical axis, and the primary vote share—presumably Ayyadurai's measure of "the share of Republicans in a precinct"—on the horizontal axis.

Figure 10: Reverse Engineering of Ayyadurai Plot

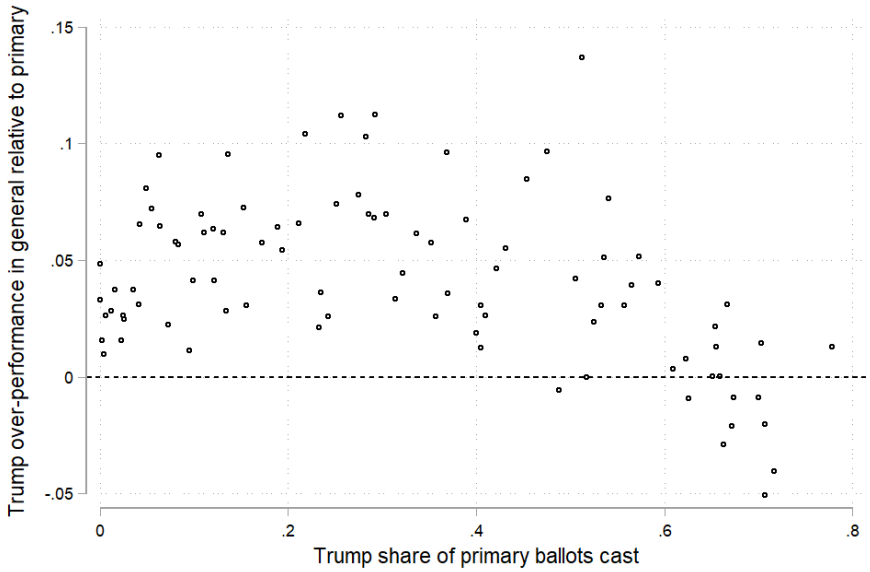


Figure 10 looks very similar to Dr. Ayyadurai's plot (page 5). Due to the relatively weak primary turnout among Republicans relative to Democrats, it is not at all surprising that Trump received a higher vote share in the General Election than in the primary in most precincts. It is also not surprising that this effect would fade in precincts with relatively few Democrats. What is surprising is that this could possibly be viewed as somehow indicative of fraud.

Figure 11: Down-Ballot Republican Vote Share and Trump Vote Share, 2020 General Election, Precincts of Chatham County

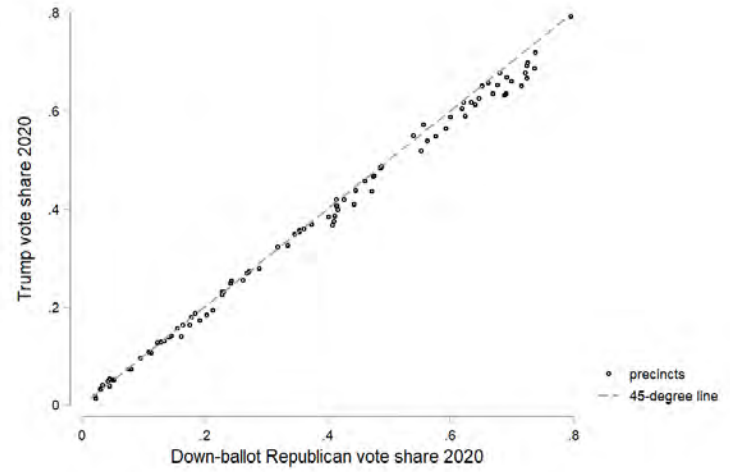
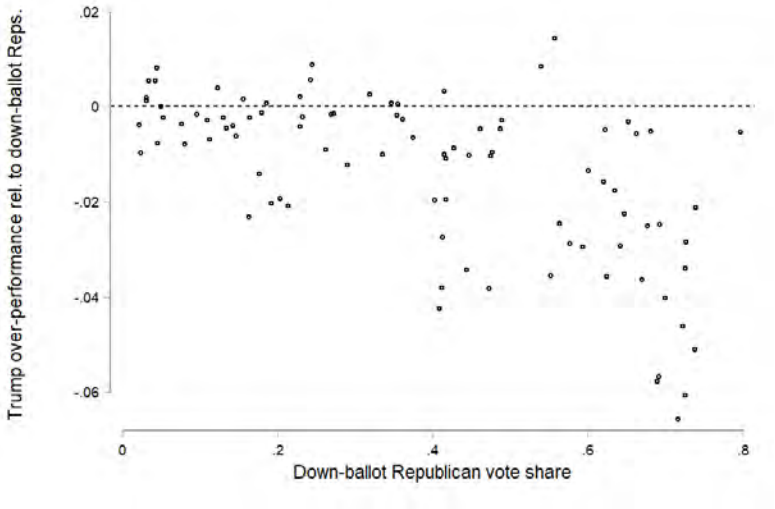


Figure 12: Trump Over-Performance Relative to Down-Ballot Republicans, 2020 General Election, Precincts of Chatham County



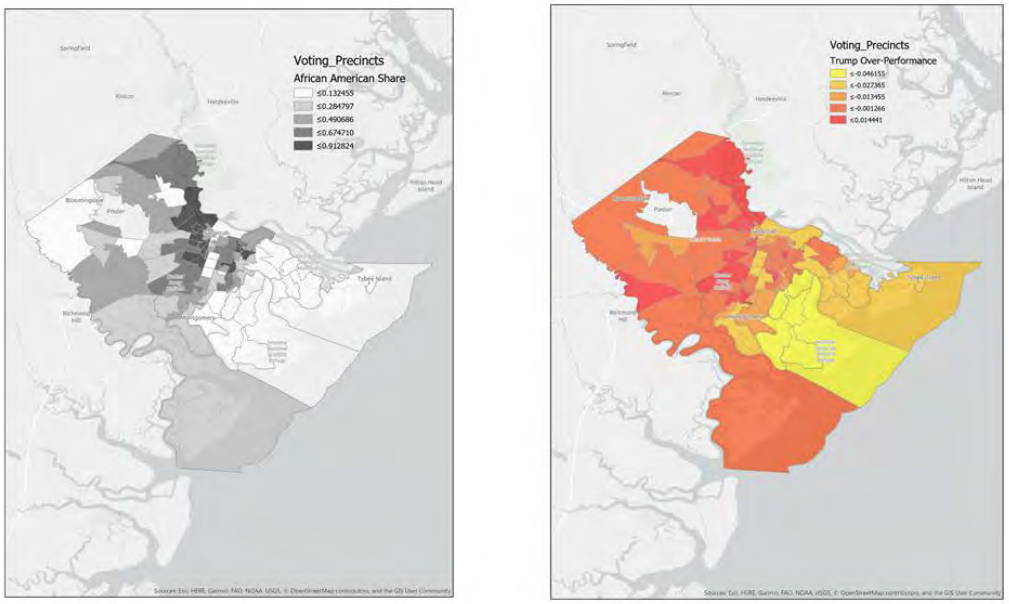
Let us take another approach to the measurement of precinct-level partisanship by looking at other races that occurred on the same ballot on November 3, 2020. In addition to the first round of the Senate election, there were two relatively low-profile races for the Georgia Public Services Commission. One might argue that such races are more likely to be based on underlying partisan attachments rather than

personalities. I have added up the Republican vote share in these down-ballot races and plot this against the Trump vote share in Figure 11, again including a 45-degree line. And in Figure 12, I present the data using Dr. Ayyadurai's approach.

In Figure 11, we see that in the majority-Democratic precincts on the left, down-ballot vote shares and presidential vote shares are almost exactly the same. However, as we move to the right—into more Republican precincts—we see that Trump begins to under-perform relative to the down-ballot Republicans. And in Figure 12, we see once again the pattern that Dr. Ayyadurai refers to as "high Republican but low Trump." Trump under-performed relative to other Republican candidates throughout Chatham County, but that under-performance was most pronounced in the most Republican districts—many of which are overwhelmingly white, educated, and high-income. Figure 13 helps us visualize this. I have obtained geographic boundary files of Chatham county's 2020 precincts and combined them with data on race and election results. On the left is a map of race, and on the right is a map of split ticket voting expressed as Trump's over-performance relative to down-ballot Republicans. The darkest orange color captures the precincts where Trump very slightly over-performed relative to down-ballot Republicans. Many of these are precincts with relatively large African-American populations. As the colors get lighter and move toward yellow, Trump *under*-performs relative to down-ballot Republicans by larger amounts. We can see that his greatest under-performance was

in white, traditionally Republican neighborhoods, many of which are relatively educated and affluent.

Figure 13: Race and Split-Ticket Voting in Chatham County, GA, November 2020



Dr. Ayyadurai's phrase—"high Republican but low Trump"—describes something we saw not only in Savannah but in metro areas around Georgia and the United States: white metro-area voters who typically vote for Republican candidates continued to do so in down-ballot races, but a number of them voted for the Democratic candidate in the presidential race. It is quite unclear what this pattern of split-ticket voting could possibly have to do with election fraud.

In addition to his curious claims about partisanship, Dr. Ayyadurai also makes some statements about race that are difficult to comprehend. He presents graphs that he says are "cumulative vote totals." He does not explain what he means by this or what is happening as one moves from left to right on these graphs. It is unclear whether they are supposed to represent an array of precincts, arranged from small to large or from Republican to Democratic, vote counts as they unfold over time on election night, or something else. He then introduces a line on the graph that he says "plots the number of votes for President Trump based on the same ethnic demographic distribution to match the pattern of actual votes reported by the Secretary of State" (p.7). I simply have no idea what this means. Perhaps he has estimated some sort of model using precinct-level data, where he tries to predict vote shares from precinct-level racial data. He does not tell the reader what he has done with racial data, what assumptions he has made, or why race is even relevant for his analysis. Without any corresponding analysis or data, he then makes a truly incomprehensible claim: "the only way to explain the results, reported by the Secretary of State, is if President Trump did not receive one single Black vote" (p. 8). Because this claim is not supported by any data or even a description of the logic that gave rise to it, I am not sure how to evaluate it. Dr. Ayyadurai seems to have made some unusual assumptions about how ethnic identity should, in his view, translate into votes in Georgia. The ballot is secret, and individual-level data on race

and voting are unavailable. It is possible to conduct ecological inference analysis using precinct-level data in order to estimate the voting behavior of racial groups, but Dr. Ayyadurai makes no mention of having conducted this type of analysis, and even if he had, it is simply not possible to use aggregate data to make a claim like the one about Trump "not receiving a single black vote." One cannot draw any such conclusion from the data at hand.

In the remainder of his report, Dr. Ayyadurai repeats the same analysis for several additional counties. For each of the counties, Dr. Ayyadurai merely points out that Donald Trump under-performed in relatively white, Republican suburban areas. At no point does he explain what President Trump's difficulties in suburban Georgia have to do with election fraud.

Finally, Dr. Ayyadurai makes an additional claim. On page 26, he claims to find "unequivocal evidence of an algorithm that has been put in place such that when a precinct nears approximately ten-percent ("10%") in White voters, a linearly increasing percentage of total votes is transferred from President Trump to Mr. Biden." Dr. Ayyadurai does not provide any evidence of any such phenomenon. Once again, it is quite difficult to piece together the logic behind this claim, or to make sense of the data that Dr. Ayyadurai believes might support it. His analysis appears to involve some estimate of "the difference between Mr. Biden's votes as reported by the Secretary of State of Georgia and what he should have received based

on the ethnic distribution of DeKalb County" (p. 27). Dr. Ayyadurai does not help the reader by explaining what Biden "should have received." Evidently, he believes that Biden should have received only votes from African Americans, and zero votes from whites, such that any Biden vote share above 60 percent, for instance, in a 60 percent white precinct is viewed as somehow anomalous or excessive. For reasons that are unclear, he seems to then claim that it is especially suspicious if Biden's over-performance relative to an "ethnic headcount" model is larger in whiter precincts. This view of voting as a simple ethnic headcount in a diverse suburban environment like DeKalb County is unusual to say the least. Moreover, it is unclear why a strong performance for Biden in majority-white suburban precincts would constitute evidence of fraud.

Once again, it is helpful to visualize the data in question. From the Secretary of State, I have obtained precinct-level racial data along with 2020 election results for Fulton County. In Figure 14, I plot whites as a share of registered voters on the horizontal axis, and Biden's vote share on the vertical axis. There is a negative relationship between whites as a share of registered voters and Biden's vote share, but DeKalb County elections cannot be characterized as an ethnic headcount. Note that in DeKalb County, even the precincts that are over 80 percent white are still, on average, strongly Democratic. And in the upper right-hand section of the graph, there are a large number of overwhelmingly white precincts where Biden received a very

large share of votes. It is not possible to identify anything resembling a mechanical, machine-like increase in Democratic vote share as one moves from left to right in Figure 14. Rather, there is a cloud of majority-white districts where Biden performs especially well.

Figure 14: Whites as Share of Registered Voters and November 2020 Biden Vote Share, Precincts of DeKalb County, GA

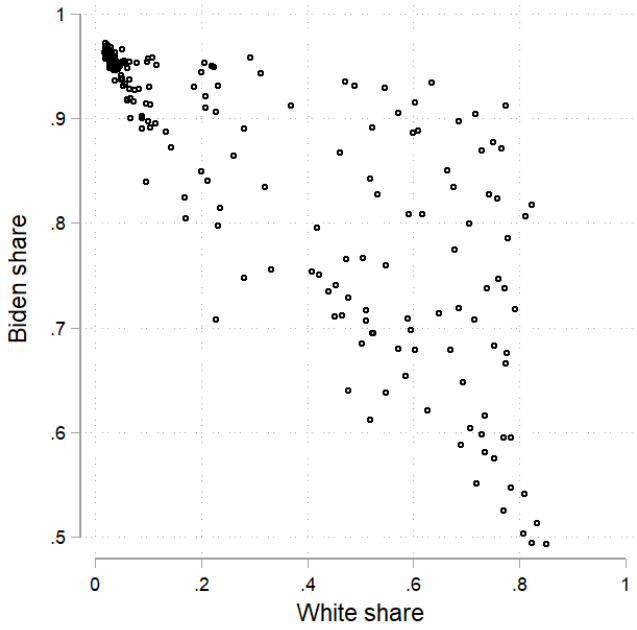
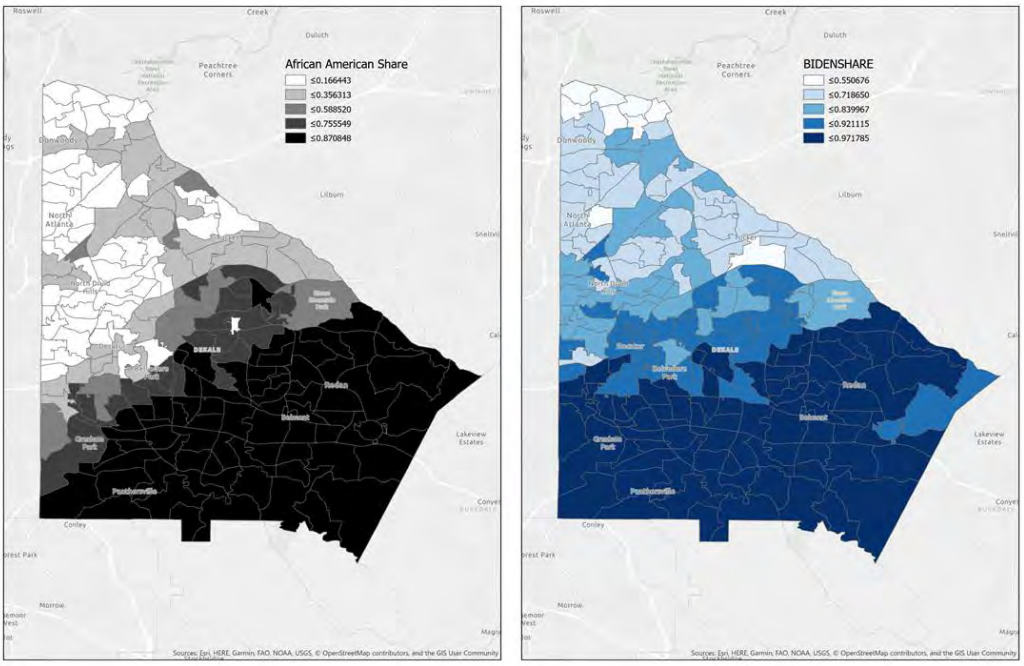


Figure 15: Map of Race and November 2020 Biden Vote Share, Precincts of DeKalb County, GA



It is also useful to visualize DeKalb County election results on a map. For instance, many of the white precincts with relatively high Biden vote shares are contiguous neighbors on the West side of the county, closer to Atlanta. There is nothing about the data displayed in Figures 14 or 15 that would seem to indicate any kind of fraud. Support for Democrats among suburban whites in racially heterogeneous areas is common around the United States and does not constitute evidence of fraud.

VI. RAMSLAND REPORT

Mr. Ramsland presents empirical analysis that demonstrates, in his telling, that Joseph Biden receive higher vote shares in counties that use voting machines made by the manufacturers Dominion and Hart, and that Biden "overperforms" in a larger share of counties using those machines than in counties using other machines. Mr. Ramsland makes vague allusions to rogue foreign actors, and concludes with the statement that the use of certain voting machines "affected 2020 election results" (page 11), indicating that he believes he has uncovered a *causal* relationship, whereby certain types of machines are responsible for boosting the Democratic vote share. Mr. Ramsland's research design is flawed in several crucial respects. First, he relies on idiosyncratic, non-standard statistical techniques that are not suited for the analysis he wishes to accomplish, and more importantly, he relies on a correlation that is driven primarily by cross-state variation and makes no effort to address a serious causal inference problem.

To demonstrate these problems and conduct a more appropriate analysis, I have created my own dataset of county-level votes from 2008 to 2020, merged with county demographic data from the 2014-2018 American Community Survey (ACS),[5] September 2020 county-level unemployment rate from the Bureau of Labor

[5] Demographic variables from the ACS include: the age distribution, sex distribution, percent Black, percent Latino, the percent of renters, median household income, percent of the county with a college degree, and percent under the poverty line.

Statistics, and data on voting technologies used in each jurisdiction collected by Verified Voting.[6] Verified Voting is a "non-partisan organization focused exclusively on the critical role technology plays in election administration" that has developed "the most comprehensive publicly-accessible database of voting systems used around the country."[7] I accessed a dataset showing the various voting systems that were in place for each jurisdiction in 2012, 2016, and 2020.

Mr. Ramsland's report says he uses data from the Election Assistance Commission (EAC). I have been unable to locate a dataset from the EAC that contains data on voting systems used across the country in 2020. The most recent data available from the EAC is from 2018.[8] Its 2020 survey of election administrators—which appears to be the source of the data on voting systems—has yet to be released. As the complaint notes, Georgia had not adopted Dominion voting equipment in 2018.

Mr. Ramsland describes a two-step procedure that is not a standard method of data analysis. Instead of generating predictions using a model that does not include data on voting systems, a more appropriate analysis should include both voting-

[6] In preparing this this data set and conducting the analysis set forth in this section of the report, I received assitance from William Marble—a advanced PhD candidate in political science at Stanford University. Mr. Marble has worked with me in a similar capacity in the past and it is standard to utilize such assistants in my field of expertise.
[7] https://verifiedvoting.org/about/
[8] https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys

systems data as well as demographic data in one unified model.[9] I conduct such an analysis below. Additionally, Mr. Ramsland makes some incorrect statements when describing his analysis. The report states that "[i]n normal circumstances any candidate should perform above expectations roughly 50% of the time and under-perform roughly 50% of the time" (par. 11). This statement is incorrect. In fact, the statistical procedure used in Mr. Ramsland's report guarantees that the average difference between the actual vote share and the predicted vote share is 0. It does not guarantee, however, that the proportion of observations in which the vote share is over- or under-predicted is roughly 50%.[10]

Though Mr. Ramsland's two-step procedure is not especially useful, let us take very seriously his claim that the introduction of certain types of voting technology, via some unspecified form of fraud, actually has a causal impact on vote shares. In other words, we would like to answer the following question: if there are two counties that are otherwise identical in every respect, including their initial type of voting technology, and one switches from some other voting technology to Dominion and the other stays the same, does the switching county exhibit a change in voting behavior relative to the "control" county that stayed the same? In the ideal

[9] Additionally, Mr. Ramsland's report is light on methodological details. For example, it does not describe which Census variables are included in his model.

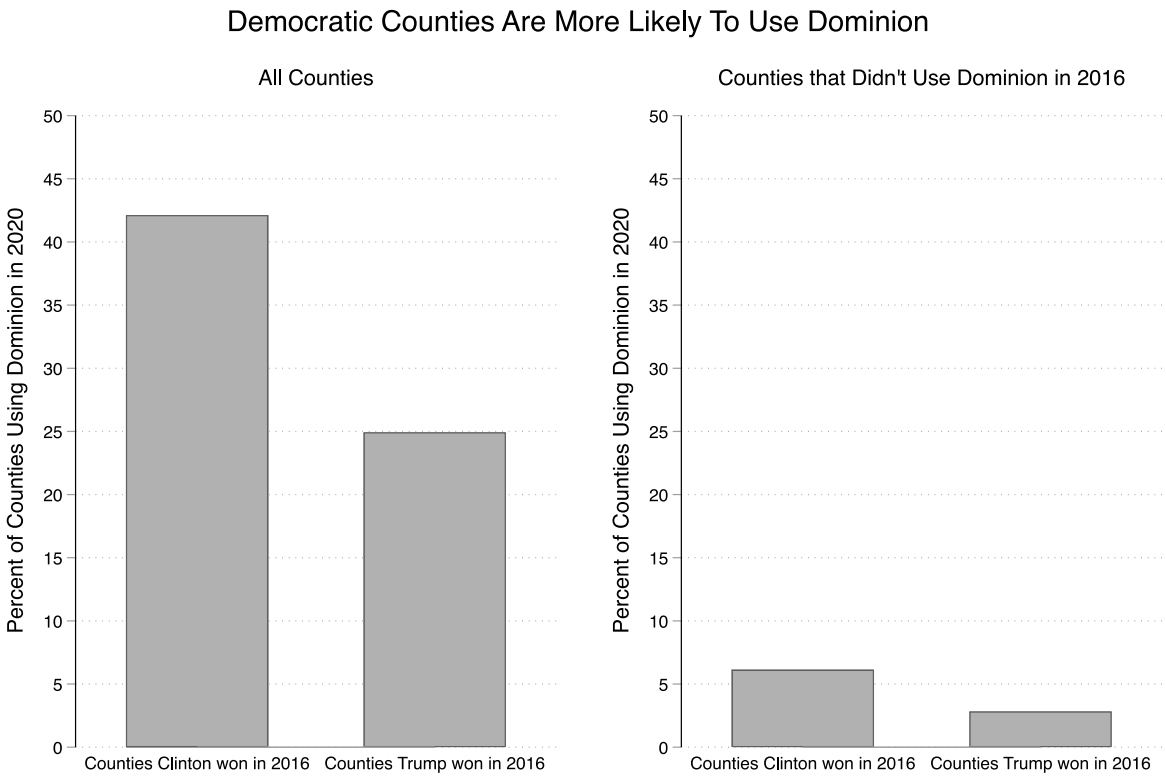
[10] This is a well-known result. Technically, linear regression finds a set of coefficients so that the sum of squared deviations between the predicted and actual values is minimized, along with the constraint that the average deviation is 0. This procedure can produce results where there are many small positive deviations, offset by a few large negative deviations (or vice versa).

world, we would conduct an experiment, much like a drug trial, randomly assigning some counties but not others to either the "treatment condition"—the use of Dominion software—or the control condition—the maintenance of the existing system. By randomizing a sufficiently large number of counties to the treatment and control condition, a researcher would be able to anticipate that there are no systematic differences between the treatment and control counties. Above all, we would hope that this randomization would achieve a balance between the two groups, such that prior Democratic or Republican voting would be similar in the two groups, as would other correlates of voting behavior, such as income, race, and education. We would then be able to isolate any possible impact of voting equipment.

Unfortunately, this type of experiment is unavailable to us. Counties and states have adopted voting technology in a way that is far from random. Counties that adopted Dominion systems between 2016 and 2020 are quite different from those that did not. Counties that switched to Dominion systems between 2016 and 2020 have larger shares of female residents, Latino residents, college-educated residents, and have lower median incomes. All of these variables are correlated with political attitudes. Moreover, they are likely correlated with *unobservable* variables that also correlate with political attitudes and partisanship.

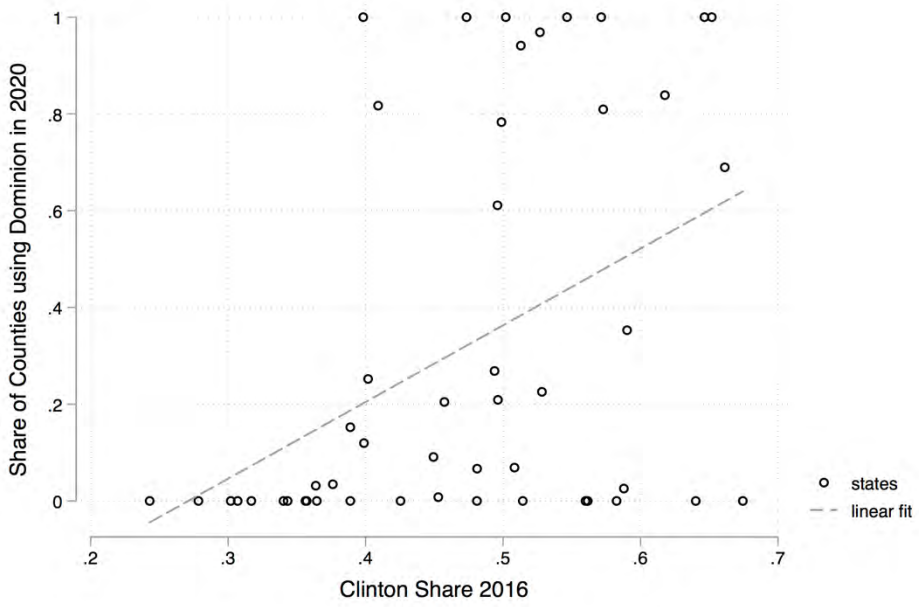
Even worse, it is clearly the case that Democratic counties have been more likely to adopt Dominion machines than Republican counties. This is demonstrated in Figure 16. The left-hand panel considers all counties in the country and shows that counties won by Clinton in 2016 were far more likely than counties won by Trump to make use of Dominion technology in 2020. The right-hand panel focuses on counties that were not yet using Dominion technology in 2016 and shows that counties won by Clinton were significantly more likely than counties won by Trump to adopt Dominion technology.

Figure 16: Voting Technology Use in 2020 by County Partisanship



Seven states have adopted Dominion technology across all of their counties, and 20 states have not adopted Dominion technology in any of their counties. The former counties are predominately Democratic, and the latter lean Republican. This can be seen in Figure 17, which plots Hillary Clinton's 2016 statewide vote share on the horizontal axis and the share of counties using Dominion software in 2020 on the vertical axis. It shows that Dominion software was mostly prominently in use in 2020 in states that were already relatively Democratic in 2016.

Figure 17: Clinton 2016 Vote Share and 2020 Voting Technology



By now it should be clear why Mr. Ramsland's empirical analysis suffers from a vexing causal inference problem. If extremely Democratic counties in states like New England adopted a certain software in the past, and one examined a contemporary correlation between voting behavior and the use of that technology,

that correlation could not plausibly be interpreted as evidence that the technology *caused* the voting outcomes, even if one attempted to control for potential observable confounders like race and income. It is simply not plausible that Connecticut is more Democratic than Wyoming because of its voting technology.

State Fixed Effects Model

Mr. Ramsland sweeps these complexities under the rug. Unfortunately, there is no easy solution to this causal inference problem. At a minimum, we can try to draw inferences from *within* the states where there is variation across counties in voting technology, attempting to control for observable county-level confounders. This can be achieved by estimating a model with "fixed effects" for states. Inclusion of state-level fixed effects allows us to control for a variety of common factors within states that cause there to be a correlation in counties' outcomes within the same state. This does not "solve" the causal inference problem, but at least it allows for more valid comparisons. For this reason, inclusion of fixed effects is standard practice in social science research for this type of study.[11]

I estimate a county-level model in which the dependent variable is the 2020 Democratic vote share and the main independent variable of interest is a binary

[11] For example, see Angrist, J., and Pischke, S., *Mostly Harmless Econometrics*. 2009. Princeton, NJ: Princeton University Press.

variable indicating whether the state used Dominion technology in 2020. The model includes a set of demographic control variables, past election results, and state-level fixed effects. The full results are presented in Appendix Table A1. The coefficient capturing the impact of the use of Dominion technology is statistically indistinguishable from zero. The same is true for the use of Hart technology.

Placebo Test Using Bordering Counties

In sum, when we rely on comparisons of counties within states, there is no evidence that election technology has an impact on vote shares. Mr. Ramsland provides no regression output or details about his analysis, but he seems to have estimated some sort of regression model. He makes no mention of having included fixed effects. As one can see in Figure 17 above, it is clear that a naïve empirical model without fixed effects for states would generate the illusion of a relationship between voting technology and election outcomes simply because Democratic states have been somewhat more likely to purchase Dominion equipment.

A good way to observe this phenomenon is to conduct a "placebo" test in which we examine Biden's vote share in counties that *did not* use Dominion systems but border a county that *did* use Dominion. If there is an impact of voting software on election outcomes via fraud, it should certainly not be detected in counties that border the Dominion counties but use some other election technology system. If we

see that those counties have elevated Democratic vote shares mimicking the supposed "effect" of Dominion software—what is known as a "placebo" effect—we should be very skeptical about claims that use of the software is associated with increased Democratic voting. Rather, we would understand that the correlation reported by Mr. Ramsland is driven by some features of the types of regions where Dominion software has been adopted—not the software itself.

The result of this analysis is shown in Appendix Table A2. It shows results of a linear regression of Biden vote share on an indicator variable for whether a county borders a Dominion (or Hart) county. This regression is estimated among counties that used neither Dominion nor Hart systems, and it includes a set of demographic control variables. It shows that Biden received a higher vote share, about .86 of a percentage point, in counties that border a Dominion county than in those that do not. It would be implausible to claim that voting technology in bordering counties has a causal impact on Biden's vote share. A more plausible interpretation is that there are some common features of politics in the regions that have adopted the software, and the research design that Mr. Ramsland appears to have used in his report is likely to turn up spurious results.

Placebo Test Using Prior Election Results

A research strategy designed to estimate the effect of one variable on another variable can be evaluated by its tendency to detect an effect when an effect *does* exist, and its tendency *not* to detect an effect when an effect *does not* exist. When a research design detects an effect where none exists, we say it returns a *false positive*. Designs with a high false positive rate are not very informative: an effect could be detected by the research design due to the existence of a real effect, or it could be a false positive.

We can make a further evaluation of the propensity of the research design that Ramsland appears to have used in his report to return false positives by seeing whether it detects that *future* events have an "effect" on *past* outcomes. Of course, this is logically impossible—we know that events happening in the future cannot affect past outcomes. Thus, any effect detected on past outcomes is necessarily a false positive.

In Appendix Table A3, I replicate the basic research design that I believe was used in the Ramsland report. It uses linear regression models, without state fixed effects, to predict Democratic vote share as a function of whether a county used Dominion voting technology in 2020, along with county-level demographic and economic control variables. Except, instead of predicting *2020* vote share, I predict *2012* and *2016* vote share. I exclude counties that used Dominion systems at the time of the election being analyzed.

The results indicate that in 2012, in counties that did not use Dominion in 2012 but did use them in 2020, Barack Obama received about 5 to 7 percentage point higher vote share, compared to counties that did not use Dominion machines in either 2012 or 2020. The next column shows a similar pattern for 2016. Future use of Dominion predicts higher Clinton vote share in 2016, even in counties that did not use Dominion in 2016.

These results are false positives: there is no logical way that future use of Dominion voting machines could have affected past outcomes. Instead, these results are due to the fact that counties that used Dominion voting systems in 2020 are politically different than counties that did not, even after controlling for demographic and economic variables. This test shows that the research design used in the Ramsland report is ill-equipped to detect differences in vote shares that are *caused* by use of particular voting systems. As such, the statistical analysis in the Ramsland report provides no evidence of fraud due to use of Dominion or Hart voting machines.

Ranked Choice Voting

Mr. Ramsland also makes a confusing claim that election results may have been altered in Michigan because voting machines were set to perform ranked choice voting, which Mr. Ramsland refers to as a "feature enhancement." From this

discussion, it seems likely that Mr. Ramsland is not familiar with ranked choice voting. It involves a different type of ballot, in which voters rank their preferences among candidates. This type of ballot was not used in Michigan. Even if all of the ballots in Michigan were somehow counted or processed using ranked choice voting, but using ballots that only allowed voters to select one candidate, the result would be the same. Ranked choice voting is a system where in the first round of counting, if one candidate has a majority, the process is over, and no votes are redistributed. If there were multiple candidates and voters' choices were ranked, there would then be a second round, where the lowest-ranked candidate would be dropped, and those voters who ranked that candidate first would then have their second-choice votes tallied. Clearly, nothing of the sort happened in Georgia. Jo Jorgensen, the Libertarian candidate, was credited with 62,138 votes in Georgia. Significant votes were also recorded throughout the state for additional parties as well as write-in candidates.

Mr. Ramsland also seems to believe that ranked choice voting would somehow produce non-integer vote totals. This is simply not the cases. Ranked-choice voting is no more capable of producing non-integer vote totals than is the winner-take-all plurality system. I have examined precinct-level vote totals from county election officials around Georgia and have seen no non-integer vote totals. It appears that Mr. Ramsland may have been thrown off by election-night reporting by

Edison Research that contained Biden and Trump vote totals that were not always whole numbers. One obvious possibility is that when sharing data on election night, workers at Edison Research multiplied total votes cast by vote shares that had been rounded when producing a field for total vote numbers in their data feed.

VII. Conclusion

None of these authors offers a specific theory about how they believe fraud was actually carried out. They veer between insinuations that foreign actors changed votes via malicious software, to more traditional efforts to blame nefarious election administrators in specific counties or precincts. Dr. Quinnell does not specify whether he believes that some unspecified fraud took place among administrators in particular suburban Fulton County precincts, or that a malicious actor at the county level or beyond somehow selected these suburban precincts to manipulate. For reasons that are unclear, Dr. Ayyadurai seems to suggest that malicious coders decided to add Democratic votes to precisely the white, suburban, traditionally Republican precincts in Georgia that have been trending away from the Republican Party in the Trump era. Mr. Ramsland seems to have a broader conspiracy in mind, where malicious coders are subverting the will of voters in every state, including extremely Democratic states of the Northeast.

The visions of fraud and conspiracy that motivate these reports are difficult to pin down and seem to conflict with one another. The data presented in these reports have nothing to do with fraud, and the authors do not even attempt to link their so-called "anomalies" to theories about how fraud might be carried out. Though these reports offer some insight into the production process for conspiracy theories, they provide no evidence whatsoever of anomalies or irregularities in Georgia's 2020 general election results.

Appendix

Table A1: Fixed Effects Model, County-Level Democratic Vote Share in 2020

	Dem vote share, 2020
Dominion 2020	0.031
	(0.25)
Hart 2020	-0.014
	(0.08)
female	-0.003
	(0.18)
Black	0.022
	(2.57)*
Latino	-0.078
	(9.43)**
College	0.086
	(7.31)**
Age 25-34	0.014
	(0.52)
Age 35-44	0.074
	(2.56)*
Age 45-54	-0.028
	(0.85)
Age 55-64	0.123
	(4.16)**
Age 65 and over	-0.030
	(1.63)
Median income	-0.016
	(1.79)
Poverty rate	-0.003
	(0.16)
Unemployment rate	-0.140
	(3.73)**
Renter share	-0.011
	(0.88)
Share urban	0.019
	(7.81)**
Log population density	0.240
	(3.54)**
Dem. vote share 2016	1.047
	(51.38)**
Dem. vote share 2012	-0.093
	(3.76)**
Dem. vote share 2008	-0.026
	(1.43)
Constant	0.465
	(0.26)
R^2	0.99

N	3,110

* $p<0.05$; ** $p<0.01$

Table A2: Border Placebo Analysis

	Dem vote share, 2020
Dominion 2020	0.855*
	(1.96)
Hart 2020	-3.860
	(6.97)**
female	0.067
	(0.60)
Black	0.389
	(16.44)**
Latino	0.148
	(5.00)**
College	0.746
	(13.81)**
Age 25-34	-0.238
	(1.53)
Age 35-44	-0.504
	(3.03)**
Age 45-54	0.060
	(0.33)
Age 55-64	0.738
	(3.70)**
Age 65 and over	-0.231
	(2.43)*
Median income	0.156
	(3.05)**
Poverty rate	0.564
	(5.58)**
Unemployment rate	0.901
	(6.10)**
Renter share	0.274
	(4.56)**
Share urban	0.014
	(1.04)
Log population density	1.812
	(7.04)**
Constant	-25.082
	(2.43)*
R^2	0.68
N	1,846

* $p<0.05$; ** $p<0.01$

Table A3: Previous Election Placebo Analysis

	2012 Dem vote share	2016 Dem vote share
2020 Dominion	5.605	3.310
	(1.241)**	(1.358)*
female	0.400	0.198
	(0.131)**	(0.113)
Black	0.352	0.466
	(0.024)**	(0.021)**
Latino	0.143	0.258
	(0.034)**	(0.031)**
College	0.331	0.660
	(0.061)**	(0.054)**
Age 25-34	-0.411	-0.254
	(0.177)*	(0.153)
Age 35-44	-0.799	-0.576
	(0.194)**	(0.168)**
Age 45-54	0.272	0.269
	(0.225)	(0.198)
Age 55-64	0.842	0.850
	(0.235)**	(0.206)**
Age 65 and over	-0.117	-0.033
	(0.120)	(0.100)
Median income	0.152	0.150
	(0.061)*	(0.050)**
Poverty rate	0.656	0.671
	(0.108)**	(0.098)**
Renter share	0.325	0.337
	(0.077)**	(0.068)**
Share urban	0.008	0.006
	(0.016)	(0.013)
Log population density	2.444	2.387
	(0.276)**	(0.246)**
Constant	-29.495	-41.937
	(12.358)*	(10.381)**
R^2	0.39	0.61
N	1,946	2,097

* $p<0.05$; ** $p<0.01$

Jonathan Rodden

Stanford University
Department of Political Science
Encina Hall Central
616 Serra Street
Stanford, CA 94305

Phone: (650) 723-5219
Fax: (650) 723-1808
Email: jrodden@stanford.edu

Personal

Born on August 18. 1971, St. Louis, MO.

United States Citizen.

Education

Ph.D. Political Science, Yale University, 2000.

Fulbright Scholar, University of Leipzig, Germany, 1993–1994.

B.A., Political Science, University of Michigan, 1993.

Academic Positions

Professor, Department of Political Science, Stanford University, 2012–present.

Senior Fellow, Hoover Institution, Stanford University, 2012–present.

Senior Fellow, Stanford Institute for Economic Policy Research, 2020–present.

Director, Spatial Social Science Lab, Stanford University, 2012–present.

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, 2010–2012.

Associate Professor, Department of Political Science, Stanford University, 2007–2012.

Fellow, Center for Advanced Study in the Behavioral Sciences, Palo Alto, CA, 2006–2007.

Ford Career Development Associate Professor of Political Science, MIT, 2003–2006.

Visiting Scholar, Center for Basic Research in the Social Sciences, Harvard University, 2004.

Assistant Professor of Political Science, MIT, 1999–2003.

Instructor, Department of Political Science and School of Management, Yale University, 1997–1999.

Publications

Books

Why Cities Lose: The Deep Roots of the Urban-Rural Divide. Basic Books, 2019.

Decentralized Governance and Accountability: Academic Research and the Future of Donor Programming. Co-edited with Erik Wibbels, Cambridge University Press, 2019.

Hamilton's Paradox: The Promise and Peril of Fiscal Federalism, Cambridge University Press, 2006. Winner, Gregory Luebbert Award for Best Book in Comparative Politics, 2007.

Fiscal Decentralization and the Challenge of Hard Budget Constraints, MIT Press, 2003. Co-edited with Gunnar Eskeland and Jennie Litvack.

Peer Reviewed Journal Articles

Partisan Dislocation: A Precinct-Level Measure of Representation and Gerrymandering, 2020, *Political Analysis* forthcoming (with Daryl DeFord Nick Eubank).

Who is my Neighbor? The Spatial Efficiency of Partisanship, 2020, *Statistics and Public Policy* (with Nick Eubank).

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Viral Voting: Social Networks and Political Participation, 2020, *Quarterly Journal of Political Science* (with Nick Eubank, Guy Grossman, and Melina Platas).

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The Achilles Heel of Plurality Systems: Geography and Representation in Multi-Party Democracies, 2015, *American Journal of Political Science* 59,4: 789-805 (with Ernesto Calvo). Winner, Michael Wallerstein Award for best paper in political economy, American Political Science Association.

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Working Papers

Federalism and Inter-regional Redistribution, Working Paper 2009/3, Institut d'Economia de Barcelona.

Representation and Regional Redistribution in Federations, Working Paper 2010/16, Institut d'Economia de Barcelona (with Tiberiu Dragu).

Chapters in Books

Political Geography and Representation: A Case Study of Districting in Pennsylvania (with Thomas Weighill), forthcoming 2021.

Decentralized Rule and Revenue, 2019, in Jonathan Rodden and Erik Wibbels, eds., *Decentralized Governance and Accountability*, Cambridge University Press.

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Soft Budget Constraints and German Federalism (Chapter 5), 2003, in Rodden, et al, *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Federalism and Bailouts in Brazil (Chapter 7), 2003, in Rodden, et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Lessons and Conclusions (Chapter 13), 2003, in Rodden, et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Online Interactive Visualization

Stanford Election Atlas, 2012 (collaboration with Stephen Ansolabehere at Harvard and Jim Herries at ESRI)

Other Publications

How America's Urban-Rural Divide has Shaped the Pandemic, 2020, *Foreign Affairs*, April 20, 2020.

An Evolutionary Path for the European Monetary Fund? A Comparative Perspective, 2017, Briefing paper for the Economic and Financial Affairs Committee of the European Parliament.

Representation and Regional Redistribution in Federations: A Research Report, 2009, in *World Report on Fiscal Federalism*, Institut d'Economia de Barcelona.

On the Migration of Fiscal Sovereignty, 2004, *PS: Political Science and Politics* July, 2004: 427–431.

Decentralization and the Challenge of Hard Budget Constraints, *PREM Note* 41, Poverty Reduction and Economic Management Unit, World Bank, Washington, D.C. (July).

Decentralization and Hard Budget Constraints, *APSA-CP* (Newsletter of the Organized Section in Comparative Politics, American Political Science Association) 11:1 (with Jennie Litvack).

Book Review of *The Government of Money* by Peter Johnson, *Comparative Political Studies 32,7: 897-900.*

Fellowships and Honors

Fund for a Safer Future, Longitudinal Study of Handgun Ownership and Transfer (LongSHOT), GA004696, 2017-2018.

Stanford Institute for Innovation in Developing Economies, Innovation and Entrepreneurship research grant, 2015.

Michael Wallerstein Award for best paper in political economy, American Political Science Association, 2016.

Common Cause Gerrymandering Standard Writing Competition, 2015.

General support grant from the Hewlett Foundation for Spatial Social Science Lab, 2014.

Fellow, Institute for Research in the Social Sciences, Stanford University, 2012.

Sloan Foundation, grant for assembly of geo-referenced precinct-level electoral data set (with Stephen Ansolabehere and James Snyder), 2009-2011.

Hoagland Award Fund for Innovations in Undergraduate Teaching, Stanford University, 2009.

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, beginning Fall 2010.

Research Grant on Fiscal Federalism, Institut d'Economia de Barcelona, 2009.

Fellow, Institute for Research in the Social Sciences, Stanford University, 2008.

United Postal Service Foundation grant for study of the spatial distribution of income in cities, 2008.

Gregory Luebbert Award for Best Book in Comparative Politics, 2007.

Fellow, Center for Advanced Study in the Behavioral Sciences, 2006-2007.

National Science Foundation grant for assembly of cross-national provincial-level dataset on elections, public finance, and government composition, 2003-2004 (with Erik Wibbels).

MIT Dean's Fund and School of Humanities, Arts, and Social Sciences Research Funds.

Funding from DAAD (German Academic Exchange Service), MIT, and Harvard EU Center to organize the conference, "European Fiscal Federalism in Comparative Perspective," held at Harvard University, November 4, 2000.

Canadian Studies Fellowship (Canadian Federal Government), 1996-1997.

Prize Teaching Fellowship, Yale University, 1998-1999.

Fulbright Grant, University of Leipzig, Germany, 1993-1994.

Michigan Association of Governing Boards Award, one of two top graduating students at the University of Michigan, 1993.

W. J. Bryan Prize, top graduating senior in political science department at the University of Michigan, 1993.

Other Professional Activities

International Advisory Committee, Center for Metropolitan Studies, Sao Paulo, Brazil, 2006–2010.

Selection committee, Mancur Olson Prize awarded by the American Political Science Association Political Economy Section for the best dissertation in the field of political economy.

Selection committee, Gregory Luebbert Best Book Award.

Selection committee, William Anderson Prize, awarded by the American Political Science Association for the best dissertation in the field of federalism and intergovernmental relations.

Courses

Undergraduate

Politics, Economics, and Democracy

Introduction to Comparative Politics

Introduction to Political Science

Political Science Scope and Methods

Institutional Economics

Spatial Approaches to Social Science

Graduate

Political Economy of Institutions

Federalism and Fiscal Decentralization

Politics and Geography

Consulting

2017. Economic and Financial Affairs Committee of the European Parliament.

2016. Briefing paper for the World Bank on fiscal federalism in Brazil.

2013-2018: Principal Investigator, SMS for Better Governance (a collaborative project involving USAID, Social Impact, and UNICEF in Arua, Uganda).

2019: Written expert testimony in *McLemore, Holmes, Robinson, and Woullard v. Hosemann*, United States District Court, Mississippi.

2019: Expert witness in *Nancy Corola Jacobson v. Detzner*, United States District Court, Florida.

2018: Written expert testimony in *League of Women Voters of Florida v. Detzner* No. 4:18-cv-002510, United States District Court, Florida.

2018: Written expert testimony in *College Democrats of the University of Michigan, et al. v. Johnson, et al.*, United States District Court for the Eastern District of Michigan.

2017: Expert witness in *Bethune-Hill v. Virginia Board of Elections*, No. 3:14-CV-00852, United States District Court for the Eastern District of Virginia.

2017: Expert witness in *Arizona Democratic Party, et al. v. Reagan, et al.*, No. 2:16-CV-01065, United States District Court for Arizona.

2016: Expert witness in *Lee v. Virginia Board of Elections*, 3:15-cv-357, United States District Court for the Eastern District of Virginia, Richmond Division.

2016: Expert witness in *Missouri NAACP v. Ferguson-Florissant School District*, United States District Court for the Eastern District of Missouri, Eastern Division.

2014-2015: Written expert testimony in *League of Women Voters of Florida et al. v. Detzner, et al.*, 2012-CA-002842 in Florida Circuit Court, Leon County (Florida Senate redistricting case).

2013-2014: Expert witness in *Romo v Detzner*, 2012-CA-000412 in Florida Curcuit Court, Leon County (Florida Congressional redistricting case).

2011-2014: Consultation with investment groups and hedge funds on European debt crisis.

2011-2014: Lead Outcome Expert, Democracy and Governance, USAID and Social Impact.

2010: USAID, Review of USAID analysis of decentralization in Africa.

2006–2009: World Bank, Independent Evaluations Group. Undertook evaluations of World Bank decentralization and safety net programs.

2008–2011: International Monetary Fund Institute. Designed and taught course on fiscal federalism.

1998–2003: World Bank, Poverty Reduction and Economic Management Unit. Consultant for *World Development Report*, lecturer for training courses, participant in working group for assembly of decentralization data, director of multi-country study of fiscal discipline in decentralized countries, collaborator on review of subnational adjustment lending.

Last updated: October 19, 2020

Report of Kenneth R. Mayer, Ph.D.
December 5, 2020

I. Introduction and Summary of Conclusions

I have been asked by counsel for the Democratic Party of Georgia, the DSCC, and the DCCC to evaluate claims made by Russell James Ramsland, Jr. in his affidavit of November 25, 2020, and by Dr. Benjamin A. Overholt in his affidavit of November 29, 2020.[1]

Ramsland asserts that that "red flags" in mail absentee data show that 96,000 mail absentee ballots were voted but not recorded as received by counties, and that 5,990 ballots had "impossible mail out and received back complete dates" (Ramsland Affidavit, paragraph 15). Based on these findings, Ramsland concludes "to a reasonable degree of professional certainty that at least 96,600 votes were illegally counted in the Georgia general election" (Ramsland Affidavit, paragraph 15). I show that this a fundamental mistake in interpreting the data, as there are 96,600 cancelled mail absentee ballots with no return date, denoted by a "C" value in the ballot status field that Ramsland mistakenly thinks means "counted" instead of *cancelled*.

Overholt claims generally the existence of "anomalies" or "discrepancies" in the Georgia's 2020 general election absentee files, which he defines as differences in the rates of mail absentee ballots spoiled, rejected, or cancelled in the 2020 general election when compared to rates in previous elections (Overholt Affidavit, paragraphs 5 and 14). The result, he asserts, is that somewhere between 1,600 and 17,500 ballots counted in the November 2020 election should have been rejected. Overholt also claims there are issues with how the Secretary of State calculated rejection rates (Overholt Affidavit, paragraph 15). These conclusions reflect a fundamental misunderstanding of what the data actually show, and do not in any sense suggest that these ballots should have been rejected.

As discussed further below, I have significant expertise working with voter files, absentee files, and other large election- and voting-related data sets, including in the state of Georgia. Based on that expertise, it is my conclusion that the claims made by both Ramsland and Overholt are unsupported and incorrect. Ramsland's and Overholt's reports do not comport with scientifically acceptable data standards or methodology in my field of expertise. It is clear that neither knows even the basics of the data they purport to examine, election administration or how elections are actually conducted in Georgia or how election practices changed in 2020. Both reports use inaccurate definitions of crucial terms, make completely unsubstantiated claims based on pure speculation and personal opinion, and reach unsupported and incorrect inferences about what the data show.

Even on things as basic as describing what files they are examining and the methodologies they use in arriving at their conclusions, their reports do not meet the most fundamental requirements of conducting a reliable and replicable analysis.

[1] It is actually not clear when Overholt submitted his report, as he does not show a date. The report was notarized on November 29, 2020.

To more specifically summarize the issues with these reports:

1. Ramsland falsely insinuates that absentee ballots sent to voters but not returned or cancelled by voters, suggest fraud.
2. Ramsland erroneously conflates routine administrative recordkeeping anomalies with fraud, and presents wildly inaccurate figures regarding the number of absentee ballots accepted but not recorded as being returned. These errors would be immediately obvious to anyone familiar with election administration or the details of Georgia's absentee and voter history files, and no reputable expert would make such mistakes.
3. Overholt, similarly, insinuates that so-called "anomalies" indicate fraudulent ballots were accepted in the 2020 presidential election. Yet the "anomalies" he claims to have found actually reflect normal variations that regularly occur from one election to another.
4. Overholt does not take into account that Georgia law and election practices eliminated the address and birthdate section of the absentee ballot return envelope in 2020. He also does not take into account that the methods used to conduct signature matching changed before the 2020 primary election.
5. Overholt seizes on what he insists is a "misleading" and "flawed" calculation of ballot rejection percentages, again insinuating that a trivial difference in how one percentage was calculated on what amounts to a press release on the Secretary of State's web-site suggests some impropriety. This analysis ultimately demonstrates that the mail ballot signature rejection rate in the 2020 presidential primary was 0.26% and 0.15% in the 2018 general election on the Secretary of State web-site when, according to his calculations, it should have been 0.28%. and 0.20%, respectively.

II. Qualifications and Expertise

I have a Ph.D. in political science from Yale University, where my graduate training included courses in econometrics and statistics. My undergraduate degree is from the University of California, San Diego, where I majored in political science and minored in applied mathematics. I have been on the faculty of the political science department at the University of Wisconsin-Madison since August 1989. My curriculum vitae is attached to this report as Appendix A.

All publications that I have authored and published in the past ten years appear in my curriculum vitae. Those publications include the following peer-reviewed journals: *Journal of Politics*, *American Journal of Political Science*, *Election Law Journal*, *Legislative Studies Quarterly*, *Presidential Studies Quarterly*, *American Politics Research*, *Congress and the Presidency*, *Public Administration Review*, *Political Research Quarterly*, and *PS: Political Science and Politics*. I have also published in law reviews, including the *Richmond Law Review*, the *UCLA Pacific Basin Law Journal*, and the *University of Utah Law Review*. My work on campaign finance has been published in *Legislative Studies Quarterly*, *Regulation*, *PS: Political Science and Politics*, *Richmond Law Review*, the *Democratic Audit of Australia*, and in an edited volume on electoral competitiveness published by the Brookings Institution Press. My research on campaign finance has been cited by the U.S. Government Accountability Office and by legislative research offices in Connecticut and Wisconsin.

My work on election administration has been published in the *Election Law Journal*, *American Journal of Political Science*, *Public Administration Review*, *Political Research Quarterly*, and *American Politics Research*. I was part of a research group retained by the Wisconsin Government Accountability Board to review their compliance with federal mandates and reporting systems under the Help America Vote Act and to survey local election officials throughout the state. I serve on the Steering Committee of the Wisconsin Elections Research Center, a unit within the UW-Madison College of Letters and Science. In 2012, I was retained by the U.S. Department of Justice to analyze data and methods regarding Florida's efforts to identify and remove claimed ineligible noncitizens from the statewide file of registered voters.

In the past nine years, I have testified as an expert witness in trial or deposition or submitted a report in the following cases:

Federal: *The New Georgia Project et al. v. Raffensperger et al*. No. 1:20-CV-01986-EL0052 (N.D. Ga.); *Fair Fight Action v. Raffensperger,* No. 1:18-cv-05391-SCJ (N.D. Ga. 2019); *Kumar v. Frisco Independent School District*, No. 4:19-cv-00284 (E.D. Tex. 2019); *Vaughan v. Lewisville Independent School District*, No. 4:19-cv-00109 (E.D. Tex. 2019); *Dwight, et al. v Raffensperger*, No: 1:18-cv-2869-RWS (N.D. Ga. 2018); *League of Women Voters of Michigan, et al. v. Johnson*, No. 2:17-cv-14148-DPH-SDD (S.D. Mich. 2018); *One Wis. Institute*, *Inc. v. Thomsen* 198 F. Supp. 3d 896 (W.D. Wis. 2016); *Whitford v. Gill*, 218 F. Supp. 3d 837 (W.D. Wis. 2016); *Baldus v. Members of Wis. Gov't Accountability Bd.*, 849 F. Supp. 2d 840 (E.D. Wis. 2012).

State: *North Carolina Alliance for Retired Americans et al. v. North Carolina State Board of Elections* (Wake Cty., NC),; *LaRose et al. v. Simon*, No. 62-CV-20-3149 (2d Jud. Dist. Ct., Ramsey Cty., MN); *Michigan Alliance for Retired Americans et al. v Benson et al*. No 2020-000108-MM (Mich. Court of Claims); *Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cty., Mont. 2020); *Priorities U.S.A, et al. v. Missouri, et al.*, No. 19AC-CC00226 (Cir. Ct. of Cole Cty., M. 2018); *Milwaukee Branch of the NAACP v. Walker*, 851 N.W. 2d 262 (Wis. 2014); *Kenosha Cty. v. City of Kenosha*, No. 11-CV-1813 (Wis. Cir. Ct., Kenosha Cty., Wis. 2011).

Courts consistently have accepted my expert opinions, and the basis for those opinions. No court has ever excluded my expert opinion under *Daubert* or any other standard. Courts have cited my expert opinions in their decisions, finding my opinions reliable and persuasive. *See Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cty., Mont., 2020); *Priorities U.S.A., et al. v. Missouri, et al.*, No. 19AC-CC00226 (Cir. Ct. Cole Cty., Mo. 2018); *Whitford v. Gill*, 218 F. Supp. 3d 837 (W.D. Wis. 2016); *One Wis. Inst.*, *Inc. v. Thomsen*, 198 F. Supp. 3d 896 (W.D. Wis. 2016); *Baldus v. Members of Wis. Gov't Accountability Bd.*, 849 F. Supp. 2d 840 (E.D. Wis. 2012); *Milwaukee Branch of the NAACP v. Walker*, 851 N.W. 2d 262 (Wis. 2014); *Baumgart v. Wendelberger*, No. 01-C-0121, 2002 WL 34127471 (E.D. Wis. May 30, 2002).

III. Ramsland Affidavit

A. The Claim That 96,600 Mail Absentee Ballots With No Return Record Were Counted

Ramsland claims that county voter records show that 96,600 mail absentee ballots were counted but never recorded as received. He does not explain how he derived this number, and does not disclose which data files or methodologies he used to reach this conclusion (whether county-level absentee files, the statewide absentee voter file, or the voter history file), which fields in these files he relied on to conclude that a ballot was counted but not recorded as received, the dates on which the voter files or absentee request files were generated, or, in fact, information about the methodologies he relied on to generate this number. More importantly, he does not explain *why* a blank return date field indicates an illegal ballot rather than an administrative error. These failures, by themselves, would warrant rejection of his conclusions as completely unreliable.

But an even greater – indeed fatal – flaw exists in Ramsland's analysis, which is that his numbers are entirely incorrect. As I show below, he appears to arrive at this number through a basic error in interpreting the absentee request file.

On December 1, 2020, I downloaded voter history files and absentee request files available on the Georgia Secretary of State website. The statewide absentee request file includes all 159 county-level absentee request files. After merging the two files using the unique voter registration number, I identified the following figures for the November 2020 general election.

The most important data point from these files is the number of mail absentee ballots recorded as accepted and counted, but which do not have a return date recorded in the absentee ballot request file (what Ramsland claims is a ballot counted but never received by election officials). Ramsland claims that there are 96,600 such ballots. He does not explain how he generated this quantity, but I believe I have identified how he derived this figure.

In the absentee ballot request file, there are 96,600 *cancelled mailed absentee ballots* that do not have a date of return recorded, matching exactly the total of mailed ballots that Ramsland claims were counted but never submitted. This figure almost certainly represents the ballots Ramsland is referring to, as no other aggregation of ballots could plausibly lead to this precise match. These ballots are recorded in the ballot status field as "C" (cancelled). I suspect that Ramsland mistakenly thinks that "C" means *counted*, rather than *cancelled*, and does not realize that counted ballots are noted as "A" (accepted) in the ballot status field. This is an egregious error that no qualified expert familiar with Georgia's voter files would make.[2]

[2] Ramsland incorrectly claims that 134,588 mail ballots have no return date and were cancelled (Ramsland Affidavit, paragraph 15). He does not explain how he arrived at this figure, but as explained, the number of cancelled mail ballots with no return date is not 134,588, but rather 96,600. I suspect Ramsland added together mailed ballots with no return date *and* a ballot status of either A (accepted) (4 ballots), R (rejected) (468 ballots), S (spoiled) (235 ballots) or blank (133,880 ballots), to incorrectly generate the 134,588 number. The one ballot difference is

The statewide absentee ballot file shows that the *actual* number of mail ballots accepted with no date of receipt recorded is not 96,600, but rather 4.[3] This is almost certainly a recordkeeping issue that affected a trivially small number (0.0003%) of mail absentee ballots.

Further, the merged absentee request and voter history file show the following for the November 2020 general election:

1. The absentee request file shows that 4,018,064 absentee voters requested and submitted an accepted absentee ballot. 1,308,440 were mail absentee, 2,695,547 were in person absentee, and 14,077 were electronic absentee.
2. The voter history file shows that 4,018,800 voters cast absentee ballots. The voter file does not record whether an absentee ballot was mail, in person or electronic.
3. The two files do not match exactly, but the difference between the absentee ballot file and the voter history file is 736 votes, not 96,600 votes. 736 votes is 0.018% of the number of absentee ballots recorded in the voter history file.
4. This difference – 736 – is the kind of administrative error ubiquitous in voter registration files, and is the result of recordkeeping errors, recording mistakes, or other anomalies that have occurred in every statewide voter file I have examined over more than 20 years of studying election administration.
5. In the merged file, 86 voters are shown as casting an accepted absentee ballot but not recorded as voting absentee in the voter history file. This is 0.007% of all mail absentee ballots recorded as accepted, and is again almost certainly a recordkeeping issue.

Ramsland's numbers are wildly incorrect and reflect an astounding lack of understanding of how the data are organized and the meaning of the ballot status field in the absentee request file. His conclusion – that at least 96,600 ballots were counted illegally – is ludicrous.

B. Administrative Discrepancies in Sent and Return Dates

Ramsland asserts that the sent and returned dates recorded in the absentee voter file – reflecting the date an absentee ballot was sent, and the date an absentee ballot was received in a clerk's office – also raise "red flags." He claims that 1,887 mail ballots were received the same day they were sent out; 1,786 ballots were received one day after being mailed out; 2,275 ballots received two days after being mailed out; and 42 ballots were received the day before they were sent out. He concludes that this is "impossible."

This conclusion is based entirely on Ramsland's personal opinion that such delivery and return times are impossible. As I show below, some of these send and return dates are likely correct, and the remainder are recordkeeping issues.

almost certainly due to the fact that the underlying data files were generated on two different dates.

[3] I calculated this number by identifying accepted mail absentee ballots with a blank entry in the ballot return date field in the absentee ballot request file.

Again, Ramsland does not disclose what methodologies he used to generate his estimates or reach his conclusion. And once again, his numbers are incorrect. The absentee ballot request file shows the following results:

1. 89 mail ballots are recorded as received before the date sent out (not 42)
2. 467 ballots are recorded as received the same day they were sent out (not 1,887)
3. 374 ballots are recorded as received 1 day after being sent out (not 1,786)
4. 963 ballots are recorded as received 2 days after being sent out (not 2,275)

Many of these sent and return dates are in fact plausible. A mailed absentee ballot returned by a voter *in person* at a clerk's office will be recorded as a received mail ballot on that date, because what is recorded in the absentee file is the type of ballot requested, not the manner in which it is returned (whether by mail or in person). Many of these ballots were, likely, accurately recorded on the date received because they were returned in person rather than by mail. Any remaining anomalies are almost certainly recordkeeping mistakes.

It is true that it is not possible for a mailed ballot to arrive before it was sent out. But this is clearly a recording error affecting a very small number of mailed ballots (89 out of 1,308,440 ballots, or 0.0068%)

Moreover, the numbers are not material. The total number of ballots recorded as received with 2 days of being sent out is 1,893, or 0.14% of all accepted mail ballots, not 5,990 as Ramsland claims. As I note above, some of this information is most likely correct, and any expert familiar with statewide voter files would immediately recognize the remaining anomalies as a recordkeeping issue, not an indication of fraud.

C. Conclusion

Ramsland's conclusions about mail absentee ballots are meritless, and show a complete lack of understanding of statewide absentee voter and voter history files. An analysis of the correct absentee request and voter history files from the November 2020 general election shows clearly that Ramsland's numbers are wildly wrong, and his conclusions are based on faulty data, errors in how he interprets the data, unsupported personal opinions, and completely unwarranted inferences.

The absentee request file and voter history file from 2020 show minor discrepancies that are entirely consistent with administrative errors in prior years and other states, and do not, by any stretch, indicate fraud.

IV. Overholt Affidavit

Overholt's main conclusions consist of assertions that (a) there are "discrepancies in the number of mail ballots that were 'rejected' and 'spoiled' when comparing previous elections to the 2020 General Election" (Overholt Affidavit, paragraph 5); (b) the Secretary of State web-site uses "misleading" and inconsistent methods when calculating signature rejection rates between 2018 and 2020 (Overholt Affidavit, paragraphs 15-19); (c) that 500,000 votes are missing in a the 2020 data when compared to the "official" election results (Overholt Affidavit, paragraph 20);

and (d) that other unspecified "anomalies in the reported data. . . many (*sic*) raise significant questions" about the 2020 election results.

Overholt concludes, based on these results, that between 1,600 and 17,500 ballots "should have been rejected" in the 2020 general election (Overholt Affidavit, paragraphs 11 and 13).

Overholt is correct about only one minor, and ultimately irrelevant, detail in this cavalcade of unsupported and inaccurate claims: calculations on the Georgia Secretary of State web-site do, in fact, use different denominators in calculations of mail absentee ballot signature rejection rates in the 2018 general, the 2020 primary, and the 2020 general elections. As I show below, this is a trivial result that has no substantive significance.

Moreover, Overholt completely misunderstands the data that he is using, and fails to account for changes that occurred before the 2020 elections, including a 2019 state law that changed required information on absentee ballot return envelopes, as well as changes to the methodologies for conducting signature matching. As explained further below, he also confuses the number of absentee ballot requests with the number of votes cast. This error is so elementary that it calls into question the entirety of his opinion.

A. Alleged "Discrepancies" in Spoiled and Rejected Mail Absentee Rates

Overholt alleges that number of rejected mail ballots and mail ballot rejection rates in 2020 general election differed from the numbers and rates in the 2020 primary, the 2018 general, and the 2016 general election. He calculates that the rejection rate for signature reasons was 0.15% in the 2020 general, compared to 0.28% in the 2016 general and 2020 primary elections. This, he asserts, "would suggest somewhere around 1,600 additional ballots should have been rejected for signature issues."

This conclusion is entirely wrong. He makes two fundamental errors. First, he incorrectly assumes that the 2016 general and 2020 primary rejection rates should be viewed as the "true" or expected rejection rate for all other elections. There is no basis for such a conclusion. One could just as easily assert that the 2020 general election rejection rate (0.15%) is the "true" rejection rate, and that excess rejections occurred in 2016 and 2018 (he also conveniently ignores the rejection rate in the 2018 general election, which at 0.20% is closer to the 2020 general rate than either the 2016 general or 2020 primary rejections rates).

Second, he ignores (or is unaware of) the fact that the signature matching and oath requirements *changed* between 2018 and 2020. In March 2020, the Secretary of State entered into a settlement agreement that required 2 of 3 election judges to agree that a signature does not match, and required clerks to notify voters that their ballots were rejected.[4] 403 mail absentee voters whose initial absentee ballots were rejected for signature reasons were able to either cure their ballot or submit another absentee ballot that was accepted.[5]

[4] *Democratic Party of Georgia v. Raffensperger*, Joint Notice of Settlement as to State Defendants, No. 1:19-ccv-5028-WMR (N.D. Ga. March 6, 2020).
[5] These data are in the absentee ballot request file.

In addition, the oath requirements changed in April 2019 to eliminate the requirement that voters include their address and date of birth on the oath (errors or omissions on either would result in a rejected ballot).[6]

Consequently, Overholt's application of the oath-related rejection rates in 2016 and 2018 to the 2020 election and his resulting claim that "an additional 7,900 or 17,500 ballots should have been rejected" (Overholt Affidavit, paragraph 13) are simply wrong, because the oath requirements changed, and a defect that would result in a rejected ballot in 2018 could not have resulted in a rejection in 2020.

Next, Overholt claims that discrepancies existed with respect to spoiled ballots (Overholt Affidavit, paragraph 14). It is not clear what point Overholt is making here, because the spoiled ballot rate was *higher* in 2020 than it was in 2016 and 2018. This entire section of his report amounts only to an observation that the spoiled ballot rate in 2020 was higher than in previous elections, which, Overholt insinuates without explanation, indicates some unspecified irregularity.

B. Differences in Signature Rejection Rate Calculations

Overholt devotes considerable time to a claim that a single page on the Georgia Secretary of State's web-site (which he inaccurately describes as "an article") calculates the rejected ballot rate in the 2020 primary and 2018 general elections incorrectly (Overholt Affidavit, paragraphs 15-19). He exaggerates the scope of this error to assert that the "[Secretary of State] Analysis is flawed" (Overholt Affidavit, paragraph 15) and that the calculation was "generated improperly and inconsistently and is misleading" (Overholt Affidavit, paragraph 19).

This is a tremendous amount of weight to place on a trivial error. On the web page in question, a different denominator *is* used in a calculation of the 2020 primary election signature rejection rate (accepted mail ballots) and the 2018 general (issued absentee ballots) than in the calculation of rejection rates in November 2020 (accepted, rejected, and spoiled absentee ballots). But the amount of attention Overholt devotes to this issue is vastly disproportionate to the insignificance of the error itself, and he fails to explain *why* these differences matter (they do not). He merely insinuates that these minor errors constitute an intentional misrepresentation of what the data indicate.

The signature rejection rate on the web page is 0.26% in the 2020 primary election and 0.15% in the 2018 general, using what Overholt claims are the wrong denominators. Correcting this, and using the same denominator in all three calculations, produces a rejection rate of 0.20% in the 2018 general and 0.28% in the 2020 primary. This is an entirely immaterial difference that has no substantive relevance.

C. "Further Anomalies"

[6] House Bill 319 (effective April 2, 2019), http://www.legis.ga.gov/legislation/en-US/Display/20192020/HB/316.

At the end of his report, Overholt asserts that several additional anomalies raise "significant questions" about the 2020 election. The relevance of these claims is unclear, and they demonstrate Overholt's complete lack of understanding of the data he claims to analyze in his report, casting further doubt on the credibility of his analysis and conclusions.

His first claim is that "the dataset for the 2020 General Election . . . contains records for 4,505,778 ballots, while Georgia's official election totals currently show a total of 4,998,482 votes cast" (Overholt Affidavit, paragraph 20). The difference in these two numbers, he asserts, suggest something amiss, particularly because the datafile he uses "is missing around 500,000 votes."[7] "The effect of the difference in ballot totals on this analysis," he concludes, "is unknown and cannot be calculated without better understanding of the underlying conduct of the election throughout Georgia (Overholt Affidavit, paragraph 21).

Here, Overholt is mistaking each record in the absentee ballot request file as a counted vote, unaware of the difference between the *absentee ballot request file* and the *voter history file*. He does not seem to know that the absentee ballot request file is not a record of everyone who voted in the 2020 presidential election, but a record of *voters who requested absentee ballots.*

The absentee ballot file indeed contains 4,505,778 records, but each record in this file is an *absentee ballot requests*, not a file all votes cast in November 2020. This file cannot be compared to the number of votes *cast*, because the latter total includes those who voted in person on election day (982,630) *who do not appear in the absentee ballot request file* Overholt is comparing proverbial apples and oranges (or, perhaps more accurately, raisins and pumpkins).

There is no discrepancy. There are no "missing" 500,000 votes. There is nothing "surprising" about any of this, except, perhaps, that no expert who had any understanding of Georgia's voter files would make such a glaring and basic error.

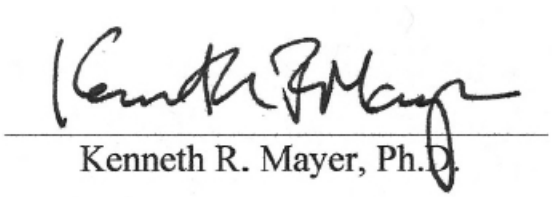
Finally, at the end of his report, Overholt asserts that "other anomalies in the reported data" raise questions about the conduct of the 2020 election. Overholt never identifies what these alleged anomalies are, what "reported data" he is using, or what "questions" he thinks these unspecified and unsupported anomalies raise. This unspecified and unsupported claim require no response.

D. Conclusion

Overholt's report is a string of errors and unfounded assertations that reflects a lack of knowledge about Georgia's election practices and how to properly analyze statewide voter files. He does not account for changes in absentee ballot requirements between 2018 and 2020, and confuses absentee ballot requests with actual vote counts. He erroneously concludes that variation in ballot rejection rates in different elections constitute "anomalies" that suggest fraud.

His opinions, to put it mildly, should be regarded as uninformative.

[7] Presumably the "dataset" in question is the absentee ballot request file, though Overholt does not specify as much.



Kenneth R. Mayer, Ph.D.

December 5, 2020

Appendix A – CV

Kenneth R. Mayer

Department of Political Science
Affiliate, La Follette School of Public Affairs
110 North Hall / 1050 Bascom Mall
University of Wisconsin – Madison
Madison, WI 53706

Phone: 608-263-2286
Email: krmayer@wisc.edu

Education

Yale University, Department of Political Science, Ph.D., 1988.
Yale University, Department of Political Science, M.A., M.Phil.,1987.
University of California, San Diego, Department of Political Science, B.A., 1982.

Positions Held

University of Wisconsin, Madison. Department of Political Science.
Professor, July 2000-present.
Associate Professor, June 1996-June 2000.
Assistant Professor, August 1989-May 1996.
Fulbright-ANU Distinguished Chair in Political Science, Australian National University (Canberra, ACT), July-December 2006.
Director, Data and Computation Center, College of Letters and Science, University of Wisconsin-Madison, June 1996-September 2003
Consultant, The RAND Corporation, Washington DC, 1988-1994. Conducted study of acquisition reform, and the effects of acquisition policy on the defense industrial base. Performed computer simulations of U.S. strategic force posture and capabilities.
Contract Specialist, Naval Air Systems Command, Washington D.C., 1985-1986. Responsible for cost and price analysis, contract negotiation, and contract administration for aerial target missile programs in the $5 million - $100 million range.

Awards

American Political Science Association, State Politics and Policy Section. Award for best Journal Article Published in the *American Journal of Political Science* in 2014. Awarded for Burden, Canon, Mayer, and Moynihan, "Election Laws, Mobilization, and Turnout."
Robert H. Durr Award, from the Midwest Political Science Association, for Best Paper Applying Quantitative Methods to a Substantive Problem Presented at the 2013 Meeting. Awarded for Burden, Canon, Mayer, and Moynihan, "Election Laws and Partisan Gains."
Leon Epstein Faculty Fellow, College of Letters and Science, 2012-2015
UW Housing Honored Instructor Award, 2012, 2014, 2017, 2018
Recipient, Jerry J. and Mary M. Cotter Award, College of Letters and Science, 2011-2012
Alliant Underkofler Excellence in Teaching Award, University of Wisconsin System, 2006
Pi Sigma Alpha Teaching Award, Fall 2006
Vilas Associate, 2003-2004, University of Wisconsin-Madison Graduate School.
2002 Neustadt Award. Awarded by the Presidency Research Group of the American Political Science Association, for the best book published on the American presidency in 2001. Awarded for *With the Stroke of a Pen: Executive Orders and Presidential Power*.
Lilly Teaching Fellow, University of Wisconsin-Madison, 1993-1994.
Interfraternity Council award for Outstanding Teaching, University of Wisconsin-Madison, 1993.
Selected as one of the 100 best professors at University of Wisconsin-Madison, Wisconsin Student

Association, March 1992.
Olin Dissertation Fellow, Center for International Affairs, Harvard University, 1987-1988

Service as an Expert Witness

1. *North Carolina Alliance for Retired Americans et al. v. North Carolina State Board of Elections* (Wake Cty., NC), absentee ballots (2020).
2. *LaRose et al. v. Simon*, No. 62-CV-20-3149 (2d Jud. Dist. Ct., Ramsey Cty., MN), absentee ballots (2020).
3. *Michigan Alliance for Retired Americans et al. v Benson et al*. No 2020-000108-MM (Mich. Court of Claims), absentee ballots (2020).
4. *The New Georgia Project et al. v. Raffensperger et al*. No. 1:20-CV-01986-EL0052 (N.D. Ga.), absentee ballots (2020).
5. *Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cty., MT), absentee ballots (2020)
6. *The Andrew Goodman Foundation v. Bostelmann*, No. 19-cv-955 (W.D. Wisc.), voter ID (2020).
7. *Kumar v. Frisco Independent School District et al.*, No,4:19-cv-00284 (E.D. Tex.), voting rights (2019).
8. *Fair Fight Action v. Raffensperger* No. 1:18-cv-05391-SCJ (N.D. Ga.), voting rights (2019)
9. *Vaughan v. Lewisville Independent School District*, No. 4:19-cv-00109 (E.D. Texas), voting rights (2019).
10. *Dwight et al. v Raffensperger*, No: 1:18-cv-2869-RWS (N.D. Ga.), redistricting, voting rights (2018).
11. *Priorities U.S.A.et al. v. Missouri et al.,* No. 19AC-CC00226 (Cir. Ct. of Cole Cty., MO), voter ID (2018).
12. *Tyson v. Richardson Independent School District*, No. 3:18-cv-00212 (N.D. Texas), voting rights (2018).
13. *League of Women Voters of Michigan, et al. v. Johnson*, No. 2:17-cv-14148-DPH-SDD (S.D. Mich.), redistricting (2018).
14. *One Wisconsin Institute, Inc., et al. v. Nichol, et al*., 198 F. Supp. 3d 896 (W.D. Wis.), voting rights (2016).
15. *Whitford et al. v. Gill et* al, 218 F. Supp. 3d 837, (W.D. Wis.), redistricting (2016).
16. *Milwaukee NAACP et al. v. Scott Walker et. al*, N.W.2d 262 (Wis. 2014), voter ID (2012).
17. *Baldus et al. v. Brennan et al.,* 849 F. Supp. 2d 840 (E.D. Wis.), redistricting, voting rights (2012).
18. *County of Kenosha v. City of Kenosha,* No. 22-CV-1813 *(*Wis. Cir. Ct., Kenosha Cty.) municipal redistricting (2011).
19. *McComish et al. v Brewer et al.*. 2010 WL 2292213 (D. Ariz.), campaign finance (2009).
20. *Baumgart et al. v. Wendelberger et al.*, 2002 WL 34127471 (E.D. Wis.), redistricting (2002).

Grants

"A Multidisciplinary Approach for Redistricting Knowledge." Principal Investigator. Co-PIs Adeline Lo (UW Madison, Department of Political Science), Song Gao (UW Madison, Department of Geography), and Barton Miller and Jin-Yi Cai (UW Madison, Department of Computer Sciences). University of Wisconsin Alumni Research Foundation (WARF), and UW Madison Office of the Vice Chancellor for Research and Graduate Education. July 1, 2020-June 30, 2022. $410,711.

"Analyzing Nonvoting and the Student Voting Experience in Wisconsin." Dane County (WI) Clerk, $44,157. November 2016-December 2017. Additional support ($30,000) provided by the Office of the Chancellor, UW-Madison.

Campaign Finance Task Force, Stanford University and New York University, $36,585. September 2016-August 2017.

Participant and Board Member, 2016 White House Transition Project, PIs Martha Joynt Kumar (Towson State University) and Terry Sullivan (University of North Carolina-Chapel Hill).

"How do You Know? The Structure of Presidential Advising and Error Correction in the White House." Graduate School Research Committee, University of Wisconsin, $18,941. July 1, 2015-June 30, 2016.

"Study and Recommendations for the Government Accountability Board Chief Inspectors' Statements and Election Incident Report Logs." $43,234. Co-PI. With Barry C. Burden (PI), David T. Canon (co-PI), and Donald Moynihan (co-PI). October 2011-May 2012.

"Public Funding in Connecticut Legislative Elections." Open Society Institute. September 2009-December 2010. $55,000.

"Early Voting and Same Day Registration in Wisconsin and Beyond." Co-PI. October 2008- September 2009. Pew Charitable Trusts. $49,400. With Barry C. Burden (PI), David T. Canon (Co-PI), Kevin J. Kennedy (Co-PI), and Donald P. Moynihan (Co-PI).

City of Madison, Blue Ribbon Commission on Clean Elections. Joyce Foundation, Chicago, IL. $16,188. January-July 2008.

"Wisconsin Campaign Finance Project: Public Funding in Connecticut State Legislative Elections." JEHT Foundation, New York, NY. $84,735. November 2006-November 2007.

"Does Public Election Funding Change Public Policy? Evaluating the State of Knowledge." JEHT Foundation, New York, NY. $42,291. October 2005-April 2006.

"Wisconsin Campaign Finance Project: Disseminating Data to the Academic, Reform, and Policy Communities." Joyce Foundation, Chicago, IL. $20,900. September 2005- August 2006.

"Enhancing Electoral Competition: Do Public Funding Programs for State and Local Elections Work?" Smith Richardson Foundation, Westport, CT. $129,611. December 2002-June 2005

WebWorks Grant (implementation of web-based instructional technologies), Division of Information Technology, UW-Madison, $1,000. November 1999.

"Issue Advocacy in Wisconsin during the 1998 Election." Joyce Foundation, Chicago, IL. $15,499. April 1999.

Instructional Technology in the Multimedia Environment (IN-TIME) grant, Learning Support Services, University of Wisconsin. $5,000. March 1997.

"Public Financing and Electoral Competitiveness in the Minnesota State Legislature." Citizens' Research Foundation, Los Angeles, CA, $2,000. May-November 1996.

"The Reach of Presidential Power: Policy Making Through Executive Orders." National Science Foundation (SBR-9511444), $60,004. September 1, 1995-August 31, 1998. Graduate School Research Committee, University of Wisconsin, $21,965. Additional support provided by the Gerald R. Ford Library Foundation, the Eisenhower World Affairs Institute, and the Harry S. Truman Library Foundation.

The Future of the Combat Aircraft Industrial Base." Changing Security Environment Project, John M. Olin Institute for Strategic Studies, Harvard University (with Ethan B. Kapstein). June 1993-January 1995. $15,000.

Hilldale Student Faculty Research Grant, College of Letters and Sciences, University of Wisconsin (with John M. Wood). 1992. $1,000 ($3,000 award to student)

"Electoral Cycles in Federal Government Prime Contract Awards" March 1992 – February 1995. National Science Foundation (SES-9121931), $74,216. Graduate School Research Committee at the University of Wisconsin, $2,600. MacArthur Foundation, $2,500.

C-SPAN In the Classroom Faculty Development Grant, 1991. $500

Professional and Public Service

Education and Social and Behavioral Sciences Institutional Review Board, 2008-2014. Acting Chair, Summer 2011. Chair, May 2012- June 2014.

Participant, U.S. Public Speaker Grant Program. United States Department of State (nationwide speaking tour in Australia, May 11-June 2, 2012).

Expert Consultant, Voces de la Frontera. Milwaukee Aldermanic redistricting, (2011).
Expert Consultant, Prosser for Supreme Court. Wisconsin Supreme Court election recount (2011).
Chair, Blue Ribbon Commission on Clean Elections (Madison, WI), August 2007-April 2011.
Consultant, Consulate of the Government of Japan (Chicago) on state politics in Illinois, Indiana, Minnesota, and Wisconsin, 2006-2011.
Section Head, Presidency Studies, 2006 Annual Meeting of the American Political Science Association.
Co-Chair, Committee on Redistricting, Supreme Court of Wisconsin, November 2003-December 2009.
Section Head, Presidency and Executive Politics, 2004 Annual Meeting of the Midwest Political Science Association, Chicago, IL.
Presidency Research Group (organized section of the American Political Science Association) Board, September 2002-present.
Book Review Editor, *Congress and the Presidency*, 2001-2006.
Editorial Board, *American Political Science Review*, September 2004-September 2007.
Consultant, Governor's Blue Ribbon Commission on Campaign Finance Reform (Wisconsin), 1997.

PUBLICATIONS

Books

Presidential Leadership: Politics and Policymaking, 11th edition. Lanham, MD: Rowman and Littlefield, forthcoming 2019. With George C. Edwards, III and Steven J. Wayne. Previous editions 10th (2018).

The 2016 Presidential Elections: The Causes and Consequences of an Electoral Earthquake. Lanham, MD: Lexington Press, 2017. Co-edited with Amnon Cavari and Richard J. Powell.

The Enduring Debate: Classic and Contemporary Readings in American Government. 8th ed. New York: W.W. Norton & Co. 2017. Co-edited with David T. Canon and John Coleman. Previous editions 1st (1997), 2nd (2000), 3rd (2002), 4th (2006), 5th (2009), 6th (2011), 7th (2013).

Faultlines: Readings in American Government, 5th ed. New York: W.W. Norton & Co. 2017. Co-edited with David T. Canon and John Coleman. Previous editions 1st (2004), 2nd (2007), 3rd (2011), 4th (2013).

The 2012 Presidential Election: Forecasts, Outcomes, and Consequences. Lanham, MD: Rowman and Littlefield, 2014. Co-edited with Amnon Cavari and Richard J. Powell.

Readings in American Government, 7th edition. New York: W.W. Norton & Co. 2002. Co-edited with Theodore J. Lowi, Benjamin Ginsberg, David T. Canon, and John Coleman). Previous editions 4th (1996), 5th (1998), 6th (2000).

With the Stroke of a Pen: Executive Orders and Presidential Power. Princeton, NJ: Princeton University Press. 2001. Winner of the 2002 Neustadt Award from the Presidency Studies Group of the American Political Science Association, for the Best Book on the Presidency Published in 2001.

The Dysfunctional Congress? The Individual Roots of an Institutional Dilemma. Boulder, CO: Westview Press. 1999. With David T. Canon.

The Political Economy of Defense Contracting. New Haven: Yale University Press. 1991.

Monographs

2008 Election Data Collection Grant Program: Wisconsin Evaluation Report. Report to the Wisconsin Government Accountability Board, September 2009. With Barry C. Burden, David T. Canon, Stéphane Lavertu, and Donald P. Moynihan.

Issue Advocacy in Wisconsin: Analysis of the 1998 Elections and A Proposal for Enhanced Disclosure. September 1999.

Public Financing and Electoral Competition in Minnesota and Wisconsin. Citizens' Research Foundation, April 1998.

Campaign Finance Reform in the States. Report prepared for the Governor's Blue Ribbon Commission on Campaign Finance Reform (State of Wisconsin). February 1998. Portions reprinted in Anthony Corrado, Thomas E. Mann, Daniel Ortiz, Trevor Potter, and Frank J. Sorauf, ed., *Campaign Finance Reform: A Sourcebook.* Washington, D.C.: Brookings Institution, 1997.

"Does Public Financing of Campaigns Work?" *Trends in Campaign Financing*. Occasional Paper Series, Citizens' Research Foundation, Los Angeles, CA. 1996. With John M. Wood.

The Development of the Advanced Medium Range Air-to-Air Missile: A Case Study of Risk and Reward in Weapon System Acquisition. N-3620-AF. Santa Monica: RAND Corporation. 1993.

Barriers to Managing Risk in Large Scale Weapons System Development Programs. N-4624-AF. Santa Monica: RAND Corporation. 1993. With Thomas K. Glennan, Jr., Susan J. Bodilly, Frank Camm, and Timothy J. Webb.

Articles

"Voter Identification and Nonvoting in Wisconsin - Evidence from the 2016 Election." *Election Law Journal* 18:342-359 (2019). With Michael DeCrescenzo.

"Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-county Study." *Political Research Quarterly* 71 (2019). With Robert M. Stein, Christopher Mann, Charles Stewart III, et al.

"Learning from Recounts." *Election Law Journal* 17:100-116 (No. 2, 2018). With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.

"The Complicated Partisan Effects of State Election Laws." *Political Research Quarterly* 70:549-563 (No. 3, September 2017). With Barry C. Burden, David T. Canon, and Donald P. Moynihan.

"What Happens at the Polling Place: Using Administrative Data to Look Inside Elections." *Public Administration Review* 77:354-364 (No. 3, May/June 2017). With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jacob R. Neiheisel.

"Alien Abduction, and Voter Impersonation in the 2012 U.S. General Election: Evidence from a Survey List Experiment." *Election Law Journal* 13:460-475 No.4, December 2014). With John S. Ahlquist and Simon Jackman.

"Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform." *American Journal of Political Science*, 58:95-109 (No. 1, January 2014). With Barry C. Burden, David T. Canon, and Donald P. Moynihan. Winner of the State Politics and Politics Section of the American Political Science Association Award for the best article published in the *AJPS* in 2014.

"Executive Power in the Obama Administration and the Decision to Seek Congressional Authorization for a Military Attack Against Syria: Implications for Theories of Unilateral Action." *Utah Law Review* 2014:821-841 (No. 4, 2014).

"Public Election Funding: An Assessment of What We Would Like to Know." *The Forum* 11:365-485 (No. 3, 2013).

"Selection Method, Partisanship, and the Administration of Elections." *American Politics Research* 41:903-936 (No. 6, November 2013). With Barry C. Burden, David T. Canon, Stéphane Lavertu, and Donald Moynihan.

"The Effect of Administrative Burden on Bureaucratic Perception of Policies: Evidence from Election Administration." *Public Administration Review* 72:741-451 (No. 5, September/October 2012). With Barry C. Burden, David T. Canon, and Donald Moynihan.

"Early Voting and Election Day Registration in the Trenches: Local Officials' Perceptions of Election Reform." *Election Law Journal* 10:89-102 (No. 2, 2011). With Barry C. Burden, David T. Canon, and Donald Moynihan.

"Is Political Science Relevant? Ask an Expert Witness," *The Forum*: Vol. 8, No. 3, Article 6 (2010).

"Thoughts on the Revolution in Presidency Studies," *Presidential Studies Quarterly* 39 (no. 4, December 2009).

"Does Australia Have a Constitution? Part I – Powers: A Constitution Without Constitutionalism."

UCLA Pacific Basin Law Journal 25:228-264 (No. 2, Spring 2008). With Howard Schweber.

"Does Australia Have a Constitution? Part II: The Rights Constitution." *UCLA Pacific Basin Law Journal* 25:265-355 (No. 2, Spring 2008). With Howard Schweber.

"Public Election Funding, Competition, and Candidate Gender." *PS: Political Science and Politics* XL:661-667 (No. 4,October 2007). With Timothy Werner.

"Do Public Funding Programs Enhance Electoral Competition?" In Michael P. McDonald and John Samples, eds., *The Marketplace of Democracy: Electoral Competition and American Politics* (Washington, DC: Brookings Institution Press, 2006). With Timothy Werner and Amanda Williams. Excerpted in Daniel H. Lowenstein, Richard L. Hasen, and Daniel P. Tokaji, *Election Law: Cases and Materials.* Durham, NC: Carolina Academic Press, 2008.

"The Last 100 Days." *Presidential Studies Quarterly* 35:533-553 (No. 3, September 2005). With William Howell.

"Political Reality and Unforeseen Consequences: Why Campaign Finance Reform is Too Important To Be Left To The Lawyers," *University of Richmond Law Review* 37:1069-1110 (No. 4, May 2003).

"Unilateral Presidential Powers: Significant Executive Orders, 1949-1999." *Presidential Studies Quarterly* 32:367-386 (No. 2, June 2002). With Kevin Price.

"Answering Ayres: Requiring Campaign Contributors to Remain Anonymous Would Not Resolve Corruption Concerns." *Regulation* 24:24-29 (No. 4, Winter 2001).

"Student Attitudes Toward Instructional Technology in the Large Introductory US Government Course." *PS: Political Science and Politics* 33:597-604 (No. 3 September 2000). With John Coleman.

"The Limits of Delegation – the Rise and Fall of BRAC." *Regulation* 22:32-38 (No. 3, October 1999).

"Executive Orders and Presidential Power." *The Journal of Politics* 61:445-466 (No.2, May 1999).

"Bringing Politics Back In: Defense Policy and the Theoretical Study of Institutions and Processes." *Public Administration Review* 56:180-190 (1996). With Anne Khademian.

"Closing Military Bases (Finally): Solving Collective Dilemmas Through Delegation." *Legislative Studies Quarterly*, 20:393-414 (No. 3, August 1995).

"Electoral Cycles in Federal Government Prime Contract Awards: State-Level Evidence from the 1988 and 1992 Presidential Elections." *American Journal of Political Science* 40:162-185 (No. 1, February 1995).

"The Impact of Public Financing on Electoral Competitiveness: Evidence from Wisconsin, 1964-1990." *Legislative Studies Quarterly* 20:69-88 (No. 1, February 1995). With John M. Wood.

"Policy Disputes as a Source of Administrative Controls: Congressional Micromanagement of the Department of Defense." *Public Administration Review* 53:293-302 (No. 4, July-August 1993).

"Combat Aircraft Production in the United States, 1950-2000: Maintaining Industry Capability in an Era of Shrinking Budgets." *Defense Analysis* 9:159-169 (No. 2, 1993).

Book Chapters

"Is President Trump Conventionally Disruptive, or Unconventionally Destructive?" In *The 2016 Presidential Elections: The Causes and Consequences of an Electoral Earthquake*. Lanham, MD: Lexington Press, 2017. Co-edited with Amon Cavari and Richard J. Powell.

"Lessons of Defeat: Republican Party Responses to the 2012 Presidential Election. In Amnon Cavari, Richard J. Powell, and Kenneth R. Mayer, eds. *The 2012 Presidential Election: Forecasts, Outcomes, and Consequences*. Lanham, MD: Rowman and Littlefield. 2014.

"Unilateral Action." George C. Edwards, III, and William G. Howell, *Oxford Handbook of the American Presidency* (New York: Oxford University Press, 2009).

"Executive Orders," in Joseph Bessette and Jeffrey Tulis, *The Constitutional Presidency*. Baltimore: Johns Hopkins University Press, 2009.

"Hey, Wait a Minute: The Assumptions Behind the Case for Campaign Finance Reform." In Gerald C. Lubenow, ed., *A User's Guide to Campaign Finance Reform.* Lanham, MD: Rowman &

Littlefield, 2001.

"Everything You Thought You Knew About Impeachment Was Wrong." In Leonard V. Kaplan and Beverly I. Moran, ed., *Aftermath: The Clinton Impeachment and the Presidency in the Age of Political Spectacle.* New York: New York University Press. 2001. With David T. Canon.

"The Institutionalization of Power." In Robert Y. Shapiro, Martha Joynt Kumar, and Lawrence R. Jacobs, eds. *Presidential Power: Forging the Presidency for the 21st Century*. New York: Columbia University Press, 2000. With Thomas J. Weko.

"Congressional-DoD Relations After the Cold War: The Politics of Uncertainty." In *Downsizing Defense*, Ethan Kapstein ed. Washington DC: Congressional Quarterly Press. 1993.

"Elections, Business Cycles, and the Timing of Defense Contract Awards in the United States." In Alex Mintz, ed. *The Political Economy of Military Spending*. London: Routledge. 1991.

"Patterns of Congressional Influence In Defense Contracting." In Robert Higgs, ed., *Arms, Politics, and the Economy: Contemporary and Historical Perspectives*. New York: Holmes and Meier. 1990.

Other

"Campaign Finance: Some Basics." Bauer-Ginsberg Campaign Finance Task Force, Stanford University. September 2017. With Elizabeth M. Sawyer.

"The Wisconsin Recount May Have a Surprise in Store after All." *The Monkey Cage* (Washington Post), December 5, 2016. With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.

Review of Jason K. Dempsey, *Our Army: Soldiers, Politicians, and American Civil-Military Relations*. *The Forum* 9 (No. 3, 2011).

"Voting Early, but Not Often." *New York Times*, October 25, 2010. With Barry C. Burden.

Review of John Samples, *The Fallacy of Campaign Finance Reform* and Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform*. *The Forum* 6 (No. 1, 2008).

Review Essay, *Executing the Constitution: Putting the President Back Into the Constitution*, Christopher S, Kelley, ed.; *Presidents in Culture: The Meaning of Presidential Communication*, David Michael Ryfe; *Executive Orders and the Modern Presidency: Legislating from the Oval Office*, Adam L. Warber. In *Perspective on Politics* 5:635-637 (No. 3, September 2007).

"The Base Realignment and Closure Process: Is It Possible to Make Rational Policy?" Brademas Center for the Study of Congress, New York University. 2007.

"Controlling Executive Authority in a Constitutional System" (comparative analysis of executive power in the U.S. and Australia), manuscript, February 2007.

"Campaigns, Elections, and Campaign Finance Reform." *Focus on Law Studies*, XXI, No. 2 (Spring 2006). American Bar Association, Division for Public Education.

"Review Essay: Assessing The 2000 Presidential Election – Judicial and Social Science Perspectives." *Congress and the Presidency* 29: 91-98 (No. 1, Spring 2002).

Issue Briefs (Midterm Elections, Homeland Security; Foreign Affairs and Defense Policy; Education; Budget and Economy; Entitlement Reform) *2006 Reporter's Source Book*. Project Vote Smart. 2006. With Meghan Condon.

"Sunlight as the Best Disinfectant: Campaign Finance in Australia." Democratic Audit of Australia, Australian National University. October 2006.

"Return to the Norm," *Brisbane Courier-Mail*, November 10, 2006.

"The Return of the King? Presidential Power and the Law," *PRG Report* XXVI, No. 2 (Spring 2004).

Issue Briefs (Campaign Finance Reform, Homeland Security; Foreign Affairs and Defense Policy; Education; Budget and Economy; Entitlement Reform), *2004 Reporter's Source Book*. Project Vote Smart. 2004. With Patricia Strach and Arnold Shober.

"Where's That Crystal Ball When You Need It? Finicky Voters and Creaky Campaigns Made for a Surprise Electoral Season. And the Fun's Just Begun." *Madison Magazine*. April 2002.

"Capitol Overkill." *Madison Magazine*, July 2002.

Issue Briefs (Homeland Security; Foreign Affairs and Defense Policy; Education; Economy, Budget and Taxes; Social Welfare Policy), *2002 Reporter's Source Book*. Project Vote Smart. 2002. With

Patricia Strach and Paul Manna.
"Presidential Emergency Powers." *Oxford Analytica Daily Brief*. December 18, 2001.
"An Analysis of the Issue of Issue Ads." *Wisconsin State Journal*, November 7, 1999.
"Background of Issue Ad Controversy." *Wisconsin State Journal*, November 7, 1999.
"Eliminating Public Funding Reduces Election Competition." *Wisconsin State Journal*, June 27, 1999.
Review of *Executive Privilege: The Dilemma of Secrecy and Democratic Accountability*, by Mark J. Rozell. *Congress and the Presidency* 24 (No. 1, 1997).
"Like Marriage, New Presidency Starts In Hope." *Wisconsin State Journal*. March 31, 1996.
Review of *The Tyranny of the Majority: Fundamental Fairness in Representative Democracy*, by Lani Guinier. *Congress and the Presidency* 21: 149-151 (No. 2, 1994).
Review of *The Best Defense: Policy Alternatives for U.S. Nuclear Security From the 1950s to the 1990s*, by David Goldfischer. *Science, Technology, and Environmental Politics Newsletter* 6 (1994).
Review of *The Strategic Defense Initiative*, by Edward Reiss. *American Political Science Review* 87:1061-1062 (No. 4, December 1993).
Review of *The Political Economy of Defense: Issues and Perspectives*, Andrew L. Ross ed. *Armed Forces and Society* 19:460-462 (No. 3, April 1993)
Review of *Space Weapons and the Strategic Defense Initiative*, by Crockett Grabbe. *Annals of the American Academy of Political and Social Science* 527: 193-194 (May 1993).
"Limits Wouldn't Solve the Problem." *Wisconsin State Journal*, November 5, 1992. With David T. Canon.
"Convention Ceded Middle Ground." *Wisconsin State Journal*, August 23, 1992.
"CBS Economy Poll Meaningless." *Wisconsin State Journal*, February 3, 1992.
"It's a Matter of Character: Pentagon Doesn't Need New Laws, it Needs Good People." *Los Angeles Times*, July 8, 1988.

Conference Papers

"Voter Identification and Nonvoting in Wisconsin – Evidence from the 2016 Election." Presented at the 2018 Annual Meeting of the Midwest Political Science Association, Chicago, IL April 5-8, 2018. With Michael G. DeCrescenzo.
"Learning from Recounts." Presented at the Workshop on Electoral Integrity, San Francisco, CA, August 30, 2017, and at the 2017 Annual Meeting of the American Political Science Association, San Francisco, CA, August 31-September 3, 2017. With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.
"What Happens at the Polling Place: Using Administrative Data to Understand Irregularities at the Polls." Conference on New Research on Election Administration and Reform, Massachusetts Institute of Technology, Cambridge, MA, June 8, 2015. With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jake R Neiheisel.
"Election Laws and Partisan Gains: What are the Effects of Early Voting and Same Day Registration on the Parties' Vote Shares." 2013 Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 11-14, 2013. Winner of the Robert H. Durr Award.
"The Effect of Public Funding on Electoral Competition: Evidence from the 2008 and 2010 Cycles." Annual Meeting of the American Political Science Association, Seattle, WA, September 1-4, 2011. With Amnon Cavari.
"What Happens at the Polling Place: A Preliminary Analysis in the November 2008 General Election." Annual Meeting of the American Political Science Association, Seattle, WA, September 1-4, 2011. With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jake R. Neiheisel.
"Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform." 2010 Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 2010. With Barry C. Burden, David T. Canon, Stéphane Lavertu and Donald P. Moynihan.
"Selection Methods, Partisanship, and the Administration of Elections. Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 22-25, 2010. Revised version presented at the

Annual Meeting of the European Political Science Association, June 16-19, 2011, Dublin, Ireland. With Barry C. Burden, David T. Canon, Stéphane Lavertu and Donald P. Moynihan.

"The Effects and Costs of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Elections." Annual Meeting of the American Political Science Association, Toronto, Canada, September 3-5, 2009. With Barry C. Burden, David T. Canon, and Donald P. Moynihan.

"Comparative Election Administration: Can We Learn Anything From the Australian Electoral Commission?" Annual Meeting of the American Political Science Association, Chicago, IL, August 29-September 1, 2007.

"Electoral Transitions in Connecticut: Implementation of Public Funding for State Legislative Elections." Annual Meeting of the American Political Science Association, Chicago, IL, August 29-September 1, 2007. With Timothy Werner.

"Candidate Gender and Participation in Public Campaign Finance Programs." Annual Meeting of the Midwest Political Science Association, Chicago IL, April 7-10, 2005. With Timothy Werner.

"Do Public Funding Programs Enhance Electoral Competition?" 4th Annual State Politics and Policy Conference," Akron, OH, April 30-May 1, 2004. With Timothy Werner and Amanda Williams.

"The Last 100 Days." Annual Meeting of the American Political Science Association, Philadelphia, PA, August 28-31, 2003. With William Howell.

"Hey, Wait a Minute: The Assumptions Behind the Case for Campaign Finance Reform." Citizens' Research Foundation Forum on Campaign Finance Reform, Institute for Governmental Studies, University of California Berkeley. August 2000.

"The Importance of Moving First: Presidential Initiative and Executive Orders." Annual Meeting of the American Political Science Association, San Francisco, CA, August 28-September 1, 1996.

"Informational vs. Distributive Theories of Legislative Organization: Committee Membership and Defense Policy in the House." Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 1993.

"Department of Defense Contracts, Presidential Elections, and the Political-Business Cycle." Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 1993.

"Problem? What Problem? Congressional Micromanagement of the Department of Defense." Annual Meeting of the American Political Science Association, Washington DC, August 29 - September 2, 1991.

Talks and Presentations

"Turnout Effects of Voter ID Laws." Rice University, March 23, 2018; Wisconsin Alumni Association, October 13, 2017. With Michael DeCrescenzo.

"Informational and Turnout Effects of Voter ID Laws." Wisconsin State Elections Commission, December 12, 2017; Dane County Board of Supervisors, October 26, 2017. With Michael DeCrescenzo.

"Voter Identification and Nonvoting in Wisconsin, Election 2016. American Politics Workshop, University of Wisconsin, Madison, November 24, 2017.

"Gerrymandering: Is There A Way Out?" Marquette University. October 24, 2017.

"What Happens in the Districting Room and What Happens in the Courtroom" Geometry of Redistricting Conference, University of Wisconsin-Madison October 12, 2017.

"How Do You Know? The Epistemology of White House Knowledge." Clemson University, February 23, 2016.

Roundtable Discussant, Separation of Powers Conference, School of Public and International Affairs, University of Georgia, February19-20, 2016.

Campaign Finance Task Force Meeting, Stanford University, February 4, 2016.

Discussant, "The Use of Unilateral Powers." American Political Science Association Annual Meeting, August 28-31, 2014, Washington, DC.

Presenter, "Roundtable on Money and Politics: What do Scholars Know and What Do We Need to Know?" American Political Science Association Annual Meeting, August 28-September 1, 2013,

Chicago, IL.
Presenter, "Roundtable: Evaluating the Obama Presidency." Midwest Political Science Association Annual Meeting, April 11-14, 2012, Chicago, IL.
Panel Participant, "Redistricting in the 2010 Cycle," Midwest Democracy Network,
Speaker, "Redistricting and Election Administration," Dane County League of Women Voters, March 4, 2010.
Keynote Speaker, "Engaging the Electorate: The Dynamics of Politics and Participation in 2008." Foreign Fulbright Enrichment Seminar, Chicago, IL, March 2008.
Participant, Election Visitor Program, Australian Electoral Commission, Canberra, ACT, Australia. November 2007.
Invited Talk, "Public Funding in State and Local Elections." Reed College Public Policy Lecture Series. Portland, Oregon, March 19, 2007.
Fulbright Distinguished Chair Lecture Tour, 2006. Public lectures on election administration and executive power. University of Tasmania, Hobart (TAS); Flinders University and University of South Australia, Adelaide (SA); University of Melbourne, Melbourne (VIC); University of Western Australia, Perth (WA); Griffith University and University of Queensland, Brisbane (QLD); Institute for Public Affairs, Sydney (NSW); The Australian National University, Canberra (ACT).
Discussant, "Both Ends of the Avenue: Congress and the President Revisited," American Political Science Association Meeting, September 2-5, 2004, Chicago, IL.
Presenter, "Researching the Presidency," Short Course, American Political Science Association Meeting, September 2-5, 2004, Chicago, IL.
Discussant, Conference on Presidential Rhetoric, Texas A&M University, College Station, TX. February 2004.
Presenter, "Author Meets Author: New Research on the Presidency," 2004 Southern Political Science Association Meeting, January 8-11, New Orleans, LA.
Chair, "Presidential Secrecy," American Political Science Association Meeting, August 28-31,2003, Philadelphia, PA.
Discussant, "New Looks at Public Approval of Presidents." Midwest Political Science Association Meeting, April 3-6, 2003, Chicago, IL.
Discussant, "Presidential Use of Strategic Tools." American Political Science Association Meeting, August 28-September 1, 2002, Boston, MA.
Chair and Discussant, "Branching Out: Congress and the President." Midwest Political Science Association Meeting, April 19-22, 2001, Chicago, IL.
Invited witness, Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, U.S. House of Representatives. *Hearing on Executive Order and Presidential Power*, Washington, DC. March 22, 2001.
"The History of the Executive Order," Miller Center for Public Affairs, University of Virginia (with Griffin Bell and William Howell), January 26, 2001.
Presenter and Discussant, Future Voting Technologies Symposium, Madison, WI May 2, 2000.
Moderator, Panel on Electric Utility Reliability. Assembly Staff Leadership Development Seminar, Madison, WI. August 11, 1999.
Chair, Panel on "Legal Aspects of the Presidency: Clinton and Beyond." Midwest Political Science Association Meeting, April 15-17, 1999, Chicago, IL.
Session Moderator, National Performance Review Acquisition Working Summit, Milwaukee, WI. June 1995.
American Politics Seminar, The George Washington University, Washington D.C., April 1995.
Invited speaker, Defense and Arms Control Studies Program, Massachusetts Institute of Technology, Cambridge, MA, March 1994.
Discussant, International Studies Association (Midwest Chapter) Annual Meeting, Chicago IL, October 29-30, 1993.

Seminar on American Politics, Princeton University, January 16-17,1992.
Conference on Defense Downsizing and Economic Conversion, October 4, 1991, Harvard University.
Conference on Congress and New Foreign and Defense Policy Challenges, The Ohio State University, Columbus OH, September 21-22, 1990, and September 19-21, 1991.
Presenter, "A New Look at Short Term Change in Party Identification," 1990 Meeting of the American Political Science Association, San Francisco, CA.

University and Department Service

Cross-Campus Human Research Protection Program (HRPP) Advisory Committee, 2019-present.
UW Athletic Board, 2014-present.
General Education Requirements Committee (Letters and Science), 1997-1998.
Communications-B Implementation Committee(Letters and Science), 1997-1999
Verbal Assessment Committee (University) 1997-1998.
College of Letters & Science Faculty Appeals Committee (for students dismissed for academic reasons).
Committee on Information Technology, Distance Education and Outreach, 1997-98.
Hilldale Faculty-Student Research Grants, Evaluation Committee, 1997, 1998.
Department Computer Committee, 1996-1997; 1997-1998, 2005-2006. Chair, 2013-present.
Faculty Senate, 2000-2002, 2002-2005. Alternate, 1994-1995; 1996-1999; 2015-2016.
Preliminary Exam Appeals Committee, Department of Political Science, 1994-1995.
Faculty Advisor, Pi Sigma Alpha (Political Science Honors Society), 1993-1994.
Department Honors Advisor, 1991-1993.
Brown-bag Seminar Series on Job Talks (for graduate students), 1992.
Keynote speaker, Undergraduate Honors Symposium, April 13 1991.
Undergraduate Curriculum Committee, Department of Political Science, 1990-1992; 1993-1994.
Individual Majors Committee, College of Letters and Sciences, 1990-1991.
Dean Reading Room Committee, Department of Political Science, 1989-1990; 1994-1995.

Teaching

Undergraduate
Introduction to American Government (regular and honors)
The American Presidency
Campaign Finance
Election Law
Classics of American Politics
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Classics of American Politics
Legislative Process

December 5, 2020

***Pearson v. Kemp,* Case No. 1:20-cv-4809-TCB**

United States District Court for Northern District of Georgia

Expert Report of Jonathan Rodden, PhD and William Marble



Jonathan Rodden, PhD



William Marble

I. Introduction

Dr. Eric Quinnell and Dr. S. Stanley Young (hereafter QY) present several analyses of data from Fulton County, Georgia that they claim show "unexplainable statistical anomalies" and vote patterns that "fail basic sanity and mathematical fidelity checks." Their analyses are based on data from Edison Research, a market research firm that gathers vote data and distributes it to news outlets. QY make a number of unfounded assumptions about the data, which render their conclusions suspect. Moreover, even granting their assumptions, none of their analyses show "unexplainable statistical anomalies." In fact, they closely mirror patterns that we would expect to see in a fair election. None of their analyses provide any evidence whatsoever of fraudulent activity.

II. Qualifications

Jonathan Rodden is Professor of Political Science and Senior Fellow at the Center for Economic Policy Research and the Hoover Institution at Stanford University. For a full description of his qualifications, see Section II of the other report by Dr. Rodden filed in this case and the curriculum vitae attached thereto. Mr. Marble is a PhD candidate in the political science department at Stanford University. He received a B.A. in political science and economics from the University of Pennsylvania with a minor in mathematics. He has published papers in top political science journals, including *Journal of Politics, Political Science Research and Methods*, and the statistics journal *Political Analysis*. He has been awarded with a number of grants from Stanford University and the Stanford Institute for Economic Research, as well as a computational social science grant from the Russell Sage Foundation. His research uses statistical tools to study voting behavior, public opinion, political geography, and campaigns. For his work teaching statistical methods to PhD students, he won a Stanford teaching award. During the 2014 midterm elections,

he worked with the NBC News Decision Desk as part of the University of Pennsylvania's Program on Opinion Research and Election Studies.

III. Data from Edison Research is Not Official Data

QY present analysis of the Edison Research data feed. Edison Research is a consumer research firm that conducts exit polls and collects vote return data for the National Election Pool consortium of news networks.[1] On Election Night and in the days after Edison provides periodic updates of vote counts to news organizations. QY's analyses all revolve around the timing of updates provided by Edison, and specifically the cumulative share of each candidate's absentee votes that were counted by different times on Election Day and thereafter in Fulton County, Georgia.

While Edison's data feed facilitates disseminating information about election results, it does not represent official election results. It is unclear the extent to which individual batches of Edison updates reflect the actual running total of votes counted by election officials at different points in time. QY present essentially no description of the Edison data, how it is collected, how it is distributed, or why "anomalies" in the Edison data should be used to infer anything about the integrity of official vote return data, nor have they provided the Edison data.

Moreover, innocent human errors in Edison's Election Night reporting occasionally occur. For example, in the 2018 Wisconsin Senate race, one of Edison's batch update included an error where a large batch of votes were assigned to the wrong candidate.[2] The error was quickly caught and corrected by Edison and news networks, but the fact that such an error can occur in the raw

[1] https://web.archive.org/web/20201201125532/https://www.edisonresearch.com/election-polling/, accessed Dec. 4, 2020.
[2] Stephen Pettigrew and Charles Stewart III. 2020. "Protecting the Perilous Path of Election Returns: From the Precinct to the News." *The Ohio State Technology Law Journal* 16(2): 587-638.

feed from Edison casts doubt on whether anomalies in the Edison live updates reflect actual anomalies, let alone outright fraud, in the official vote tabulation.

IV. Quinnell and Young Make Faulty Assumptions

Edison's data feed may not reflect official results. Nonetheless, for the sake of argument, we will maintain QY's assumption that Edison's live updates reflect the actual timing of counting votes within Fulton County. QY's report centers around the timing of when each candidate's absentee votes were counted within each precinct — as proxied by the times at which Edison reported batches of ballots.[3]

A statistic QY return to repeatedly is the share of a precinct's absentee ballots that are included in Edison's first batch of results — which were reported on November 4 at 12:59 AM.[4] They assume that this first batch of results reflects all of the absentee votes that were returned in the weeks prior to Election Day. This assumption is not supported by any evidence about how Fulton County officials count ballots. Instead, QY make this assumption on two bases: first, because election officials in Georgia are allowed to process absentee ballots before Election Day; and second, because the next several Edison updates do not contain any absentee ballots.

This assumption is certainly incorrect. Figure 1 plots the cumulative share of absentee ballots in Fulton County that were received by date, according to records kept by Georgia's

[3] Somewhat confusingly, clusters of what are typically referred to as "precincts" are occasionally called "counties" in QY's report and elsewhere. We adopt the term "precinct" to avoid confusion.

[4] QY do not indicate what time zone Edison uses for its timestamps. In Edison's county-level time series data, which we have obtained, the timestamp is followed by a "Z," indicating "Zulu" or Greenwich Mean Time. Assuming Edison's precinct-level time series data follows the same standard, the first batch of results was actually reported on at 8:59 PM Eastern Daylight Time on November 3 (Election Day). This interpretation makes more sense, as news outlets began reporting results — which are based on Edison's data — on Election Night well before 1:00 AM the next morning.

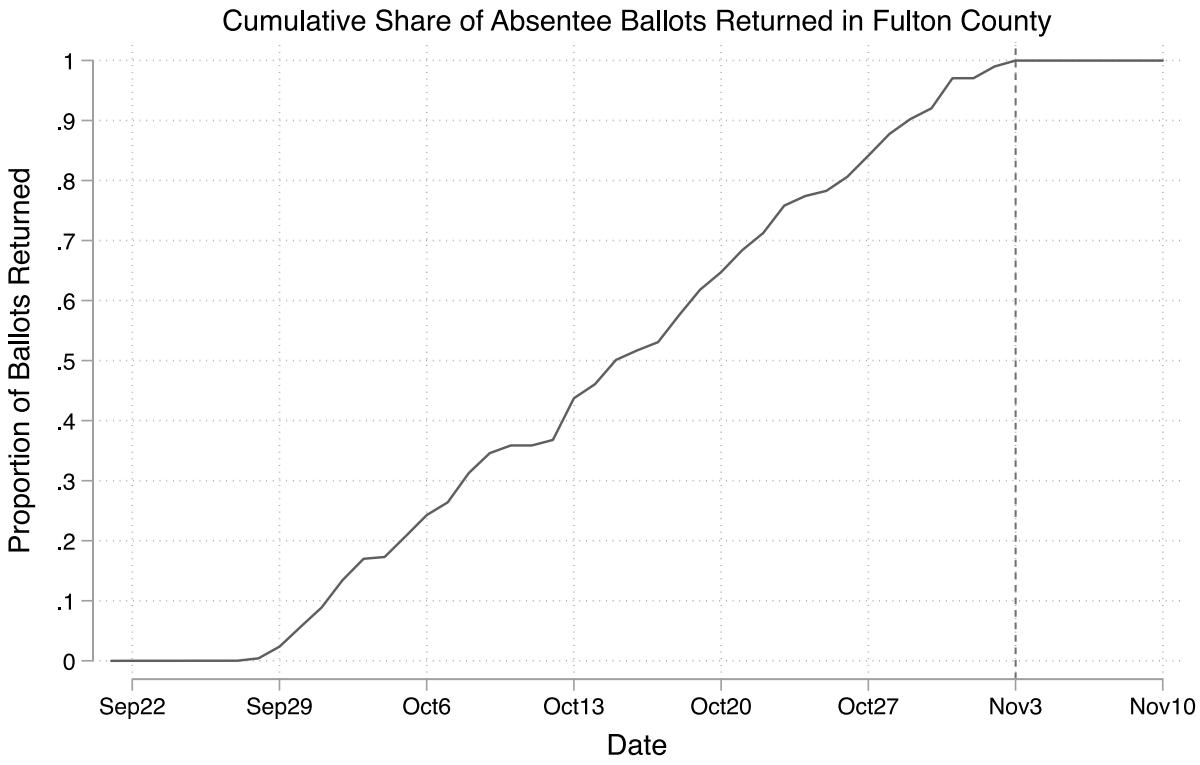
Secretary of State.[5] Nearly all absentee ballots in Fulton County — nearly 99% — were returned before November 3. Edison's first batch of election results, in contrast, contained only about 50% of the eventual total number of absentee votes. QY's presumption that this batch contains all of the absentee votes received before Election Day is obviously incorrect. Without a doubt, there were many ballots received before Election Day that were not counted until after that first batch.

It is important to note that we have no information, and evidently QY also have no information, about the specific procedure by which absentee ballots are counted in Fulton County, which matters a great deal for the story that QY are trying to tell. They are not explicit about their assumptions, but their discussion seems to indicate that they believe all of the Trump and Biden absentee ballots were in one, large, mixed-up pile, so that the probability of a particular ballot being counted at a particular time should be equal for Democrats and Republicans. This assumption evidently drives their claim that the Democratic and Republican ballots should have exactly the same likelihood of being counted before or after specific points in time.

There are several obvious reasons to doubt this assumption. We know that election officials are required to attribute each absentee ballot to a precinct. One possibility is that as the ballots come in, they are pre-sorted by precinct—or by groups of precincts—so that during the counting process, it would be likely that many of a precinct's voters would be counted in clumps.

[5] These data are drawn from the Georgia Secretary of State's website, which provides a version of the state's voter file that includes a column indicating when a voter's absentee ballot was returned: https://elections.sos.ga.gov/Elections/voterabsenteefile.do

Figure 1: Share of Fulton County absentee ballots returned by each date.



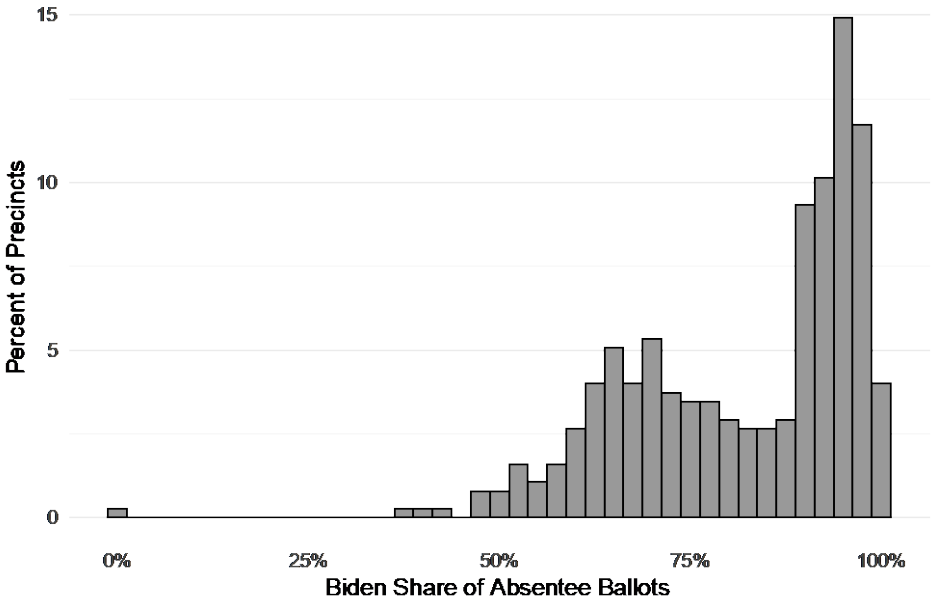
Another possibility is that there is no pre-processing into piles by precinct, but something like this happens as a matter of course due to the way ballots are collected and delivered to election administrators, either by U.S. Postal Service, or from the process of bringing in ballots from the various ballot dropbox locations in Fulton County. It extremely likely that ballots are arriving in a way that is geographically "lumpy." That is to say, a ballot from Chattahoochee Hills is likely to be close in the pile with other ballots from Chattahoochee Hills. A ballot from the urban core of Atlanta is likely to be in the pile near other ballots from urban Atlanta. This is very likely to be true of ballots sent in the mail, since they are retrieved from specific neighborhoods by letter carriers, or taken in bunches by postal workers from "blue boxes" or post office drop points. And

it is almost certainly true of ballots retrieved from ballot drop-boxes, which are scattered in locations throughout the county.

Unless, through some strange process, the ballots are shuffled like a deck of cards as they come in, we can probably assume that there is some geographic correlation in the time at which ballots are counted. Given that partisans are not randomly or uniformly distributed geographically, this geographic "lumpiness" in ballot counting matters a great deal. Consider some important facts about Fulton County: 1) There were far more Democratic than Republican absentee ballots overall, because Fulton County is largely Democratic, and because Republicans were strongly discouraged by their leaders from voting absentee, 2) of 384 precincts, there are only 6 precincts where Trump received a majority of absentee ballots cast, and 3) there are 165 precincts where over 90 percent of the absentee ballots were for Biden.

To see this more clearly, we include in Figure 2 a histogram of Biden's share of absentee ballots cast in Fulton County precincts. It is clear that there are not very many Trump absentee ballots to count in the first place, and they are relatively clustered in a handful of precincts where Biden *still* receives a majority. Because of this, if there is any geographic "lumpiness" to the counting of votes over time, we would anticipate large spikes of Biden votes showing up whenever a clump of voters drawn from the overwhelmingly Democratic precincts happened to be counted. We would not expect corresponding spikes for Trump.

Figure 2: Distribution of Biden Share of Absentee Votes Cast, Fulton County Precincts



V. The Share of Absentee Ballots Counted Before November 3 Is Not Suspicious

QY make the faulty assumption that absentee ballots reported in Edison's first update reflect ballots received and counted before November 3, and absentee ballots reported in subsequent Edison updates reflect ballots received after November 3 (para. 8).[6] This interpretation is faulty for the reasons pointed out above: the vast majority of absentee ballots were returned prior to November 4. The reason is that, by Georgia law, absentee ballots need to be returned by 7:00 PM on Election Day (November 3) in order to be counted.[7] It is our understanding that the only

[6] Actually, QY refer to these ballots as being received before and after November 4, which was the day after Election Day. Due to the time zone issue noted in footnote 4, we instead refer to November 3 in summarizing their arguments.

[7] https://www.acluga.org/en/take-action/2020-election-dates-and-deadlines

ballots received after November 3 that might be counted are military voters' ballots, which must be received by November 6.

This simple fact undermines QY's contention that the number of ballots received before November 3 is "curiously close" to the number of absentee ballots received after November 3. It simply cannot be the case that all ballots received prior to November 3 were reported in Edison's first batch of updates. Instead, this first batch of results, which contained roughly 50% of the total absentee ballots, must have included roughly half of the absentee votes received before November 3 — because, again, nearly all ballots were returned before that date. A more likely explanation is that election officials had the capacity to process about half of the absentee ballots received before Election Day in time to report those votes to Edison Research by the time Edison issued its first batch of results.

However, suppose we grant QY's assumption that the first batch of results contained all of the absentee votes received before November 3. Even if roughly equal numbers of absentee ballots had been returned before Election Day as on Election Day, there is absolutely no reason why this would be indicative of fraud. QY provide no comparison data — for example, from other states or counties — to suggest that this pattern is anomalous.

VI. Small Precincts Are Likely to Have 0% or 100% of Trump Absentee Votes Counted by Election Day

There is no reason to think that the absentee votes reported by Edison in its first batch update reflect all of the absentee votes received before Election Day. Instead, it more likely reflects constraints on the speed with which election administrators can count votes.

Nonetheless, QY make a series of claims about statistical anomalies evident in data on the share of a candidate's absentee votes within each precinct that was included in Edison's first batch

of results. We show that their claims of data irregularities are baseless: there is absolutely nothing anomalous about the distribution of votes that were counted before Election Day. Using simple arguments from probability theory as well as a simple numerical simulation of a fair election, we show that the patterns documented in QY's report are similar to what we would expect in a fair election.

QY present analysis showing that there is a relatively large number of precincts where nearly 100% of Trump's absentee votes were counted in Edison's first batch of results. Meanwhile, there were no precincts in which over 71% of Biden's absentee votes were reported in Edison's first batch of results. QY suggest that this pattern is unusual and indicative of data irregularities, claiming that there is less than 0.01% probability of observing a precinct in which all of Trump's absentee votes are received before Election Day. In fact, this pattern is not surprising in the least and their probability calculation is based on fundamentally flawed assumptions. What QY fail to consider is that there are very many precincts in Fulton County that received very few absentee votes for Trump — making it very probable that, in some precincts, close to 0% or 100% of Trump's absentee votes would arrive before Election Day.

QY note — and we corroborate, using official vote data from Fulton County[8] — that there were 23 precincts out of 384 total in which Trump received no absentee votes at all. There were an additional 13 precincts in which Trump received only a single absentee vote, and 115 precincts — nearly a third of all precincts — in which he received fewer than 10 absentee votes. In contrast, there are very few precincts in which Biden received only a small number of absentee votes —

[8] https://results.enr.clarityelections.com/GA/Fulton/105430/web.264614/#/summary

only 10 precincts in which he received no absentee votes, and only 21 in which he received fewer than 10 absentee votes.[9]

With such a large number of precincts where Trump received few absentee votes, it is very probable that in some of them, 0 or 100% of the votes were counted before Election Day. As an analogy, consider a series of coinflips — akin to a voter's decision about whether to cast their absentee vote early enough for it to be counted before Election Day or not. If we flip the coin only 3 times, it is relatively probable that we end up with all heads or all tails — specifically, there is a 12.5% chance of each. Now, imagine that 15 people each flip a coin 3 times. The probability that *at least one* of the 15 comes up with all heads or all tails is very high: over 98%. However, now imagine each person flips 10 coins. The probability of getting all heads or all tails is now very small: less than 0.1%. The probability that *at least* one of 15 people, who each flip 10 coins, getting all heads or all tails is only about 3%.

The large number of precincts with few Trump absentee voters are analogous to 15 people flipping 3 coins each. Not only should we expect to observe some precincts where close to 0 or 100% of Trump's absentee votes were counted before Election Day, it would be surprising if we *did not*. In contrast, there are not many districts with a small number of Biden absentee votes. Therefore, we should see many fewer precincts where close to 0 or 100% of Biden's absentee votes were counted before Election Day — just as it is much less likely for someone flipping 10 coins to get all head or all tails. Simply put, the histograms that are presented in QY's report are roughly what we should expect based on elementary probability theory.[10]

[9] These patterns are to be expected. Fulton is a heavily Democratic county, and there are many small, urban precincts throughout the county in which Trump received no votes.

[10] Technically, the probability of observing 0 heads from n coin flips is given by the equation $p = .5^n$. For 2 coin flips, there is a 25% probability of getting 0 heads. For 6 coin flips, there is a roughly 3% chance of getting 0 heads.

VII. A Simple Simulation Matches the Patterns in QY's Report, Undermining Their Claim to Have Discovered Anomalies

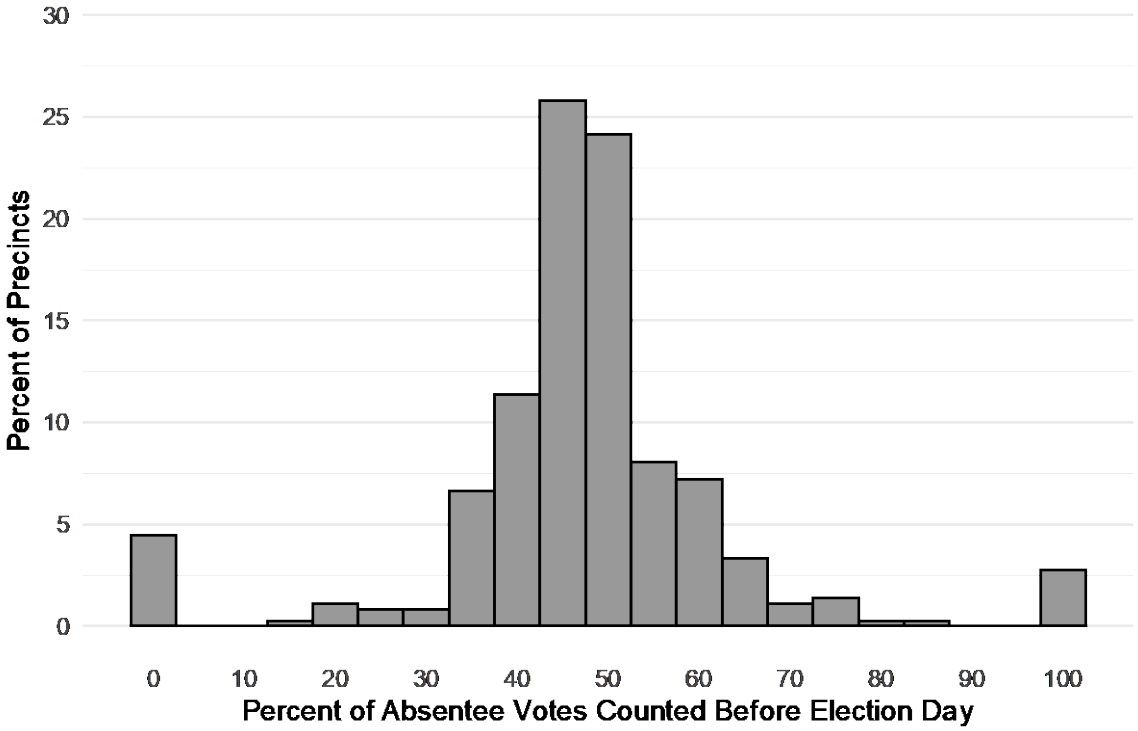
To further probe the ability of this argument to explain the pattern of results in QY's report, we conduct a simple numerical simulation that extends the coin-flip analogy used above. This simulation retains the same intuition but is designed to closely mirror the actual precinct-level data in Fulton County. For the reasons explained above, although we are skeptical about it, in this exercise we adopt QY's assumption that there is no geographic lumpiness to the vote counting. That is to say, we assume that all of the ballots have been shuffled like a deck of cards, and a Chattahoochee Hills voter is mixed in a pile of ballots such that he or she is no more likely to be counted right after another neighboring voter from Southern Fulton County than right after a Buckhead voter.

We start with the total number of absentee votes for Trump in each precinct, derived from official Fulton County vote return data. Then, we assume each Trump absentee voter flips a coin to decide whether or not to cast their ballot early enough for it to be counted before Election Day.[11] We then calculate the proportion of total simulated absentee votes within each precinct that arrive before Election Day.

Figure 3 shows a histogram, using the simulated dataset, of the percent of Trump's absentee votes within a precinct that are counted before Election Day. This graph looks strikingly similar to the one presented as evidence of "statistical anomalies" in QY's report (para. 30). There are spikes in the histogram around 0% and 100%, just as in QY's report. Far from being anomalous, the general pattern presented in QY's report is just what we would expect to observe in a fair election.

[11] The table after para. 27 in QY's report indicates that about 47% of Trump's total absentee votes were counted in the first batch of Edison data. Therefore, instead of flipping a fair coin, we assume Trump voters flip a weighted coin that comes up head 47% of the time.

Figure 3: Simulated share of precincts' absentee votes for Trump that are counted before Election Day.



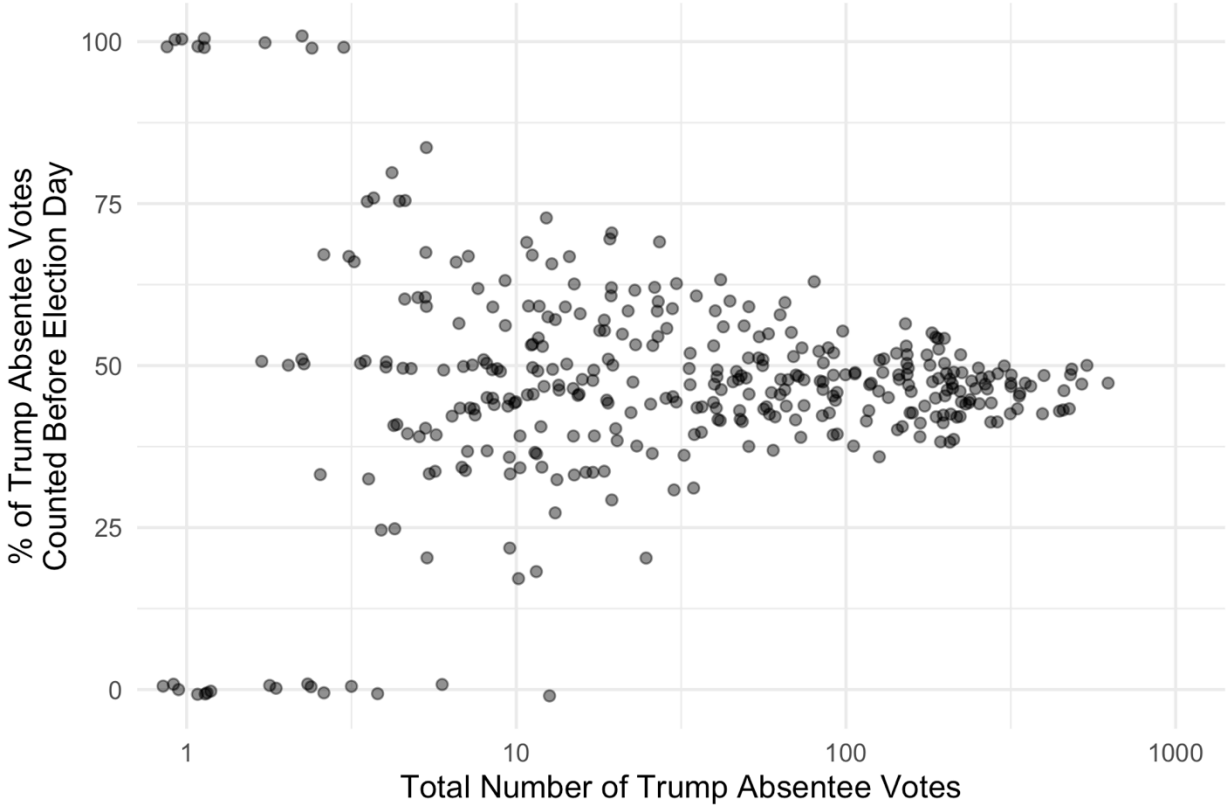
As expected from our discussion, the precincts with very high or very low share of absentee ballots counted before Election Day are precincts where there are very few Trump absentee voters. To see this, consider Figure 4 below. In this scatterplot, each point represents a precinct. On the horizontal axis is the actual number of absentee votes for Trump in that precinct.[12] On the vertical axis is the simulated percentage of Trump votes that are counted before Election Day. The points are moved slightly from their true *x*-*y* values to make it easier to see points that overlap.

At the left-hand side of the plot, we have precincts that have very few Trump absentee voters. These precincts are highly variable in the proportion of Trump absentee votes that are counted before Election Day in our simulation: some precincts have 0% counted and some have

[12] Because there is a large asymmetry in precinct sizes in Fulton County, the horizontal axis is plotted on a logarithmic scale.

100%. As we move to the right — as the precincts have more Trump absentee voters — the dispersion of the points decreases substantially. This pattern exactly mimics the coin flip analogy above: when we flip a coin only a few times, it's fairly likely that we'll end up with close to all heads or all tails. But if we increase the number of flips, we increase the odds of getting close to a 50-50 distribution of heads and tails.

Figure 4: Simulated percentage of a precinct's Trump absentee votes that are counted before Election Day versus the total number of Trump absentee votes. Points are moved from their true values slightly to make it easier to see overlapping points.



This simple simulation surely leaves out many details about the way that voters decide when to cast a ballot and when election officials count those ballots. It also ignores the likely geographic "lumpiness" in the timing of ballot counting. Nonetheless, it demonstrates that the

patterns presented in QY's report are entirely expected and provide no evidence of fraud or manipulation whatsoever.

VIII. Skewness and Kurtosis Are Uninformative About Statistical Anomalies

QY make additional claims about the cross-precinct distributions of the share of a candidate's absentee votes that were reported in the first Edison update. Specifically, they calculate the skewness and kurtosis of these distribution. Skewness and kurtosis are statistics that indicate, respectively, how symmetric a distribution is around its average value and how "fat" its tails are — i.e., how common it is for observations to fall very far from the average value of the distribution.

QY refer to the skewness statistic for the Biden distribution as a "meaningless nonsense calculation." On this point, we agree: this statistic is meaningless for the purpose of detecting statistical anomalies. QY provide no explanation of why we should expect any particular skewness or kurtosis values in the data they present. Absent such an explanation of what statistical regularities we should expect in datasets like the one they present, there is no reason to think that any skewness or kurtosis value is indicative of statistical irregularities.

Perhaps QY expect that this dataset should follow a normal, bell-shaped distribution. Normal distributions have a skewness value of 0 and a kurtosis value of 3. However, as we show above through our probability argument and numerical simulation, there is absolutely no reason to expect that this dataset should follow a normal distribution, and in fact it would be surprising if it did. The fact that the skewness statistic was not 0 and the kurtosis statistic was not 3 is totally uninformative about the integrity of Fulton County's vote counting.

QY also misinterpret their own statistics. They write that an observed skewness of -153.5% implies that most outcomes lie below 0. This is incorrect. A negative skewness indicates that the

left-hand tail of the distribution is longer than the right-hand tail — informally, that there are more observations to the right of the average value than there are to the left. A negative skewness statistic does not imply that most observations are below 0. In fact, the data they present — which, by their nature, cannot be below 0 — shows quite clearly that a distribution can have negative skewness without any observations below 0.

In sum, QY's discussion of skewness and kurtosis is totally meaningless for the determination of statistical anomalies in Fulton County's vote counting. They present no argument for why any particular values would be anomalous and they misinterpret their own data analysis.

IX. Over-Time Correlations in Vote Counting Are Inevitable

QY make additional claims about the correlations between vote total for each candidate across precincts over time. For example, in para. 25 they point to graphs that plot the cumulative share of each candidate's eventual absentee votes that had been counted at different points in time within a set of precincts. They write that "all gains track nearly perfectly," implying that this "synchronous result" is evidence that "absentee votes of all precincts [are] centralized and coordinated." QY appear to insinuate that such coordination would be nefarious. No data analysis is required to reach the conclusion that vote counting is likely coordinated across precincts. While absentee vote totals in Fulton County are eventually apportioned into voters' precincts, our understanding is that actual counting is done in a centralized manner by election administrators. Centralization in processing and counting of absentee ballots by county election administrators is a common practice. It would seem most impractical to send absentee ballots out to individual precincts for counting. Some level of centralization in ballot-counting is not evidence of anything nefarious, but rather a run-of-the-mill feature of election administration. In any case, their data

analysis tells us nothing about whether counting is centralized or not. As time goes on, a higher proportion of the total absentee ballots are counted. It is impossible for these time series *not* to be highly correlated across precincts.

Jonathan Rodden

Stanford University
Department of Political Science
Encina Hall Central
616 Serra Street
Stanford, CA 94305

Phone: (650) 723-5219
Fax: (650) 723-1808
Email: jrodden@stanford.edu

Personal

Born on August 18. 1971, St. Louis, MO.

United States Citizen.

Education

Ph.D. Political Science, Yale University, 2000.

Fulbright Scholar, University of Leipzig, Germany, 1993–1994.

B.A., Political Science, University of Michigan, 1993.

Academic Positions

Professor, Department of Political Science, Stanford University, 2012–present.

Senior Fellow, Hoover Institution, Stanford University, 2012–present.

Senior Fellow, Stanford Institute for Economic Policy Research, 2020–present.

Director, Spatial Social Science Lab, Stanford University, 2012–present.

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, 2010–2012.

Associate Professor, Department of Political Science, Stanford University, 2007–2012.

Fellow, Center for Advanced Study in the Behavioral Sciences, Palo Alto, CA, 2006–2007.

Ford Career Development Associate Professor of Political Science, MIT, 2003–2006.

Visiting Scholar, Center for Basic Research in the Social Sciences, Harvard University, 2004.

Assistant Professor of Political Science, MIT, 1999–2003.

Instructor, Department of Political Science and School of Management, Yale University, 1997–1999.

Publications

Books

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Federalism and Inter-regional Redistribution, Working Paper 2009/3, Institut d'Economia de Barcelona.

Representation and Regional Redistribution in Federations, Working Paper 2010/16, Institut d'Economia de Barcelona (with Tiberiu Dragu).

Chapters in Books

Political Geography and Representation: A Case Study of Districting in Pennsylvania (with Thomas Weighill), forthcoming 2021.

Decentralized Rule and Revenue, 2019, in Jonathan Rodden and Erik Wibbels, eds., *Decentralized Governance and Accountability*, Cambridge University Press.

Geography and Gridlock in the United States, 2014, in Nathaniel Persily, ed. *Solutions to Political Polarization in America*, Cambridge University Press.

Can Market Discipline Survive in the U.S. Federation?, 2013, in Daniel Nadler and Paul Peterson, eds, *The Global Debt Crisis: Haunting U.S. and European Federalism*, Brookings Press.

Market Discipline and U.S. Federalism, 2012, in Peter Conti-Brown and David A. Skeel, Jr., eds, *When States Go Broke: The Origins, Context, and Solutions for the American States in Fiscal Crisis*, Cambridge University Press.

Federalism and Inter-Regional Redistribution, 2010, in Nuria Bosch, Marta Espasa, and Albert Sole Olle, eds., *The Political Economy of Inter-Regional Fiscal Flows*, Edward Elgar.

Back to the Future: Endogenous Institutions and Comparative Politics, 2009, in Mark Lichbach and Alan Zuckerman, eds., *Comparative Politics: Rationality, Culture, and Structure* (Second Edition), Cambridge University Press.

The Political Economy of Federalism, 2006, in Barry Weingast and Donald Wittman, eds., *Oxford Handbook of Political Economy*, Oxford University Press.

Fiscal Discipline in Federations: Germany and the EMU, 2006, in Peter Wierts, Servaas Deroose, Elena Flores and Alessandro Turrini, eds., *Fiscal Policy Surveillance in Europe*, Palgrave MacMillan.

The Political Economy of Pro-cyclical Decentralised Finance (with Erik Wibbels), 2006, in Peter Wierts, Servaas Deroose, Elena Flores and Alessandro Turrini, eds., *Fiscal Policy Surveillance in Europe*, Palgrave MacMillan.

Globalization and Fiscal Decentralization, (with Geoffrey Garrett), 2003, in Miles Kahler and David Lake, eds., *Governance in a Global Economy: Political Authority in Transition*, Princeton University Press: 87-109. (Updated version, 2007, in David Cameron, Gustav Ranis, and Annalisa Zinn, eds., *Globalization and Self-Determination: Is the Nation-State under Siege?* Routledge.)

Introduction and Overview (Chapter 1), 2003, in Rodden et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Soft Budget Constraints and German Federalism (Chapter 5), 2003, in Rodden, et al, *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Federalism and Bailouts in Brazil (Chapter 7), 2003, in Rodden, et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Lessons and Conclusions (Chapter 13), 2003, in Rodden, et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Online Interactive Visualization

Stanford Election Atlas, 2012 (collaboration with Stephen Ansolabehere at Harvard and Jim Herries at ESRI)

Other Publications

How America's Urban-Rural Divide has Shaped the Pandemic, 2020, *Foreign Affairs*, April 20, 2020.

An Evolutionary Path for the European Monetary Fund? A Comparative Perspective, 2017, Briefing paper for the Economic and Financial Affairs Committee of the European Parliament.

Representation and Regional Redistribution in Federations: A Research Report, 2009, in *World Report on Fiscal Federalism*, Institut d'Economia de Barcelona.

On the Migration of Fiscal Sovereignty, 2004, *PS: Political Science and Politics* July, 2004: 427–431.

Decentralization and the Challenge of Hard Budget Constraints, *PREM Note* 41, Poverty Reduction and Economic Management Unit, World Bank, Washington, D.C. (July).

Decentralization and Hard Budget Constraints, *APSA-CP* (Newsletter of the Organized Section in Comparative Politics, American Political Science Association) 11:1 (with Jennie Litvack).

Book Review of *The Government of Money* by Peter Johnson, *Comparative Political Studies 32,7: 897-900.*

Fellowships and Honors

Fund for a Safer Future, Longitudinal Study of Handgun Ownership and Transfer (LongSHOT), GA004696, 2017-2018.

Stanford Institute for Innovation in Developing Economies, Innovation and Entrepreneurship research grant, 2015.

Michael Wallerstein Award for best paper in political economy, American Political Science Association, 2016.

Common Cause Gerrymandering Standard Writing Competition, 2015.

General support grant from the Hewlett Foundation for Spatial Social Science Lab, 2014.

Fellow, Institute for Research in the Social Sciences, Stanford University, 2012.

Sloan Foundation, grant for assembly of geo-referenced precinct-level electoral data set (with Stephen Ansolabehere and James Snyder), 2009-2011.

Hoagland Award Fund for Innovations in Undergraduate Teaching, Stanford University, 2009.

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, beginning Fall 2010.

Research Grant on Fiscal Federalism, Institut d'Economia de Barcelona, 2009.

Fellow, Institute for Research in the Social Sciences, Stanford University, 2008.

United Postal Service Foundation grant for study of the spatial distribution of income in cities, 2008.

Gregory Luebbert Award for Best Book in Comparative Politics, 2007.

Fellow, Center for Advanced Study in the Behavioral Sciences, 2006-2007.

National Science Foundation grant for assembly of cross-national provincial-level dataset on elections, public finance, and government composition, 2003-2004 (with Erik Wibbels).

MIT Dean's Fund and School of Humanities, Arts, and Social Sciences Research Funds.

Funding from DAAD (German Academic Exchange Service), MIT, and Harvard EU Center to organize the conference, "European Fiscal Federalism in Comparative Perspective," held at Harvard University, November 4, 2000.

Canadian Studies Fellowship (Canadian Federal Government), 1996-1997.

Prize Teaching Fellowship, Yale University, 1998-1999.

Fulbright Grant, University of Leipzig, Germany, 1993-1994.

Michigan Association of Governing Boards Award, one of two top graduating students at the University of Michigan, 1993.

W. J. Bryan Prize, top graduating senior in political science department at the University of Michigan, 1993.

Other Professional Activities

International Advisory Committee, Center for Metropolitan Studies, Sao Paulo, Brazil, 2006–2010.

Selection committee, Mancur Olson Prize awarded by the American Political Science Association Political Economy Section for the best dissertation in the field of political economy.

Selection committee, Gregory Luebbert Best Book Award.

Selection committee, William Anderson Prize, awarded by the American Political Science Association for the best dissertation in the field of federalism and intergovernmental relations.

Courses

Undergraduate

Politics, Economics, and Democracy

Introduction to Comparative Politics

Introduction to Political Science

Political Science Scope and Methods

Institutional Economics

Spatial Approaches to Social Science

Graduate

Political Economy of Institutions

Federalism and Fiscal Decentralization

Politics and Geography

Consulting

2017. Economic and Financial Affairs Committee of the European Parliament.

2016. Briefing paper for the World Bank on fiscal federalism in Brazil.

2013-2018: Principal Investigator, SMS for Better Governance (a collaborative project involving USAID, Social Impact, and UNICEF in Arua, Uganda).

2019: Written expert testimony in *McLemore, Holmes, Robinson, and Woullard v. Hosemann*, United States District Court, Mississippi.

2019: Expert witness in *Nancy Corola Jacobson v. Detzner*, United States District Court, Florida.

2018: Written expert testimony in *League of Women Voters of Florida v. Detzner* No. 4:18-cv-002510, United States District Court, Florida.

2018: Written expert testimony in *College Democrats of the University of Michigan, et al. v. Johnson, et al.*, United States District Court for the Eastern District of Michigan.

2017: Expert witness in *Bethune-Hill v. Virginia Board of Elections*, No. 3:14-CV-00852, United States District Court for the Eastern District of Virginia.

2017: Expert witness in *Arizona Democratic Party, et al. v. Reagan, et al.*, No. 2:16-CV-01065, United States District Court for Arizona.

2016: Expert witness in *Lee v. Virginia Board of Elections*, 3:15-cv-357, United States District Court for the Eastern District of Virginia, Richmond Division.

2016: Expert witness in *Missouri NAACP v. Ferguson-Florissant School District*, United States District Court for the Eastern District of Missouri, Eastern Division.

2014-2015: Written expert testimony in *League of Women Voters of Florida et al. v. Detzner, et al.*, 2012-CA-002842 in Florida Circuit Court, Leon County (Florida Senate redistricting case).

2013-2014: Expert witness in *Romo v Detzner*, 2012-CA-000412 in Florida Curcuit Court, Leon County (Florida Congressional redistricting case).

2011-2014: Consultation with investment groups and hedge funds on European debt crisis.

2011-2014: Lead Outcome Expert, Democracy and Governance, USAID and Social Impact.

2010: USAID, Review of USAID analysis of decentralization in Africa.

2006–2009: World Bank, Independent Evaluations Group. Undertook evaluations of World Bank decentralization and safety net programs.

2008–2011: International Monetary Fund Institute. Designed and taught course on fiscal federalism.

1998–2003: World Bank, Poverty Reduction and Economic Management Unit. Consultant for *World Development Report*, lecturer for training courses, participant in working group for assembly of decentralization data, director of multi-country study of fiscal discipline in decentralized countries, collaborator on review of subnational adjustment lending.

Last updated: October 19, 2020

William Marble

Encina Hall West, 616 Jane Stanford Way, Stanford, CA 94305
wpmarble@stanford.edu ◇ williammarble.co ◇ (610) 389-9708

Education

Stanford University *2015-Present*
Ph.D. Candidate in Political Science
Fields: American Politics, Political Methodology, Comparative Politics (minor)
Dissertation: "Political Responses to Economic Decline"
Committee: Kenneth Scheve, Jonathan Rodden, Justin Grimmer, Clayton Nall

University of Pennsylvania *2011-2015*
B.A. in Political Science and Economics, minor in Mathematics

Publications

William Marble and Clayton Nall. "Where Interests Trump Ideology: Liberal Homeowners and Local Opposition to Housing Development." *Journal of Politics* (Forthcoming). [link]

Amalie Jensen, William Marble, Kenneth Scheve, and Matthew J. Slaughter. "City Limits to Partisan Polarization in the American Public." Forthcoming, *Political Science Research and Methods*. [link]

William Marble and Matthew Tyler. "The Structure of Political Choices: Distinguishing Between Constraint and Multidimensionality." Conditionally accepted, *Political Analysis*. [link]

Working Papers

Ala' Alrababa'h, William Marble, Salma Mousa, and Alexandra Siegel. "Can Exposure to Celebrities Reduce Prejudice? The Effect of Mohamed Salah on Islamophobic Behaviors and Attitudes." Revised and resubmitted, *American Political Science Review*. [link]

William Marble. "Responsiveness in a Polarized Era: How Local Economic Conditions Structure Campaign Rhetoric." (Job Market Paper) [link]

Justin Grimmer and William Marble. "Who Put Trump in the White House? Explaining the Contribution of Voting Blocs to Trump's Victory." [link]

William Marble and Nathan Lee. "Why Not Run? How The Demands of Fundraising Undermine Ambition for Higher Office." [link]

Kaiping Chen, Nathan Lee, and William Marble. "How Policymakers Evaluate Online versus Offline Constituent Messages." [link]

William Marble. "All-Mail Voting Can Decrease Ballot Roll-Off." [link]

In Progress

"Estimating Issue Weights in American Federal Elections, 1980-2018"

"Social Ties, Labor Mobility, and Support for the Welfare State"

"Attitude Activation and the Study of Political Campaigns" (with Cole Tanigawa-Lau and Justin Grimmer)

"How Much Do Social Connections Matter for Political Success?" (with Ari Ray)

"Creating the American Gentry: Political Consequences of Property Tax Reform in California" (with Clayton Nall)

"Where's the Party in Foreign Policy?" (with Rachel Myrick and Carl Gustafson)

Grants and Awards

Dissertation Fellowship, Stanford Institute for Research in the Social Sciences, 2020-2021 ($5,500)

Collaborative Research Fellowship, Stanford Impact Labs, 2020 ($7,000)

Schultz Graduate Student Fellowship in Economic Policy, Stanford Institute for Economic Policy Research, 2019 ($9,000)

Computational Social Science Grant, Russell Sage Foundation, 2019 (with Ari Ray, $9,835)

Ric Weiland Graduate Fellowship in the Humanities and Sciences, 2018-2020

Stanford Centennial Teaching Assistant Award, 2018

Small Grants for Survey Experiments in Political Science, Stanford Institute for Research in the Social Sciences, 2018 (with Ala' Alrababa'h and Salma Mousa, $1,000)

Conference travel grant, Penn College of Arts and Sciences, 2015

Undergrad research grant, Penn Democracy, Citizenship, and Constitutionalism Program, 2014

Research fellow, Penn Program on Opinion Research and Election Studies, 2013 and 2014

Invited Presentations

2019: UC Santa Barbara

Conferences

American Political Science Association (2017, 2019)

Midwest Political Science Association (2015, 2018)

Stanford-Berkeley Political Economy Working Group (2018)

American Association for Public Opinion Research (2016)

Teaching

Teaching Assistant

Graduate Political Methodology I, 2016 and 2017 (Stanford)

Graduate Political Methodology II, 2017 and 2018 (Stanford)

Math Camp for incoming Ph.D. students, 2016 and 2017 (Stanford)

Undergraduate Political Methodology, 2015 (Penn)

Thinking Strategically: Introduction to Game Theory, 2017 (Stanford)

What's Wrong with American Politics? An Institutional Approach, 2019 and 2020 (Stanford)

International Negotiation and Decision-Making, 2018 (Stanford, short course)

Instructional Workshops

Introduction to Data Science, workshop for high school students visiting Stanford, 2018

Introduction to Webscraping, Stanford Summer Research College, 2016. Links to materials: slides, tutorial (pdf), GitHub.

Data Visualization Using `ggplot2`, presentation to Stanford political science graduate students, 2016. Links to materials: slides, GitHub.

Introduction to Stata, workshop for summer fellows at the Penn Program for Opinion Research and Election Studies, 2015

Service

Reviewer for *American Political Science Review*, *American Journal of Political Science*, *Journal of Politics*

TA Mentor for the Stanford Political Science Department, 2017-2020

Co-Chair, Stanford Political Science Graduate Student Association, 2018

Co-Organizer, Stanford Political Science Very Applied Methods Workshop, 2017-2018

Social Chair, Stanford Political Science Graduate Student Association, 2016

Policy Writing

"The Evidence and Tradeoffs for a Stay-at-Home Pandemic Response: A Multidisciplinary Review of Stay-at-Home Implementation in America." Policy brief reviewing early research on covid-19, April 2020. (with Alexis A. Doyle, Mollie S.H. Friedlander, Grace D. Li, Courtney J. Smith, et al.) [link]

Non-testifying expert witness research in *League of Women Voters of Florida v. Detzner*, United States District Court, Northern District of Florida, 2018. (with Jonathan Rodden)

Co-author of expert report on the 2015 vote-by-mail election in San Mateo County, California. Commissioned by the San Mateo County Election Office. (with Melissa Michelson)

Other Experience

Co-founder, CivicPulse

Election analyst, NBC News Decision Desk, New York, 2014 midterm elections

Debate coach, La Salle College High School, Wyndmoor, PA, 2011-2015

References

Kenneth Scheve
Professor of Political Science and Global Affairs
Yale University
Email: kenneth.scheve@yale.edu

Jonathan Rodden
Professor of Political Science
Stanford University
Email: jrodden@stanford.edu

Clayton Nall
Assistant Professor of Political Science
UC Santa Barbara
Email: nall@ucsb.edu

Justin Grimmer
Professor of Political Science
Stanford University
Email: jgrimmer@stanford.edu

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-04809-TCB

ATTORNEY DECLARATION OF AMANDA R. CALLAIS

I, Amanda R. Callais, state as follows:

1. My name is Amanda R. Callais. I am over 18 years of age and have personal knowledge of the below facts, which are true and accurate to the best of my knowledge and belief.

2. I am an attorney with the firm of Perkins Coie LLP and counsel for Intervenor-Defendants the Democratic Party of Georgia, Inc., DSCC, and DCCC ("Intervenors"). I make this declaration in support of Intervenors' Opposition to Plaintiffs' Motion for Emergency Injunctive Relief.

3. Attached hereto as Exhibit 1 is a true and correct copy of the expert report of Dr. Stephen Ansolabehere responding to Matthew Braynard.

4. Attached hereto as Exhibit 2 is a true and correct copy of the expert report of Dr. Stephen Ansolabehere responding to Dr. William Briggs.

5. Attached hereto as Exhibit 3 is a true and correct copy of the expert report of Dr. Jonathan Rodden responding to Russell Ramsland, Dr. Eric Quinnell, and Dr. Shiva Ayyadurai.

6. Attached hereto as Exhibit 4 is a true and correct copy of the expert report of Dr. Kenneth R. Mayer responding to Russell Ramsland and Dr. Benjamin Overholt.

7. Attached hereto as Exhibit 5 is a true and correct copy of the expert report of Dr. Jonathan Rodden and William Marble responding to Dr. Eric Quinnell and Dr. S. Stanley Young.

Dated: December 5, 2020

Amanda R. Callais
Amanda R. Callais*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 800
Washington, D.C. 20005
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
acallais@perkinscoie.com
Counsel for Intervenor-Defendants
**Admitted Pro Hac Vice*

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: December 5, 2020.

Adam M. Sparks
Counsel for Intervenor-Defendants

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM, and BRIAN JAY VAN GUNDY, Plaintiffs, v. BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board, Defendants.	CIVIL ACTION FILE NO. 1:20-cv-04809-TCB

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 5, 2020.

Adam M. Sparks
Counsel for Intervenor-Defendants

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

CORECO JA' AN PEARSON, ,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	1:20-cv-4809-TCB
	)	
BRIAN KEMP, ,	)	
	)	
Defendants.	)	

DEFENDANTS' CONSOLIDATED BRIEF IN SUPPORT OF THEIR MOTION TO DISMISS AND RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF

Christopher M. Carr Attorney General Bryan K. Webb Deputy Attorney General Russell D. Willard Senior Assistant Attorney General Charlene S. McGowan Assistant Attorney General Office of the Georgia Attorney General 40 Capitol Square SW Atlanta, GA 30334 r d	Carey Miller Josh Belinfante Melanie Johnson Robbins Ross Alloy Belinfante Littlefield LLC 500 14th Street NW Atlanta, GA 30318

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INTRODUCTION

Plaintiffs, a group of disappointed Republican presidential electors, filed a Complaint alleging widespread fraud in the November general election in Georgia, weaving an unsupported tale of "ballot stuffing," the switching of votes by an "algorithm" uploaded to the state's electronic voting equipment that switched votes from President Trump to Joe Biden, hacking by foreign actors from Iran and China, and other nefarious acts by unnamed actors. Plaintiffs did not bring this election challenge in state court as provided by Georgia's Election Code. Instead, they ask this Court to change the election outcome by judicial fiat and order the Governor, the Secretary, and the State Election Board to "de-certify" the results of the election and replace the presidential electors for Joe Biden (who were selected by a majority of Georgia voters by popular vote as provided by state law) with presidential electors for President Trump. Their claims would be extraordinary if true, but they are not. Much like the mythological "kraken" monster[1] after which Plaintiffs have named this lawsuit, their claims of election fraud and malfeasance belong more to the kraken's realm of mythos than they do to reality.

[1] A "kraken" is a mythical sea monster appearing in Scandinavian folklore, being "closely linked to sailors' ability to tell tall tales." https://en.wikipedia.org/wiki/Kraken.

The truth is that the 2020 general election was, according to the federal agency tasked with overseeing election security, "the most secure in history." (**Exhibit B**.)[2] Cybersecurity experts have determined that there is "***no evidence that an voting s stem deleted or lost votes changed votes or was in an wa compromised***." (d) The accuracy of the presidential election results has been confirmed through at least (1) the statewide risk-limiting audit (2) a hand recount and (3) independent testing, which has confirmed that the security of the state's electronic voting equipment was not compromised.

As a threshold matter, the Eleventh Circuit issued an opinion today that mandates dismissal of this action for lack of standing and mootness in the related case of d r r, No. 20-14418, which raised many of the same claims as this case and sought similar relief. (slip opinion attached as **Exhibit A**). In affirming the district court's decision denying Wood's motion to enjoin certification of the election results, the panel held:

> We agree with the district court that Wood lacks standing to sue because he fails to allege a particularized injury. And because Georgia has already certified its election results and its slate of presidential electors, Wood's requests for emergency relief are moot to the extent they concern the 2020 election. The Constitution makes clear that

[2] Cybersecurity & Infrastructure Security Agency's Joint Statement From Elections Infrastructure Government Coordinating Council & the Election Infrastructure Selector Coordinating Committees, November 12, 2020. A true and correct copy of this statement is attached as **Exhibit B**.

> federal courts are courts of limited jurisdiction, U.S. Const. art. III we may not entertain post-election contests about garden-variety issues of vote counting and misconduct that may properly be filed in state courts.

(slip op. at 1). This decision squarely controls, and the Court should dismiss the action because Plaintiffs lack an injury in fact sufficient to establish Article III standing. Certification of the election results also moots Plaintiffs' claims, as the Court has no authority under federal law to undo what has already been done.

Other threshold issues bar the relief Plaintiffs seek. Even if they were not moot, Plaintiffs' claims are barred by laches because of their inexcusable delay in raising their challenge to the State's electronic voting system and absentee ballot procedures until after their preferred candidate lost. Plaintiffs' claims are also barred by the Eleventh Amendment to the U.S. Constitution, which bars suits for retrospective relief against state officials acting in their official capacity absent a waiver by the State. Similarly, despite their attempts to raise constitutional claims, Plaintiffs' lawsuit is really an election contest challenging the Presidential election, which can and should be brought in a Georgia court as some of Plaintiffs' allies have recently done.

But most importantly, there is no credible evidence to support the drastic and unprecedented remedy of substituting certified presidential election results with the Plaintiffs' preferred candidate. Without this, Plaintiffs cannot clearly establish the

required elements for injunctive relief. Like every state, Georgia has a compelling interest in preserving the integrity of its election process. "Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." r , 549 U.S. 1, 4 (2006). Public confidence in the electoral process would certainly be undermined by a court invalidating the certified results of a presidential election in which nearly 5 million Georgians cast ballots. This Court should decline Plaintiffs' unsupportable efforts to overturn the expressed will of the voters, and should deny their request for relief and dismiss this action.

FACTUAL BACKGROUND

I. Georgia's Electronic Voting System is Secure and Has Not Been Compromised.

Plaintiffs allege wide-ranging conspiracy theories that Georgia's electronic voting system has been compromised by Hugo Chavez and the Venezuelan government (or China and Iran, depending on which "expert" is asked), is infected with a vaguely described "weighted" algorithm that switches votes between candidates, and otherwise produces fraudulent results. In support of their argument, Plaintiffs cite to the un-signed declaration of Dr. Shiva Ayyadurai,[3] other redacted

[3] Dr. Ayyadurai claims he is "an engineer with vast experience in engineering systems, pattern recognition, mathematical and computational modeling and analysis." [Doc. 6-1, 2]. Elsewhere, Dr. Ayyadurai claims to be the inventor of

declarations, hearsay in the form of various news articles, and contested evidentiary filings in the case r r r, No. 1:17-cv-2989 (N.D. Ga.).[4]

The Plaintiffs—blinded by either willful ignorance or a lack of basic knowledge of Georgia elections—are incorrect. Georgia's electronic voting system was adopted in compliance with state and federal law, is certified by the Election Assistance Commission following inspection and testing conducted by independent Voting System Test Laboratories ("VSTLs"), and has not been compromised. A review of the , as opposed to Plaintiffs' conspiracies, confirms the inaccuracy of Plaintiffs' allegations.

A. Adoption and selection of Georgia's electronic voting system.

In 2019, the Georgia General Assembly enacted House Bill 316 ("HB 316"), a sweeping and comprehensive reform of Georgia's election laws, which also modernized and further secured Georgia's voting system. Specifically, the General Assembly chose to require a new unified system of voting throughout the State—

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electronic mail. Sam Biddle, r r M r d d , Business Insider (Mar. 6, 2012), https://www.businessinsider.com/the-crazy-story-of-the-man-who-pretended-to-invent-email-2012-3. State Defendants object to any consideration of Dr. Ayyadurai's report as he is not qualified to offer the opinions proffered and utilizes unreliable methodology.

[4] The r matter is now subject to two appeals pending in the Eleventh Circuit Court of Appeals, docket numbers 20-13730 and 20-14067.

moving the State away from the secure, but older, direct-recording electronic ("DRE") voting system to a voting system utilizing Ballot-Marking Devices ("BMDs") and optical scanners. The General Assembly determined this replacement of DREs with BMDs should occur "as soon as possible." O.C.G.A. § 21-2-300(a)(2). The legislation placed the responsibility of selecting the equipment for the new voting system on the Secretary of State. O.C.G.A. § 21-2-300(a). However, contrary to Plaintiffs' assertions that Governor Kemp and Secretary Raffensperger "rushed through the purchase of Dominion voting machines and software," (Doc. 6, p. 15), the procurement of Georgia's new voting system was completed through an open and competitive bidding process as required by Georgia's State Purchasing Act, O.C.G.A. § 50-5-50. Secretary Raffensperger did not make the purchasing decision alone, but established a Selection Committee comprised of seven individuals who were tasked with reviewing bid proposals.[5] Selection Committee members evaluated those proposals using criteria and processes set forth on a Master Technical Evaluation spreadsheet.[6] Of the three requests for proposals evaluated by the Selection Committee, Dominion Voting Systems ("Dominion") received the highest overall score. d

5 https://sos.ga.gov/admin/uploads/Selection_20Committee_20Bios.pdf

6 https://sos.ga.gov/admin/uploads/MasterTechnicalEvaluation_redacted.xls

On July 29, 2019, Secretary Raffensperger posted a Notice of Intent to Award the contract for the statewide voting system to Dominion. No bid protests were received by the State, and Secretary Raffensperger issued a final Notice of Intent to Award on August 9, 2019. d The voting system consists of BMDs that print ballots by way of a connected printer and optical scanners connected to a locked ballot box. The Dominion BMD allows the voter to make selections on a screen and then prints those selections onto a paper ballot. The voter has an opportunity to review the paper ballot for accuracy before placing it into the scanner. After scanning, the paper ballot drops into a locked ballot box connected to the scanner. BMDs thus create an auditable, verifiable ballot, as required by statute. O.C.G.A. § 21-2-300(a)(2) ("electronic ballot markers shall produce paper ballots which are marked with the elector's choices **in a format readable by the elector**") (emphasis added).

B. Testing and certification of Georgia's voting system.

Georgia's voting system is subject to two different certification requirements. First, the voting system must have been certified by the United States Election Assistance Commission ("EAC") at the time of procurement. O.C.G.A. § 21-2-300(a)(3). Second, the voting system must also be certified by the Secretary of State as safe and practicable for use. Georgia's BMD system meets both requirements.

The Help America Vote Act ("HAVA") created the EAC, which set up a rigorous process for voting-equipment certification, working with committees of experts and coordinating with the National Institute of Standards and Technology. 52 U.S.C. § 20962 52 U.S.C. §§ 20962, 20971 (test lab standards). The EAC certifies voting systems as in compliance with the Voluntary Voting System Guidelines ("VVSG"), version 1.0, and does so by utilizing approved, independent Voting System Test Laboratories ("VSTL"). In the case of the voting system utilized in Georgia, SLI Compliance served as the VSTL tasked with testing the system for EAC purposes. The system utilized by Georgia, Democracy Suite 5.5-A, was certified by the EAC on January 30, 2019.[7]

Separately, the Secretary of State utilized another independent EAC-certified VSTL, Pro V&V, to conduct testing for certification of the voting system. Following the VSTL's testing, the Secretary issued a Certification of the Dominion Voting Systems as meeting all applicable provisions of the Georgia Election Code and Rules of the Secretary of State on August 9, 2019.[8] That certification has been

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[7] United States Election Assistance Commission, Agency Decision — Grant of Certification, https://www.eac.gov/sites/default/files/voting system/ files/Decision.Authority.Grant.of.Cert.D-Suite5.5-A.pdf

[8] Plaintiffs erroneously claim that both the Certificate and a test report signed by Michael Walker were "undated" and have attached altered documents that have been cropped to remove the dates of the documents. Compl., 12 and Exhibits 5 and 6 thereto. A correct copy of the Certificate showing the date of August 9,

updated due to de minimis changes in system components on two different occasions since, on February 19, 2020, and again on October 5, 2020.

C. Georgia's electronic voting system has not been compromised and Plaintiffs' assertions to the contrary are disproven by the Risk-Limiting Audit.

Plaintiffs' conjecture and speculation does not rebut the reality that Georgia's voting system has not been compromised. Not only have two separate EAC-Certified independent VSTLs confirmed that the system operates as intended, but Georgia's risk-limiting audit ("RLA") further confirms that no "weighted" vote switching occurred.

Shockingly, the basis for Plaintiffs' outlandish claims of system compromise are rooted in suspect statistical—not software—analyses that they suggest irrefutably proves vote switching occurred. For example, in Dr. Ayyadurai's unsigned declaration, the author references (without citation) vote totals in certain precincts for the proposition that a "weighted race" algorithm must be responsible. (r Doc. 6-1.) The author, however, makes no attempt to evaluate any other reasons voters may have chosen not to vote for President Trump. Indeed, the

2019 may be viewed at https://sos.ga.gov/admin/uploads/Dominion_Certification.pdf. A copy of the test report showing a date of August 7, 2019 may be found at https://sos.ga.gov/admin/uploads/Dominion_Test_Cert_Report.pdf.

author of that declaration speculates that 48,000 of 373,000 votes cast in Dekalb County were switched in this manner from Trump to Biden, (Doc. 6-1, p. 28), meaning that (under the author's theory) the results in Dekalb County would be 106,373 for Trump to 260,227 for Biden (or approximately 28.6 to 70). Of course, this would be extraordinarily unusual for heavily democratic Dekalb County, in which President Trump received 51,468 votes (16.47) in 2016, when the State was using an entirely different voting system.[9]

Moreover, the existence of such a "weighted" algorithm would have been detected in the RLA conducted this year. Following the counties' tabulation of the November election results, but prior to certification, Secretary Raffensperger was required by law to conduct a risk-limiting audit in accordance with O.C.G.A. § 21-2-498. State Election Board Rule 183-1-15-.04 provides that the Secretary of State shall choose the particular election contest to audit. Recognizing the importance of clear and reliable results for such an important contest, Secretary Raffensperger selected the presidential race for the audit.[10] **Exhibit C**.

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[9] Dekalb County Election Results, 2016, https://results.enr.clarityelections.com/GA/DeKalb/64036/183321/en/summary.html.

[10] Statement of Secretary Raffensperger, "Historic First Statewide Audit of Paper Ballots Upholds Results of Presidential Race, attached as Exhibit C hereto and available at

County election officials were then required to count by hand all absentee ballots and paper ballots printed by the Dominion BMDs. d. The audit confirmed the same outcome of the presidential race as the original tabulation using the Dominion voting systems equipment. d While there was a slight differential between the audit results and the original machine counts, the differential was well within the expected margin of error that occurs when hand-counting ballots. d A 2012 study by Rice University and Clemson University found that hand counting ballots in post-election audit or recount procedures can result in error rates of up to 2 percent. d In Georgia's audit, the highest error rate reported in any county recount was 0.73 , and most counties found no change in their final tally. d

The audit results refute Plaintiffs' speculation that Dominion machines or software might have somehow flipped, switched, or "stuffed" ballots in the 2020 presidential election. d Because Georgia voters can verify that their paper ballots (whether hand-marked absentee ballots or ballots marked by BMDs) accurately reflect their intended votes, any actual manipulation of the initial electronic vote count would have been revealed when the hand count of paper ballots presented a different result. The fact that this did not happen forecloses the possibility that

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https://sos.ga.gov/index.php/elections/historic first statewide audit of paper ballots upholds result of presidential race

Dominion equipment or software had been manipulated to somehow record false votes for one candidate or to eliminate votes from another.

In sum, the components of Georgia's voting system have been evaluated, tested, and certified by two different independent laboratories as compliant with both state and federal requirements and safe for use in elections. Neither of those two VSTLs identified any "weighted" vote counting algorithm, nor any other impropriety. And, in Georgia's 2020 general election, the correct operation of the voting system was again confirmed by the state's risk-limiting audit.

II. Absentee Ballots Were Validly Processed According to Law

Plaintiffs' claim that the rules under which county elections officials verified absentee ballots are contrary to Georgia law is also without merit. Absentee ballots for the 2020 general election were processed by county election officials according to the procedures established by the Georgia legislature. These procedures were part of HB 316, bipartisan legislation passed in 2019 to reform the state's election code and implement a new electronic voting system. The reforms kept in place Georgia's policy of "no excuse" absentee voting, but modified the technical requirements for absentee ballots. HB 316 modified the language of the oath on the outer absentee ballot envelope to leave the signature requirement but remove the elector's address and date of birth. O.C.G.A. § 21-2-384. Further, HB 316 added a "cure"

provision, which requires election officials to give a voter until three days after the date of the election to cure an issue with the voter's signature before rejecting an absentee ballot for a missing or mismatched signature on the outer envelope. O.C.G.A. § 21-2-386(a)(1)(C). The "cure" provision was added to the statute's requirement that election officials "promptly notify" the voter of a rejected absentee ballot due to a missing or mismatched signature.

On November 6, 2019, the Democratic Party of Georgia, DSCC, and DCCC (collectively, "Political Party Organizations") sued the State Defendants, alleging that the "promptly notify" language of O.C.G.A. § 21-2-386(a)(1)(C) was vague and ill-defined and left counties without standards for verifying signatures on absentee ballots. (App'x Vol. I at 144-49).

While that action was pending, the State Election Board ("SEB") approved a rule that established a uniform standard for counties to follow to "promptly notify" voters when their absentee ballot is rejected as required by O.C.G.A. § 21-2-386(a)(1)(C). The rule provides that when a timely submitted absentee ballot is rejected, the board of registrars or absentee ballot clerk must send the voter notice of the rejection and opportunity to cure within three business days, or by the next business day if within ten days of Election Day. Ga. Comp. R. & Regs. r. 183-1-14-.13 (the "Prompt Notification Rule").

The Prompt Notification Rule was adopted pursuant to the SEB's rule-making authority under O.C.G.A. § 21-2-31(2). It provides a uniform three-day standard for "prompt" notification required by O.C.G.A. § 21-2-386(a)(1)(C) when an absentee ballot is rejected, so that all counties give notice in a uniform manner. The Prompt Notification Rule was promulgated pursuant to the Georgia Administrative Procedure Act, published for public comment, and discussed at multiple public hearings before it became effective on March 22, 2020.

Because the Prompt Notification Rule resolved the issues in the pending lawsuit, the parties resolved the matter in a settlement agreement that included, among other terms, an agreement that (1) the State Election Board would promulgate and enforce the Prompt Notification Rule and (2) the Secretary of State would issue guidance to county election officials regarding the signature matching process.

On May 1, 2020, the Secretary of State distributed an Official Election Bulletin ("OEB"), advising county election officials of the Prompt Notification Rule and providing guidance for reviewing signatures on absentee-ballot envelopes. (Declaration of Chris Harvey 5).[11] The OEB instructed that after an election official makes an initial determination that the signature on the absentee ballot envelope does

[11] The Harvey Declaration was submitted in the related case of d r r, Civil Action No. 1:20-CV-4651-SDG and is attached as **Exhibit D**.

not match the signature on file for the voter pursuant to O.C.G.A. § 21-2-386(a)(1)(B) and (C), two additional registrars, deputy registrars, or absentee ballot clerks should also review the signature, and the ballot should be rejected if at least two of the three officials agree that the signature does not match. (d) The OEB expressly instructs county officials to comply with state law. (d)

Contrary to Plaintiff's claim that the Prompt Notification Rule and the OEB have significantly disrupted the signature verification process, these measures have had no detectable effect on the absentee ballot rejection rate since the last general election in 2018. (Harvey Dec. 6, 7). An analysis of the number of absentee-ballot rejections for signature issues for 2020 as compared to 2018 found that the rejection rate for absentee ballots with missing or non-matching signatures in the 2020 general election was 0.15 the same rejection rate for signature issues as in 2018 before the new measures were implemented. (d)

ARGUMENT AND CITATION OF AUTHORITIES

I. The Court Lacks Subject Matter Jurisdiction because Plaintiffs Cannot Establish Article III Standing.

Plaintiffs raise three constitutional counts in their Complaint: (1) that the State Defendants violated the Electors and Elections Clauses of Articles I and II ("Count I") that the State Defendants violated the equal protection clause of the U.S. Constitution ("Count II") that the State Defendants denied Plaintiffs Due Process

related to "alleged disparate treatment of absentee/mail-in voters among different counties" ("Count III") and that the State Defendants denied Plaintiffs Due Process "on the right to vote" ("Count IV"). Plaintiffs also bring a state law election contest claim against Defendants pursuant to O.C.G.A. § 21-5-522, invoking the Court's supplemental jurisdiction under 28 U.S.C. § 1367. However, because Plaintiffs cannot establish standing as to any of these causes of action, the Court lacks jurisdiction to consider the merits of Plaintiffs' claims and the case should be dismissed.

Federal courts have an independent obligation to ensure that subject-matter jurisdiction exists before reaching the merits of a dispute.

, 974 F.3d 1236, 1245 (11th Cir. 2020) (vacating and ordering dismissal of voting rights case due to lack of standing). "For a court to pronounce upon . . . the constitutionality of a state or federal law when it has no jurisdiction to do so is, by very definition, for a court to act ultra vires." d (citation omitted). "If at any point a federal court discovers a lack of jurisdiction, it must dismiss the action." d

Article III of the Constitution limits the subject-matter jurisdiction of federal courts to "Cases" and "Controversies." U.S. Const. art. III, § 2. A party invoking federal jurisdiction bears the burden of establishing standing at the commencement of the lawsuit. d r d , 504 U.S. 555, 561 (1992). As an

irreducible constitutional minimum, Plaintiffs must show they have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision. , 504 U.S. at 561. As the party invoking federal jurisdiction, Plaintiffs bear the burden at the pleadings phase of "clearly alleg[ing] facts demonstrating each element."

, 136 S. Ct. 1540, 1547 (2016).

A. Plaintiffs have not Alleged an Injury in Fact Sufficient to Form a Basis for Standing.

Injury in fact is the "first and foremost" of the standing elements. , 136 S. Ct. at 1547. An injury in fact is "an invasion of a legally protected interest that is both concrete and particularized and actual or imminent, not conjectural or hypothetical." r M d d r d M , 964 F.3d 990, 996 (11th Cir. 2020) , No. 20-3214, 2020 U.S. App. LEXIS 35639 at 16 (3d Cir. Nov. 13, 2020) ("To bring suit, you—and you personally—must be injured, and you must be injured in a way that concretely impacts your own protected legal interests.").

The alleged injury must be "distinct from a generally available grievance about government." rd, 138 S. Ct. 1916, 1923 (2018). This requires more than a mere "keen interest in the issue." r , 138 S. Ct. 2392, 2416 (2018) , 549 U.S. 437, 440 41 (2007) ("Our refusal

to serve as a forum for generalized grievances has a lengthy pedigree. . . . [A] generalized grievance that is plainly undifferentiated and common to all members of the public" is not sufficient for standing).

It is for this reason that the Eleventh Circuit found lack of standing in the d case. The plaintiff in that case could not "explain how his interest in compliance with state election laws is different from that of any other person. Indeed, he admits that any Georgia voter could bring an identical suit. But the logic of his argument sweeps past even that boundary. All Americans, whether they voted in this election or whether they reside in Georgia, could be said to share [plaintiff's] interest in "ensur[ing] that [a presidential election] is properly administered." (slip op., **Ex. A**, at 11).

Plaintiffs have fared no better at articulating a particularized grievance that is somehow different than that of the general voting public. In fact, throughout their Complaint, Plaintiffs allege that their interests are one and the same as any Georgia voter. Compl. at 156 ("Defendants diluted the lawful ballots of Plaintiffs and of other Georgia voters and electors ") 163 ("Defendants further violated Georgia voters' rights "), 199 ("all candidates, political parties, and voters, including without limitation Plaintiffs, have a vested interest in being present and having meaningful access to observe and monitor the electoral process"). Having

confirmed that their interests are no different than the interests of all Georgia voters, Plaintiffs have articulated only generalized grievances insufficient to confer standing upon them to pursue their claims.

B. Plaintiffs do not have Standing as Presidential Electors.

Plaintiffs assert that by virtue of their status as Republican presidential electors, they are "candidates" that have standing to raise whatever variety of election complaints that they may choose. For this proposition, they cite to only a single case: r , 978 F.3d 1051 (8th Cir. 2020). However, r was predicated on Minnesota election laws that differ from Georgia's and upon facts that are distinguishable from the Plaintiffs' case. Further, the Third Circuit in recently rejected Plaintiff's broad reading of r . In that case, the court found that a congressional candidate lacked standing to pursue claims under the Elections and Elector clauses based on a generalized "right to run." It specifically noted its disagreement with r , saying "The Carson court appears to have cited language from [d d , 564 U.S. 211 (2011)] without considering the context—specifically, the Tenth Amendment and the reserved police powers—in which the U.S. Supreme Court employed that language. There is no precedent for expanding Bond beyond this context, and the r court cited none." 2020 U.S. App. LEXIS 35639 at 24, fn. 6 , No. 4:20-CV-03709, 2020 WL

6437668 at 2 (S.D. Tex. Nov. 2, 2020) (holding candidate lacked standing under Elections Clause) r , 958 F.Supp. 341, 344 (M.D. Tn. 1997) (candidate lacked standing to claim that violations of state election laws had disenfranchised voters as "[h]ow other people vote does not in any way relate to plaintiff's own exercise of the franchise and further does not constitute concrete and specific judicially cognizable injury.") M r , 1 F.Supp.3d 854 (E.D. Tn. 2014) (plaintiff denied opportunity to be placed on ballot as candidate for judicial office shared the same generalized grievance as a large class of citizens and failed to demonstrate concrete and particularized injury).

In finding that presidential elector did have standing to challenge purported violations of state election laws, r relies heavily on specific provisions of Minnesota elections law that treated presidential electors the same as other candidates for office. However, in Georgia, unlike in Minnesota, all persons possessing the qualifications for voting and who have registered in accordance with the law are considered "Electors." O.C.G.A. § 21-2-2(7). Presidential electors in Georgia are not elected to public office, but perform only a limited ministerial role in which they appear at the Capitol on the designated date and time to carry out the expressed will of Georgia's electors by casting their votes for President and Vice President in the Electoral College. O.C.G.A. § 21-2-11. Presidential electors need

not file notices of candidacy otherwise required of political candidates. O.C.G.A. § 21-2-132. Their names do not appear on the ballot instead, the names of the candidates for President and Vice President appear on the ballot. O.C.G.A. § 21-2-325. Georgia electors do not elect any presidential electors individually instead, "that slate of candidates shall be elected to such office which receives the highest number of votes cast." O.C.G.A. § 21-2-501(f).

The Eleventh Circuit has held that voters do not suffer a "concrete and particularized injury" simply because their preferred candidate loses an election (974 F.3d at 1252), and that such a harm would be based on "generalized partisan preferences" which are insufficient to establish standing. d rd 138 S.Ct. 1916, 1933 (2018) (rejecting standing based on "group political interests, not individual legal rights"). Plaintiffs have failed to articulate how they, as presidential electors, have suffered any injury not common to their partisan group political interests, or that would not have also been suffered by all Georgia electors generally.

C. Plaintiffs' Alleged Injuries are not Traceable to the State Defendants.

Not only have Plaintiffs failed to demonstrate an injury in fact, they cannot satisfy the causation requirement of standing, which requires that "a plaintiff's injury must be fairly traceable to the challenged action of the defendant, and not the result

of the independent action of some third party not before the court.'" , 974 F.3d at 1253 (citation omitted) d M d r , 641 F.3d 1259, 1265 (11th Cir. 2011) (holding that an injury sufficient to establish standing cannot "result [from] the independent action of some third party not before the court.").

Plaintiffs have introduced declarations and affidavits from witnesses that raise disparate complaints about a variety of events that occurring at various times and places during the November election and subsequent audit. These complaints focus on actions allegedly taken by local elections officials and other third parties that are not named as defendants in this case.[12] Whatever one might conclude from these varied allegations, they all have one thing in common: none of the actions complained of are attributable in any way to any of the State Defendants. Instead, they were taken by local elections officials not named as parties to this case, and any

[12] Examples of these complaints include allegations that Dekalb County elections workers were "more hostile" to Republican observers than Democratic observers (Silva Aff. 06-9 Ex. 18, 14), that a Cobb County volunteer audit monitor witnessed "already separated paper machine receipt ballots with barcodes in the Trump tray, placing them in to the Biden tray" (Johnson Aff., Compl., Ex. 17, 4-5), and that an audit observer at the Lithonia location was too far away from ballots to see how they had been voted and that some auditors were validating ballots without reading them aloud to another auditor. (O'Neal Aff., 6-10, Exhibit J, 5-8).

injuries that might have resulted from those actions are not traceable to and cannot be redressed by the State Defendants.

With regard to Plaintiffs' conspiratorial claims related to Dominion equipment and software, there has been no allegation whatsoever that any of the State Defendants participated in any conspiracy or collusion with Dominion or any other third party malicious actor to cause any harm to Plaintiffs or any Georgia voters. The only allegation made against any of the State Defendants is that Governor Kemp and Secretary Raffensperger somehow "rushed" through the equipment selection process. However, this process was an open, competitive bidding process, conducted pursuant to Georgia procurement law, and during r hearings, and no allegation has been made as to how action or inaction taken by any of the State Defendants during that bidding process might have caused any of Plaintiffs' alleged injuries.

Finally, to the extent that Plaintiffs claim injury as a result of any improprieties in the mailing, processing, validation or tabulation of absentee ballots, these injuries again would not be traceable to any of the State Defendants. Absentee ballots are mailed, processed, validated, and tabulated by local elections officials. O.C.G.A. § 21-2-386. Having failed to establish that any of their purported injuries are traceable to or redressable by the State Defendants, Plaintiffs lack standing and their

claims should be dismissed. , 974 F.3d at 1253. d r

r r, 1:20-CV-03263, 2020 WL 6048048, at 22 (N.D. Ga. Oct. 13, 2020) (applying to dismiss election related claims against State Defendants).

II. Plaintiffs' Claims are Moot.

The Eleventh Circuit held in the d decision today that federal challenges to the certification of the presidential election results in Georgia are now moot. " We cannot turn back the clock and create a world in which' the 2020 election results are not certified." d r r, slip op. at 17 (quoting rr , 785 F.3d 442, 445 (10th Cir. 2015)). Accordingly, the case "no longer presents a live controversy with respect to which the court can give meaningful relief." r r r ., 382 F.3d 1276, 1282 (11th Cir. 2004). Mootness is jurisdictional—because a federal court may only adjudicate cases and controversies, and a ruling that cannot provide meaningful relief is an impermissible advisory opinion. d.

The Court "cannot prevent what has already occurred." , 679 F. App'x 932, 933 (11th Cir. 2017) M M r , No. 1:10-CV-02546-RWS, 2010 WL 5316550, at 2 (N.D. Ga. Dec. 17, 2010) ("The Court is powerless to enjoin what has already occurred."). While Plaintiffs purportedly seek "decertification" of the certifications that Secretary Raffensperger

and Governor Kemp have already executed, they cite no authority whatsoever to support the notion that a court could order such relief. If the Plaintiffs believed that the results certified by Secretary Raffensperger and Governor Kemp were invalid for fraud or other grounds specified in O.C.G.A. § 21-2-522, Georgia provides an adequate remedy at law by setting forth the procedures for a state law election contest to be initiated in the Superior Court of Fulton County. O.C.G.A. §§ 21-2-520, . However, there is simply no precedent for a federal court to issue an injunction requiring either Governor Kemp or Secretary Raffensperger to "decertify" their already-issued certifications or to certify results in direct contravention of the actual election result.

III. Plaintiffs' Claims are Barred by the Eleventh Amendment.

Plaintiffs' federal claims are asserted against the individually named State Defendants in their official capacities. (Doc. 1 at 31-33). These claims are barred by the Eleventh Amendment. The Eleventh Amendment bars suit against a State or one of its agencies, departments or officials, absent a waiver by the State or a valid congressional override, when the State is the real party in interest.

r , 473 U.S. 159, 169 (1985). Because claims against public officials in their official capacities are merely another way of pleading an action against the entity of which the officer is an agent, "official capacity" claims against a state officer are

included in the Eleventh Amendment's bar. , 473 U.S. at 165. While an exception to Eleventh Amendment immunity exists under r , 209 U.S. 123 (1908), it is limited to suits against state officers for **prospective** injunctive relief. r r r , 520 U.S. 43, 69 n. 24 (1997). "A federal court cannot award retrospective relief, designed to remedy past violations of federal law." d

Plaintiffs' claims for injunctive and declaratory relief, premised on the conduct of the November 3, 2020 General Election and the certification of results that have already taken place, are barred because they are retrospective in nature. "Retrospective relief is backward-looking, and seeks to remedy harm resulting from a past breach of a legal duty on the part of the defendant state officials.'" r , 750 F.3d 1238, 1249 (11th Cir. 2014) (quoting d rd 415 U.S. 651, 668 (1974)). "Simply because the remedy will occur in the future, does not transform it into prospective' relief. The term, prospective relief,' refers to the ongoing or future threat of harm, not relief." d r d , 194 F. Supp. 2d 1378, 1387 (S.D. Ga. 2002). Plaintiffs' claims for any relief related to the rules and regulations governing the conduct of the November 3, 2020, election or any alleged past security lapses, miscounting of votes,

or election irregularities are entirely retrospective and barred by the Eleventh Amendment.

IV. Laches Bars Plaintiffs' Claims for Post-Election Relief.

In d r r, 2020 U.S.Dist. LEXIS 218058 (Nov. 20. 2020), this Court found that claims raised by Plaintiffs' counsel Lin Wood were barred by the doctrine of laches. While Plaintiffs' claims overlap significantly with Wood's claims, the facts here are even more compelling when it comes to a finding of laches. Plaintiffs waited even longer than Wood did to file this action. As in d virtually all of the complaints that Plaintiffs allege regarding the security of Georgia's voting system or the propriety of State Election Board rules or regulations could have been raised prior to the election.

To establish laches, State Defendants must show "(1) there was a delay in asserting a right or a claim, (2) the delay was not excusable, and (3) the delay caused [them] undue prejudice." d r d, 396 F.3d 1144, 1150 (11th Cir. 2005) r , 915 F.3d 1312, 1326 (11th Cir. 2019) ("To succeed on a laches claim, [defendant] must demonstrate that [p]laintiffs inexcusably delayed bringing their claim and that the delay caused it undue prejudice.").

Where, as here, a challenge to an election procedure is not filed until r an election has already been conducted, the prejudice to the state and to the voters that have cast their votes in the election becomes particularly severe. Once the election has been conducted, any harm that might arise from a purported constitutional violation must be weighed against "such countervailing equitable factors as the extremely disruptive effect of election invalidation and the havoc it wreaks upon local political continuity." r , 849 F.2d 1176, 1177 (9th Cir. 1988). For this reason, "if aggrieved parties, without adequate explanation, do not come forward before the election, they will be barred from the equitable relief of overturning the results of the election." d. at 1180-81 (d r r d , 710 F.2d 177, 182-83 (4th Cir. 1983) r d , No. 1:20-cv-0546, 2020 U.S. Dist. LEXIS 98627, 16-17 (E.D. Va. May 29, 2020) (rejecting a similar challenge to state official guidance as barred by laches due to plaintiffs' failure to raise the challenge prior to the election). To hold otherwise "permit[s], if not encourage[s], parties who could raise a claim to lay by and gamble upon receiving a favorable decision of the electorate and then, upon losing, seek to undo the ballot results in a court action." , 488 F.2d 310, 314 (5th Cir. 1973).

Plaintiffs delayed considerably in asserting their claims. To the extent that they had any concerns regarding the vulnerability of Dominion's voting systems, they could have raised those claims long before the election. Each of the absentee ballot regulations and procedures that Plaintiffs now complain of were adopted well before the November 3, 2020 election, and any claims related to the application of those rules during that election are subject to dismissal here for the same reasons that they were dismissed in d. And, with regard to the purported "irregularities" reported by Plaintiffs' voter and observer declarants, Plaintiffs offer no explanation why they did not attempt to address those issues with the relevant local election officials at the time, but instead waited until after the election officials completed the initial count and audit and certified those results.

As the d court recognized, Defendants and the public at large would be significantly injured if Plaintiffs were permitted to raise these challenges after the election has already taken place. 2020 U.S.Dist. LEXIS 218058 at 23 ("Wood's requested relief could disenfranchise a substantial portion of the electorate and erode the public's confidence in the electoral process.") r d r , No. 5:20-cv-5193, 2020 WL 6472651, at 5 (W.D. Ark. Nov. 3, 2020) ("[T]he equities do not favor intervention where the election is already in progress and the requested relief would change the rules of the game mid-play.").

V. The Court should Abstain from Granting Relief.

The relief Plaintiffs seek is nothing short of overturning the November election. The ad damnum clause asks this Court to (1) order the Defendants to de-certify the election results (2) enjoin the Governor from transmitting the certified results to the Electoral College and instead (3) require the Governor to transmit a certification that President Trump received the majority of votes in Georgia. (Doc. 1 211(1-3) Doc. 101 at 100.) There are numerous problems with this proposed relief. First, it violates the principles of federalism. Second, the doctrine warrants dismissal. Finally, and at the very least, this lawsuit should be stayed pending the outcome of state election challenges pursuant to the r d r doctrine.

On federalism, the Eleventh Circuit recently held that it is "doubtful" that a federal court could compel a state to promulgate a regulation. , 974 F.3d at 1257. First, federal courts are only able to order state defendants from "refrain[ing] from violating federal law." d (citing r r d r , 563 U.S. 247, 255 (2011)). Much of Plaintiffs' proposed relief cannot be reconciled with this binding precedent. Specifically, Plaintiffs do not seek to just refrain the Governor and the Secretary, they seek to compel them to certify a different candidate than the election laws demand, which is wholly inconsistent with Georgia's Election

Code and the thrice-audited results. The relief sought is particularly offensive to federalism principles in the light of the election challenges pending in state court that significantly mirror the claims brought in this lawsuit. As the Plaintiffs themselves now recognize, "Georgia law makes clear that post-election litigation may proceed in state Court." d r r, slip op. at 9. Indeed, Plaintiffs' Complaint repeatedly claims that they are bringing their lawsuit pursuant to Georgia statutes that provide the very basis to challenge elections. (Doc. No. 1 150 (O.C.G.A. § 21-2-522), 183-207 (O.C.G.A. §§ 21-2-521, 21-2-522). It is hard to imagine a more significant challenge to federalism than for a party to come to federal court asking that court to reverse certified election results without giving the State an opportunity to act pursuant to its own statutory scheme.

These concerns are recognized by the doctrine, which is "appropriate in cases presenting a federal constitutional issue which might be mooted or presented in a different posture by a state court determination of pertinent state law.'" r M , 314 F. Supp. 3d 1320, 1334 (S.D. Fla. 2018) (citing M M , 756 F.Supp.2d 1370, 1372 (S.D. Fla. 2010) (quoting r , 625 F.2d 653, 656 57 (5th Cir. 1980)). Here, the constitutional issue presented—whether the legislature's delegation of rulemaking authority to the SEB is valid, and whether the SEB exceeded that authority when

promulgating various emergency rules—violates the federal constitution. In other words, the Court cannot answer the constitutional question without first deciding that the state agency exceeded its authority d r . This is a classic situation, which examines and requires that "(1) there must be an unsettled issue of state law and (2) there must be a possibility that the state law determination will moot or present in a different posture the federal constitutional questions raised." d at 1372 73 (citing , 625 F.2d at 657). Judge Jones reached the same conclusion last December in another election-related lawsuit, r r r.[13] This Court should do the same and dismiss the lawsuit.

For a similar reason, Plaintiffs' requested relief violates the r d r r There are numerous pending challenges to the November election that have properly been filed in Georgia's courts, including, according to press statements by Mr. Wood's counsel in the d litigation, one filed late on December 4, 2020, by President Trump. At least one seeks nearly identical relief as the Plaintiffs' lawsuit. Under similar circumstances, the Eleventh Circuit has indicated that a stay of federal proceedings is warranted under the r d r doctrine, which "authorizes a federal district court to dismiss or stay an action when there is an ongoing parallel action in state court.'" M r r r r

[13] A true and accurate copy of the December Order is attached as **Exhibit E**.

r d , 374 F.3d 994, 997 98 (11th Cir. 2004) (citing r r r r r d 879 F.2d 1556, 1558 (7th Cir.1989)). Factors considered in the r d r analysis include: the desire to "avoid piecemeal litigation," whether state or federal law governs the issue, and whether the state court can protect all parties' rights. d at 987 (citation omitted).

Each of these factors warrants staying the litigation. The bulk of Plaintiffs' complaint addresses issues of state law: how absentee ballot requests and ballots are inspected, the authority of the General Assembly to delegate authority to the SEB and the Secretary, and the criteria for certifying elections. Moreover, the state court election challenges are to move swiftly. Thus, the possibility of piecemeal litigation is real and concrete. Finally, the relief that the parties in the state court challenges can obtain would protect all parties' rights. The remedies available to Georgia courts when ruling on election challenges are spelled out in state law. O.C.G.A. § 21-2-527(d). Under these circumstances, r d r factors are satisfied, and the election challenge should proceed in state court under the same state laws that the Plaintiffs raised in their Complaint.

VI. Plaintiffs' Motion for Injunctive Relief Should be Denied.

Even if Plaintiffs could overcome the jurisdictional defects that are fatal to their claims, they still fail to satisfy the requirements for the extraordinary injunctive relief they seek.

"A preliminary injunction is an extraordinary remedy never awarded as of right." r r , 555 U.S. 7, 24 (2008). To prevail on their motion, Plaintiffs are required to show: (1) a substantial likelihood of prevailing on the merits (2) that the plaintiff will suffer irreparable injury unless the injunction issues (3) that the threatened injury to the movant outweighs whatever damages the proposed injunction may cause the opposing party and (4) the injunction would not be adverse to the public interest. d, 954 F.2d 1526, 1529 (11th Cir. 1992). The Court "should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." r, 555 U.S. at 24.

A. Plaintiffs are not likely to succeed on the merits of their claims.

r r r r
d d r r d r r

Plaintiffs' equal protection claims fail for the same reason their counsel's equal protections claims failed in d In the voting rights context, equal protection means that "[h]aving once granted the right to vote on equal terms, the state may

not, by later arbitrary and disparate treatment, value one person's vote over that of another." r 531 U.S. 98, 104 (2000) (citation omitted). Typically, when deciding a constitutional challenge to state election laws, federal courts apply the d r rd framework that balances the burden on the voter with the state's interest in the voting regulation. r rd M r d , 553 U.S. 181, 190 (2008) r 915 F.3d 1312, 1318-19 (11th Cir. 2019).

But, as the d court recognized, Plaintiffs' claims do not fit within this framework. 2020 U.S. Dist. LEXIS 218058 at 25. Plaintiffs have not articulated a cognizable harm that invokes the Equal Protection Clause. Any actions taken by the State Defendants were taken "in a wholly uniform manner across the entire state." d at 26. No voters including the Plaintiffs were treated differently than any other voter. d (r , 978 F.3d 93, 100 (4th Cir. 2020).

Nor have Plaintiffs set forth a "vote dilution" claim. None of the Plaintiffs have alleged that any action of Defendants have burdened their ability to cast their own votes. Instead, their claims, like Wood's, appear to be that because some votes were improperly counted or illegally cast, these illegal or improperly counted votes somehow caused the weight of ballots cast lawfully by Georgia voters to be somehow weighted differently than others. d at 27. Both the district court in d

court and the Third Circuit Court of Appeals in "squarely rejected" this theory. , 2020 WL 6686120, at 31-2 ("if dilution of lawfully cast ballots by the unlawful' counting of invalidly cast ballots were a true equal-protection problem, then it would transform every violation of state election law into a potential federal equal-protection claim") , 974 F.3d at 1247 (rejecting partisan vote dilution claim).

The Supreme Court's decision in r does not support Plaintiff's case (Doc. 6 at 16-17), as that case found a violation of equal protection where certain counties were utilizing varying standards for what constituted a legal vote in the 2000 Florida recount. 531 U.S. at 105 ("The question before us is whether the recount procedures are consistent with its obligation to avoid arbitrary and disparate treatment of the members of its electorate"). Here, any actions taken by the State Defendants were undertaken state-wide. The isolated "irregularities" complained of by Plaintiff's various declarants, if true, would have taken place at the county level under the supervision of elections officials that are not parties to this case. All actions of the State Defendants have been uniform and applicable to all Georgia counties and voters, in order to avoid the kind of ad hoc standards that varied from county to county as found unconstitutional in . They are the exact opposite of arbitrary and disparate treatment.

d r r d

The electors clause of the United States Constitution provides that "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, "who, in turn, cast the State's votes for president. U.S. Const. art. II, § 1, cl. 2. The General Assembly established the manner for the appointment of presidential electors in O.C.G.A. § 21-2-10, which provides that electors are d r in a general election. Plaintiffs fail to show how any act of the State Defendants has altered this process.

Similarly, Plaintiffs fail to show how State Defendants have violated the elections clause, which provides that "[t]he Times, Places, and Manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." U.S. Const. art. I, § 4, cl. 1. Plaintiffs complain about a variety of regulations or procedures related to absentee ballot processing, without articulating precisely how those regulations or procedures run afoul of the elections clause. In any event, the State Election Board has the authority, delegated by the legislature, "[t]o formulate, adopt, and promulgate such rules and regulations as will be conducive to the fair, legal, and orderly conduct of primaries and elections" so long as those rules are "consistent with law." O.C.G.A. 21-2-31(2). Thus, while no one disagrees that State Defendants are not members of the Georgia legislature,

Plaintiff's claim depends on the assumption that the rules and procedures used to process absentee ballots during the November 3, 2020, election were somehow inconsistent with Georgia's election code.

But this simply is not so. The SEB Rule is consistent with State law, and a Georgia court would likely say the same. Under Georgia precedent, when an agency empowered with rulemaking authority (like the SEB is), the test applied to regulation challenges is quite deferential. Georgia courts ask whether the regulation is authorized by statute and reasonable. r ,
257 Ga. App. 636, 637 (2002). The answer to both questions is an unqualified "yes."

As shown, the SEB is empowered to promulgate regulations. O.C.G.A. § 21-2-31(1). As recognized by Judge Grimberg in d, it is normal and constitutional for state legislatures to delegate their authority in such a manner. 2020 U.S.Dist. LEXIS 218058 at 10. The regulations are also reasonable. There is no conflict between the signature verification regulation and statutes cited by the Plaintiffs, O.C.G.A. §§ 21-2-386(a)(1)(C). (Doc. No. 1 at 23.) The statute requires an absentee ballot where a signature "does not appear to be valid" to be rejected and notice provided to the voter. d. The challenged SEB Rule, which merely requires "an additional safeguard to ensure election security by having more than one individual review an absentee ballot's information and signature for accuracy before the ballot

is rejected," is consistent with this approach. d, 2020 U.S.Dist. LEXIS 218058 at 10. No statute cited by the Plaintiffs mandates that only one county official examine the absentee ballot, and that the review process involves several officials does not make it any less rigorous or inconsistent with the statutory law. (Harvey Decl. 3, 5). A Georgia court would likely hold the same, because state courts have said that a "regulation must be upheld if the agency presents d to support the regulation." r , 257 Ga. App. 636, 640 (2002). Mr. Harvey's declaration certainly satisfies that standard, and it should be obvious that having a verification process in place designed to ensure uniform statewide application of the laws for determining consideration of an absentee ballot does not lead to invalid votes.

Any remaining doubt must be resolved in the State's favor, as the Plaintiffs have not identified any conflict in the language. This is what Judge Grimberg rightly concluded when he held that: "The record in this case demonstrate that, if anything, Defendants' actions in entering into the Settlement Agreement sought to achieve consistency among county election officials in Georgia, which ***furthers*** Wood's stated goals of conducting "[f]ree, fair, and transparent elections." d at 10 (emphasis and brackets in original). This ends the inquiry and is fatal to Plaintiffs' claims in Counts I, III, IV, and V.

d r

Plaintiffs' motion fails to articulate a discernable claim under the due process clause. It is unclear what process Plaintiffs claim that they were due or how any of the State Defendants failed to provide that process. Count II of Plaintiffs' Complaint, while captioned "Denial of Due Process" vaguely describes an undefined "disparate treatment" with regard to cure processes and argues that the disparate treatment "violates Equal Protection guarantees." Compl. at 172. Count IV of Plaintiffs' Complaint is captioned "Denial of Due Process on the Right to Vote", and appears to describe a claim of vote dilution or debasement citing to various equal protection cases. Compl. at §176-80. Plaintiffs' Motion for Preliminary Injunction does not include any discussion of due process at all.

Plaintiffs have not articulated a cognizable procedural due process claim. A procedural due process claim raises two inquires: "(1) whether there exists a liberty or property interest which has been interfered with by the State and (2) whether the procedures attendant upon that deprivation were constitutionally sufficient." rd , 978 F.3d 220, 229 (5th Cir. 2020) (citing rr , 490 U.S. 454, 460 (1989)). The party invoking the Due Process Clause's procedural protections bears the "burden . . . of establishing a cognizable liberty or property interest." rd , 978 F.3d at 229

(citing , 545 U.S. 209, 221 (2005)). Plaintiffs have not clearly articulated what liberty or property interest has been interfered with by the State Defendants, or how any procedures attendant to the purported deprivation were constitutionally sufficient. As the d court noted:

> the Eleventh Circuit does "assume that the right to vote is a liberty interest protected by the Due Process Clause." r r , 975 F.3d 1016, 1048 (11th Cir. 2020). But the circuit court has expressly declined to extend the strictures of procedural due process to "a State's election procedures." r r r, 976 F.3d 1278, 1282 (11th Cir. 2020) ("The generalized due process argument that the plaintiffs argued for and the district court applied would stretch concepts of due process to their breaking point.").

2020 U.S. Dist. LEXIS 218058 at 33.

Nor have Plaintiffs articulated a cognizable substantive due process claim. The types of voting rights covered by the substantive due process clause are considered narrow. rr r, 802 F.2d 1302, 1314 (11th Cir. 1986). This does not extend to examining the validity of individual ballots or supervising the administrative details of an election. d In only "extraordinary circumstances will a challenge to a state election rise to the level of a constitutional deprivation." d.

As the d court recognized:

> Although Wood generally claims fundamental unfairness, and the declarations and testimony submitted in support of his motion speculate as to wide-spread impropriety, the actual harm alleged by Wood concerns merely a "garden variety" election dispute.

2020 U.S. Dist. LEXIS 218058 at 35. Further, "[p]recedent militates against a finding of a due process violation regarding such an ordinary dispute over the counting and marking of ballots." d (rr , 619 F.2d 449, 453 (5th Cir. 1980) for the proposition that "If every state election irregularity were considered a federal constitutional deprivation, federal courts would adjudicate every state election dispute.").

The same is true here. Plaintiffs have introduced only speculative, conclusory and contradictory testimony from "experts" that would do no more than establish a possibility of irregularities if their analysis were correct, along with a hodge-podge of disparate claims by third-party voters and observers claiming that they observed a variety of different purported irregularities in a handful of different counties (none of which are parties to this action). Plaintiffs have failed to demonstrate the "extraordinary circumstances" rising to the level of a constitutional deprivation that are necessary to support a substantive due process claim. Plaintiffs have therefore failed to demonstrate a substantial likelihood of success on the merits of any claim for violation of the 14th Amendment's guarantee of either procedural or substantive Due Process.

As shown, the Plaintiffs have effectively filed an election challenge under Georgia law. Seeking to stop certification does not save the Plaintiffs' Complaint for at least two additional reasons. First, it has long been the rule that electors are state and not federal officials. r d , 93 F.2d 383, 388 (8th Cir. 1937). Consequently, it is state law that determines how challenges to electors are made, and Georgia law sets forth that process as explained above. This also demonstrates why abstention is appropriate. Second, to the extent that the Plaintiffs argue that county election officials did not properly count mail-in and absentee ballots, there are state remedies available to challenge the acts of those county officials. Indeed, Georgia's laws governing election challenges provide for just that.

Finally, and as addressed elsewhere in this brief, the decision makes clear that challenges to acts of county officials must be brought against those county officials. 974 F.3d at 1254. It is insufficient to rely on the Secretary's general powers "to establish traceability." d r , 2020 WL 6048048 at 23. Similarly, reliance on the phrase "chief election official" or statements about the uniformity in the administration of election laws have been deemed insufficient by the d r court when it applied . d

In sum, because Plaintiffs are not likely to succeed on the merits of any of their claims, injunctive relief must be denied.

B. The loss of Plaintiffs' preferred candidate is not irreparable harm.

Plaintiffs fail to articulate any specific harm that he faces if his requested relief is not granted, other than the vague claim that an infringement on the right to vote constitutes irreparable harm. However, Plaintiffs do not allege that their right to vote was denied or infringed in any way—only that their preferred candidate lost. It is not irreparable harm if they are not able to "cast their votes in the Electoral College for President Trump," because "[v]oters have no judicially enforceable interest in the outcome of an election." , 974 F.3d at 1246 ("Voters have no judicially enforceable interest in the outcome of an election.").

Irreparable harm goes to the availability of a remedy—not a particular outcome. Certifying the expressed will of the electorate is not irreparable harm, but rather inevitable and legally required within our constitutional framework. There is a remedy available to extent that the losing candidate—rather than a dissatisfied voter, supporter, or presidential elector—seeks post-certification remedies, and such election contests have been filed in state court and remain pending.

C. The balance of equities and public interest weigh heavily against an injunction.

These remaining injunction factors—balancing the equities and public interest—are frequently considered "in tandem" by courts, "as the real question posed in this context is how injunctive relief at this eleventh-hour would impact the public interest in an orderly and fair election, with the fullest voter participation possible." r , 334 F. Supp. 3d 1303, 1326 (N.D. Ga. 2018), d r d d r , 761 F. App'x 927 (11th Cir. 2019) r , 549 U.S. at 4. The Court must "balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief," paying "particular regard as well for the public consequences in employing the extraordinary remedy of injunction." r, 555 U.S. at 24.

Here, "the threatened injury to Defendants as state officials and the public at large far outweigh any minimal burden on [Plaintiffs]. d, 2020 U.S. Dist. LEXIS 218058 at 38. "Confidence in the integrity of our electoral process is essential to the functioning of our participatory democracy," and court orders affecting elections "can themselves result in voter confusion and consequent incentive to remain away from the polls." r , 549 U. S. at 4-5. For this reason, the Supreme Court "has repeatedly emphasized that lower federal courts should ordinarily not alter the

election rules on the eve of an election." r

., 140 S.Ct. 1205, 1207 (April 6, 2020) (per curiam).

The Eleventh Circuit recently held that the r principle applies with even greater force when voting has already occurred. r

r r, 976 F.3d 1278, 1283 (11th Cir. 2020) ("[W]e are not on the eve of the election—we are in the middle of it, with absentee ballots already printed and mailed. An injunction here would thus violate r 's well-known caution against federal courts mandating new election rules—especially at the last minute.")

r r d r , 344 F.3d 914, 919 (9th Cir. 2003) ("Interference with impending elections is extraordinary, and interference with an election after voting has begun is unprecedented.").

Here, the election r d d d, and the slate of presidential electors has been certified. Granting Plaintiffs' extraordinary relief would only serve to "disenfranchise [] voters or sidestep the expressed will of the people." d r r r d 2020 U.S. App. LEXIS 37346 at 28. As the district court in d correctly recognized, "To interfere with the result of an election that has already concluded would be unprecedented and harm the public in countless ways." 2020 U.S. Dist. LEXIS 218058 at 37-38. Plaintiffs seek even broader relief than that sought in d If granted, Plaintiffs' requested relief would disenfranchise not

only Georgia's absentee voters but would invalidate **all** votes cast by Georgia electors.

CONCLUSION

For the foregoing reasons, Plaintiffs' emergency motion for injunctive relief must be denied and the Court should dismiss the action with prejudice. Furthermore, the current TRO entered by the Court should be immediately dissolved to prevent ongoing harm to the ability of county elections officials to begin early voting for the January run-off, for the reasons shown in State Defendants' motion to modify the TRO.

Respectfully submitted, this 5th day of December, 2020.

Christopher M. Carr 112505
Attorney General
Bryan K. Webb 743580
Deputy Attorney General
Russell D. Willard 760280
Senior Assistant Attorney General

/s/ r M
Charlene S. McGowan 697316
Assistant Attorney General
40 Capitol Square SW
Atlanta, GA 30334
cmcgowan law.ga.gov
404-458-3658 (tel)

Carey Miller
Georgia Bar No. 976240
cmiller robbinsfirm.com
Josh Belinfante
Georgia Bar No. 047399
jbelinfante robbinsfirm.com
Melanie Johnson
Georgia Bar No. 466756
mjohnson robbinsfirm.com

Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street NW
Atlanta, GA 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

r r d

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been formatted using Times New Roman font in 14-point type in compliance with Local Rule 7.1(D).

/s/ r M
Charlene S. McGowan
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **STATE DEFENDANTS' CONSOLIDATED BRIEF IN SUPPORT OF THEIR MOTION TO DISMISS AND RESPONSE TO PLAINTIFF'S EMERGENCY MOTION FOR INJUNCTIVE RELIEF** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for all parties of record via electronic notification.

Dated: December 5, 2020.

/s/ r M
Charlene S. McGowan
Assistant Attorney General

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

CORECO JA' AN PEARSON, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	1:20-cv-4809-TCB
	)	
BRIAN KEMP, *et al.*,	)	
	)	
Defendants.	)	

STATE DEFENDANTS' MOTION TO DISMISS

Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and State Election Board members Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Ahn Le (collectively, "State Defendants") hereby move to dismiss Plaintiffs' Complaint for pursuant to FED. R. CIV. P. 12(b)(1) and (6) for lack of subject matter jurisdiction and various other threshold defenses stated in the accompanying brief in support. The State Defendants also move that the Court deny any injunctive, declaratory relief, and other relief sought in the Plaintiffs' Complaint. State Defendants respectfully request that the Court grant their motion and dismiss the action with prejudice. A brief in support of this motion is being filed simultaneously.

Respectfully submitted, this 5th day of December, 2020.

Christopher M. Carr 112505
Attorney General
Bryan K. Webb 743580
Deputy Attorney General
Russell D. Willard 760280
Senior Assistant Attorney General

/s/ *Charlene S. McGowan*
Charlene S. McGowan 697316
Assistant Attorney General
40 Capitol Square SW
Atlanta, GA 30334
cmcgowan law.ga.gov
404-458-3658 (tel)

Carey Miller
Georgia Bar No. 976240
cmiller robbinsfirm.com
Josh Belinfante
Georgia Bar No. 047399
jbelinfante robbinsfirm.com
Melanie Johnson
Georgia Bar No. 466756
mjohnson robbinsfirm.com

Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street NW
Atlanta, GA 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

Attorneys for State Defendants

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been formatted using Times New Roman font in 14-point type in compliance with Local Rule 7.1(D).

/s/ *Charlene S. McGowan*
Charlene S. McGowan
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **STATE DEFENDANTS' MOTION TO DISMISS** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for all parties of record via electronic notification.

Dated: December 5, 2020.

/s/ *Charlene S. McGowan*
Charlene S. McGowan
Assistant Attorney General

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

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants,

CIVIL ACTION FILE NO.

1:20-cv-1677-TCB

DEMOCRATIC PARTY OF GEORGIA, INC., DSCC, DCCC, JOHN MANGANO, ALICE O'LENICK, BEN SATTERFIELD, WANDY TAYLOR, and STEPHEN DAY,

Intervenors.

ORDER

It is hereby ORDERED that all attorneys and assistants to the attorneys be allowed to bring cell phones and laptops and other laptop accessories into the Richard Russell Building on December 7, 2020 for a hearing in this case.

SO ORDERED this 6th day of December, 2020.

_____

TIMOTHY C. BATTEN, SR.
UNITED STATES DISTRICT JUDGE

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

CORECO JA'QAN PEARSON, et al, **Plaintiffs,** **v.** **BRIAN KEMP, et al,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF FILING ELECTRONIC MEDIA

Come Now the Plaintiffs and submit this Notice of Filing of Electronic Media consisting of the following time-stamped video surveillance clips from State Farm Arena on November 3rd and 4th, 2020 which will be delivered electronically to opposing parties in this case today and hand delivered on a USB drive to the Clerk of Court Monday, December 7, 2020:

November 3, 2020

- 05:08:00 AM to 05:08:10 AM
- 07:41:00 AM to 07:41:05 AM
- 08:37:00 AM to 08:37:08 AM
- 03:17:24 PM to 03:17:34 PM
- 10:16:08 PM to 10:16:18 PM
- 10:24:50 PM to 10:25:13 PM
- 10:28:53 PM to 10:29:37 PM

- 10:45:01 PM to 10:45:17 PM
- 11:06:35 PM to 11:13:20 PM
- 11:06:35 PM to 11:13:20 PM (Enlarged)
- 11:06:35 PM to 11:13:20 PM (Enlarged 4x Speed)

November 4, 2020

- 12:01:30 AM to 12:05:40 AM
- 12:26:50 AM to 12:29:34 AM
- 12:55:28 AM to 12:56:00 AM
- 01:10:57 AM to 01:11:18 AM

Respectfully submitted, this 6th day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald

Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Notice of Filing Electronic Media with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

This 6th day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 4630s76

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

No. _____

In the United States Court of Appeals for the Eleventh Circuit

CORECO JA'QAN PEARSON, ET AL.,
Plaintiffs-Petitioners,

v.

BRIAN KEMP, ET AL.,
Defendants-Respondents

On Certified Order from the United States District Court
for the Northern District of Georgia, Atlanta Division,
No. 1:20-cv-04809-TCB

PETITIONERS' APPENDIX (VOLUME IV)

Sidney Powell
Counsel of Record
SIDNEY POWELL PC
2911 Turtle Creek Blvd., Suite 300
Dallas, TX 75219
(214) 717-1775
sidney@federalappeals.com

L. Lin Wood
L. LIN WOOD, P.C.
P.O. Box 52584
Atlanta, GA 30305-0584
(404) 891-1402
lwood@linwoodlaw.com

Counsel for Plaintiffs-Petitioners. Additional counsel listed on the next page.

Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956

Howard Kleinhendler
HOWARD KLEINDLER ESQUIRE
369 Lexington Avenue, 12th Floor
New York, NY 10017
(917) 793-1188

Counsel for Plaintiffs-Petitioners

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CERTIFICATE OF SERVICE

I hereby certify that on **December 3, 2020,** I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the CM/ECF system.

A true and correct copy of the foregoing will be emailed to the following counsel:

Charlene S. McGowan
cmcgowan@law.ga.gov
Russell D. Willard
rwillard@law.ga.gov
Counsel for Defendants-Respondents Brian Kemp, Brad Raffensperger, David J. Worley, Rebecca N. Sullivan, Matthew Mashburn, and Anh Le.

Adam M. Sparks
sparks@khlawfirm.com
Halsey G. Knapp, Jr.
hknapp@khlawfirm.com
Susan P. Coppedge
coppedge@khlawfirm.com
Adam M. Sparks
sparks@khlawfirm.com
Counsel for Proposed Intervenor-Defendants Democratic Party of Georgia, Inc., DSCC, and DCCC.

/s/ Sidney Powell

State of Georgia
County of Bibb

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

On November 3, 2020, I was working as a credentialed Republican poll watcher at the EM1 New Griswoldville Baptist Church located at 3003 Trull Place in Macon, Georgia, 31211. The first concerning issue that I observed was that poll workers made selections on the voting screen for the voter; by 7:30 a.m., I made a note that "Peter [a poll worker] is way too involved with voters at the machines." This behavior continued throughout the day. A conservative estimate is that poll workers selected candidates on the ballots for voters 12 times; for at least one voter, at 2:50 p.m., I observed the poll manager Lastacia Evans complete the entire ballot on the voting machine. I was seated in a location where all of the selection screens were facing me, and I could see the workers touching the machines.

A second issue was non-poll workers assisting others in voting or voting for them. At 9:25 a.m., two women were at machine #1, and one of the women was making selections on the screen for the voter. At 1:50 p.m. on machine #2, there were two individuals at one machine. One individual (a woman) was pointing to candidates on the screen and instructing the voter to select those individuals. At 2:40 p.m., at machine #10, a middle-aged woman was making selections on the screen for a younger voter. The woman actually voted on machine #9. At 5:28 p.m., on machines #7 and #1, there were two voters who each had another individual beside them making their voting selections. At 5:48 p.m., on machine #4, a middle-aged man came in and as he was checking in at the counter, he asked if he would be able to get help with the voting machine. A woman in a Biden/Harris shirt came in, walked with the man to the voting booth, and inserted his voter card into the machine. The woman voted FOR the man. The woman did not obtain a card to vote for herself. These are the most egregious examples, but individuals making selections on the voting screen for voters occurred multiple times per hour. NONE of the voters or accompanying individuals filled out any paperwork to document who they were, how they were related to the voter, or why they were voting for the voter; only 3 people asked for permission or help voting and the rest simply voted.

A third issue was voters coming to the precinct to vote when they had requested an absentee ballot. I observed 21 individuals who came to vote in person and the poll workers stated that the voter had received an absentee ballot; each of the 21 voters stated that he or she either hadn't voted, hadn't brought their absentee ballot with them, or hadn't received their absentee ballot. For all but one person, I observed the poll manager fill out a affidavit card with the voter; however she only called in 3 of those voters names to the Board of Election for verification that they were eligible to submit a ballot (the first three in the morning) before allowing them to vote. All of the individuals voted on the voting machines, not on paper ballots. At 9:55 p.m., I observed one individual who voted on the voting machine before he even signed the affidavit.

The final count that I was given by the poll manager was 383 votes on the machines and 1 paper ballot.

I have attached 4 Exhibits to this Affidavit—my original notes.

I know and understand the contents of the statement above; and I do swear or affirm the statement to be true. Today's date is November 10, 2020

[redacted]

[redacted]
(PRINT YOUR NAME HERE)

ADDRESS [redacted]

TEL./CELL [redacted] FORM OF ID: GA Driver's License

LAUREN DEAL NOTARY PUBLIC BIBB COUNTY GEORGIA EXPIRES 01/14/2024

SWORN TO AND SUBSCRIBED BEFOR ME,
THIS THE 10th day of November, 2020.

Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

Poll Watcher Incident Report: Please Print in Blue or Black Ink. EMAIL TO GAEDO@DONALDTRUMP.COM

DATE OF INCIDENT	COUNTY	ELECTION WATCHER NAME	PHONE/ EMAIL
11/3/2020	Bibb	[redacted]	

LOCATION NAME	LOCATION ADDRESS	LOCATION CITY
New Grisnaldville Baptist Church EM4	3003 Truit Pl. Macon, GA 31211	Macon

ISSUE(s)	BRIEF SUMMARY OF INCIDENT Poll manager Lastacia Evans.
	Voters + poll workers helping voters without submitting their information.
	Person allowed inside with campaign material.
	Poll worker using his phone on the poll floor.

TIME	INCIDENT FACTS – DETAILED DESCRIPTION
7:18	Peter, a poll worker, was touching a voter's machine and selecting multiple buttons. I was unable to hear any conversation but he was located at machine 6.
7:20	A man and woman came in together to vote. the woman was selecting votes on the mans screen, Machine 8.
7:30	Peter is helping another voting, touching the machines, he is way too involved with voters at the machines.
7:50	Voter claimed his card stated that someone already voted with that card. Poll manager issued him a new card.
9:25	Another lady is helping a voter by touching buttons on her screen, Machine 1.
9:32	When I attempted to relocate myself closer to the ID table I was told I could not wonder around and had to be seated in my designated chair. I let the poll manager know I could go anywhere on the poll floor including in view of the ID process so long as I was not interfering with voters + workers. She conceded and let me move.
10:35	Peter was on his smart phone on the poll floor while 2 people were voting. This happened on another occasion later in the day.
10:49	Voter, Robert Smith Jr., said his listed address was incorrect. He signed for his voter card and voted. After voting the poll manager allowed the voter to change his address.
1:50	Two people were at the same machine. One person was showing the other person who to vote for, and she was ~~selecting~~ pointing to specific candidates on the screen. The woman helping did not vote. Machine 2.
2:40	A woman was helping a younger man ~~[illegible]~~ select votes on the machine, Machine 10. The woman then voted on Machine 9.
3:55	A man voted before ~~[illegible]~~ signing his absentee ballot affidavit.
5:28	One machine 1 + 7 both voters have people helping them + selecting their votes on the screen.
5:45	Lady with Biden/Harris shirt came into the polls to help a man. She grabbed his voter card, inserted it into the machine, and voted FOR the man.
~~[illegible]~~ 2:50	The poll manager was selecting votes for a woman who said she could not see the screen.

Continued →

I affirm/certify under penalty of perjury under the laws of this state that the information I have provided in this document (and any attachments) is true and correct to the best of my knowledge and belief. Executed on November 4th 2020 at Macon, GA (State). [redacted]

Poll Watcher Incident Report Please Print in Blue or Black Ink EMAIL TO
GAEDO@DONALDTRUMP.COM

384

DATE OF INCIDENT	COUNTY	ELECTION WATCHER NAME	PHONE/ EMAIL
11/3/2020	Bibb	[redacted]	

LOCATION NAME	LOCATION	
New Grisnoldville EM4		Macon

ISSUE(s)	BRIEF SUMMARY OF INCIDENT
	Ballots @ zero. Doors opened promptly @ 7. There was a line at about 15 ppl. outside. Closed right @ 7pm. Lostacia Evans. (Stacey)

TIME	INCIDENT FACTS – DETAILED DESCRIPTION
	88 9am checked with Stacey
9:06am	105 10am count called w/ Stacey.
10:00am	137 11am count called w/ Stacey
11:01	12pm – No count yet
	12:12 count came to 173 – Unsure ~~172-179~~ last have been 172
12:15	1:08 still waiting to ask for 1pm count 197
1:05	2:08 started calculating 2pm total, machines first. They claimed 225 @ 2:17 but I have 220
2:29	243 3pm Count – I have 247 sorting likely surround up 2pm count.
3:00	left outside for air. – 266 4pm Count – Stacey
4:04	4:53 309
4:55	359
6:04	383 or 1 [illegible]
4:20	Absentee Voter – No Ballot 5:05 Absentee Voter – No Ballot
3:55	Absentee Voter – No Ballot. 5:03 Absentee Voter – No Ballot
2:56	Absentee Voter – No Ballot 4:50 Voter turned away – Not on roll
2:50	Poll Officer Voting – Machine 5 4:25 Absentee Voter – No Ballot
12:40	2 voters claimed not to have received absentee
12:09	2 voters signed affidavits for missing absentee ballots 5:59 Absentee No Ballot
9:52	2 voters came in but were in wrong location 5:59 Absentee No Ballot
9:20	Provisional Ballot – signed absentee – 1 5:07 Absentee – No Ballot
7:27	Provisional – No Absentee ballot – 1 5:06 Absentee – No Ballot
7:15	Provisional Ballot – No Ballot – Mail in? 7:15 – 1
	Provisional Ballot – 1 – Ended up voting on machine. 6:39 Absentee Ballot

I affirm/certify under penalty of perjury under the laws of this state that the information I have provided in this document (and any attachments) is true and correct to the best of my knowledge and belief. Executed on _____, at _____ (State).

[redacted]

Poll Watcher Incident Report. Please Print in Blue or Black Ink. EMAIL TO GAEDO@DONALDTRUMP.COM

DATE OF INCIDENT	COUNTY	ELECTION WATCHER NAME	PHONE/EMAIL
11/3/2020	Bibb	[redacted]	

LOCATION NAME	LOCATION
New Griswoldville EA4	Macon.

ISSUE(s)	BRIEF SUMMARY OF INCIDENT

TIME	INCIDENT FACTS – DETAILED DESCRIPTION
7:15 am.	Absentee voter came in and did not bring absentee ballot.
	Poll manager - Stacey, made a call to see what to do.
	Made voter fill out an affidavit.
7:18	Peter, a poll walker was touching a voter's machine and selecting buttons. I was unable to hear the conversation. 5th machine in from right.
7:20	3rd machine in from right a lady was helping a voter. She was not a worker but was selecting votes on his screen. Man was in walker grey pants woman in green pants. Both had a black coat. Left machine @ 7:25
7:30	Peter is WAY too involved with voters @ the machines.
7:50	Voter said his card stated someone had already voted on that card. Poll manager, Stacey, was informed and voter was issued a new card.
9:25	Lady helping a voter + touching buttons on her screen, Machine 1.
9:32	I was told I could not roam around by poll manager when I attempted to stand by ID table to ensure proper checking. →

I affirm/certify under penalty of perjury under the laws of this state that the information I have provided in this document (and any attachments) is true and correct to the best of m[redacted] _____, at _____ (State).

Poll Watcher Incident Report - Please Print in Blue ink Black ink ONLY

GAEDO@DONALDTRUMP.COM

DATE OF INCIDENT	COUNTY	ELECTION WATCHER NAME	PHONE/ EMAIL
11/3/2020	Bibb	[redacted]	hone: mail:

LOCATION NAME	LOCATION ADDRESS	LOCATION CITY
New Gibraltar Ville EM4		Macon

ISSUE(s)	BRIEF SUMMARY OF INCIDENT

TIME	INCIDENT FACTS – DETAILED DESCRIPTION
10:14	Issue with young voters ID. Stacey was called to check-in. She was signing + doing work on the check in screen. Voter was able to vote.
10:33	Poll Watcher was on his phone out in the open at the polling floors. There were 2 people @ the polls during that time.
10:49	Voter Robert Lee Smith Jr. said his address was wrong. Left him change address after voting curbside and submitting ballot.
11:05	Voter was issued an absentee ballot & he did not bring it. He claimed all of his mail goes to his mother's house. Poll manager Stacey issued him a new ballot after he signed an affidavit. Seems like his address was wrong?? 1132 stacey had to issue ballot & Christin.
11:40	Voter told to go elsewhere to vote. Stacey pulled out paperwork + was sent to provisional ballot booth. Stacey was filling out orange slip & needed voter's ID. One poll worker was standing & viewing the voter in the booth. Was later joined by another poll worker.
~~12:00~~	~~Machine down. Repaired technician. Machine operational.~~
1:50	Machine two. There were two voters @ the same machine. One voter was showing the other who to vote for. She was pointing to specific candidates on the screen. The other woman helping did not vote.
3:40	Machine 10 a woman voter was helping another younger voter with his selections on the machine. The women then voted on machine 9.
2:55	Gentleman voted before he signed his missing absentee form.
5:28	Machine 7 + Machine 1 both have people helping them + selecting their votes on the screen.
5:45	Machine #4 lady with Biden/Harris shirt came into polls to help a voter & voted FOR him.

I affirm/certify under penalty of perjury under the laws of this state that the information I have provided in this document (and any attachments) is true and correct to the best of my knowledge and belief. Executed on _____, at _____, (State). [redacted]

State of Georgia
County of Bibb

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

Throughout early voting and on election day, I was a credentialed poll watcher designated through the Bibb County GOP. I watched at the polls on October 13, 14, 19, 20, 21, 24, 29, and November 3, 2020. The following issues were observed by me in my official capacity.

On October 13, I was at the Elaine Lucas Senior Center. After showing the poll manager, [redacted] my credentials and letter, and then I checked the absentee ballot box because [redacted] another poll watcher, asked me to confirm that it had been sealed. As of 9:57 a.m. when I checked the box, it was not sealed on the back side. I pointed it out to [redacted] and she then placed the second seal.

I asked for a count from the polling machines and tabulators, and [redacted] told me that her supervisor told her she did not have to give me that information and she would not give it to me.

I was told to sit in a location where I could not see much of what was going on based on how my chair was positioned. I observed the poll workers going into the voting booths with many voters. I couldn't tell if they were voting with or voting for those people, but it happened many times. Repeatedly, I observed the election workers did not actually check the ID presented by the voters – they never looked up to confirm that the identity on the card matched the person.

I observed that when voters would come into the polls with absentee ballots, they would take them up to whatever registration station was available, and the absentee ballot would be given to the poll worker at that station, who would pile up the absentee ballots on the table beside them. At 11:55 a.m., I observed [redacted] to collect ID papers and absentee ballots from the stations; those ballots had been sitting out on the tables, openly accessible. She would carry all of the absentee she collected to another table where she would go through them. I observed that she did not stamp every one of the absentee ballots. She would carry them all to the table where she had a canvas "Secure the Vote" bag, a tote bag which had no zipper or buttons and no way to secure it. She would lay the ballots down, then get busy on something else. Eventually, she would come back and shove the ballots into the bag, then leave the table again. This happened repeatedly through the day. I called the voter hotline when I was seeing this happen.

At 12:20 pm, I requested a machine count from [redacted] At the time, there were no voters in the precinct. But I was told by [redacted] that her supervisor said I couldn't have them.

At 1:35 pm, while [redacted] was at lunch, an incident occurred. Previously, Barbara told me that I WAS NOT ALLOWED TO TALK TO THE POLL WORKERS. A woman walked in and went over to one of the poll workers with her absentee ballot. He opened her absentee ballot and inspected it. The woman asked to have her absentee ballot sealed and spoiled in front of her before she voted on the machines. Dianne Glover, a poll worker who was assigned to the tabulator, walked over to the table, and took the ballot back out of the envelope, looked at it, put it back into the envelope, and the voter told her, 'I would like for my ballot to be sealed and stamped so I can go vote.' I got up, walked over, and told Ms. [redacted] what the woman wanted was to have her ballot sealed so that her information was protected before she went to vote. [redacted] put her hand in my face yelling at me, "Get back, get back, you're not supposed to be over here!"

I said, "She wants it taped and stamped." I stood there until she got the tape, then I proceeded outside and got the hotline.

At the end of the day, at 5:30 p.m., I requested a final count for the day, but I also headed over toward the machines to check the count myself. I was able to see that there were 19 votes on the first machine, but [redacted] blurted out that I was not supposed to go over there, and Barbara Jackson repeated that "you cannot do that," and at that point, I left.

On October 14, I spoke to a lawyer who informed me that I had done nothing wrong in the previous day by speaking to a poll worker. I went to the Board of Elections on Pio Nono Ave. for the day. [redacted] told me that if I had some sort of problem, I should come directly to her.

A man came in and showed [redacted] some form of "badge," and he was allowed to look at the tabulators while they were in use. He then went outside and was inspecting the absentee box and took pictures of it. He then went and was talking on the phone to someone, and I took a picture of him at 1:50 p.m. When I asked to look at the tabulators, I was told

Barbara Peacock

Barbara Peacock

an issue. There was a lot of loud talking in the hallways and around the voting center, and the poll workers were not helping the voters. There was also an advertisement in the voting room for a fall festival sponsored by a candidate on the ballot, and I had to ask the poll workers to remove it. Eventually, I had to ask for the poll workers to return to helping the voters who needed help.

At 3:58 p.m., a voter came in and filled out an absentee ballot and voted with it. I overheard her say to someone else that she had already voted at the Board of Elections on Pio Nono.

Again, I was not allowed to see the tabulator totals.

On October 29, 2020, I arrived at Elaine Lucas Center at 3:42 p.m., and the absentee ballot box was not secured on one end. I was told to sit where I could not observe if anyone interfered with the ballots. Around 4:10 p.m., a woman who I presumed to be from the Board of Elections came with a man. Their ID badges were not visible, but they were people I have never seen before. They were taking the unsecured ballots and voter registration information cards to a back room where there were no Republican watchers and I was not allowed to observe what they were doing with those ballots.

Late in the afternoon, a man and a woman were at the voting machines. The man was leaning back, watching the woman beside him, who he did not come with and did not appear to know, enter her ballot. None of the poll workers addressed it or corrected him. Around 5:10, I observed a poll worker voting while still wearing her poll tag. Shortly thereafter, a woman and her son came in, and son had the woman's absentee ballot. She voted in person, then handed her ballot to her son, who laid it on a table. She almost left without her ballot being cast into the tabulator, and none of the workers stopped her. I pointed out to her that her ballot was laying on the table.

At 5:30 p.m. on October 29 was the first time that I had observed Barbara Jackson to use a secured bag to package up the absentee ballots. Every other day, what I observed was her using unsecured canvas bags to transport the ballots.

On November 3, 2020, I working at a precinct on Jeffersonville Road. I was not allowed to look at the tabulators to see if the starting numbers were zero. Again, I was told that I did not see or get the numbers. Some of the workers who were from the Elaine Lucas Senior Center were now working there. Before I arrived, the securing tapes on the machines and tabulators had already been removed at 6:30 a.m. The precinct manager, Rasra Brown, said that she hoped there would be no problems today – and she was very clear in her tone that she meant ME not "making problems." When there were issues in the precinct, [redacted]

Voting at the precinct began at 6:57 a.m. Throughout the day, I observed irregularities in voting similar to the ones that had previously been observed by me. At 8:00 a.m., a worker voted at the precinct; it's unclear that it was the right precinct or that the worker was even registered. At 9:04 a.m., a man said he didn't get his absentee ballot but the computer showed he had voted. The poll worker made a phone call, then allowed him to vote on a regular ballot. This happened many times, that the computer showed someone had already voted on an absentee ballot, the person said they had not, and so the poll workers had them sign an affidavit and then vote on a machine. Again, on voting day, I was not allowed to look at any of the numbers on the tabulators. The only way I was able to get the numbers was off of the door.

I know and understand the contents of the statement above; and I do swear or affirm the statement to be true. Today's date is 11-14-2020.

Barbara Peacock [redacted]
(PRINT YOUR NAME HERE)

[redacted] ORM OF ID: GA Driver's License

SWORN TO AND SUBSCRIBED BEFOR ME
THIS THE 14th day of November, 2020.
Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

LAUREN DEAL NOTARY PUBLIC BIBB COUNTY EXPIRES GEORGIA 01/14/2024

Barbara Peacock

State of Georgia
County of Crawford

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

On October 19, 2020, during early voting in Bibb County, Georgia, I was in the parking lot of the Bibb County Board of Elections Facility on Pio Nono Avenue in Macon. Early voting hours ended at 5:30 p.m., and I arrived in the parking lot at approximately 6:00 p.m. and remained in the parking lot until approximately 8:30 p.m.

At approximately 7:00 p.m., a black or dark blue Toyota Camry with a Georgia Tag RDE3839 with two occupants inside pulled in the parking lot. The vehicle parked and a passenger exited the vehicle while the driver remained inside. The passenger was carrying a large black bag resembling a shopping bag (a rectangular-in-shape, thick paper shopping bag with loop handles at the top) and a backpack was slung over one shoulder. Both bags were obviously bulging. After standing at the door to the Board of Elections looking inside and knocking on the glass for several minutes, the door was unlocked and opened from inside the building and the person carrying the bags went into the building, remaining in the building for approximately fifteen minutes. During this time, I took a picture of the license plate of the vehicle. At around 7:15 p.m., the individual exited the building, no longer carrying the shopping bag, and with the backpack, now obviously empty, being carried by hand. The individual returned to the front passenger side of the vehicle, got in, and the Toyota drover away.

( ) CHECK IF STATEMENT IS CONTINUED ON NEXT PAGE

I know and understand the contents of the statement above and I do swear or affirm the statement to be true.
Today's date is 11/10/2020

Clifford R. Howard
(PRINT YOUR NAME HERE)

[redacted]

FORM OF ID: GA Driver's License

SWORN TO AND SUBSCRIBED BEFOR ME,
THIS THE 10th day of November, 2020.
Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

LAUREN DEAL NOTARY PUBLIC GEORGIA BIBB COUNTY EXPIRES 01/14/2024

AFFIDAVIT OF DAVID CROSS HERE IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

I, [redacted] declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I attended the 2nd Georgia election recount at The Georgia World Congress Center on Wednesday, November 24th, 2020.

3. I identified 9 ballot transport bags that were not secure and were missing their security zip tabs.

4. The ballot transport bags without security tags are as follows:

12J	08 B/C	07 C
08 D	12 KIN or 12 K/N	07 A
AP 05 (zero 5)	12 F	10K 11H

5. Ballot transport bag 10K 11H is shown below with no security tags and a close-up is shown below the first picture.





6. I notified 3 other official recount witnesses about the unsecure ballot transport bags and walked them over to the area where they are stored. When I approached the ballot transport bags, I used my foot to point to one of the bags that had no

security tag. I was immediately accused of touching the bag and told that I must leave.

7. I notified a member of the press, [redacted] and her photographer about the unsecured ballot transport bag, told them I was being asked to leave, and I asked them to document the unsecured bag.

8. Officer [redacted] and [redacted] were summoned to escort me out. Before we left, I showed both officers the unsecured ballot transport bag.

9. Photographs were taken (the photo above) and I made a statement to the reporter.

10. A news story was made and is accessible here https://www.ntd.com/security-concerns-during-georgia-recount_532930.html

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct.

[redacted]

STATE OF Georgia

COUNTY OF Gwinnett

[redacted] appeared before me, a Notary Public in and for the above jurisdiction, this 27th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]

Shawn H Cross
Notary Public

My Commission Expires June 29, 2021

SHAWN H CROSS
NOTARY PUBLIC
GWINNETT CO., GEORGIA
MY COMMISSION EXPIRES
JUNE
29
2021

(00584021.)

AFFIDAVIT

I, [redacted], being first duly sworn, do hereby state under oath and under penalty of perjury that the following facts are true:

I worked as a Trump Victory Team Field Organizer, deployed from Florida to Georgia to observe ballot processing during the 2020 Presidential Election. I witnessed in Dekalb County, GA many irregularities. As the poll workers received the mailed ballots from overseas voters, I witnessed the poll workers duplicating the ballots. At each of four table there were 3 poll workers. One opened the mailed envelopes, one duplicated the ballot onto a new ballot, and the third would put ballots together into a tray. In the attached picture I observed poll workers writing and marking the original mailed ballots, and then reading the results of what she marked to the person duplicating the new (blank) ballots. Also, pictured in the attached picture was a poll worker using multiple different types of pens to mark the new ballots, some of the pens being the felt-tipped pens that cause the ballots to bleed through. There was no supervisor/monitor in the room as these things were occurring. When a monitor did finally come into the room, I spoke to her, and she refused to address these issues or even inquire with the people manipulating the ballots. This occurred at 1300 Commerce Drive Decatur, GA 30030.

FURTHER AFFIANT SAITH NOT

Respectfully submitted,

[redacted]

11-10-2020
Date

STATE OF FLORIDA
COUNTY OF BAY

The foregoing instrument was acknowledged before me by Elizabeth Maclean, who is personally known to me as identification and who executed the foregoing and who has acknowledged to and before me that she executed the same freely and voluntarily for the purposes therein expressed.

IN WITNESS WHEREOF, I have set my hand and official seal, this 10th day of November, 2020.

NOTARY PUBLIC

William B. Price
Comm.#HH060059
Expires: Nov. 3, 2024
Bonded Thru Aaron Notary



State of Georgia
County of Crawford

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

I was a poll watcher for early voting at the Elaine Lucas Senior Center polling location in Macon, Georgia, on October 13, 21, 22, 2020. I observed that there was an absentee ballot drop box on a desk in a location accessible to voters, poll workers, or any passersby. The absentee ballot drop box was only sealed on one end; the other end had no seal and could be opened by anyone to access the absentee ballots. At times, the box was completely unmonitored when the person who was working that area left the area to help others. These ballots were not the "spoiled" ballots; I observed the poll manager receiving the absentee ballots brought in by voters who voted in person on voting machines. The poll manager marked the outside of the ballot envelope with a red stamp and place those ballots into an open-top canvas bag marked with "Secure the Vote," which had no zipper, buttons, or other mechanism to actually secure the ballots.

The poll manager had TWO identical "Secure the Vote" bags; she put the spoiled absentee ballots in one of the bags and she put completed (voted on) absentee ballots in the other. Neither bag was secured. On October 13, 2020, at 5:30 p.m., I observed the poll manager, [redacted] open the lockbox of completed absentee ballots and remove the ballots. [redacted] and two other poll workers were standing in such a way that I could not see the ballots going into the bag, but later, I asked Barbara what happened to the ballots and she told me that one poll worker delivered them to the Board of Elections—in the unsecured canvas bags. On October 21 and 22, I waited outside and took pictures of the lone poll worker taking the ballots in the unsecured canvas bags in their personal vehicle.

I asked on October 21 and 22 to see theend of the day vote count on the voting machines and I was not allowed to see them.

While I was working as a credentialed poll watcher, on November 3, 2020, at the Covenant Life Cathedral Church, 4543 Bloomfield Road, Macon, there were two Democrat poll watchers, one from DeKalb County, Georgia, who was outside, and from Los Angeles, California, who was inside. The poll watcher from California had no credentials or badge, and she stated that she never got a badge.

One voter inserted her voting card into the voting machine, and she received an alert that she had already voted. Without making any telephone calls, completing any paperwork, or doing anything else to verify her voting status, poll manager Nathan Foster instructed poll workers to "fix" her card. The voter returned to the voting machine and voted.

Affidavit continues on page 2.

I know and understand the contents of th[redacted] true. Today's date is 11/10/2020

Janet Carter
(PRINT YOUR NAME HERE)

ADDRESS: 1865 Sandy Point Road, Knoxville, Crawford County, Georgia 31050

TEL./CELL: 478-447-2080 FORM OF ID: GA Driver's License

LAUREN DEAL NOTARY PUBLIC GEORGIA EXPIRES 01/14/2024 BIBB COUNTY

SWORN TO AND SUBSCRIBED BEFOR ME,
THIS THE 10th day of November, 2020.
Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

Two voters came in with uncompleted absentee ballots in their hands and presented them to the poll manager, and after some uncertainty about how to handle the situation, he took the ballots and tossed them into a wire basket on a shelf behind the table, and a bag was placed on top of them. The individuals voted on the machines, and their absentee ballots were left unsecured for many hours.

Multiple times, I observed poll workers helping voters at the voting machines without filling out any documentation of who was help, by whom, or why the voter needed help.

Three men stood outside the polling precinct on voting day. Two of them were wearing "Election Protection" shirts, and one of them was wearing a "Fair Fight" shirt. These men remained within 25 feet of the building, at times the one in the "Fair Fight" shirt was actually sitting on the building.

At the end of voting day, when we were waling out of the building, I asked the poll manager where the provisional ballots were (4 were cast), and he said forgot to get them. He went back into the building, came back out, and still did not have the ballots. It was unclear what happened to the ballots.

[redacted]

State of Georgia
County of Bibb

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

I began working at the Bibb County Board of Elections on October 27 through November 3, 2020, as an employee at the Board of Elections office on Pio Nono Avenue in Macon. I was part of the Ballot Review Panel, however, we did not start this process until Thursday, October 29th.

From Tuesday the 27th until Thursday the 29th, I worked with others. I opened, separated, counted, and sorted absentee ballots; we separated clean ballots from ballots with discrepancies. Once I (and people working with me) finished opening and separating the ballots from their envelopes and separated the ballots into those with discrepancies and those with no problems. The bulk of the ballots were stored outside, in an unsecured area, and trays were taken to the back as needed. I was informed that Board of Elections employees began processing absentee ballots on October 19, 2020, before the VRP were requested to come in.

On Tuesday through Thursday, Democrat representatives repeatedly tried to get me thrown out of the process for trivial reasons, such as because I didn't have my mask covering my nose while drinking coffee; this created a hostile environment and almost resulted in me getting removed, until Jeanetta Watson realized that her other employees were not wearing their masks "properly," and the effort to get me ejected because of my mask stopped. Jeanetta told them "I can't kick him out if you're going to do the things I'm kicking him out for," and it ended.

I continued working, and on Thursday afternoon around 4, the VRP began scanning the absentee ballots into the Dominion scanners. One of the scanners was kicking out every ballot for "replication" and it took two and a half hours to get through one batch of fifty ballots. During the scanning, we ran across a ballot with SPOILED written across the entire ballot in big letters, in red marker; I said it was spoiled and shouldn't be counted, while the Democrat and the county worker, Angela, insisted it should be counted and they counted the vote for Biden and Ossoff. Biden and Ossoff were the ONLY TWO selections entered on the ballot. The Democrat and county worker were arguing for why the ballot should be counted, where I was arguing that it was very clear that the ballot should be spoiled.

I observed that when the ballots come into the board of elections from the post office, they were taken to a back room where there is no Republican witness. The addresses and precincts from the outside of the ballot are supposed to be compared with the voter records, but no one is able to observe that process take place and the ballots are not seen by Republicans until they are brought out to the table. There is no record of how many ballots come into the Board of Elections back office and how many are brought out to be counted.

I observed that when we completed the process of opening the ballots, separating the ballots from the envelopes, and separating the ballots into those with problems and those without problems, the "good" ballots are again taken to a back room where there is no Republican witness to watch as the ballots are separated into bundles of 50 ballots.

On Thursday, we only made it through scanning one batch of 50 ballots. At 6:30 p.m., I had to leave. They stopped counting ballots because of the ongoing trouble with the machines, and on Friday, when I returned to the Board of Elections, they said we would scan more ballots later. I was given more absentee ballots to open and separate. No scanning took place on Friday, and I was told there would be no scanning through the weekend. I asked Jeanetta Watson, Bonnie, and Angela, and they all said that there would be no scanning through the weekend. The ballots were left under the tables or behind the screen in the corner of the room.

I observed that every night, the board of elections employees would put all of the ballots in a plastic US mail crate, set another US mail crate upside down on top of the box of ballots, and either slid the mail under the counting table or set them on a rolling cart behind a rolling partition. At no point were the absentee ballots stored overnight in a secured bag or in a locked room. From the first day that I worked there, this is how the ballots were stored. Twice, I arrived at the Board of Elections before anyone else, and I could plainly see through the glass that the ballots were stored under the table.

On Monday, an "expert" from Atlanta arrived and we began re-scanning ballots. The machine that was broken on Thursday was still not working, it was kicking out almost every ballot for replication errors. Work was delayed again and another expert came down from Atlanta. After a great deal of consternation, they determined there was a scratched lens. No one had checked for this. Another new machine had to be sent from Atlanta. It does not appear that any of these machines were calibrated or checked for validity.

Jayson Stonne

Later on Monday, [redacted] emanded that we run the piles of ballots with discrepancies, even though we already knew that there were issues with those ballots.

On Monday, during the process of replication and adjudication, I had to battle with the Democratic representative because she used any excuse to try to find that it was a vote for Biden even when it was clearly a "NULL" vote.

On the Friday before the election, I was working. Early voting had just ended and Bonnie came out with a spreadsheet that she was sending to the Secretary of State's office. I was able to look at the spreadsheet. It showed that 21,026 absentee ballots were sent out by all vendors, including state and military. Bibb received approximately 19,112 absentee ballots back. It showed that there were 33,803 in person early votes, for total of 52,915 early votes. I reported this information to Calvin Palmer, Bibb GOP chair, who stated that Jeanetta Watson reported to him that 33,000 absentee ballots were sent out.

On Tuesday, November 3rd, one of my observations was that there were 5 occasions of someone coming in with between 20 and 30 ballots and place them in the absentee ballot box outside the building. I found this peculiar because during the time we were opening ballots and inspecting them for irregularities, I found numerous stacks of ballots that all of the same selections and they were filled out identically. (For instance, one of the sets of ballots was all filled out in teal ink; on another, everything was filled in with tiny X's instead of bubbling.) These were always ballots selecting Biden. When I raised this as a possible issue, Jeanetta, Angela, and Bonnie all dismissed my concerns and stated they must have come from one family or one nursing home. However, since the envelopes were separated from the ballots, there was no way for me (or anyone else) to verify that all the ballots came from a nursing home or one address.

Early on Friday, November 6th, Todd Tolbert, Attorney Alisha Weeks, and I were together and Jeanetta Watson came out and announced that "We received 25,000 absentee ballots."

I said to her, "So you sent out 21,000 absentee ballots and you received 25,000 absentee ballots back. Wow, that's an amazing turnout."

She said, "Yes, what a great turnout."

I looked at the attorneys in the room, and they smirked. Jeanetta admitted to receiving back more absentee ballots than she claimed were sent out.

Later, I worked with the provisional ballots. I opened ballots, separated them from their envelopes, and then they were removed to the back office. Again, I was not allowed to observe what was happening in the back office. When the ballots were returned to the front, I scanned them, following the same procedure as previously. I also worked on military ballots. We had to replicate all of the military ballots. Again, any opportunity to dispute the vote and try to switch from Trump to Biden, they would try to do it.

On Friday, November 13, 2020, I was present at the Bibb County Board of Elections for the Risk Limiting Audit as a Republican Representative Monitor. Per the diagram of the Secretary of State Office, there were four tables set up. There were several Republican monitors present. We watched a video from the SOS detailing the procedure to be followed. Shortly after the video, Jeanetta had two more tables set up, then quickly added two more tables, for a total of eight. I asked if we would be allowed more monitors, and she said no because the SOS instructions said two. I responded that the SOS also said there would be 4 tables, not 8. She refused to add monitors.

As the counting began, I pointed out that the counters were making mistakes; for instance, a Trump ballot was put in the Biden pile. When I said something about this, Jeanetta got angry and said I was not allowed to speak to the counters. We disagreed about how to handle it. I also observed that the counters did not fill out the documentation that the SOS provided. Again, I got in trouble for bringing up that they were not following directions.

I began watching again, trying to keep an eye on 4 tables. I saw errors, and they continued to reprimand me for speaking out loud, but there was no better system for pointing out a mistake. Once the batches were starting to be completed, they moved them to a table where they were being entered into the computer, the ARLO system. The other watcher, Katie, and I realized that we needed to watch the person entering the numbers into the computer to make sure that they matched what was on the paper. We asked for a third monitor to watch was being entered. We decided to have one of us watch the computer and the other to watch the eight counting tables.

Jeanetta told us that we could watch the data entry, but we had to be six feet away. The computer was set in a corner and we were told to stand to the side of the computer table, and try to see over a large stack of papers that blocked our view of the papers and the computer screen. Katie tried her best to see what was being entered into the computer.

With 8 tables of counters and one computer entry, ballots backed up significantly. This created a great deal of tension.

[redacted]

About an hour before lunch, one of the employees said to me that I had to go sit down and let some other people in. I asked what she was talking about, and she said that I had to let another person come and monitor. The BOE had no authority to determine how long an individual monitor can be present, but she was insistent that I needed to sit down and stop monitoring.

I went outside and called Calvin Palmer and explained to him that they didn't want me monitoring them; I felt this was because I was finding errors. Calvin suggested that I return as an observer and just sit and watch people. That's when I realized that the monitors who were there had not seen the video and they didn't know what to be looking for, so they were missing things.

We all stopped for lunch. When I returned, I went back to the counting section and took my previous placement to watch the counting. Jeanetta told me, "Mr. Stonne, you have to leave the area and go sit down to allow other people in." TO BE CLEAR: NO Republicans were raising this issue.

I said, "That's not true. I was sent here by the GOP office, and I am allowed to be back here as long as I wish."

Jeanetta said, "No, I am in charge of this area and it's not fair to keep others from having the opportunity to watch."

I said, "It's not about fair – it's about us watching what you're doing, and I can stay here as long as I want."

She said, "No, you can't." She pointed to the Deputy Sheriff and said, "He needs to leave."

I grabbed my stuff off the chair, and I said, "I will go. But you screwed up."

I left. The deputy followed me out. I went to the far end of the parking lot and left a message for Mike Kaplan and I talked to Calvin Palmer. Calvin goes inside, talked to people, and came out, and he said how outraged he was. Calvin texted Sheriff Davis to tell him what had happened and said that if Jeanetta is going to bring the law into this, there needs to be an official report.

On Saturday, November 14, 2020, I received a text message from Mike Kaplan apologizing for what had happened yesterday and saying that he didn't want me to think that I would be arrested for coming in today. Then Calvin Palmer called me to say that he talked to Mike and they talked to Jeanetta and they contacted the officer from that day, who confirmed that she used him to remove me from the building. A law enforcement report was made.

[redacted] d I do swear or affirm the statement to be true. Today's

[redacted]

[redacted] GA Driver's License

LAUREN DEAL NOTARY EXPIRES GEORGIA 01/14/2024 PUBLIC BIBB COUNTY

SWORN TO AND SUBSCRIBED BEFORME,
THIS THE 14th day of November, 2020.

Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

Jayson Stonne

[redacted]
2675 Birchwood Dr NE
Atlanta GA 30305
Cell: 678 232 8700

I, [redacted]e, make the following declaration regarding my personal vote in the general election on November 3, 2020.

I voted in person on Election Day, Tuesday, Nov. 3 at 2nd Ponce Baptist Church in Fulton County, Atlanta, Georgia at approximately 2:50 pm.

I was confirmed as registered to vote in that location, was handed a card and told to cast my vote at a monitor.

There was only one other person voting at this location at this time.

I proceeded to vote and print out a piece of paper. I then walked to another monitor with a scanner where I was assisted by someone standing by to properly scan my paper for voting confirmation.

The scan was successful, and the screen showed confirmation that my vote was counted. I got my "I voted" sticker and left.

On November 10th, I started receiving messages from friends that their votes disappeared, and so I asked where to call to check on mine.

I called the Fulton County Voting Office at 404-612-3816 on 11/10/2020 at about 10:55 am to make sure my vote was counted.

I spoke to Mrs. Canada at the voting office and gave her my information to see if my vote was recorded.

After entering my information into her database, she found me and said that my vote was not recorded in the system. She said that she was very surprised and was sorry she could not find my vote.

[redacted] then remarked that this had been happening all day. She said that people were calling and the votes were not being found. She remarked that she felt horrible about it and did not know what to say.

[redacted] remarked that she had no idea what was going on but that phones were ringing off the hook and that it "was like an emergency room trying to get in here without the blood."

Lynda Nesbit
NOTARY PUBLIC
Cobb County, GEORGIA
My Commission Expires 10/09/2023

[redacted] weeks to see if my vote was counted.

[redacted]

notary Lynda Nesbit date

[redacted]

Commission exp 10/09/2023

State of Georgia
County of Bibb

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

On October 12, 2020, I was an authorized, credentialed poll watcher monitoring early voting at the Theron Ussery Community Center at approximately 8:10 a.m.

I observed that the absentee ballot box was right by the door, with only one seal on the front side of the box and the back side of the box unsealed so that anyone could have removed or added ballots to the ballot box easily. No one was monitoring the box, and people were streaming in past the box.

I left the Theron Ussery Community Center and went to the Elaine Lucas Senior Center, where I met up with Janet Carter. I entered the center around 9:15 a.m. The absentee box there was also unsecured on one end: we asked the poll manager if there was supposed to be a seal on the back of the box, and the poll manager stated that she hadn't had time to seal the box. Again, no one was monitoring the box.

On election day, November 3, 20202, I was a credentialed poll watcher at the Robert J. Williams Complex at Ballard Hudson, 1780 Anthony Road, Macon, 31204. I observed a man named Keith Wilson checking in. The registration machine said he had already voted, and Mr. Wilson said that he had not voted. The poll worker gave him a green voting machine card and the man voted at a voting booth without signing an affidavit or any checking or confirming of whether the man was being truthful.

Later, a man came to vote without photographic ID. He had a piece of paper, and I heard the poll worker say that it was a poll watcher paper, but I did not see the paper itself. He then voted on a green voting card.

At 10:55 a.m., a group began handing out food, water, gloves, face masks, and other "gifts" to voters.

At 1:50 p.m., there was a man who called himself "Mr. Hyatt," and he had a man with him, "Drew Dragdon" and both of them stayed outside, sitting in chairs with backpacks and computers. Mr. Hyatt stayed in the parking lot the whole time. The men said they were Democrats who were sent from Birmingham, Alabama, to watch the polls. He had a computer with him the whole time, and I am uncertain what he was doing with his computer.

In the afternoon, a lady named Ms. Eady came in. The computer system came up stating that she had already voted, so they had her sign an affidavit and then allowed her to vote on a green voting card.

At 5:10 p.m., Mr. Hinley came in to vote and the registration showed that he had already voted. He said he didn't. They gave him an affidavit form and allowed him to vote on the voting machine.

AFFIDAVIT CONTINUES TO NEXT PAGE.

I know and understand the contents of the statement above; and I do swear or affirm the statement to be true. Today's date is November 14, 2020

[redacted]

[redacted] ID: GA Driver's License

SWORN TO AND SUBSCRIBED BEFOR ME,
THIS THE 14th day of November, 2020.

Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

LAUREN DEAL NOTARY PUBLIC BIBB COUNTY GEORGIA EXPIRES 01/14/2024

AFFIDAVIT PAGE 2

A couple came in with a woman who was registered in Fulton County and a Fulton driver's license and a man who didn't appear to be registered. The man claimed to be from New York. Their automobile had a Florida license plate. They argued with Jeanetta and Mike Kaplan, and then Jeanetta Watson allowed them to vote on provisional ballots. I heard Mike Kaplan say that "we're just going to rip up [the provisional ballot] on Monday," but I don't know if that happened.

On November 13, 2020, at the Board of Elections of Bibb County, on Pio Nono, I was present to observe the recounting of ballots. There was no audit of signatures or names on absentee and provisional ballots. Ballots were being counted on 8 separate tables by employees of the Board of Elections. There were NOT one Republican and one Democrat at each table. Later in the evening, there was a problem with "Batch 39" and they would not explain to me what the problem was. The employees were very evasive in explaining the problems. Then, all of us, poll watchers, were told to leave. Jeanetta and the Board of Elections employees did not leave – the ballots were not locked up or secured for the night.

The process being used at the Board of Elections is unsecured. The ballots come in on one end of the room, travel in wheeled suitcases around the room being counted at one of eight different tables, then the open boxes of ballots are transferred to another table where a BOE worker enters tallies into a computer, then the ballots are transferred to Jeanetta Watson, Elections Supervisor, who is "doing her own thing" and from Jeanetta, the unsecured and unsealed cases are taken out of the room. Only TWO Republican poll watchers are allowed to watch the counting, and the room is the size of a elementary school gymnasium and there is no way for the two watchers to see what's happening at each table. Further, the woman who is entering information into the computer is backed into a corner so that watchers cannot see what she is entering or determine if what she's entering is valid.

[redacted]

[redacted]

Lauren Deal
NOV. 14, 2020
My commission expires 1/14/2024.

LAUREN DEAL NOTARY PUBLIC GEORGIA EXPIRES 01/14/2024 BIBB COUNTY

State of Georgia
County of Bibb

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

At 7:45 a.m. on November 3, 2020, I was a poll watcher at Turning Point Church HO3, and I observed an individual who said he was a new resident. His name was spelled incorrectly. He brought a ballot with him and the poll workers walked him away from the voting area to a reception area, and then he returned and left. I do not know accepted his absentee ballot or not. At 8:15 a.m., a voter who stated that he "didn't bring his ballot" was allowed to vote in person. Also at 8:15 a.m. another voter said that he didn't bring his absentee ballot, and he conferred with a supervisor. At 8:40 a.m., a voter was returned to the sign in table from his voting terminal; a poll worker came with him and stated that "he was challenged," then three poll workers returned to the terminal with the voter.

( ) CHECK IF STATEMENT IS CONTINUED ON NEXT PAGE

I know and understand the contents of the statement above; and I do swear or affirm the statement to be true.
Today's date is 11-10-2020

[redacted]

LIANNE PASCHETTE
(SIGN YOUR NAME HERE)

ADDRESS: 1644 Bass Road, Ste. 2212, Macon, Georgia 31210

TEL./CELL: 321-474-2994 FORM OF ID: GA Driver's License

SWORN TO AND SUBSCRIBED BEFOR ME,
THIS THE 10 day of November, 2020.
Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

LAUREN DEAL NOTARY PUBLIC BIBB COUNTY EXPIRES GEORGIA 01/14/2024

State of Georgia
County of Bibb

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

On November 3, 2020, I was working as an appointed Republican poll watcher at the Godfrey 5 Polling Precinct at Harvest Cathedral, 2254 Rocky Creek Road, Macon, Georgia, 31206. I arrived at about 6:15 a.m.. Upon arrival, I was assigned a seat by a poll manager, from which I could see most of the voting machines, from quite a distance, and the 2 tabulator machines. The table where the voters were registered and received their green voting card was in a different room, which I could neither see nor hear from my "assigned" seat. Due to my inability to observe all activities from one location, I moved periodically between three locations. Around 11:55 a.m., the poll manager told me that I had to sit in the assigned seat, "per Jeanetta Watson." I told the poll manager that I was unable to observe the voting process from my assigned seat, and I attempted to call Jeanetta Watson myself. I left a voicemail message with my name and number. I called again, was told that she was "unable to be disturbed at that time," and left another message with the person who answered the phone. She never responded to my call. At 12:15 p.m., the poll manager asked me to leave if I would not stay in my assigned seat, where I couldn't see everything that was happening. I called Mike Kaplan, Chair of the Board of Elections, at about 1 p.m. I met with Mike Kaplan at the polling location at 2 p.m., and explained the situation to him. After a heated discussion, he told me that I could sit in my assigned seat, or in the other room in a different assigned seat: after more heated discussion, he agreed that I could go back and forth. (During the time that I was having to argue my right to observe the election freely, I was NOT able to perform my duties as a poll watcher.) Before 12:15 p.m., I had been checking the numbers on the tabulators as I moved between the three locations, but Mr. Kaplan instructed me that I could not look at the tabulators anymore because the poll workers put the numbers on the door every two hours, and I had to get the information from their postings.

Before speaking to [redacted] during my morning observations, I saw an older female voter who appeared to be having trouble, but it was not trouble with her voting card. (I did see other voters who had trouble with their voting card and had to have it reset so they could vote). She requested help and a poll worker came behind her voting screen. From my position, I could see the poll worker's hand moving around behind the screen, and then the poll worker went and got the poll manager, who also went behind the screen, and I also saw her hand moving around behind the screen. I could not determine if the poll worker or manager were voting for the woman, because I was unable to get close enough to hear what was going on, and the poll manager sent me away.

At the end of the voting period, when the precinct closed, I was not allowed to view the voting machines, but I was allowed to see the tapes off of the tabulator.

I know and understand the contents of the statement above; and I do swear or affirm the statement to be true. Today's date is November 10, 2020.

[redacted]

FORM OF ID: GA Driver's License

SWORN TO AND SUBSCRIBED BEFOR ME,
THIS THE 10th day of November, 2020.

Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

LAUREN DEAL NOTARY PUBLIC GEORGIA EXPIRES 01/14/2024 BIBB COUNTY

AFFIDAVIT OF [redacted]

Comes now, [redacted] and after being duly sworn makes the following statement under oath

1. My name is [redacted]

2. I am over the age of 21 years, and I am under no legal disability which would prevent me from giving this declaration. If called to testify, I would testify under oath to these facts.

3. I reside at 1182 Shepherds LN NE, Atlanta, Georgia 30324 in DeKalb County, Georgia.

4. I arrived on ELECTION DAY (November 3, 2020) AT ABOUT 6:30 P.M. at the POLLING PRECINCT at AB Briar Vista Elementary School.

5. I presented my i.d. to vote and was given a voter card to activate a voting machine, and I inserted the card and followed the instructions on the voting machine to cast my votes in the different races and on the ballot questions.

6. I was told that at least one of the voting machines at my Polling Precinct was "having difficulty reading the card" which was a statement that concerned me.

[redacted]

7. Because of my concern, I checked the public voter logs once home and was distressed to find that on the *My Voter Page* there was no confirmation that I had voted in the 2020 Election, so I believe my vote was not counted.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this day of November, 2020.

[redacted]

State of Georgia

County of DeKalb, to wit:

Appeared before me on this 29 day of November 2020, Mary Margaret Brown and after being duly sworn, stated the forgoing statements are true and correct to the best of her knowledge and belief.

Notary Public

My commission expires 10/09/2023

Lynda Nesbitt
NOTARY PUBLIC
Cobb County, GEORGIA
My Commission Expires 10/09/2023

Declaration of [redacted]

[redacted] to 28 U.S.C Section 1746, I, [redacted] make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.

2. I am a small business owner in Atlanta, Georgia. I graduated from The University of Mississippi in 1991 with BA in Psychology and a Minor in French. I interned at The American Embassy in Paris during my senior year in college and upon graduation I moved to Prague where I worked for Saatchi & Saatchi Advertising for several years. I moved to San Francisco in 1994 to pursue a graduate degree in Graphic Design at The Academy of Art University with an emphasis on web development. I took continuing education classes Computer Science at The University of California Berkeley. Upon graduation I worked as a Graphic Designer for the Investment Banking Division at Goldman Sachs specifically with the M&A teams. I relocated to Atlanta and focused on raising a family. I went back into the workforce as a small business owner and I continue to work and live in Atlanta, Georgia where my teenagers are in middle school and highschool.

[redacted]

4. My affidavit highlights the fact as per the State of Georgia's public voting records I was told that my vote was not being counted as of November 17, 2020.

5. My experience voting on November 3, 2020 is as follows. I voted at approximately 6:30pm at BRIAR VISTA ELEMENTARY SCHOOL,1131 BRIAR VISTA TERRACE, ATLANTA, GA, 30324.

6. I presented my ID at the check in table for identification purposes. The man asked me to sign an ipad positioned vertically bulbous stylus pen. My signature is elaborate and neat when I write my signature with a ball point pen as reflects on my State of Georgia Drivers License and United States of America Passport. I expressed concern that it is difficult to write on an ipad that is standing on it's end and impossible to replicate my signature on it. The man did not respond to my concern. He handed me the chip and told me to choose any machine. I took a photo of my printed paper ballot after I voted. I proceeded to the front of the room where two women were standing at a machine. One woman reached out to grab my ballot from my hand and I instinctively hesitated and pulled my elbow back. I said I was not confident my in the election process this year and that something crazy always happens in Atlanta on election day. This was before the alleged and undocumented leak at State Farm Arena occurred. As I stood there they both looked at what was written on my ballot. I allowed the woman to pull my ballot from my hand the second time she grabbed it. She said "you can watch me put it in" and she held my ballot an inch from the slot that receives

the paper for a few seconds before sticking it in the machine. When it disappeared she said "there's your receipt." I left feeling very uncomfortable and violated.

7. As of today November 29, 2020 my vote has not been counted. Georgia's current election system does not allow voters to have confidence that their vote is accurately counted. The Dominion machines are proven to be easily hacked and the Arlo software had never before been used to upload ballot manifests therefore they are both unreliable. My experience as a voter is proof that Georgia's election results are invalid. The voting systems put in place by Governor Brian Kemp and Secretary of State Brad Raffensperger are less reliable, less trustworthy and most Georgia residents have zero confidence in the state's election results. I know many people who experienced a various array of irregularities voting this year.

[redacted]

[redacted]

Lynda Nesbitt
NOTARY PUBLIC
Cobb County, GEORGIA
My Commission Expires 10/09/2023

[redacted] 11.29.20
Notary date

Commission exp. 10/09/2023

[redacted]

AFFIDAVIT OF [redacted]

[redacted]

I ran for Mayor of Atlanta in 2009 and again in 2017. In both elections, I was ahead until late night reporting of precincts.

In both instances, the addition of these late-night precincts caused the elections results to flip and my opponent won. In both instances, the final margin of loss was essentially identical:

2009: 84,383 votes cast. I lost by 714: 49.58%

2017: 92,169 votes cast. I lost by 759: 49.59%

Campaign supporters in both elections found evidence of fraud, but not enough to "turn the election" so I had to concede both times.

In 2018, one of my supporters, [redacted] a Professional Engineer and a Certified Public Accountant, analyzed the election and filed a complaint with the Georgia Secretary of State. The Secretary of State launched an investigation into the 2017 Atlanta Mayoral Runoff in May 2018.

During 2018 and 2019, I met several times with members of the Secretary of State's staff; giving them additional information and asking for their findings from their investigation of the 2017 Mayoral Runoff. To date, I have not received a report nor any conclusions about what they found—two and one half years later.

Most importantly, in March 2019, I met with Secretary of State Raffensperger and members of his staff at the State Capitol. [redacted] the Chairman of the Fulton County Republican Party, arranged the meeting. During that meeting, I outlined a simple procedure for obtaining updated signatures, so a "real signature match" could be made.

(I served on the Fulton Board of Registration and Elections from January 2013 to August 2013, so I was familiar with the process of voters receiving a 4-1/4 inch by 5 ½ inch card with current information on their Polling Precinct location.)

I explained that a simple solution would be to send voters in GA that card with a "tear off" that would contain the identical voter information, but would also have a place for their signature. That "tear off" would be pre-postaged and returned to the SOS or the County Elections Office.

This fall, shortly before the election, I received a postcard similar to what I had outlined; however, the return "tear off" was ONLY for a change of address. That made no sense. If the voter no longer lived at the current address from the voter rolls, the card couldn't reach them. The ONLY way the card could reach them would be if the USPS was forwarding their mail. And it wouldn't capture the VAST MAJORITY of voters' signatures.

AFFIDAVIT OF MARY B. NORWOOD

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: Nov 29, 2020 [redacted]

Sworn to and subscribed before me this 29 of November of 2020.

Lynda Nesbitt

My Commission expires 10/09/2023

Lynda Nesbitt
NOTARY PUBLIC
Cobb County, GEORGIA
My Commission Expires 10/09/2023

SARGENT
ADVISORY GROUP

May 29, 2018

VIA ELECTRONIC MAIL

RE: December 5, 2017 City of Atlanta Runoff Election – Mayoral Contest

Forensic Analysis, Opinions and Complaints of State Election Code Violations

[redacted]

Dear [redacted]

Over the past 5 months, I have attempted to work with the Fulton County Board of Registration and Elections ("*FCBRE*") regarding December 5, 2017 election concerns as a life-long resident of the City of Atlanta. I have not engaged with Legal Counsel or with a specific Client on this matter. It is simply a civic engagement which as a Forensic Accountant (CPA) I take very seriously.

The Chair of the FCBRE, in an email dated May 18, 2018, advised me that the FCBRE would no longer respond to my well documented election concerns of irregularities identified in FCBRE "Audit" Documents (see **Attachment A**). The Chair of the FCBRE did commit that the FCBRE would respond to further information requests (see **Attachment B**).

I have exhausted all potential remedies with FCBRE. As a result, I'm formally filing Complaints of State Election Code ("*Code*") Violations for the December 5, 2017 elections conducted by the FCBRE for the City of Atlanta ("*Atlanta*") based on my findings to date. I intend to amend the Complaints as I complete additional analysis.

Beyond the fact that the analysis discussed herein took a great deal of time to construct, this filing has been delayed until after FCBRE Certification of the May 22, 2018 elections because I did not want to interfere in the election processes.

Summary of Opinions

The basic construct of this forensic analysis and the Complaints is a simple accounting of the Ballots cast to Persons who voted. As this is a human process, I expect that mistakes will occur. But as the Complaints detail, the issues go well beyond simple error. As this effort has involved over 1,000 man-hours, in addition to other civic volunteers, the "road-map" developed in this effort can be helpful to Investigators. I am aware that on or about May 15, 2018 the Fulton County Superior issued an order to the FCBRE to provide election documents to the Georgia Secretary of State ("*Secretary of State*").

On December 15, 2017 the Mayoral contest of December 5, 2017 was Certified. The burden was on the FCBRE to conduct and Certify the election on behalf of their Client, the City of Atlanta. While the FCBRE has a duty to be transparent, the FCBRE Director has been evasive and non-responsive as well as the Fulton County Attorney's Office. Hundreds of critical and required election documents remain missing. As a Forensic Accountant, critical missing and required documents and non-responsiveness raise a "red-flag".

The Certification of an Election in Fulton County, by the FCBRE, involves four (4) critical documents which must be Certified and submitted to the Secretary of State. This Complaint only discusses two of those documents; *MVPR – Fulton – 12-5-17 (Complete).csv* and *Fulton County Voter List 12-5-17.csv*. In both cases, I will demonstrate that these documents should not have been Certified by the FCBRE Board as they are fatally flawed. Further, that the updated voter file (MVP) is fatally flawed and invalidates the original Certified MVPR.

If this was a financial matter, I would express a concern that substantial and systematic fraud has occurred. That the "Balance Sheet of Ballots Cast to Persons" identified as voting is fatally flawed. Further, that there has been an organized effort to deceive the Board (FCBRE), Regulators (Secretary of State and Fulton County District Attorney) as well as shareholders (Atlanta eligible voters). But as I'm not an Attorney and this is not a financial matter, I will not opine on Election

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fraud, but instead refer to areas where significant and material impropriety has occurred, in my opinion.

In context, the FCBRE refunded Atlanta $264,725.73 for the Atlanta General Municipal Run-Off Election of December 5th. This is an indication that the FCBRE had more than adequate funding resources to hire competent staff and perform the duties required under the Georgia Election Code.

Summary of Complaint(s)

Hereafter, the FCBRE "Official Results" will be referred to as "*FCBRE Total Ballots Cast*"; the FCBRE April 2018 MVP (Persons credited for voting file update) will generally be referred to as "*April 2018 Update of Persons Identified as Voting*" or "*April 2018 Update*"; the FCBRE December 15, 2017 Certified MVPR that contains the original and Certified voter database of (Persons credited for voting) will be referred to as the "*December 2017 Certified MVPR*"; the FCBRE December 15, 2017 Certified Fulton Voter County Voter List will be referred to as "*FCBRE Certified Voter List*". While the State Elections Code refers to the Superintendent as the Executive in charge of elections, FCBRE refers to the Superintendent as Director, the Superintendent will be referred to as "*Director*".

The Complaints are summarized as follows:

1. State Elections Code Section *21-2-70 (8), (9)* and others that may apply.

   The FCBRE December 2017 Certified MVPR and April 2018 Update of Persons Identified as Voting Contain Substantial and Material Errors and Omissions.

   a. Two (2) Active Voter Precincts omitted from the December 2017 Certified MVPR.
   b. Two (2) Inactive Voter Precincts included in the December 2017 Certified MVPR.
   c. The April 2018 MVP continues to omit a substantial Atlanta Voter Precinct and includes an Ineligible Precinct from the City of Hapeville was included in the April 2018 MVP.

2. State Elections Code Section *21-2-417, 21-2-493, 21-2-99, 21-2-400, 21-2-454, 21-2-401, 21-2-379.11, 21-2-220.1, 21-2-590, 21-2-419, 21-217* and otherTs that may apply.

   a. Failure to Reconcile Voting Records with More Ballots Cast than Persons Voting, December 2017 Certified MVPR is Fatally Flawed.

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A total of at least 913 Persons remain unaccounted for in the December 2017 Certified MVPR. On a Precinct level basis, 110 of the 159 (70%) of Voting Precincts reported a total of more ballots cast than Persons identified as having voted. While this is theoretically acceptable under my reading of the State Elections Code, the broad scope of missing Persons from the voter file is certainly a substantial and material irregularity that should have triggered investigation by the Director.

b. Failure to Investigate *"Palpable"* Error(s), Failure to Report to Candidates, Failure to Report Error(s) to Fulton County District Attorney

Upon information and belief and the analysis discussed in (a.) above, the Director did not properly investigate, notify the Candidates or report the "Palpable Errors" to the FCBRE Board, Fulton County District Attorney or the Secretary of State.

i. The Code does not allow for more ballots cast for a specific contest than Persons that can be identified as having voted (e.g. Atlanta Mayor). This occurrence crosses a critical threshold in State Election Code and is deemed a "Palpable Error". Before Voting Precincts that fail this test can be included in the results, the Director must investigate, inform the Candidates and report the findings to the District Attorney. In total, 46 of 159 Voting Precincts (29%) failed this critical test as there were more ballots cast for Atlanta Mayor than Persons identified as voters in the December 2017 Certified MVPR.

ii. The records of Persons identified as voting include a substantial number of ineligible voters discussed in subsequent sections of the Complaint.

c. Provisional Vote Does Not Reconcile, Significant Out of Jurisdiction Votes Cast in the Atlanta Mayoral contest.

i. A reconciliation of the FCBRE *Numbered List of Provisional and Challenged Voters* shows a significant number of outside of City (out of jurisdiction) Persons who voted for Atlanta Mayor in this election. The FCBRE documents show that greater than 40 ballots were accepted from non-Atlanta jurisdiction voters that cast a vote in Atlanta Voting Precincts. Further, analysis indicates these non-Atlanta jurisdiction Persons cast a vote for Atlanta Mayor.

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[redacted]

ii. The December 2017 Certified MVPR includes only four (4) provisional ballots under the "regular" ballot type, though the FCBRE certainly had voter registration numbers for the entirety (or should have) of Provisional Ballots accepted. As of the April 2018 Update of Persons Identified as Voting, 134 have been identified. However, 60 ballots cast cannot be identified with a Person of a total of 194 Provisional ballots cast.

d. The FCBRE April 2018 Update of People Identified as Voting (MVP) Invalidates December 2017 Certified MVPR Voter File, Indications of Substantial Impropriety

On or before April 15, 2018, the FCBRE provided an update to the Secretary of State for Persons identified as voting on December 5th. The changes to the Persons credited for voting is of a magnitude that effectively invalidates the Certified MVPR file.

i. Analysis of the April 2018 Update shows that Ballots cast in the election now exceed Persons identified as voting by 1,550 Persons. This equals greater than 1.8% of all ballots cast. The updated file shows a net loss of 768 Persons identified as voting from the Certified MVPR of December 2017.

ii. The April 2018 Update includes over 1,414 changes to Registration numbers (1.7% of Ballots Cast in the Election) from the December 2017 Certified MVPR.

1. A total of 961 Persons were removed.
2. A total of 453 Persons were added, including 122 voters from the City of Hapeville.
3. A total of 8 Persons were changed from City of Atlanta voters to the City of Hapeville, not included in the numbers above.
4. The "Palpable Error" identified has increased to 95 of 159 Voting Precincts, excluding the ineligible Hapeville Precinct.

iii. The records of Persons identified as voting include a substantial number of ineligible voters discussed in subsequent sections of the Complaint.

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e. The FCBRE Certified Voter List Contains Substantial Errors and Omissions and is Fatally Flawed
   i. It contains a total of 327,750 records of eligible voters in City of Atlanta Precincts.
   ii. It contains a total of 2,223 records which do not have a Voting Precinct and it cannot be easily determined where the voters are Registered.
   iii. When comparing the FCBRE Certified Voter List to the Secretary of State Voter List with History "*SOS Voter List*" with the appropriate registration deadline, Atlanta Precincts have a difference of 839 Registration Numbers.
      1. This includes 202 Registration Numbers added.
      2. This includes 637 Registration Numbers subtracted.
      3. Other Differences will be discussed in an Amended Complaint.

f. A Substantial Number of Ineligible Voters Cast Ballots in the Atlanta Election
   i. The December 2017 Certified MVPR includes 78 ineligible voters based on the SOS Voter List.
   ii. The April 2018 Update of Persons Identified as Voting includes 329 ineligible voters based on the SOS Voter List.
   iii. The reconciliation is made even more difficult, because the April 2018 Update includes eight (8) City of Hapeville voters. These Persons were previously identified in the December 2017 Certified MVPR as Atlanta voters.

g. Given the inability of the FCBRE to reconcile Persons to Ballots Cast, the requirements for voter identification were not met.

3. State Elections Code Section *21-2-72, 21-2-73, 21-2-379.11* and others that may apply.

The FCBRE has not produced Critical Required Documents which are to be retained by law (discussed in 2e. above). The Code Section that would apply depends upon if these Critical Required Documents are missing or that FCBRE has simply chosen to be non-responsive. Information provided by FCBRE does indicate substantial and material Code violations and irregularities.

a. Critical Required Documents Missing, Not Responsive to Public Information Requests, or
b. Critical Required Documents Missing, Document Retention Requirements Not Met

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The FCBRE has not produced hundreds of required documents which are to be retained by law. This includes the DRE Recap Sheet, Express Poll Recap Sheet, Provisional/Challenged Recap Sheet, or the Daily Absentee Recap Sheet as well as errors and omissions discussed in Complaint #1 ("Critical Required Documents"). As an apparent substitute, the FCBRE provided 268 "Audit Forms", 22% of which were missing. The "Audit Forms" identified hundreds of irregularities and indications of State Elections Code violations.

c. Hundreds of Code Violations or Irregularities Identified in FCBRE "Audit" Documents

While analysis can be conducted based on "Official and Complete Results" and Certified documents, these missing Critical Required Documents may provide further indications of irregularities and violations of State Election Code as well as additional documents for reconciliation.

Background and Context

I have attempted to work with the FCBRE to address December 5, 2017 election concerns. The following timeline provides a summary of the extensive efforts to work with the FCBRE that I have undertaken.

- On January 16, 2018, I sent a 12-page letter outlining many election concerns to the Director of the FCBRE. My offer to meet with Mr. Barron to discuss the issues was declined in a three (3) paragraph response on January 31, 2018, copied to the three (3) Fulton County Attorney(s).
- On April 12, 2018, the FCBRE Board allowed me extended time within the public comment section of the Board Meeting to present findings of my analysis examining the December 5, 2018 Atlanta municipal elections as of that date. The "Wiedeman Presentation" included a 20-page PowerPoint Slide presentation (Hand-out) with five (5) attachments totaling 18 pages. On that day, the FCBRE Board voted 4-1 to have the FCBRE Director address the issues brought before the Board. I note that the Board meeting minutes reflect a 4-0-1 vote on the matter, indicating a change of vote by Board Member Johnson (based on my personal video recording of the meeting). Rather than get into that issue, I'm simply providing the facts as I understand them.

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- On April 28, 2018, I sent an information request for "Audit" documents referred to in a March 2018 Monthly Operating Report by the Director and received a response April 30, 2018.
- On May 7, 2018, I received a letter from the Director of the FCBRE dated May 2, 2018 ("Barron Response") to the Wiedeman Presentation which included three (3) pages of discussion with an attachment related to a Georgia Supreme Court ruling on annexation of Loch Lomond.
- On May 17, 2018, I sent a letter with Preliminary Findings regarding the FCBRE "Audit" documents and an amended/updated information request (**Attachment A**).
- On May 18, 2018, I received a response from the FCBRE Board Chair indicating that I would receive no further response to questions, but that the FCBRE would respond to requests for public documents (**Attachment B**).
- On May 22, 2018, I received a response from the Fulton County Attorney (Custodian of Records) on behalf of the FCBRE that no additional information responsive to my request was available. On that date, I sent an email back to the Fulton County Attorney and copied to the FCBRE that documents they claimed to have sent were not sent with an attachment that included the format of the required State Election code forms versus the "Audit Forms" that were provided.

Discussion of Analysis - Complaint #1

The FCBRE December 2017 Certified MVPR and April 2018 Update of Persons Identified as Voting contain substantial and material errors and omissions.

Discussion of Key Election Documents for Reconciliation Analysis

The FCBRE largely relies upon digital voting machines to cast ballots and tabulate votes. The results of which are in the FCBRE Total Ballots Cast. The FCBRE provides this document on their website as "Official and Complete" in Excel format for all ballots cast and all ballots cast in each Contest which can be analyzed.

For In-Person voting, the voting process starts with an application to vote at the Express Polling station where voters provide are required to provide identification and are recorded as voting before they receive an electronic ballot. Persons recorded as voting must appear on

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[redacted]

the Certified MVPR, a credit for voting list of Persons voting for all ballot types. This document is ultimately Certified by the FCBRE Board along with other lists. The FCBRE then has 45 days (as I understand the Code) to update the list for errors and/or omissions.

a. Active Voter Precincts Omitted from the December 2017 Certified MVPR

The Certified MVPR does not include Precinct 02J or 01I which are listed in the FCBRE Total Ballots Cast (**Attachment C**) by Voter Precinct included on the FCBRE website as well as the Fulton Master list of Voting Precincts (**Attachment D**) dated November 1, 2017. The FCBRE Total Ballots Cast (which are not certified) identify a total of 617 votes cast from Voting Precinct 02J.

b. Inactive Voter Precincts Included in the December 2017 Certified MVPR

Voting Precincts 05I and 05G provide credit for Persons voting in the Certified MVPR, (1) one vote in each Voting Precinct, but the FCBRE Master Voter Precinct Listing (**Attachment D**) identifies these as Inactive Precincts. The FCBRE Total Ballots Cast (**Attachment C**) posted on the FCBRE website do not show voting results for either 05I or 05G.

c. Omission of Substantial Precinct and Inclusion of Ineligible Precinct in the FCBRE April 2018 MVP

The April Update of Persons Identified as Voting does not identify Persons from Precinct 02J and includes an ineligible City of Hapeville Voting Precinct (HP01).

Discussion of Analysis - Complaint #2

Construction of Database(s) and Analysis

Database(s) were constructed for the purposes of analyzing large voter data sets and providing comparisons. The database relies on critical source documents obtained from the FCBRE and Secretary of State. ' provides a list and discussion of source and other documents.

a. Failure to Reconcile Voting Records with More Ballots Cast than Persons Voting, December 2017 Certified MVPR is Fatally Flawed

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[redacted]

i. City-wide Total of Votes Cast Significantly Exceeding Persons Identified as Voting

The total of votes cast By-Mail and by Digital means In-Person is significantly greater than the number of Persons identified as voting. It should be noted that **Table 1** does not provide a reconciliation for the missing Voting Precinct 02J (Discussed in Item 1.) which is a significant Voting Precinct.

Table 1 – December 2017 Certified MVPR
Ballots Cast Reconciliation to Persons (Voters)

Source Document/Results	Total Votes Cast or Identified
FCBRE Total Votes Cast	84,006
December 2017 Certified MVPR (Persons)	83,093
Ballots Cast Exceeding Persons Identified	913

ii. Voting Precincts Ballots Cast Exceeding Persons Identified

1. See **Schedule 1** for a reconciliation of Ballots Cast to Persons credited for voting in all Voting Precincts.
2. More important than the city-wide total of unidentified Persons voting is the Voting Precinct level differences.
3. A total of 70% (110 of 159) of Voting Precincts failed a reconciliation of ballots cast to a Person. This does not include the FCBRE omitted 02J Precinct.
4. With greater than 1% of ballots cast unaccounted for with Persons voting, the Director should not have sought Certification from the FCBRE Board.
5. **Table 2** provides the results of the Voting Precinct level analysis for Voting Precincts where more ballots were cast than Persons identified as voting. The analysis excludes the FCBRE omitted Precinct 02J, but this should have been known to the Director at the time the results were Certified by the FCBRE Board.

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iii. The records of Persons identified as voting include a substantial number of ineligible voters that have not been excluded from the summary in Table 1 and Table 2 and are discussed in subsequent sections of the Complaint.

Table 2 – December 2017 Certified MVPR

Precinct Level Ballots Cast Exceeding Persons Identified as Voting

Source Document/Results	Total Votes Cast or Identified
Voting Precincts Identified	110 of 159
Total Votes Cast in Excess of Voters Identified	313

b. Director Failed to Reconcile, Investigate and Report "Palpable Errors" at the time of FCBRE Certification

Upon information and belief, the FCBRE Director failed to reconcile, properly investigate or report "palpable errors" of voting results. State Election Code section excerpts 21-2-493 (b) excerpt:

> *If, upon consideration by the superintendent of the returns and certificates before him or her from any precinct, it shall appear that the total vote returned for any candidate or candidates for the same office or nomination or on any question exceeds the number of electors in such precinct or exceeds the total number of Persons who voted in such precinct or the total number of ballots cast therein, such excess shall be deemed a discrepancy and palpable error and shall be investigated by the superintendent; and no votes shall be recorded from such precinct until an investigation shall be had. Such excess shall authorize the summoning of the poll officers to appear immediately with any primary or election papers in their possession. The superintendent shall then examine all the registration and primary or election documents whatever relating to such precinct in the presence of representatives of each party, body, and interested candidate. Such examination may, if the superintendent deems it necessary, include a*

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recount or recanvass of the votes of that precinct and a report of the facts of the case to the district attorney where such action appears to be warranted.

i. **Schedule 2** identifies the Voting Precincts which failed the critical test of having more Mayoral Votes cast than Persons identified as voting (excluding Precinct 02J). The results are summarized in **Table 3**.

Table 3 – Precincts with "Palpable Error" Based on December 2017 Certified MVPR Total Votes for Mayoral Contest Exceed Persons Identified

Results of Analysis	Total Votes Cast or Identified
Voting Precincts with Mayoral Ballots Cast Exceeding Persons Identified	46 of 159
Voting Precinct % Range of Unidentified Persons to Mayoral Ballots Cast	Up to 4%

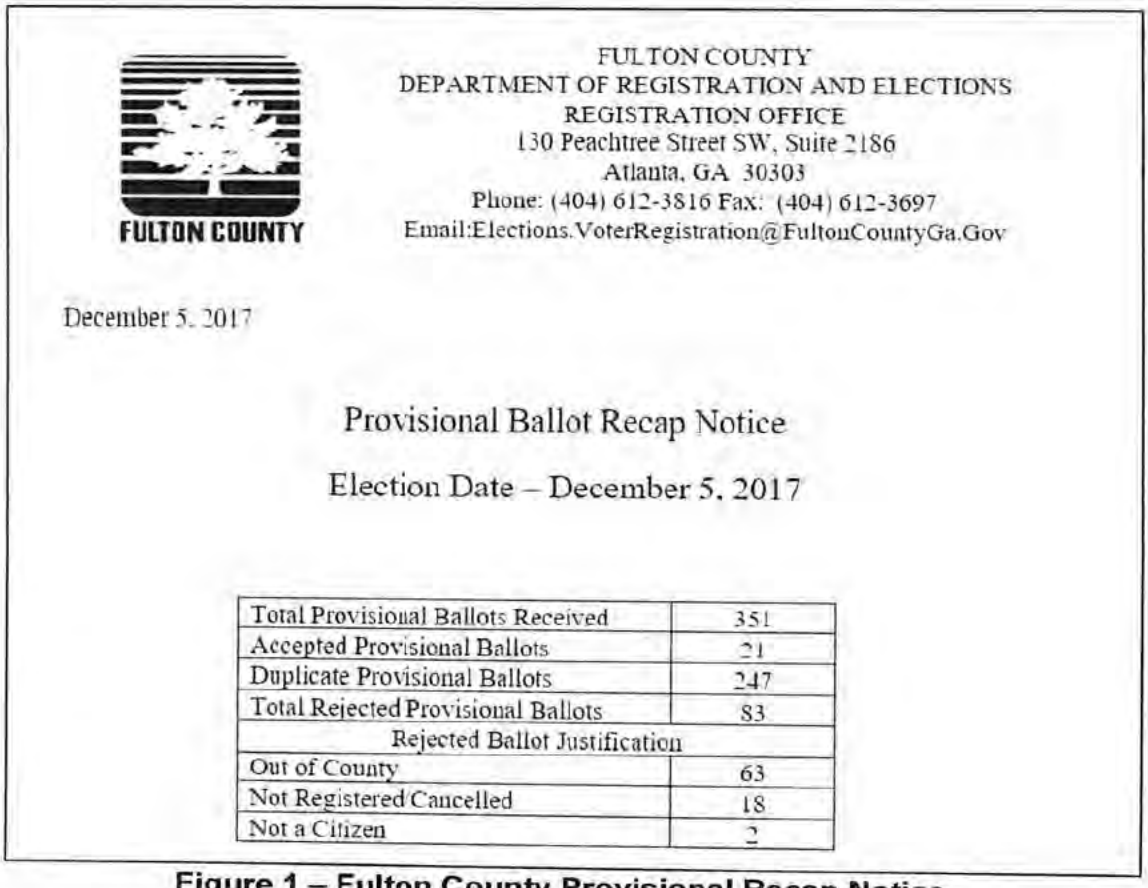
ii. The records of Persons identified as voting include a substantial number of ineligible voters that have not been excluded from Table 3 and are discussed in subsequent sections of the Complaint.

c. Provisional Vote Does Not Reconcile, Significant Out of Jurisdiction Votes Cast in the Atlanta Mayoral contest.

In context of the reconciliation of Provisional Votes cast and Persons identified as voting, the FCBRE published a Provisional Recap Notice shown in **Figure 1** immediately following the December 5th election. The document provided a summary of Provisional Ballot statistics for all of Fulton County elections as well as Atlanta. It does not provide the required data included in the Provisional/Challenged Recap Notice (see Attachment F) required by Georgia Election Code. This appears to be an internal use document that has terms and definitions that are not defined and do not reconcile with the FCBRE results.

[redacted]

While the FCBRE Provisional Summary indicates that only 21 Ballots were accepted out of a total of 351 total received County-wide, the FCBRE Total Ballots Cast for the Atlanta Mayoral contest identifies 194 Accepted Ballots with 192 Votes for Mayor.



FULTON COUNTY

FULTON COUNTY
DEPARTMENT OF REGISTRATION AND ELECTIONS
REGISTRATION OFFICE
130 Peachtree Street SW, Suite 2186
Atlanta, GA 30303
Phone: (404) 612-3816 Fax: (404) 612-3697
Email:Elections.VoterRegistration@FultonCountyGa.Gov

December 5, 2017

Provisional Ballot Recap Notice

Election Date – December 5, 2017

Total Provisional Ballots Received	351
Accepted Provisional Ballots	21
Duplicate Provisional Ballots	247
Total Rejected Provisional Ballots	83
Rejected Ballot Justification	
Out of County	63
Not Registered/Cancelled	18
Not a Citizen	2

Figure 1 – Fulton County Provisional Recap Notice

On April 12, 2018 I presented these facts to the FCBRE Board. The FCBRE voted to have the Director of FCBRE respond to this issue and many others. In response to this issue, the May 2, 2018 Director's Response Letter stated:

> *"You also questioned the totals of provisional ballots (p. 16 of your presentation). The seeming discrepancy is attributable to the fact that we accepted 268 provisional ballots countywide, 194 of which were in the City of Atlanta."*

The response did not include discussion of why the Provisional Recap Notice was in error, what the terms mean and did not provide a reconciliation to explain the differences.

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[redacted]

i. The reconciliation of Provisional Voters is based on the 82-page *Numbered List of Provisional/Challenged Voters* ("Provisional Voter List"). This required extensive analysis and the construction of an excel spreadsheet. The Provisional Voter List identifies Accepted and Rejected Ballots. But in many cases, there is no indication of either acceptance or rejection. **Table 4** shows the results of the analysis of the compiled Provisional Voter list.

Table 4 – Provisional Voter Reconciliation

Source Document/Results	Accepted	No Indication	Reconciliation
City Voters With Valid Registration #	141	7	148
Outside of City Voters Voting in Atlanta Precincts	44	2	46
Total	185	9	194

ii. The FCBRE allowed not only Out of Precinct (Provisional Code OP) voting which is permissible under the code, but out of jurisdiction voting in Atlanta Voting Precincts. Out of jurisdiction voters included voters from the City of Sandtown, Sandy Springs, College Park, Fairburn and many others.

iii. The Provisional Voters having valid Atlanta voter registration numbers according to the SOS Voter List were compared to the December 2017 Certified MVPR and the April 2018 Updated file of Persons identified as voting from the Secretary of State's Office. The results of the analysis are in **Table 5**.

Table 5 – Provisional Voters Remaining Unidentified

Source Document/Results	Certified MVPR as of December 15, 2017	MVP Provided by Secretary of State as of April 15, 2018	Difference
Provisional Voter Registration #'s Identified	4	134	130
Total Provisional Ballots Cast in Official Results		194	
Remaining Unidentified Provisional Voters		60	

iv. It appears that the FCBRE began to input the Persons voting Provisional and then stopped at the time of the December 2017 Certification of results. Clearly,

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someone must have recognized that out of City voters had voted in the Atlanta election.

d. The FCBRE April 2018 Update of People Identified as Voting (MVP) Invalidates December 2017 Certified MVPR Voter File, Indications of Substantial Impropriety

In April 2018, I received an updated FCBRE voter file (MVP) from the Secretary of State's Office. I've compared the Certified MVPR as of December 15, 2017 to the April 2018 Update of People Identified as Voting as well as to the FCBRE Total Ballots Cast.

Table 6 – FCBRE Ballots Cast Exceeding Persons Voting for FCBRE April 2018 Update of Persons Identified as Voting

Source Document/Results	Total Votes Cast or Identified
FCBRE Total Ballots Cast (Election Result)	84,006
April 2018 Update of Persons Identified as Voting	82,585
Adjusted for Hapeville Precinct Added	(130)
April 2018 Update Of Persons without Hapeville	82,455
Votes Exceeding Actual Persons Identified	1,551
April 2018 Update of People Identified as Voting	82,455
December 2017 MVPR Persons Identified Voting	83,093
Net Persons No Longer Credited for Voting	(768)

i. The document includes a Hapeville Precinct which is presumably an error, but the Sample Ballot for Precinct HP01 should be reviewed to determine if this was an error or represents illegal votes cast in the election. A total of 8 Persons were changed from City of Atlanta eligible voters to the City of Hapeville, not included in the numbers above.

ii. Neither the Certified December 2017 MVPR or the April 2018 Update of Persons voting from Precinct 02J which had a substantial number of ballots cast in the Official Results (617).

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iii. With a total of approximately 1,550 Persons voting not identified, the April 2018 Update dropped a net of 768 Persons identified as voting from the December 2017 Certified MVPR.

iv. Evaluating the additions and subtractions on a Voting Precinct basis provides an indication of the magnitude of changes to the Persons identified as voting in **Table 7**.

Table 7 – FCBRE Changes to Persons Identified as Voting from FCBRE December 2017 Certified MVPR to FCBRE April 2018 Updated MVP File

Source Document/Results	Total Votes Cast or Identified	% of Ballots Cast
Voters Added to December 2017 Certified MVPR	453	
Voters Subtracted from December 2017 Certified MVPR	-961	
Total of All Changes to December 2017 Certified MVPR	1414	1.7%

v. The April 2018 Update invalidates the December 2017 Certified MVPR 1.7% of the voter file (Persons identified as casting a vote) changed.

vi. The Precinct level analysis identifies 96 Precincts (when including the Hapeville Precinct) with ballots cast for a Mayoral Candidate exceeding the voters identified as having voted based on the April 2018 Update. With several Precincts approaching 10% unidentified Persons casting ballots. See **Schedule 3** for the Precinct level analysis.

vii. The records of Persons identified as voting include a substantial number of ineligible voters, in addition to the City of Hapeville, that are discussed in subsequent sections of the Complaint. These persons have not been omitted from **Table 6**, **Table 7** or **Schedule 3**.

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e. The FCBRE Certified Voter List Contains Substantial Errors and Omissions and is Fatally Flawed

The FCBRE Certified Voter List has a substantial number of Persons without a Voting Precinct and does not reconcile with the SOS Voter List. The results of the database analysis are shown in **Table 8** and **Table 9**.

Table 8 – FCBRE Certified List of Registered Voters Reconciliation of Voters in Atlanta Precincts and Voters Without a Precinct Identified

Source Document/Results	Total Registered Voters	Reconciliation
FCBRE December 2017 Certified Fulton County Voter List 12-5-17	329,973	
Reconciliation of FCBRE Certified Voter List		
Total of Atlanta Registered Voters with a Voting Precinct Identified		327,750
Total of Registered Voters without a Voting Precinct Identified		2,223
FCBRE December 2017 Certified Fulton County Voter List 12-5-17		329,973

i. On April 12, 2018 at the FCBRE Board meeting the Director was asked to respond to the issue of differences between the SOS Voter List and the FCBRE Certified Voter List. This was the response provided by the Director in a letter dated May 2, 2018:

> *"You questioned the total number of registered voters for the December 5, 2017 elections (p. 9 of your presentation). The total number of registered voters in the City of Atlanta that we enter into our Global Election Management System (GEMS) comes from the Secretary of State. The numbers that you offered on page nine of your presentation reflect Active Voters and Inactive Voters pulled from ElectioNet on different dates."*

ii. The Director's explanation did not provide reconciliation or numbers, though the FCBRE Board directed him to respond to this and other Election concerns. The date upon which the data was "pulled" should not change the eligibility of voters in this election. Additional registrations should not have been made

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[redacted]

between the general election on November 7 and the December 5th runoff election.

Table 9 – FCBRE Certified List of Registered Voters Reconciliation with SOS List of Voters for the December 5, 2017 Election

Source Document/Results	Total Registered Voters	Reconciliation
FCBRE Certified Fulton County Voter List 12-5-17		
Atlanta Precints Only	327,750	
Secretary of State Database Voter List/History		
Atlanta Precincts Only	328,185	
Difference	435	
Reconciliation of Database Differences		
FCBRE Additions to Secretary of State Voter List		202
FCBRE Subtractions from Secretary of State Voter List		637
Difference Reconciled		435
Difference in Voter Registration Atlanta Precincts Only		839

f. Ineligible Voters Identified in December 2017 Certified MVPR and April 2018 MVP

The Hapeville Precinct included in the April 2018 Update of People Identified as Voting is obviously not eligible to vote in the City of Atlanta. The Hapeville Precinct was not included in the December 2017 MVPR. However, eight (8) City of Hapeville voters were identified as City of Atlanta voters in the December 2017 Certified MVPR which complicates the reconciliation. Discussion of other Precinct and Jurisdiction for Persons identified as voting in will be discussed in an Amended Complaint.

The analysis of ineligible Persons casting ballots in the Election are summarized in Table 10. The Persons identified as Voting in the December 2017 Certified MVPR and April 2018 Update are compared to the FCBRE Certified List of Voters and separately to the SOS Voter List.

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Table 10 – Persons Recorded as Voting in Atlanta Election that Are Ineligible Based on FCBRE Certified Voter List or SOS Database

Source Document/Results	Ineligible Voters	Ineligible Voter Reconciliation
FCBRE Certified List of Registered Voters		
December 2017 Certified MVPR - No Voter Reg #	7	
April 2018 MVP - No Voter Reg Number	128	128
April 2018 MVP - Non-Atlanta Voter Reg #	220	
Reconciliation of April 2018 MVP for Hapeville Precinct		
Hapeville Precinct		122
Other Non-Atlanta Voters		98
Reconciliation Total		220
April 2018 FCBRE Updated Voter File Total Inelegible Voters		348
Secretary of State List of Registered Voters		
December 2017 Certified MVPR	78	
April 2018 FCBRE Updated Voter File	329	
Reconciliation of April 2018 MVP for Hapeville Precinct		
Hapeville Voters in April 2018 FCBRE Voter File		130
Inelegible Voters in Atlanta Precincts		199
Reconciliation Total		329

g. Total Ballots Cast Exceed Persons Identified, Voter Identification Requirements Not Met

The requirements for voter identification clearly have not been met as the total of ballots cast far exceeds the Persons that are identified as voting. Those Persons that were required to provide identification and were input through the electronic Express Poll (ID electronically verified) should be compared to the various voting lists and put into a category of compliance with the requirements. However, those Persons not validated through that process and appearing on Supplemental lists should be the focus of further investigation, given the findings of this Complaint. I suspect this will lead to substantial additional findings, but this information has not been made available by the FCBRE.

[redacted]

Discussion - Complaint #3

a. Critical Required Documents Missing, Not Responsive to Public Information Requests.
   i. FCBRE has provided "Audit Forms" with specific sections that review the required Recap Sheets for December 5th day of voting indicating the missing documents existed.
   ii. The FCBRE "Audit Forms" do not substitute for the required forms, examples shown in **Attachment E**.

b. Hundreds of Potential Irregularities Identified in "Audit Forms"

Although Critical Required Documents are missing, the "Audit Forms" provide substantial indications of irregularities and potential code violations. See **Attachment A** for more detailed discussion of Preliminary Findings.

   i. 22% of Voting Precincts do not have completed "Audit Forms", no information is available on these Precincts because the required Recap sheets for DRE, Express Poll, Supplemental lists and others are missing.
   ii. Approximately 180 potential irregularities were identified in the "Audit Forms".

While I am not an attorney and this Complaint should not be interpreted as legal opinion, I have extensive experience in providing expert testimony in litigation as a Professional Engineer as well as a CPA.

If you have any questions or would like additional information, please contact me.

Sincerely,

Justin Wiedeman, CPA

justin@sargentadvisory.com

Cc: Board of Fulton County Department of Registration and Elections

Board of Fulton County Commissioners

Ryan Germany, Secretary of State Elections Investigator

[redacted]

ATTACHMENTS NOT INCLUDED:

Mary Norwood – November 29, 2020

Enclosures/Attachments:

Schedule 1 – Reconciliation of Total Ballots Cast to Persons Identified in December 2017 Certified MVPR

Schedule 2 – Voting Precincts that Should Not Have Been Certified in Mayoral Contest with Mayoral Ballots Cast for Mayor Exceeding Persons Identified as Voting

Schedule 3 – April 2018 Update of People Identified (from MVPR) as Voting File Analysis of Precincts that Fail Certification Requirements with More Mayoral Ballots Cast than Persons Identified as Voting

Attachments:

Attachment ? – Source Documents

Attachment A – Analysis of FCBRE Internal Post Election "Audit" Document Review, Examples of FCBRE Provided Forms to Required Forms.

Attachment B – Response of FCBRE Board Chair and Fulton County Attorney to Attachment A Submittal

Attachment C – FCBRE Unofficial Results for Runoff (Distributed at FCBRE Certification Meeting), FCBRE Total Ballots Cast by Precinct Available on FCBRE Website

Attachment D – FCBRE Voting Precinct Master List for Fulton County-Atlanta

Attachment E – Form of Required Polling Recap Sheets (Missing Critical Documents)

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The card and "tear off" – front and back – have been photocopied and shown below.

CARD:

VOTER REGISTRATION OFFICE
130 PEACHTREE STREET 2186
SW
ATLANTA GA 30303 - 3460
PHONE: 404-612-7020

FIRST CLASS MAIL
U.S. POSTAGE PAID
Atlanta, GA
PERMIT No: 2604

FULTON COUNTY PRECINCT CARD

REG. DATE 10/03/1989
ISSUE DATE 07/21/2020
REG. No. 02538832

RETURN SERVICE REQUESTED

VOTING DISTRICTS:

005	006	054	ATLA	3	08	4
CONG	SENATE	HOUSE	JUD	COMM	CITYL	MUNIB

OFFICIAL ELECTION MAIL
Authorized by the U.S. Postal Service

[redacted]

ATTENTION: This is your NEW Voter Registration Precinct Card. Keep for your records.

(Cut or fold on the dotted line for wallet card)

If you change your address within the county, complete the attached Change of Address Postcard and mail.

Note: Change of address must be postmarked at least 30 days preceeding any election.

If you move to another county or if there is a change in your legal name, you must complete a new voter registration application in order to remain qualified to vote.

This card may not be used as evidence to prove United States Citizenship or as identification to vote. (ref.1996 United States Public Law 104-99)

Fold Here

PRECINCT NAME: 08M
POLLING PLACE:
PEACHTREE PRESBYTERIAN CHURCH
3434 ROSWELL RD NW
ATLANTA, GA 30305 - 1231

CITY PRECINCT : 08M
POLLING PLACE:
PEACHTREE PRESBYTERIAN CHURCH
3434 ROSWELL RD NW
ATLANTA, GA 30305 - 1231

For Android

From the Secretary of State website, www.sos.ga.gov, a registered voter with a valid Georgia driver's license or identification card issued by the GA Department of Driver Services may change his or her name or address using Online Voter Registration. You may also access Online Voter Registration by downloading the GA Votes app.

Visit our website @ www.mvp.sos.ga.gov/MVP, download the GA Votes app or contact your local registrar's office.

For Apple

TEAR OFF:

CHANGE OF ADDRESS CARD

TO UPDATE YOUR NEW RESIDENTIAL ADDRESS WITHIN COUNTY

(PLEASE PRINT)

Voter Name : [redacted]

Reg No. : [redacted]8832

[redacted]

City [redacted]

[redacted]

[redacted]

[redacted] SIGNATURE (REQUIRED) Date

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

OFFICIAL ELECTION MAIL
Authorized by the U.S. Postal Service

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 19242 ATLANTA, GA
POSTAGE WILL BE PAID BY ADDRESSEE

SECRETARY OF STATE
PO BOX 105325
ATLANTA, GA 30348-9562

State of Georgia
County of Bibb

AFFIDAVIT

I, Robert A. Russell, personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

On November 3, 2020, I was working as a designated Republican poll watcher at St. Matthew's Baptist Church at 1211 Shurling Drive in Macon, Georgia, when I observed that the voting machines were not ready at 7:00 a.m., but it appeared that a lot of activity was going on. The poll workers did not count the number of votes cast on the voting machine on a regular, hourly basis. They counted them when they thought about it, and they didn't count all 7 machines at the same time. At 7:00 p.m., only person was voting and there was no line. Approximately 7:05 p.m., the precinct manager told me to leave the building and wait out front, so that I was not able to watch the counting of the ballots. The only people allowed to remain in the counting area were the poll workers. The precinct managertold me that she would send a worker out with a sheet to show the vote tabulation "in 10 minutes," and I waited 50 minutes, and they never came out or allowed me back into the building. The precinct manager also said that she would post the counts outside the church. After 50 minutes I left. I returned to the precinct the next morning, around 10 a.m., and the vote tabulation still was not posted.

( ) CHECK IF STATEMENT IS CONTINUED ON NEXT PAGE

I know and understand the contents of the statement above; and I do swear or affirm the statement to be true.
Today's date is NOV 10 2020

[redacted]

Robert A. Russell
(PRINT YOUR NAME HERE)

ADDRESS: 3870 Jeffersonville Road, Macon Georgia 31217-5349

TEL./CELL: 478-973-6887 FORM OF ID: GA Driver's License

SWORN TO AND SUBSCRIBED BEFOR ME,
THIS THE 10 day of November, 2020.
Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

LAUREN DEAL NOTARY PUBLIC GEORGIA EXPIRES 01/14/2024 BIBB COUNTY

STATE OF GEORGIA

COUNTY OF COBB

AFFIDAVIT OF [redacted]

Personally appeared before me this 25th day of November, 2020, the Deponent, [redacted] and hereby swears and affirms pursuant as follows:

1.

My name is [redacted] and I reside in the State of Georgia.

2.

On Friday November 20th, 2020, I was at work when I received a phone call at around 11:15 am, from a mutual friend to [redacted] and me. I was told that [redacted] was at Jim R. Miller Park on Callaway Road, Cobb County, Georgia, witnessing the destruction of documents by a truck. There was dire concern as this was the location of the stored ballots of the November 3rd election.

3.

I immediately left work in a rush and drove from my office to Jim R. Miller Park. When I arrived, I saw [redacted] on the phone with 911, trying to get the police to come make a report and observe the events. There was a person who appeared to be an employee of the Cobb Board of Elections who said, "that's a popular truck today", and walked in the building. There was an A-1 Shredding employee who was closing the shredding apparatus and readying the truck to leave.

4.

It was loud with the truck running, and I tried to speak with the driver of the truck who climbed into the driver's side and held a paper up to the window so as to hide his face. He sat there for some time with someone on the phone. A few minutes later he moved the truck back then forwards and turned around to leave. I got in my vehicle and followed the truck to see where it was going. It had been conveyed to me that there were shredded ballots from the recent election in the truck.

5.

I followed the truck left out of Jim R. Miller Park, up to Austell Road where it made a right. It continued on Austell Road heading south and crossed the East-West Connector. It then

made a right into the Kohl's shopping center parking lot, drove through the lot to the East-West Connector so as to lose me or see if I was following, made a right on the East-West Connector, drove back to Austell Road and took a right to continue in the same direction it was originally traveling.

6.

[redacted] Not long thereafter, I pulled into a gas station and got into the same vehicle as [redacted] Shortly thereafter we received a call back from Cobb County 911 to indicate there was a police officer at Jim Miller Park. The assumption was that the officer would make a report but I do not know that to be a fact. We were told not to follow the truck by the dispatcher.

7.

The truck continued south on Austell road in the left-hand lane. When we approached Thornton Road, it appeared to be taking a right onto Thornton Road to head east, but quickly crossed over three lanes of traffic and took a right onto Thornton Road. It then took a right onto Veteran's Memorial Highway, and in about 3/4th of a mile pulled into the center turn lane, seemingly checking to see if we were still following. After a few minutes the truck pulled back into the roadway, continued on and exited onto Austell Road heading back north toward Marietta. We took the same path of travel but lost sight of the truck.

8.

While following the truck we received a phone call from an attorney who agreed to meet with us at Jim Miller Park. We went back to the park. When we pulled back into the parking lot I noticed a Red Ford Ranger pickup truck with ballot type boxes being loaded into the back. Once the realized we were back they appeared to unload them back into the building and close all the doors. I had to use the restroom and tried the front door. A young man greeted me and I told him I just needed to use the restroom wherein he gave me admittance to the building and I went to the bathroom. When I exited the bathroom I was greeted by a woman who seemed to work for the Board of Elections (who I later found out was a Jim Miller Park employee), who told me I could not be in there. I told her my purpose was to use the restroom and I was leaving. She escorted me to the door. Thereafter, the rollup dock doors were closed and no employees were outside.

9.

While there, two Cobb County Deputy Sheriffs approached us to find out what was going on as they were apparently told to meet us there. While we were recounting the events with the shredding truck, several supposed Cobb County Parks individuals approached us. At that time we were told that the park was not open to the public and we had to leave. We were told that they were park employees, not employees of the Board of Elections.

10.

We then met with the deputies who told us we would have to leave. I requested that the deputies take down a report of Suspicion of Vote Fraud, and they refused. Two Cobb County Police Officers came to the scene and I requested that I be permitted to make a report with them. I was told by the Cobb County Sheriff's Deputies that the only one who could take a report at Jim Miller Park was a Ranger, and the Rangers were not there on Friday, November 20th, 2020, that they were at a meeting.

11.

At that time, we left, and per instruction of another official, we went to the Cobb County Police Department Precinct 2 to make a report. Again, we were refused and were told to make a report to the Secretary of State for the State of Georgia, (which we did). We were further told that they had just gotten word not to take any report for Suspicion of Election Fraud, and that if we needed further reporting assistance, to contact the Georgia Bureau of Investigation.

12.

We then proceeded to retrieve my vehicle. At all times during the following of the truck we obeyed the rules of the road and did not violate any State or Federal Law.

FURTHER AFFIANT SAITH NOT

[redacted]

Thomas Lee Williams
Notary Public

8/9/22
My commission expires

Thomas Lee Williams
NOTARY PUBLIC
Bartow County, GEORGIA
My Commission Expires 08/09/2022

POLL WORKER'S AFFIDAVIT OF ELECTION FRAUD

GWINNETT COUNTY, GEORGIA, NOVEMBER, 2020

BACKGROUND AND CHARACTER STATEMENT

1. My name is [redacted] and I have worked at the polls in Gwinnett County, Georgia off and on for the last six (6) months. I had been interested in doing election work for a local precinct so when a friend referred me to the County Elections department last year (2019), I went to apply. My application was accepted and I was told that I would receive a call when the need arose. An Election Poll Manager called me in March of this year (2020).

2. I was trained on-line and in person on at least six different occasions, initially as a Non-Issuing Clerk Poll Worker and then as an Issuing Clerk Poll Worker. For the Advanced Voting, I worked as a Non-Issuing Clerk because I was out of state helping my elderly mother and was unable to go to a required in-person training (although I did complete the on-line portion of the training). I was assigned to the Mountain Park Advanced Voting location of Gwinnett County to work all even numbered days starting from October 12th through October 30th, 2020. My duties were to sanitize the electronic ballot machines and printers after each voter use, to direct voters to available machines as they were sanitized and available, and keep the lines moving in a timely way. I was also to monitor any cell phone activity which was strictly forbidden (frequently, there were voters using their phones to call someone on how they should vote). I worked about 15 hours a day and quickly became familiar with how to answer various voter questions concerning how to use the machines (**Dominion** brand electronic ballot machines, which had the option of either English or Spanish language), and what certain computer-generated warning messages meant before printing the hard-copy ballots. We were trained not to advise on any candidate or referendum, were also **not** to view or touch either the electronic or hard-copy ballots, and **not** to indicate any personal or

political opinions while working. Another item in question was whether people could vote together at the same booth to help/advise others how to vote. The blue "Voting Certificate," which was filled out by every physical voter, contained blanks for names, addresses and other usual information; there was, however, an additional box to check and sign **if the voter was being assisted by someone,** or if the voter was assisting someone who could (1) could not read English (illiterate), or (2) was handicapped in some way (physically, or in some cases, of elderly relatives who would have had difficulty navigating the ballot machine. The cases of the elderly did not necessarily mean they were mentally or physically impaired, just that some elderly people were not familiar with electronic devices). The precinct was a very busy polling place and we processed between 900 - 1200 voters a day.

3. I am a very ethical person. My values are based on Roman Catholicism and I have been a practicing Catholic my entire life; both of my Midwestern-grown parents were adult converts to Catholicism. My values were further reinforced by being the oldest child of a career Special Forces Army officer. My father graduated from a military high school in Boone, Missouri, and then was ROTC when attending and then graduating from the University of South Dakota. Proper behavior and etiquette were expected at all times, and patriotism and doing the "right thing" were a given. We moved frequently, and by the time I was thirteen, I had lived half my life out of the US: three years at three different locations in Germany, and three (3) years on the island of Okinawa (not yet returned to Japan). I attended military dependents' schools or Catholic schools when available (one being an international Catholic school on Okinawa where only six (6) students in the school were American; another being [this was during segregation] a "black" Catholic school when the "white" Catholic school outside of Ft. Bragg, North Carolina was already full); as a result of this, I have been exposed to many types/nationalities of people In addition, my paternal grandfather was a medical doctor pressed into military service during World War II (rank: full colonel, Army), and was

responsible for setting up and implementing protocols for the initial field hospital in the battle for Okinawa. The majority of my work as an adult included roles as executive secretary, medical secretary and legal (commercial real estate) secretary; these roles were privileged and confidential.

4. I read the election training manuals, attended the classes, and I have worked as a poll worker since March of 2020, so I am versed in election laws and protocol. There were probably a higher number of Democrats vs Republicans working in the precinct. The 25-member team that I worked with at Mountain Park included Denise Stephanopoulos. When I queried Denise about her famous last name, she proudly said, "Yes George is my cousin."

FACTUAL STATEMENTS

5. During this Advanced Voting period, I noticed from a flyer that had been left behind that a Democrat group had put together a transportation group that were bringing in a lot of elderly people or citizens of foreign origin (Gwinnett County is the most diverse county in Georgia), or first-time voters in to vote. Now you are not allowed to bring anyone into the actual voting booth with you unless you cannot read English or are medically disabled. There is a box for either of those options on the voting certificate which must be check-marked and signed to be allowed to vote with someone. There are no other options to vote together, such as married people or friends, etc.

6. Generally when people come with family members they identify themselves as her sister or her mother or her daughter; there is a familial bond that is noticeable. However, with the transportation group there was no sense of familiarity between the person going into the voting booth and the senior citizen or citizen of foreign origin, or first-time voter they were taking into the voting booth. I initially asked the voter and "assistant" which poll worker told them that this was allowed, especially for first-time voters and

they pointed to Denise Stephanopoulos. I quickly (we were very busy!) walked over to ask about why Denise had allowed them to do this. Denise told me that "we want to make sure that these "assistants" helping the voters would see to it that the voters would vote right (correctly) for…Joe Biden!" I was very bothered about this and it set off red flags for me because I knew that prior to this third and final week, most voters in the Mountain Park area had voted Republican. I did ask our Poll Manager why this voting together was OK now and she responded that the Election Board workers had said it was OK if both parties (the voter and the "assistant") check-marked the box and signed the blue "Voters Certificate." How did I know that most votes were Republican before this transportation group started bringing in these the senior citizens or citizens of foreign origin, or first-time voters? Every night after voting ended, it was also one of my duties to help (along with other clerks) unlock the scanners, remove all hard-copy ballots and then to stack ballots face side up according to precinct. The ballots were then put into special sealed, plastic envelopes, and after labeling, the envelopes were put into a wheeled carrier which was zipped and then a special numbered, red plastic, locking tab was put through both parts of the zipper; red tab numbers were recorded and then two people, one, the poll manager and the other being a poll worker (various over the three weeks) from our 25 person team would ride up to Lawrenceville (the Gwinnett County seat) in the **same** vehicle to the Elections Board. The wheeled carrier was then taken to special election workers that would snap open the red locking tab, record the tab number and then remove the sealed, plastic envelopes containing the hard-copy ballots; this was all in the presence of both the Poll Manager and assigned poll worker for that evening. Anyway, the reason I knew that the first two (2) weeks of Advanced Voting were highly Republican was because several people on the team from Mountain Park would notice that high numbers of the ballots were Republican (no names or addresses were legible to us…that information was in a bar code on each ballot). It seemed highly suspicious that things just **suddenly** seemed to switch to high numbers of Democrat votes at about the same time that the transportation group started

bringing in all these people "who needed help" voting. It raises questions about what motivated these voters to vote (because the "assistants" wanted them, too?), and what influenced these "special" needs voters such as money, fear/intimidation or lies.

7. It became increasingly obvious that the type of elderly they were bringing in had very little idea of what they were doing at the voting location or what was going on. It became even more worrying as more and more of these people were in wheelchairs with many of them being non-verbal and not even cognizant of where they were. They did not engage with me when I greeted them and often times, just had blank stares. Many of them would have not have passed a cognitive test. The other (temporary) clerk who assisted me in sanitizing the screens commented on how many people seemed to show up a second time, even on the same day of their own voting, but not at the same time as their own voting; these were some of the "assistants." I commented that I noticed that, too, because some of the "assistants" had very distinctive clothing, masks or hairstyles. I made a point to greet each voter in line (while waiting for available ballot machines), and often asked them about their t-shirts, hats or masks…some were Halloween themed...some were patriotic wear, etc.

8. I would estimate the total number of people brought in from this transportation group was perhaps 200 per day over a period of the last week of voting (approximately seven (7) days, but especially heavy on the last day of Advanced Voting).

9. When I tried to question the Issuing Clerks and then the Poll Manager, why these people we're being allowed to vote for these elderly people some of whom were in serious mental and physical decline, and did not seem to have the mental acuity to vote, and others of them who were simply just old, not obviously disabled and it seemed that they could go in the voting booth and vote by themselves. My observation was brushed

aside and I was told that they were the voter "assistants" and "that it was ok if they both check-marked the box and signed on the blue Voting Certificate."

10. Every single "assistant" for the elderly person, first-time voter, etc. asked for a Democrat Ballot. When I tried to confront one of these Democrat "transportation workers" who were bringing the elderly in, they would very rudely brush me off and tell me things like I said above, "I'm her assistant and I'm going to help her vote," and some "assistants" would just rush into the voting booth before I could ascertain if the elderly person was of enough of a sound mind to vote (another legal issue). When I tried to speak to other poll workers and my poll manager about this they just said they had been told from higher up to allow voting together to happen if the Voter Certificate indicated that both parties and check-marked and signed.

11. We were so busy trying to process so many people it was impossible to stop the whole voting process to challenge these people in every instance even as it became increasingly evident that everyone was just expected to ignore these violations of the blue Voting Certificate, and let voting together happen as long as both parties signed. No one seemed concerned enough to want to stop it though. I would estimate that this happened with about 50 to 200 voters a day during my shift which was on the even-numbered days (October 12, 14, 16, 18, etc.), but mostly in the third and final week of Advanced Voting, October 23rd through October 30th, 2020.

12. In the last week of my working at the Mountain Park location, a woman came in who appeared to be in her sixties with a very young teenaged girl who looked like she was about 14 -16 but could have possibly been 18. They were well-dressed and the older woman told me she was going in the voting booth with her "granddaughter." Since it was my job to call them over to the voting booth after sanitizing the voting booth I

informed the older woman that she could not go in the voting booth with the granddaughter as was required by my job.

13. The young girl herself was very meek and intimidated by this 60-ish year old woman and never said a word while this woman took over for her. The girl, a first-time voter, seemed uncomfortable. She did not appear to be disabled and the guardian never claimed that she could not read English or was disabled in any way. In fact it didn't seem like the woman was the grandmother because the girl was cowering. There did not seem to be any type of familial bond between the two of them and at one point the older woman changed from calling herself the grandmother to saying that she was the young girl's legal guardian.

14. When I tried to explain that she could only go in the voting booth if the young girl could not read English, or was disabled, the older woman became very ill-tempered and snippy answering me by saying, "What do you know about it…I already got permission from someone else, I guess one hand doesn't know what the other hand is doing." So it was obvious that this woman who was proclaiming to be the grandmother and guardian thought that whomever she "got permission from" was a higher authority than the law. There seemed to be some kind of plan in place to get this young girl to vote for Biden.

15. Upon inquiring of Denise Stephanopoulos who was also working in my group, what I observed happening, she overrode election law by saying, "Well we're going to allow them both to go into the voting booth and we just went ahead and check-marked it for her and the "assistant" because we want to make sure that the first-time voter votes for the right (correct) President, Joe Biden " I was horrified that Denise was so arrogant as to just boldly proclaim that she could ignore election laws and so blatantly pronounce it as if it were policy that the rest of us were supposed to follow and go along with. Of all people, I expected Denise to know better than to so boldly speak like this…we were

all instructed in election classes to absolutely refrain from any political favoritism, but she did not seem the least bit afraid to do it or worried about others knowing it.

16. Later I asked my polling manager about this specific instance, and other instances where people went into the polling booth with people that were not disabled and could read English, and I said, "I don't understand why all these people are being allowed into the voting booths which is against the two (2) options on the blue Voting Certificate." I brought up what the blue Voting Certificate said and she just replied, "I know what the blue Voting Certificate says, but that's what "they" (higher ups at the Lawrenceville Elections office) told us to do." (This was a suspicious thing because I thought authorities needed to follow up on who "they" are, because someone in a higher position could have been using undue influence.)

17. Based on the numbers I observed, it would be a fair estimate to attribute several hundred of these unduly influenced votes for each day the voting place was open during that final week of voting, October 23rd through October 30th, 2020, and perhaps, some before that. The total number of days the Mountain Park location was open was nineteen (19), and can be ascertained from the polling manager, as well as the Gwinnett County Election Board in Lawrenceville, Georgia.

PENALTY OF PERJURY STATEMENT

I am of age and of sound mind and I have personal knowledge of all facts above. They are true and not misleading or meant to be misleading, and I acknowledge that if I am willfully false, I may be subject to the penalties of perjury.

[redacted]

This certificate pertains to a 8 page document dealing with/entitled Poll Worker's Affidavit of Election Fraud and signed on 11/16/2020

Acknowledgment for an Individual

State of Georgia
County of DeKalb

This record was acknowledged before me on 11/16/2020

by Pr[redacted],

who is

____personally known

or

X proved to me on the basis of satisfactory evidence to be the person

who appeared before me.

S Williams Nelson
(signature of notary public)
Notary Public, State of Georgia

Stamp/Seal

My commission expires: 12/26/2023

S WILLIAMS NELSON
NOTARY PUBLIC
Dekalb County
State of Georgia
My Comm. Expires Dec. 26, 2023

Acknowledgment Ver D.docx

2020 Affidavit statement [redacted]

[redacted]
798 Argonne Avenue NE
Atlanta, Ga. 30308

I, [redacted]s, make the following declaration regarding my personal vote in the general election on November 3rd, 2020.

On Tuesday November 3rd, 2020 I went in person to Park Tavern, Precinct 02K, Fulton County, Georgia to cast my vote. I arrived at 5:40 am. I was the first person in line. When the polls opened at 7:00 am I was the first person to cast a vote. Upon checking in, a poll worker checked my identification, gave me a voter card and I cast my vote. The voting machine printed my paper ballot and I inserted my ballot into the scan machine. The entire process seemed normal.

A few days later I became concerned after hearing about the claims of voter/election fraud in the state of Georgia. On Friday November 6th, 2020 I called the Fulton County elections office to have them check to see if my vote was recorded. They informed me that it was not recorded. On Wednesday November 11th, 2020 I found out per the public voter rolls for the state of Georgia that my vote was not recorded. On Friday November 13th, 2020 I reported my findings to the Georgia Secretary of State website on the "stop voter fraud" link. I have included a copy of the email reply I received from Frances Watson, Chief Investigator for Georgia Secretary of State stating "there is no place to check election day voting". This is not true. It is available through state voting records per a public request.

Thank you,

[redacted]

11.29.20
Notary date

Lynda Nesbitt
NOTARY PUBLIC
Cobb County GEORGIA
My Commission Expires 10/09/2023

Commission exp 10/09/2023

Page 1

Gmail [redacted]

(no subject)

1 message

[redacted] Sat. Nov 14, 2020 at 3:25 PM
<fwatson@sos.ga.gov>
To: [redacted]

There is no place to check election day voting

[redacted]

Chief Investigator

Investigations Division

Georgia Secretary of State

Main: 470-312-2774

Cell: 404-683-3226

My Voter Page

GEORGIA SECRETARY OF STATE BRAD RAFFENSPERGER

GEORGIA LEADS

My Voter Page

[redacted]

Precinct 02K
PARK TAVERN
500 10TH ST NE
ATLANTA, GA 30309
Election Day polling place hours are 7:00 am - 7:00 pm

Click Here for Early Voting Locations and Times
CLICK Here for Municipal Polling Place
NOTE: Non-specific rural addresses may not be available.

Georgia Voter ID

Stop Voter Fraud

VOTE

Elections Division

Elections Advisory Council

Georgia VoteSafe

If you prefer to vote off-site, mail, fax or email your absentee ballot application to your county registrar

Click here for an Absentee Ballot Application

Click here for Absentee Ballot/Early Voting status

Candidates Elected:	Officials Elected Statewide
District Maps:	Congressional District Maps
U.S. Congress:	District 005
Georgia Senate:	District 03b
Georgia House:	District 05b
Judicial:	Atlanta District
Commission:	District 004
City Council:	District 002
Muni Brd Educ:	District 001

Click Here for Qualified Candidates

Please Note: Polling places are subject to change. Always check your designated polling place location via this website prior to going to vote.

Newly Registered Voters: Please review your registration date which is located under your name and address above. You must be registered on or before the established deadlines to vote in upcoming elections. Please view the current election calendar to confirm the first election in which you will be eligible to vote.

State of Georgia
County of Bibb

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

I was an approved Republican poll watcher at Turning Point at Mabel White Baptist Church HO3, on November 3, 2020, when I observed unused provisional ballots which were counted and left unsecured. They were placed on top of a suitcase. Later, they were placed in an open crate. As they were taking the final load of ballots, the poll manager asked where they were, and none of the poll workers answered. I had to tell him where they were.

Only one of the ballot suitcases was secured with a red seal. I asked why the second one was not sealed, and I was told by the poll manager that it was not needed.

I was not allowed to witness the counts on the machines: I asked to see the numbers, and I was told that they would give the counts to me.

I know and understand the contents of the statement above; and I do swear or affirm the statement to be true. Today's date is 11/10/2020.

[redacted] [redacted]

ADDRESS: 132 Brighton Court, Macon, Georgia 31210

TEL./CELL: 478-361-1105 FORM OF ID: GA Driver's License

SWORN TO AND SUBSCRIBED BEFOR ME,
THIS THE 10th day of November, 2020.

Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

LAUREN DEAL NOTARY PUBLIC BIBB COUNTY GEORGIA EXPIRES 01/14/2024

[redacted]

I, [redacted] make the following declaration regarding my personal vote in the general election on November 3rd, 2020.

On Tuesday November 3rd, 2020 I went in person to vote at Park Tavern, precinct 02K, Fulton county, georgia. I arrived at 5:40 am. I was the second person in line. Everything seemed normal, show ID, get voter card, vote and scan in printed ballot.

There is no record of my vote on Georgia's my voter page - https://www.google.com/url?q=https://www.mvp.sos.ga.gov/MVP/mvp.do&source=gmail-imap&ust=1607294080000000&usg=AOvVaw1GQMRUOURlVSDfXOMIId3Z

[redacted]

Notary 11.29.20 date

Lynda Nesbitt
NOTARY PUBLIC
Cobb County, GEORGIA
My Commission Expires 10/09/2023

commission exp 10/09/2023

STATE OF GEORGIA

COUNTY OF FULTON

DECLARATION OF [redacted]

Pursuant to 28 U.S.C. 1746, I, [redacted] make the following declaration:

1. I am over the age of 21 years, and I am under no legal disability which would prevent me from giving this declaration. If called to testify, I would testify under oath to these facts.

2. I am a resident of Fulton County, Georgia.

3. On Sunday, November 29, 2020, I was present as an observer for the Republican Party at the Georgia World Congress Center to observe the recount of the November 3, 2020 election for Fulton County. I was there from 8:00 a.m. to approximately 1:30 p.m.

4. At around 11:00 a.m. I noticed that the recount appeared to have stopped.

5. I asked a group of observers for the Democrat Party why they were taking a break and they replied that they were waiting for "the change" to take place from the early voting recount to election day voting recount. I understood that to mean there would need to be made a change in the system in order to continue with the election day voting recount.

6. It was noteworthy that the Democrat observers were privy to information that the Republican observers were not given.

7. I proceeded to ask the person supervising the recount, a woman by the name of Mable (her last name was unknown to me), who would be making "the change" in the system needed to go from early voting recount to the election day recount. She replied it would be a man who was presently in the back. She did not give me his name.

8. I asked the supervisor when the change to the system would be completed. She said that she did not know, and then said that perhaps it would be after lunch.

9. I drew the logical conclusion that "the change" to which the supervisor and Democrat observers were referring was a change in the software of either the voting machines and/or the scanners as these were involved in the recount. All that was clear is that they could not proceed with a recount of the election day ballots because they were making some change to the voting system.

10. Around 1:00 p.m. I asked the supervisor once again when the change in the system would be completed, as the recount remain stopped.

11. The supervisor responded that the man who was making the system change "left to get something he needed."

12. When I left the Georgia World Congress Center at approximately 1:30 p.m. the alleged "change" in the system was still not completed and the recount had still not restarted.

13. I was present at the Georgia Congress Center on Wednesday, November 25, 2020 for approximately five hours to serve as an observer of the recount for the Republican Party. At no point did I observe a stop in the recounting or the need to make any changes to the system (voting machines or scanners).

14. I am a technology professional with over thirty years experience. I find it highly questionable that the recount would have been stopped for the alleged reason given, and for that length of time, for several reasons: (1) The ballots used for the early voting are the same as those used as on election day, the only difference being the date on which they were received; (2) Having just gone through an election, it should not have been necessary to make changes to the system at this point; and 3) Taking 2 ½ hours or more to make changes to the system so that the election day recount could proceed seemed unreasonable.

15. I am concerned that the reasons given for stopping the election day recount appears to be pretextual. This begs the question of what was truly being done to the voting system during this time.

16. I am further concerned that changes that were being made may interfere with the ability to recover the full history of what transpired in the use of the voting machines and scanners in this election.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: November 30, 2020



Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted], make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. Briana Cauffman is my daughter. She is 33 years old. In 2019 she was convicted of committing a Federal crime and sentenced to serve 3 years in prison and 3 year probation period. In 2020 I received Official Election Ballots in the mail for the 2020 Election, Exhibit A. On November 6, 2020, I received a Postcard thanking her for being a 1st time voter and stating "How you vote is secret, but whether you vote is Public information." Exhibit B.
3. [redacted]
4. Unrequested Official Ballots mailed to my home for someone that is a convicted felon, currently incarcerated, and her Rights have not been restored, including her Right to Vote.
5. Photograph of Ballots described as Exhibit A.
6. Photograph of Postcard described as Exhibit B.
7. Photograph of Envelope from Briana Cauffman, Inmate #84173298, from Federal Prison Camp, Phoenix, AZ, Inmate correspondence, date stamped November 19, 2020 as Exhibit C.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

[redacted]

Exhibit A

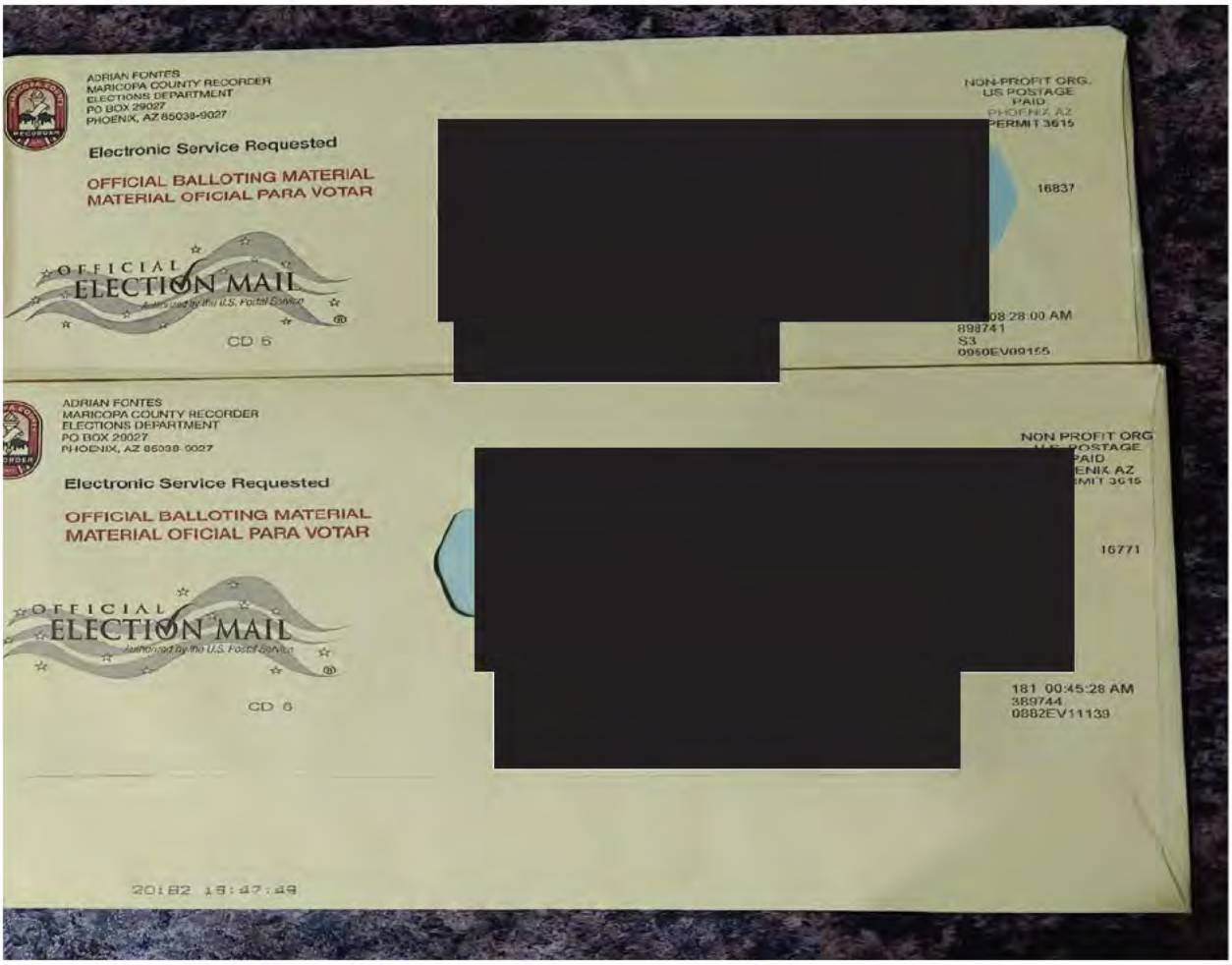

ADRIAN FONTES
MARICOPA COUNTY RECORDER
ELECTIONS DEPARTMENT
PO BOX 29027
PHOENIX, AZ 85038-9027
Electronic Service Requested
OFFICIAL BALLOTING MATERIAL
MATERIAL OFICIAL PARA VOTAR
OFFICIAL ELECTION MAIL
CD 5
NON-PROFIT ORG.
US POSTAGE
PAID
PERMIT 3615
16837
898741
S3
ADRIAN FONTES
MARICOPA COUNTY RECORDER
ELECTIONS DEPARTMENT
PO BOX 29027
PHOENIX, AZ 85038-9027
Electronic Service Requested
OFFICIAL BALLOTING MATERIAL
MATERIAL OFICIAL PARA VOTAR
OFFICIAL ELECTION MAIL
CD 6
NON PROFIT ORG
16771
181 00:45:28 AM
389744
0882EV11139
20182 18:47:49

Exhibit B

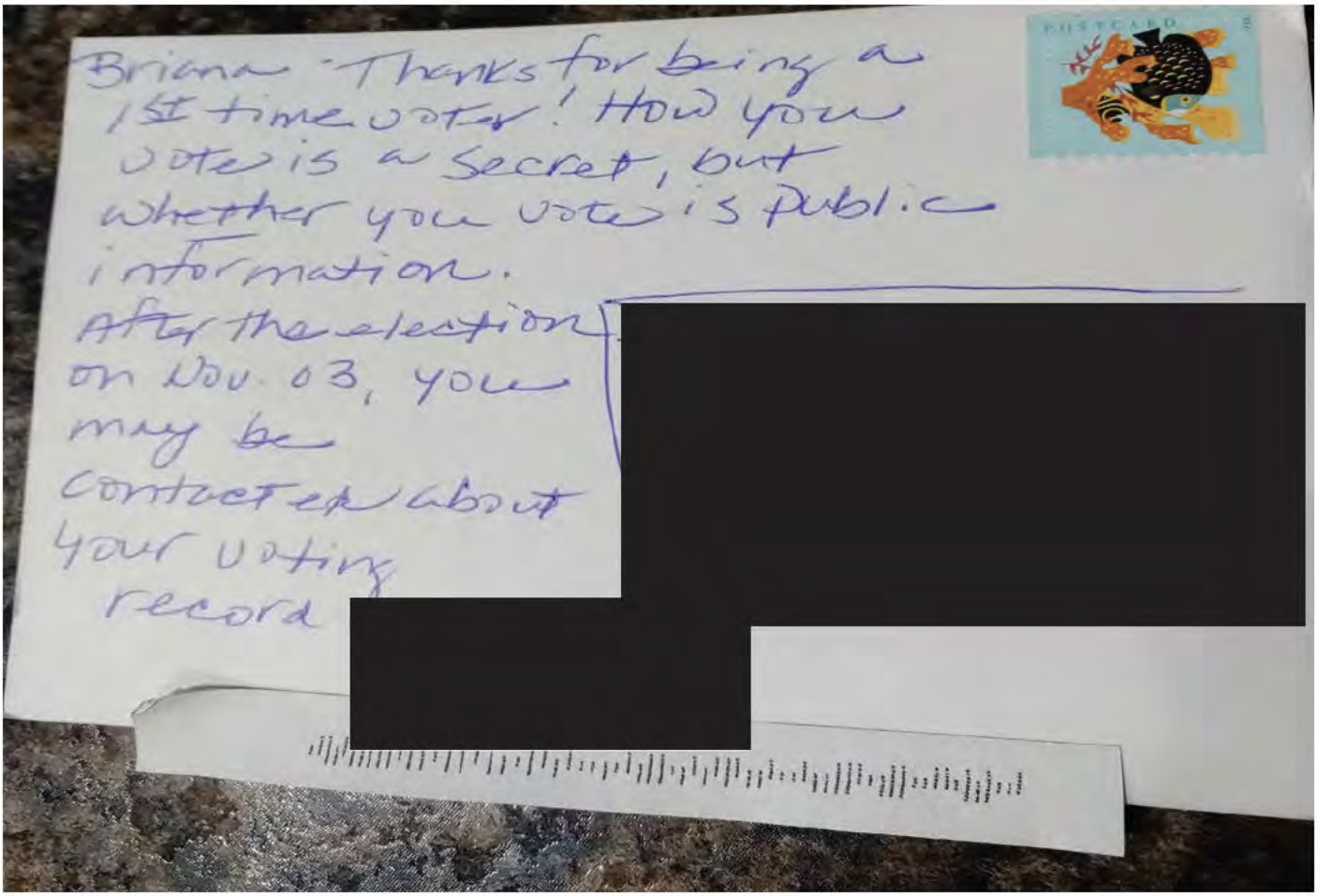
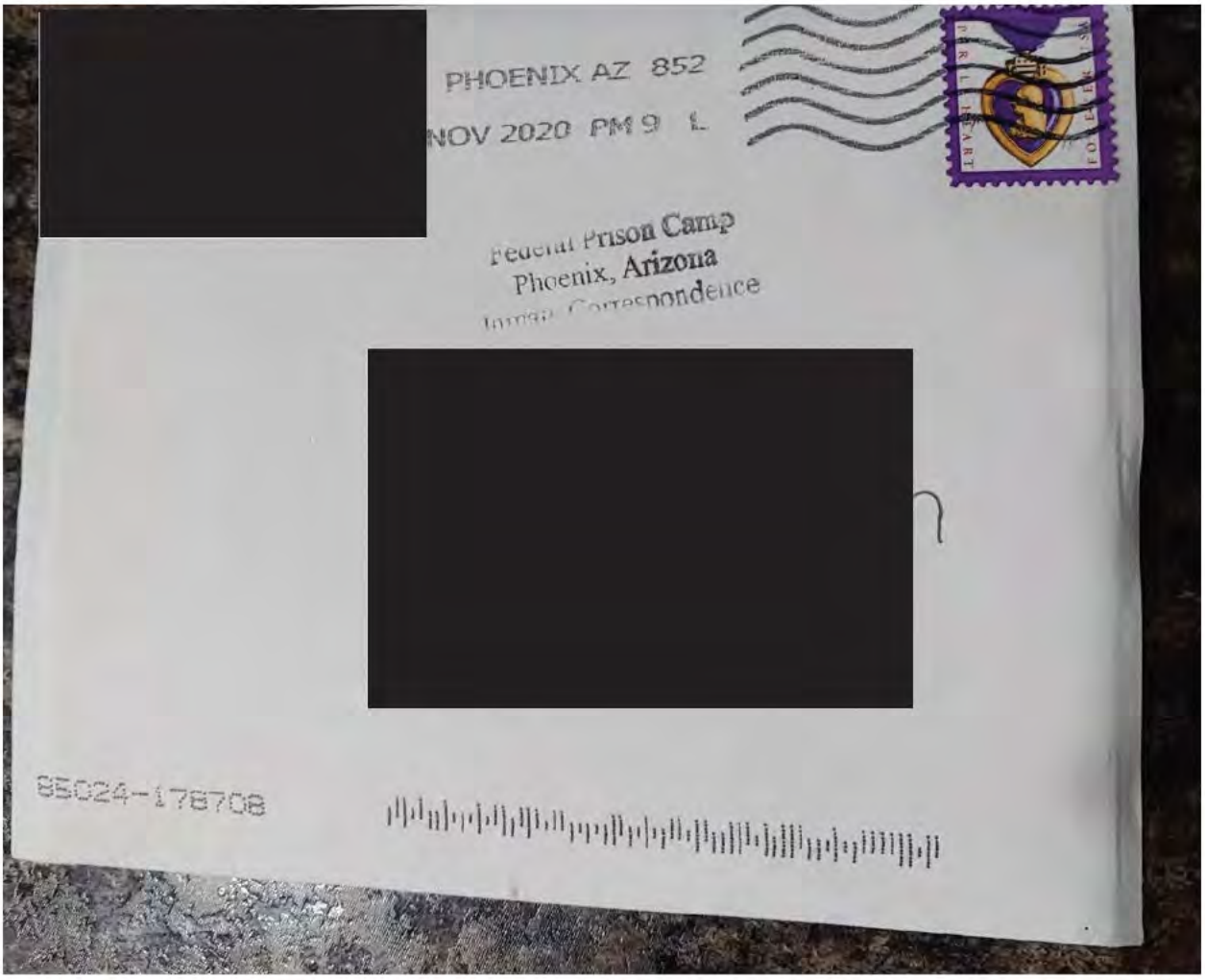

Brianna - Thanks for being a 1st time voter! How you vote is a secret, but whether you vote is public information.
After the election on Nov. 03, you may be contacted about your voting record
[redacted]
[redacted]

Exhibit C


[redacted]
PHOENIX AZ 852
NOV 2020 PM 9
Federal Prison Camp
Phoenix, Arizona
Inmate Correspondence
[redacted]
85024-178708

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted], make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I am a trained physical therapist, serving as a captain in the United States Air Force.
3. I reside at Keesler Air Force base at 211 Vandenberg Drive, Biloxi, MS, 39531
4. My affidavit highlights that I received multiple ballots for the general and runoff elections (November 3, 2020 and January 5, 2021.) It also highlights that I voted for President Trump and all Republicans on the ticket.
5. At the end of September, I requested UOCAVA absentee ballots from the McDonough elections office. The e-ballots I had previously requested would not print correctly. The watermark and printing capacity failed multiple times, leading my wife and me to request mail-in ballots. She was told by McDonough elections office worker, Jan Mayo, that the watermark did not matter and reassured her that they compare each ballot with our signatures. Concerned that our ballot would be rejected due to cosmetic variance, we each requested mail in ballots.

6. We received our first ballots from Elections and Registration (Postmarked on the 26th of September, 2020) from the address: 40 Atlanta St. McDonough, GA, 30253. These ballots included duplicate run off ballots for January 5th (printed on normal paper, one missing an envelope) and a ballot and envelop for a runoff December 1st. We each filled out our November 3rd ballots, voting for President Trump, Senator Kelly Loeffler and all other listed Republicans. We sent these in around the 12th of October.

7. Probably a week or two later, my wife and I received a new set of ballots (which we have kept for proof) from the Georgia Secretary of State, Elections Division located at 2 Martin Luther King Jr. Dr. SE. 802 West Tower. Atlanta, GA, 30334. These came via presorted First Class mail, marked in the top right corner "PAID GEORGIA SECRETARY OF STATE." I could not find a watermark on the envelopes so do not have the exact date of their arrival. These did not include run off ballots. The envelops were not in color, came from the Georgia Secretary of State, and came from a different address. However, the return address was to the McDonough elections office, not the address in Atlanta from which they came. All these minor details concerned me. The ballots appeared official and had Copyright 2020 Dominion Voting Inc All Rights Reserved at the top.

8. Concerned that fraud was occurring, my wife left two voicemails for Jan Mayo at the McDonough election office. She never heard back from her.

9. Finally, postmarked the 20th of November, we each received another set of runoff ballots for January 5th. These came from Elections and Registration at 40 Atlanta Street, McDonough, GA. 30253. They were printed on official cardstock paper and came in the normally colored red envelope. These were, in summary, the third set of ballots we received for a runoff election January 5th.

10. If 100% of military absentee ballots in GA were reported to have voted for presidential nominee Joe Biden, there is no doubt that there was voting fraud since my wife and I went to great effort to ensure that our votes were submitted for President Trump. We took them to the post office, carefully filled in each selection, and have kept every piece of extra ballots we have received as evidence.

[redacted]

[redacted]

Declaration of [redacted]

[redacted] 28 U.S.C Section 1746, I, (Name), make the following declaration.

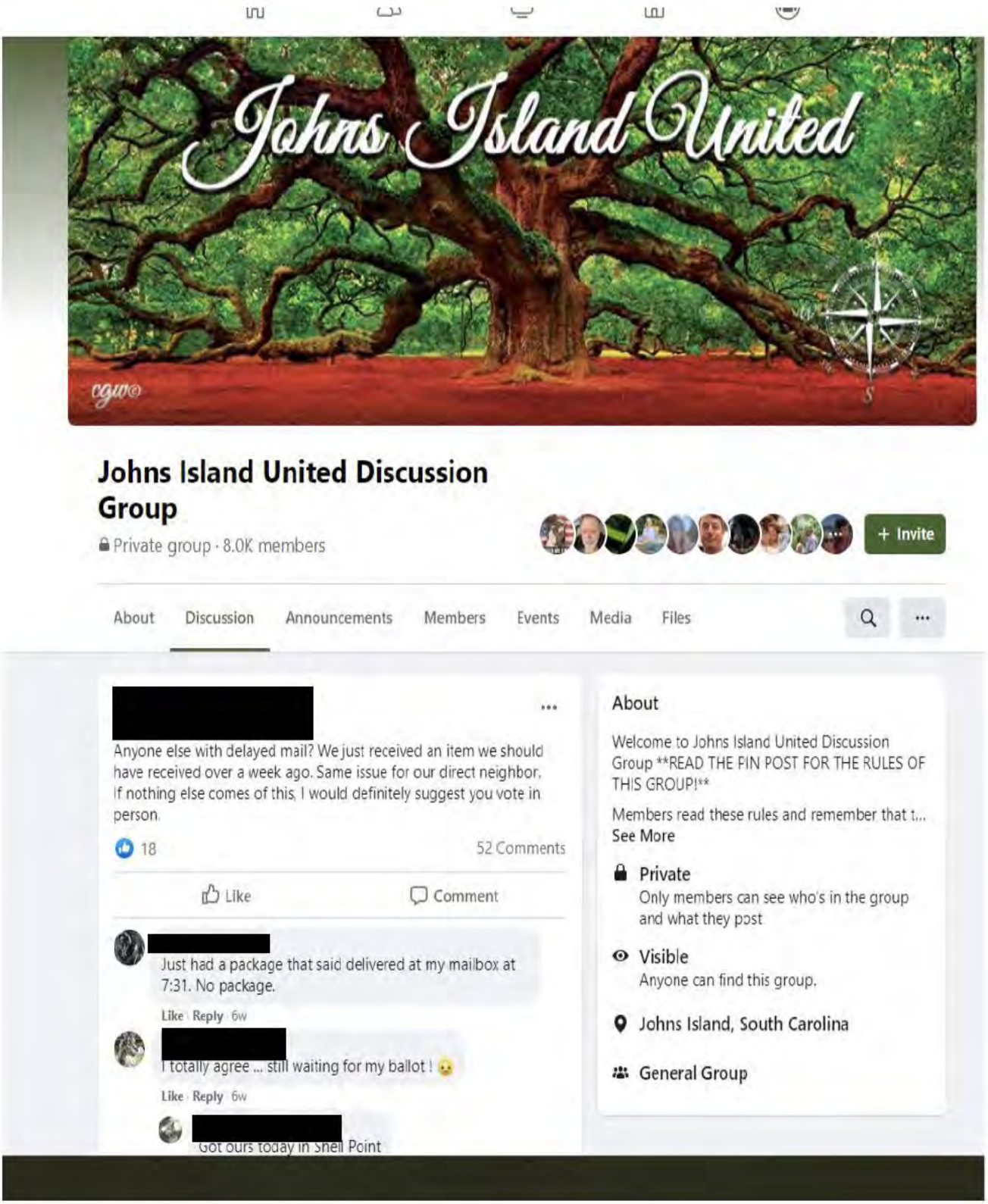
1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. Detail background and qualifications: SC resident, mother, wife, voter, concerned citizen with Masters in Ed, Guidance, BA Psych, BA Health Car Admin.
3. [redacted]
4. My affidavit highlights: noticed mail irregularities(5), election day concerns(6), and GA ballot harvesting as a non GA resident(7).

5. Info: October 2020: I noticed we had not received some bills, packages and other mail in a timely fashion. October 13 I posted a message to a local facebook page "Johns Island United Discussion Group" 52 comments are attached. Word and pdf of screenshots are attached. Much of the conversation references lost, slow mail, missing, destroyed and lost ballots, confusing guidance on ballots vs voting in person, one resident contacted Joe Cunningham and a congressional inquiry was made, voter concern, contact with businesses who claim mail is slow everywhere.
6. Info: Election day: We were assigned a new venue, Berkely Electric on Johns Island. Berkely has very little public parking available for such an event. We arrived at 6:30 a.m. & a.m. we were told computers were down. A man ran from the building to a car for an extension cord, 15-20 minutes later we slowly began to enter. Between the delay and poor parking availability, I witnessed cars

leaving without voting. Cars pulled in the lot and quickly pulled back out.

7. Info: Sat Nov 21- I received this text: Hi Katie, this is Molly, a volunteer with Fair Fight. On January 5th, Georgia voters have the chance to elect 2 U.S. Senators who can expand access to healthcare throughout the state and lift our families out of our current public health crises. We also have the chance to elect a Public Service Commissioner who will advocate for clean and affordable utilities for hardworking families like ours. We can't afford to sit this election out. Request your mail-in ballot for the January 5 election TODAY at https://ballotrequest.sos.ga.gov/. Can we count on you to request your ballot today? [STOP2QUIT] ***I have no affiliation with Georgia, I did not request a ballot and Fair Fight is a Democrat voter harvest scam as far as I researched.
8. I am just one person noticing 3 separate concerns in an uncontested state.




Johns Island United
Johns Island United Discussion Group
Private group · 8.0K members
+ Invite
About
Discussion
Announcements
Members
Events
Media
Files
[redacted]
Anyone else with delayed mail? We just received an item we should have received over a week ago. Same issue for our direct neighbor. If nothing else comes of this, I would definitely suggest you vote in person.
18
52 Comments
Like
Comment
[redacted]
Just had a package that said delivered at my mailbox at 7:31. No package.
Like · Reply · 6w
[redacted]
I totally agree ... still waiting for my ballot !
Like · Reply · 6w
[redacted]
Got ours today in Shell Point
About
Welcome to Johns Island United Discussion Group **READ THE FIN POST FOR THE RULES OF THIS GROUP!**
Members read these rules and remember that t...
See More
Private
Only members can see who's in the group and what they post
Visible
Anyone can find this group.
Johns Island, South Carolina
General Group


Johns Island United Discussion Group
[redacted]
Got ours today in Shell Point
Like · Reply · 6w
Write a reply...
[redacted]
That's funny I'm getting my mail on time and also get my ballot and mailed it off with no problem.
Like · Reply · 6w
1
[redacted] sounds like you're one of the lucky few.
Like · Reply · 6w
1
Write a reply...
[redacted]
Have not received any mail since last Friday on Betsy Kerrison Pkwy.
Like · Reply · 6w
[redacted]
We are on Seabrook and it's been terribly slow
Like · Reply · 6w
[redacted]
Still no ballot that was mailed on September 29.
Like · Reply · 6w
[redacted]
Joan Frey Loughry go vote at the coliseum. We didn't get ours either.
Like · Reply · 6w
[redacted]
Ed-Loretta Mccoy I was told by election officials that we can't vite in person since we signed uo for absentee. How did you do it?
Like · Reply · 6w
[redacted]
(2) Johns Island Uni...


Johns Island United Discussion Group
Like · Reply · 6w
[redacted] yes you can. They even have an extra line for the ones that were going to vote absentee and didn't get their ballots. Very easy.
Like · Reply · 6w
1
[redacted] thank you! Even the election office doesn't know its own rules.
Like · Reply · 6w
1
[redacted] You can also take your mail in ballot with you and surrender it to poll workers, then vote in person.
Like · Reply · 6w
[redacted] that's the problem. We haven't recieved our ballot!
Like · Reply · 6w
[redacted] I returned my completed application on 9/15 and received my ballot on 10/8. My neighbors got theirs the same day. You can go on the website to check the status of your ballot, but who knows how accurate the dates are.
Like · Reply · 6w
[redacted] thanks but i did that. Still no ballot
Write a reply...
[redacted] I emailed Cunningham about the same thing happening to me, and they opened a congressional inquiry. No joke, now all my mail gets held at the post office. It's like they are punishing me for speaking up.

Johns Island United Discussion Group

now all my mail gets held at the post office. It's like they are punishing me for speaking up.

Like · Reply · 6w · Edited

[redacted] orry to hear that and frankly, very concerning.

Like · Reply · 6w

Write a reply...

[redacted]

Yep...had a bill payment take 13 days to get to a credit union. Called them and they said the problem is all over the nation and they had recieved tons of calls about delayed payment matters...and this is supposed to work how with mail-in ballots??

Like · Reply · 6w · 2

[redacted] that's why everyone should vote in-person!

Like · Reply · 6w · 1

Write a reply...

[redacted] surpress voters. Hmmm I wonder who's behind this? I've been fighting with the election office for a week now. Multiple phone calls. Even called the Post and Courier to get them to do an investigation.

Like · Reply · 6w · 2

[redacted] els This is why we are going to drop off our ballots in person

Like · Reply · 6w · 1

[redacted] we plan to drop ours off too. If only we could get our ballot.

Like · Reply · 6w



Johns Island United Discussion Group

[redacted] we plan to drop ours off too. If only we could get our ballot.

Like · Reply · 6w

[redacted] Us too! We sit and wait...

Like · Reply · 6w

Write a reply...

[redacted]

About a month ago I notice a definite trend in mail slowness. Took 9 business days for a card to get to me from NJ. A few weeks ago everyone in my development was talking about the mail that Informed Delivery said was delivered but wasn't.

Like · Reply · 6w

[redacted]

This is happening in our small town in PA. It takes 9 days to get a bill or letter sent. The Postal service has cut down staff and there were other reasons that were explained to her. It's not just here.

Like · Reply · 6w

[redacted]

Yep! Today we didn't get ANYTHING!

1

Like · Reply · 6w

[redacted] I make jokes all the time that our carrier only works 2days a week!

1

Like · Reply · 6w

Write a reply...

[redacted]

A letter we're trying to mail is still sitting in our mailbox. Received no mail today either (of course). What's going on?!


Johns Island United Discussion Group
[redacted]
A letter we're trying to mail is still sitting in our mailbox. Received no mail today either (of course). What's going on?!
Like · Reply · 6w
[redacted]
Mailed my ballot and get text messages about its progress in delivery
1
Like · Reply · 6w
[redacted]
Sign up for Usps updates of what should be delivered to you today. As for your ballots, drop them at the boxes at the post office. We dropped ours Friday and got text and email confirmation they had arrived at the voting hq Sat evening.
1
Like · Reply · 6w
[redacted]
Still waiting for my husband's two birthday cards I mailed on August 19 to come to our house.
Like · Reply · 6w
[redacted]
Still have not received ballot that supposedly was mailed 9/29!!!
2
Like · Reply · 6w
[redacted]
Call the Director of Elections for the state of South Carolina. Her name is [redacted]. She's very helpful and needs to know what is going on here in Charleston!
2
Like · Reply · 6w
[redacted]
tried her but no answer. Called local support and they said 29455 was running late (really !) and they should arrive by Friday. If not, call (843) 744-8683 and update their info. Ballots did not go out until 10/2 as opposed to 9/29 date published.
(2) Johns Island Uni...



Johns Island United Discussion Group

(really !) and they should arrive by Friday. If not, call (843) 744-8683 and update their info. Ballots did not go out until 10/2 as opposed to 9/29 date published.

Like · Reply · 6w



[redacted] she had our absentees ballots reissued. Said they got chewed up in a machine (?). I was told all ballots were mailed from either Maryland or Florida (where they were printed) on Monday October 5. I wish the elections office would get their story straight!

Like · Reply · 6w



Write a reply...



[redacted] I filed a complaint with the postal service for not receiving mail for over a week and a Johns Island postal worker called me. She said they do not hold any mail at the Johns Island location. We received no mail last week and then 3 checks and 3 packages all at once yesterday. Two checks were mailed 2 weeks ago and one was mailed on Friday of last week. So the mail is being held SOMEWHERE. Maybe not on Johns Island but somewhere. It makes zero sense!

Like · Reply · 6w



[redacted] feel that neither the elections office nor the USPS is being honest. Could they be on a mail carriers car? Stuffed in a back room at the PO? Or something more sinister? Hmmmm

Like · Reply · 6w



[redacted] definitely concerning

Like · Reply · 6w



Write a reply...


Johns Island United Discussion Group
[redacted] Loughry definitely concerning
Like · Reply · 6w
Write a reply...
[redacted]
It's the Post Office for sure, Johns Island population as almost tripled since 2000.
Yet they still close between 1-2:30 everyday, when I asked they said it's to conserve energy !
Haha
Like · Reply · 6w
2
[redacted] Replies
[redacted]
I also spoke with Marci Andino, the Executive Director of the State Election Commission and she was very helpful. She suggested those who have not received their ballots to give it until Friday of this week. She said there were about 1,000 ballots that got damaged and were mailed yesterday. If you do not receive it by Friday, you should call the Charleston County Election Commission.
Like · Reply · 6w
[redacted] thanks for this helpful information!
Like · Reply · 6w
1
[redacted] hank you for the info ! I've been checking everyday , and still no ballot . I'm planning to vote in person at this stage - don't trust the mail in !
Like · Reply · 6w
1
[redacted] giving it a little more time, but tracking it closely.
Like · Reply · 6w
Write a reply...

[redacted]

[redacted] ving it a little more time, but tracking it closely.

Like · Reply · 6w

Write a reply...

[redacted] I got my ballot in mail after requesting it and arrived promptly. Spouses as well. Mail service seriously lagging behind because we usually get good service. Been waiting on a package with delivery date last week. Heard thousands of ballots were sent.incorrectly so resending those but this was in WA area. not JZI.

Like · Reply · 6w 1

[redacted] Yes! I received several bills (I've already paid) in the mail TODAY that I typically receive around the 9th.

Like · Reply · 6w

[redacted] I talked to the postmaster at the JZI post office about the appearance of the grounds between the road and the parking lot. There are dead trees that have been there for almost 2 years and the grass should be cut more often. It's an eyesore. He told me it was because of Covid. I told him that had nothing to do with covid! That was 2 months ago and nothing has been done! I'm not giving up! The James Island P.O. doesn't look this bad! If you know who I should contact, please message me! Again, I am not giving up!!

Like · Reply · 6w 3

[redacted] up Cunningham's office! They have a [redacted]al coordinator who can file a complaint with USPS. If you go to his website, there's an option to shoot him an email

Like · Reply · 6w

[redacted] Thank you!!

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted], make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I hold dual Doctorates and dual Masters in Economics and Management Science & Engineering from Stanford University and a BS in Economics from Arizona State University. I hold roles in the public sector, private sector, and higher education.
3. I [redacted].
4. Georgia uses Dominion Voting Systems (DVS), which has a history with technical glitches that have not been fixed. DVS was rejected three times in Texas because of its inherent defects. It has caused multiple anomalies and delays. In Gwinnett County alone, these software glitches have affected roughly 80,000 mail-in ballots.

   Although election officials have said that these glitches have been corrected and are not reflected in the final tallies, it is hard to take these statements on faith without any evidence, particularly given DVS' bad track record. Moreover, it is also possible that there are many other instances of "glitches" that were not caught.
5. These glitches are on top of those that occurred in Morgan and Spalding counties. Marcia Ridley, elections supervisor at Spalding County Board of Election, said that the company "uploaded something last night, which is not normal, and it caused a glitch," preventing poll workers from "using the pollbooks to program the

smart cards that voters insert into voting machines" and causing delays for voters.

6. Roughly 1.5 million Georgia voters requested absentee ballots, which is far above the 200,000 absentee ballots from 2016, and is 30% of their estimated 5 million voter turnout. 6. As of November 6th at 6pm, Georgia election officials said that more than 14,200 provisional ballots needed to be counted. Jeff Greenburg, a former Mercer County elections director, remarked that over his 13 years in the role, he had only processed 200 provisional ballots in total and it would take his county 2.5 days to process 650 provision ballots. That implies nearly 55 days to approve, which suggests that the current pace they are approving provisional ballots is implausibly fast if they intend to call the election soon.

   It is also curious that the correlation between the number of mail-in votes for Biden net of Trump and the 2016 share of votes for Clinton is stronger than the total votes for Biden net of Trump. This evidence is consistent with the view that manipulation is easier with mail-in votes and more likely to occur where there is less Republican competitive oversight (e.g., poll watchers turned away).

7. The counties with the greatest reported software glitches and delays are also the counties with the biggest swings in votes for Biden. The list of numbers below tabulates the percent change in Democrat votes from one election to the other for some of the most Democrat counties in the state. Importantly, the increase between 2020 and 2016 is systematically larger than the 2008 to 2012 or 2012 to 2016 increases: for example, the median (mean) increase from 2016 to

2020 for these counties was 27% (30.6%), whereas they were only 11.5% (9.8%) and -4% (-2.8%).

These are anomalies that evidence a high likelihood of fraudulent alterations within the software or the system.

Increase in Democrat Votes from Election-to-Election, in %

County 2008-2012 2012-2016 2016-2020

Fulton -6% 16% 28%

DeKalb -6% 6% 22%

Gwinnett 3% 25% 45%

Cobb -6% 20% 38%

Chatham -4% 3% 26%

Henry 8% 14% 46%

Muscogee -4% -6% 24%

Bibb -1% -5% 18%

Douglas 2% 9% 37%

Clarke -14% 16% 22%

Mean -2.8% 9.8% 30.6%

Median -4% 11.5% 27%

These changes alone are highly suspect. The 2016 to 2020 increase in Democratic votes is at least over double in these counties. Moreover, all

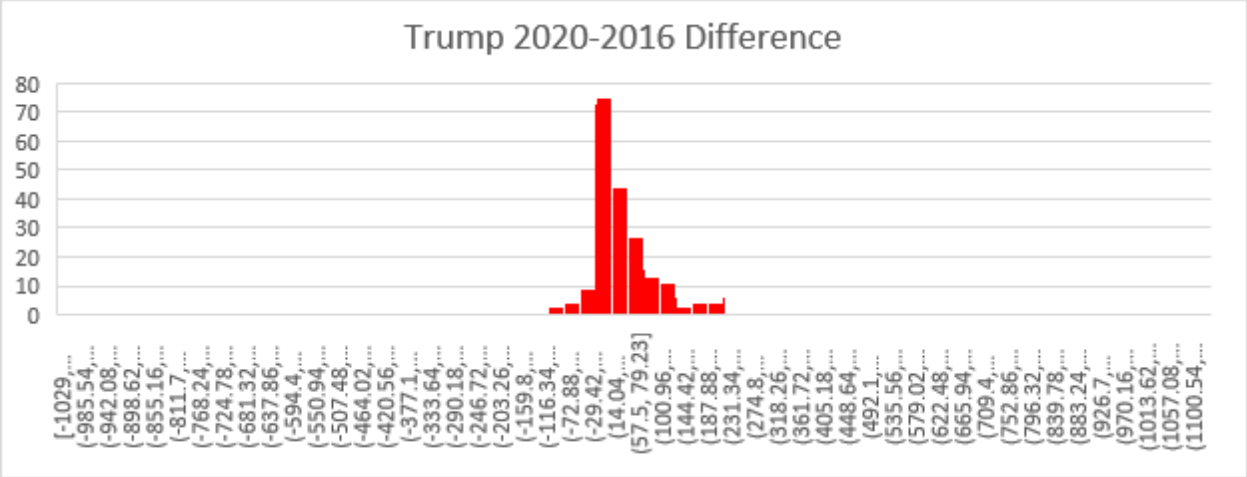
it takes is one or two counties, like Fulton, to become a hotspot for fraud for it to sway the overall election outcome, particularly via Atlanta.

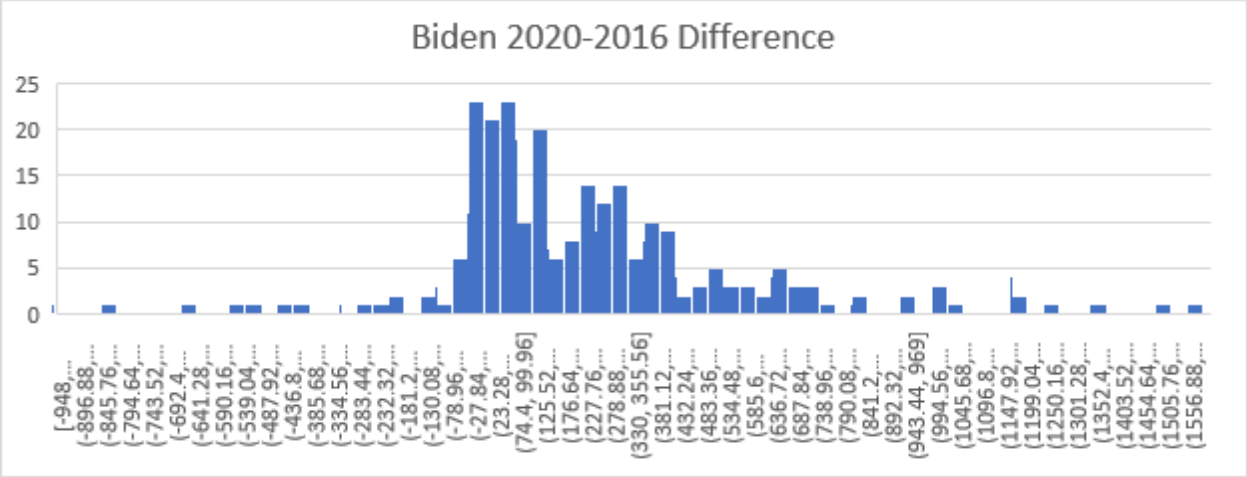
Moreover, as a control group, consider the fact that counties that are on the Northeastern border of Alabama have a much lower increase in Democrat votes for Biden. These counties are comparable given their proximity, making the especially large surge in Georgia more suspect.

There are also many precincts within these counties that have highly suspect numbers. For example, 97% of the votes are for Biden in SC16A (Fulton County) and 97% in Snapfinger Road (DelKab). Many more examples abound. The distribution is also highly skewed towards Biden: whereas 10% of the precincts have an over 95% Biden vote, none of the precincts have an over 90% Trump vote. Given the historical distribution of votes from 2016, this fact pattern is suspect.

8. One diagnostic for detecting fraud involves Benford's law. In the case of election fraud, that means looking at the distribution of digits across votes within a specified geography. Using precinct level data for Georgia, my research identified 1,017 suspicious precincts out of 2,656 when we look at advance ballots. Even more precincts (1,530) were flagged as suspicious for election day votes. While Benford's law is not a silver-bullet for identifying fraud on its own, it suggests suspicious activity that warrants additional attention.
9. Yet another way of detecting statistical anomalies involves looking at the distribution of the change in 2020 to 2016 vote shares of Trump and Biden. Whereas the distribution for Trump is perfectly "normal," the distribution for Biden is non-normal: it is skewed heavily to the

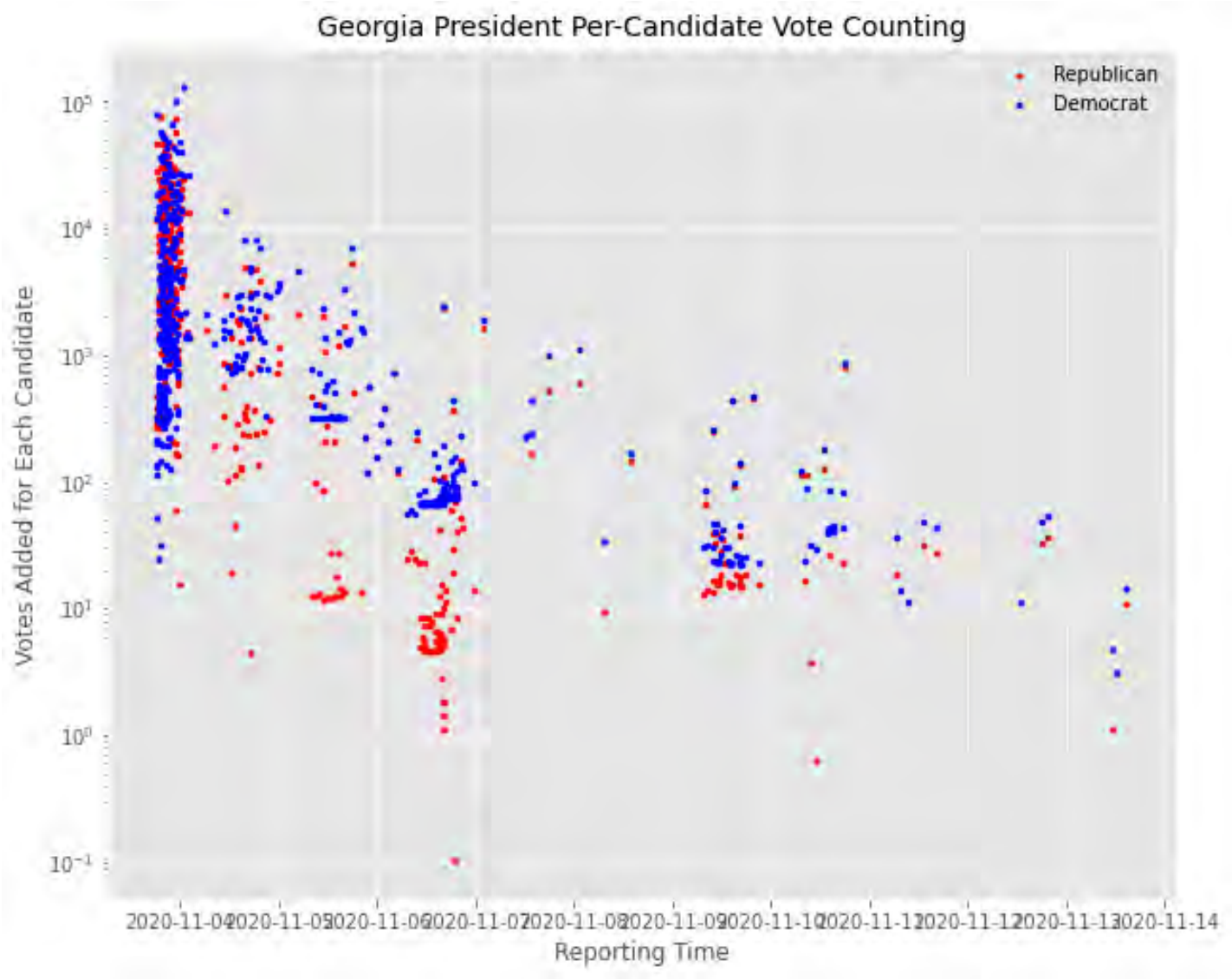
right. This is not present in other states that do not have similar concerns about fraudulent activity, but is present in the states with those concerns (e.g., Pennsylvania too).





10. There were many puzzling incidents across states, including Georgia, where surges of votes for Biden were observed at odd hours of the morning of November 4th. In particular, preliminary analysis on the live Edison Research data reveals that new ballots were coming in increasingly more slowly, but they were larger for Democrats than for Republicans. The combination of the pattern and

timing is puzzling, particularly since it is not present in other states, like Florida, that do not have similar concerns about fraud.



I declare under penalty of perjury that the forgoing is true and correct.

Executed this November 16, 2020.

[redacted]

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted] make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. My background and qualifications:

   I retired on March 22, 2013 after developing software for 32 years. When I retired I was the IT manager of the County of San Bernardino's PeopleSoft HRMS/Payroll application known as EMACS. I was the IT project leader during initial implementation in 1998 and had been managing all IT aspects of the system since then. I've been through four application upgrades and three Oracle upgrades. The County's EMACS system profile; PeopleSoft HRMS 9.0/PeopleTool 8.48.17 on Oracle 11.2.0.3.0 on Win 2008 R2. We implement core HRMS, Benefits Administration, Payroll for North America, Time and Labor, eBenefits, ePay. We paid 19,000 employees in 29 benefit groups approximately $34,000,000 biweekly.

   Prior to my involvement with the EMACS system I was the project manager responsible for design, development and implementation of the following applications for the County of San Bernardino:

   - FAS Financial Accounting System
   - San Bernardino County Employee Retirement Payroll system
   - San Bernardino County Employee Retirement Contribution Tracking system

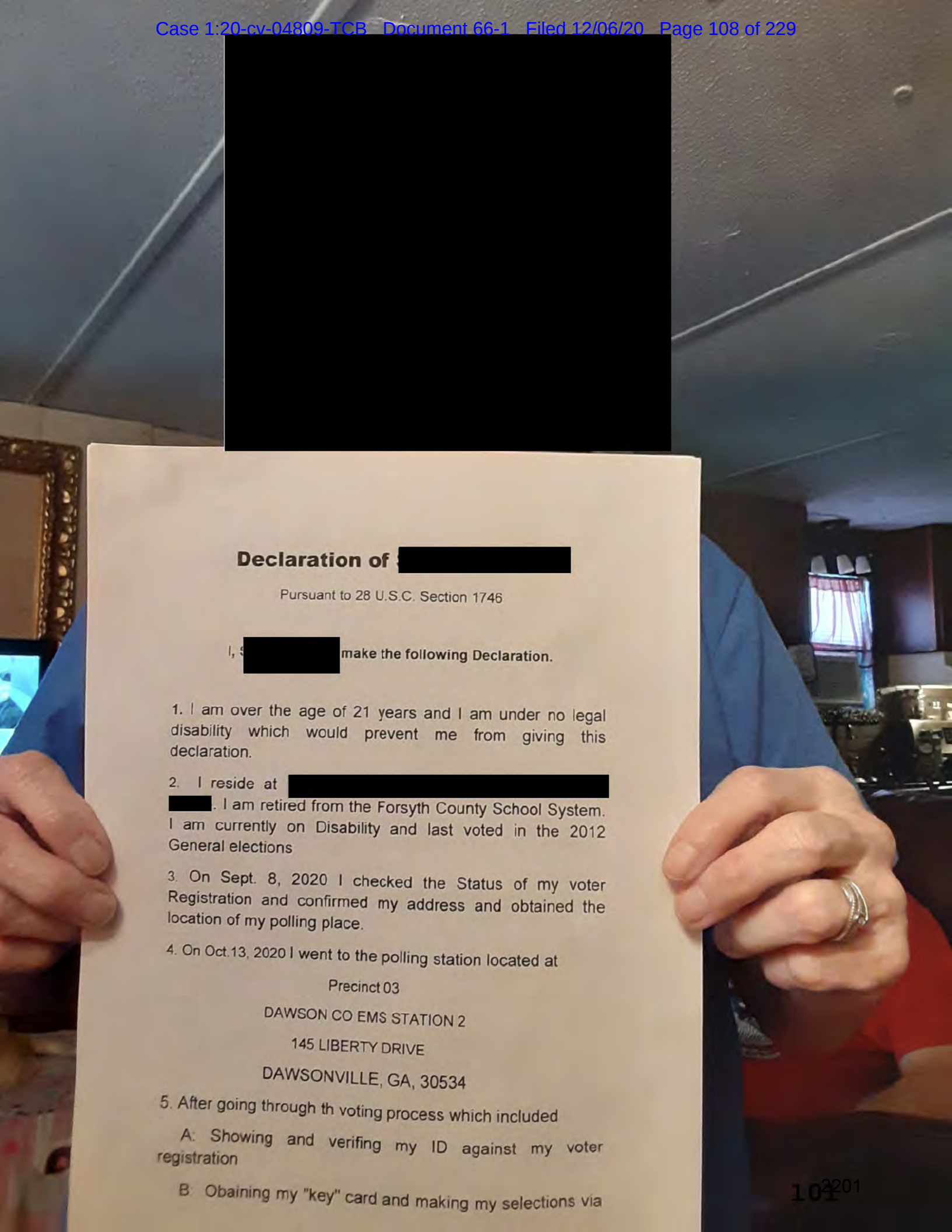
Prior to my work at the County of San Bernardino I worked as a consultant for a company called Computer Assistance Inc. and I worked on two fixed priced projects for the City of Los Angeles;

- Animal Management System
- Application Management system (recruitment application). One of my responsibilities was to program the scanning machines to capture the results of employee scantron tests into the system.

3. I reside at ***** Riverside California
4. I performed an analysis of the 4,505,777 absentee ballot records from the Nov 2020 election I obtained from the Georgia election website (https://elections.sos.ga.gov/Elections/voterabsenteefile.do) and I found approximately 589 people who appear to have two or more records that were accepted (ballot status='A') without a corresponding cancel (ballot status='C'). My logic included looking for the same name (first, last, middle and suffix) and street name and reporting any duplicates with a different voter registration number.
5. The records in the spreadsheet appear to me to be people who voted twice. A manual lookup of these records in Georgia's voting system would confirm my findings.
6. I mailed the spreadsheet and SQL logic used to produce the spreadsheet to Lin Wood on Nov 25, 2020.
7. On Nov 27, 2020 I was contacted by an associate of Lin Wood. We discussed my findings, and I was asked if I'd be willing to provide a signed affidavit.



_____Date: 12/3/2020



Declaration of [redacted]

Pursuant to 28 U.S.C. Section 1746

I, [redacted] **make the following Declaration.**

1. I am over the age of 21 years and I am under no legal disability which would prevent me from giving this declaration.

2. I reside at [redacted]. I am retired from the Forsyth County School System. I am currently on Disability and last voted in the 2012 General elections

3. On Sept. 8, 2020 I checked the Status of my voter Registration and confirmed my address and obtained the location of my polling place.

4. On Oct.13, 2020 I went to the polling station located at

Precinct 03

DAWSON CO EMS STATION 2

145 LIBERTY DRIVE

DAWSONVILLE, GA, 30534

5. After going through th voting process which included

A: Showing and verifing my ID against my voter registration

B. Obaining my "key" card and making my selections via

the computer terminal.

C: Inspecting the on screen Ballot before printing the paper copy to scan and cast my official vote and,

D: Scanning my paper ballot and getting my "I voted" sticker

6. I took a selfie of myself and my Husband proudly displaying our "I voted" stickers and posted the image to FaceBook

7. On 11/24/2020 My Daughter and Son-in-Law informed me that the mvp.sos.ga.gov website shows my current voter status as accepted but states that;

A: On Oct.13, 2020 I requested an Absentee/Early voter Ballot

B: On Oct. 15, 2020 The Absentee/Early Voter Ballot was Issued

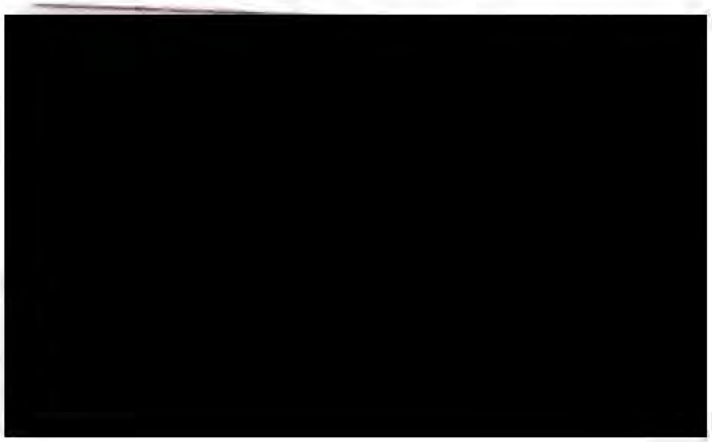
C: On Oct. 15, 2020 The Absentee/Early Voter Ballot was recieved.

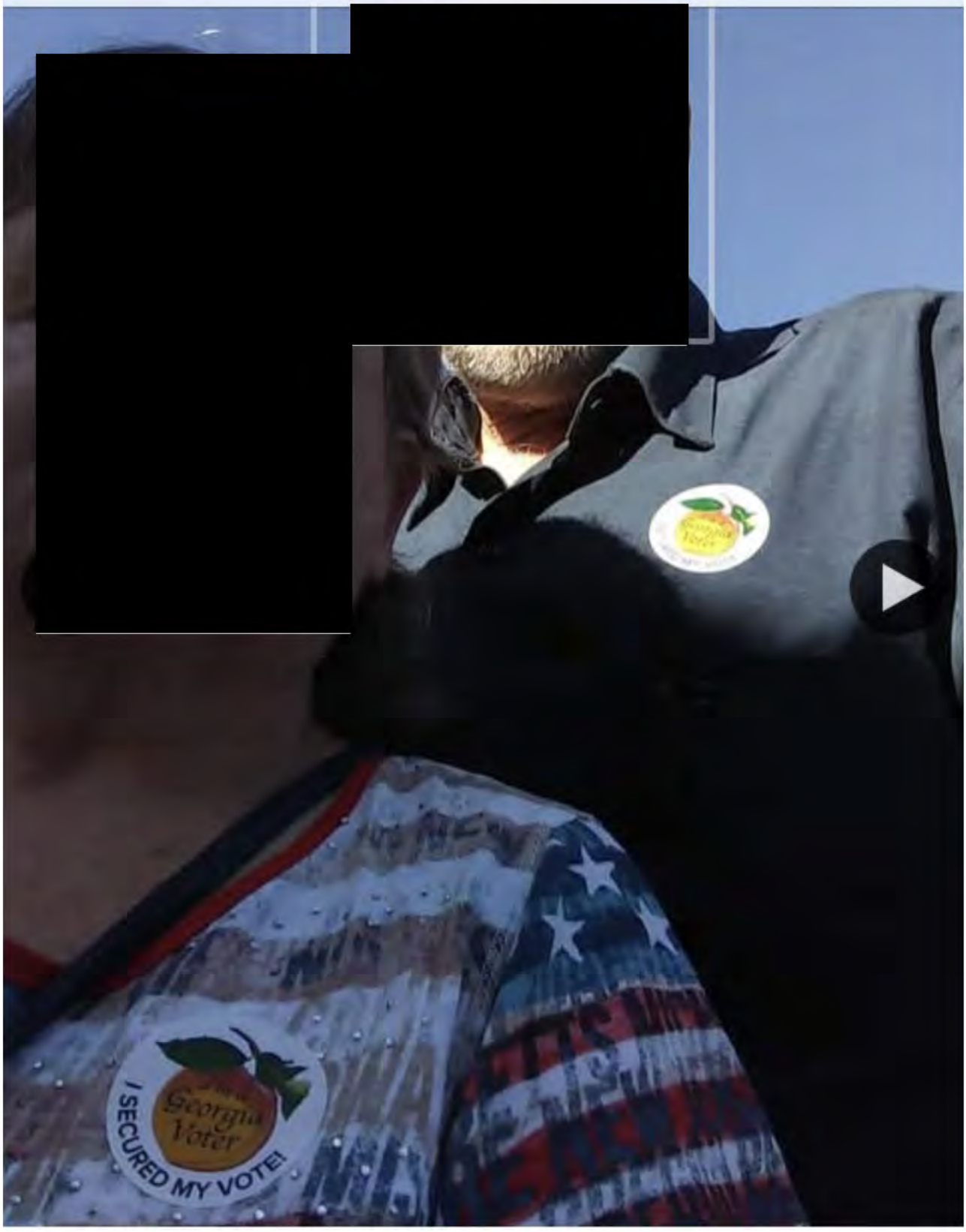
D: A note at the bottom of the box denotes the following:

NOTE: Voting Early in Person will have all three dates the same above.

8. At no time have I ever requested an Absentee Ballot, I declare that I voted in person at the polling place I was assigned

[redacted]

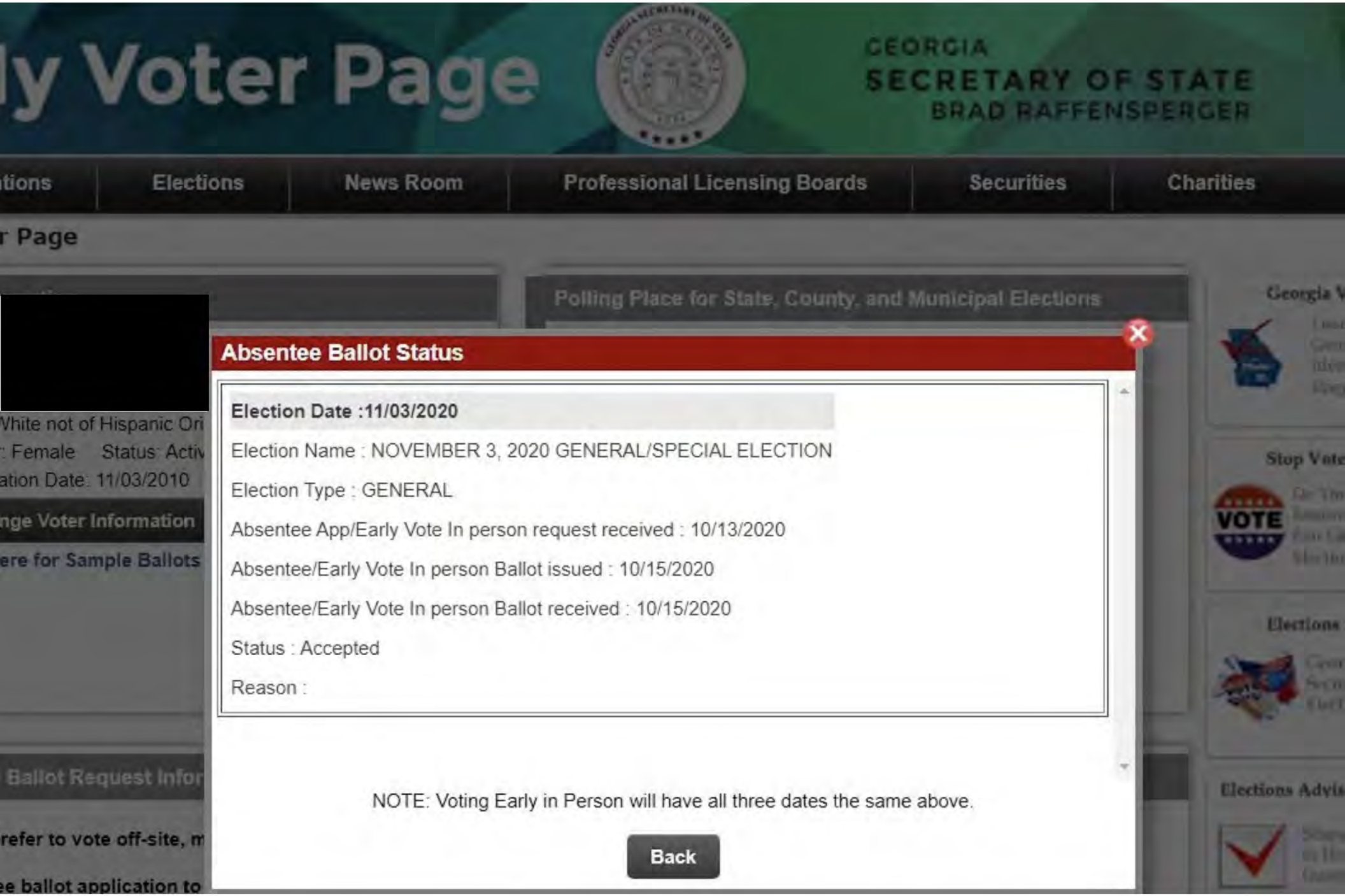




[redacted]

Oct 13 ·

View Full Size · More Options


y Voter Page
GEORGIA
SECRETARY OF STATE
BRAD RAFFENSPERGER
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Elections
News Room
Professional Licensing Boards
Securities
Charities
r Page
Polling Place for State, County, and Municipal Elections
Absentee Ballot Status
Election Date :11/03/2020
Election Name : NOVEMBER 3, 2020 GENERAL/SPECIAL ELECTION
Election Type : GENERAL
Absentee App/Early Vote In person request received : 10/13/2020
Absentee/Early Vote In person Ballot issued : 10/15/2020
Absentee/Early Vote In person Ballot received : 10/15/2020
Status : Accepted
Reason :
NOTE: Voting Early in Person will have all three dates the same above.
Back
White not of Hispanic Ori
: Female Status: Activ
ation Date: 11/03/2010
nge Voter Information
ere for Sample Ballots
Ballot Request Infor
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ee ballot application to
Georgia V
Stop Vote
VOTE
Elections
Elections Advis

Declaration of [redacted]

Pursuant to 28 U.S.C. Section 1746, I, [redacted], make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I am a lifelong resident of Fulton County and the mother of a United States Navy Ensign who graduated from the United States Naval Academy in May of 2020. He currently resides in Perdido Key, FLA while undergoing flight training at Naval Air Station Pensacola.
3. I reside at [redacted]
4. My son, [redacted] is currently registered to vote in Fulton County in Atlanta, GA(his home for 18 years up until June 2016, when he was given an appointment to attend the U.S. Naval Academy in Annapolis, Maryland.)He voted by military absentee ballot in Fulton County in 2016 and again by military absentee ballot in this years 2020 Presidential Election. On October 12, 2020, I watched him print his military absentee ballot per the Navy's instructions. I watched him fill the ballot out and sign his signature. He voted for President Donald J. Trump, Senator David Perdue, and Congressman Doug Collins for Senate. He voted a straight red ticket the rest of the ballot all the way down. I placed the ballot in a plain white envelope and addressed it to the Fulton County Board of Elections. I wrote the words *Military Ballot* on the outside of the envelope. On October 13, while he was en route back to Pensacola, I drove to a secure drop box location(North Training Center)located at 5025 Roswell Rd.,Sandy Springs, GA 30350 and deposited his ballot in the dropbox at 1:41pm. I took a screenshot of the mailbox and sent it to him to let him know I had mailed it. The screenshot is attached. I later looked on the Fulton Votes app, and it showed his ballot was received and accepted.

[redacted]

November 29th, 2020
3895 Club Drive NE
Atlanta, Georgia 30319
404-291-7144
Dianedjones@comcast.net

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted], make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I am the owner and sole proprietor of an educational publishing company, State Standards Publishing, serving the needs of schools in Georgia and the United States.
3. I reside at [redacted].
4. My affidavit highlights possible voting irregularities in Columbus, Muscogee County, Georgia.
5. 10/19/20—I arrived to vote at a Muscogee County early voting location on Citizens Way in Columbus, GA. Upon arrival, all voters were instructed to complete an intake form while standing in line and to FILL OUT ALL HIGHLIGHTED AREAS. It appeared that the county was re-using forms prepared for the earlier primary, and as a result, one of the highlighted areas we were instructed to complete was to circle whether we were voting one of three choices: Democratic, Nonpartisan, Republican. Obviously, this is private business during the general election. Yet people all around me were dutifully filling this out. Anyone looking at the form would know exactly who I voted for on my official ballot!! I questioned the poll worker about this, who just shrugged his shoulder that he didn't have an answer. At that point, a sheriff announced that a less crowded polling station had been opened (Columbus Trade Center). I

took my intake form and went there to vote. Upon leaving, I called the county registrar and spoke to Assistant Director Tamika Geist. She assured me that she was using the forms that had been prepared for the earlier primary but that the situation would be fixed immediately.

LOCATIONS AFFECTED:

All early voting locations in Columbus, Muscogee County, Georgia beginning Monday, October 12, 2020.

MY CONCERNS ARE AS FOLLOWS:

(A) One's vote in a general election is private business and SHOULD NOT be shared or required to be reported/exposed to workers at a polling station either during or after voting, and that (B) anybody with a stack of those intake forms in hand would have a nice little road map about who voted this way or that and could, theoretically, pick out ballots they didn't happen to agree with and make those ballots disappear. Any requirement to stipulate voting intention in a general election is irregular (if not illegal!) and opens up the potential for voting manipulation and fraud.

6. 10/19/20—I submitted the following Fraud Report to the Georgia Secretary of State using their online submission form, expressing the above concerns:

On arrival to vote 10/23 (corrected to 10/19), all voters were instructed to complete an intake form while standing in line and to FILL OUT ALL HIGHLIGHTED AREAS. The county re-used forms prepared for the earlier primary, and as a result, one of the

highlighted areas we were instructed to complete was to circle whether we were voting one of three choices: Democrat, Nonpartisan, Republican. Obviously, this is private business during the general election. Yet people all around me were filling this out. Anyone looking at the form would know exactly who I voted for on my official ballot!! I contacted the county registrar (Asst. Dir.), who assured me this would be fixed immediately. I just want to make sure that it HAS been fixed. This is very disturbing and opens the potential for anyone involved to tamper with results they don't particularly like. Please let me know the outcome, if at all possible. I can provide you with a photo of my form if needed. Thank you!

Outcome: No response.

7. 11-04-20—I emailed the following elected officials, including a copy of the SOS Fraud Report and photo of the Muscogee County intake form:

Randy Robertson	GA State Senate
Richard Smith	GA House of Representatives
Drew Ferguson	US House of Representatives
David Perdue	US Senate
Kelly Loeffler	US Senate

Outcome: No response from any of these elected officials.

8. 11-10-20—Upon learning of the appointment of Congressman Doug Collins to head up a Georgia recount, I contacted his Voter Fraud Hotline and reported all of the above to a young woman named Ashley. She instructed me to email her the intake form photo and

background. I submitted this information to her at gaedo@donaldtrump.com.

Outcome: Unknown.

9. 11-20-20—Almost immediately after my conversation with the Voter Fraud Hotline, I received a call from Chris Harvey in the GA SOS office (404-985-6351). He stated that the Muscogee County form would not have helped support vote tampering in any way and was perfectly okay and appropriate. He asked me to clarify my concern, and I did so, reiterating the two-fold point made above; namely, that one's vote in a general election is private business and SHOULD not be shared, and that anybody with knowledge of how someone voted could theoretically locate and destroy ballots they didn't agree with. He countered my concern by saying that this would never happen, and the forms would not help anyone do that in any way. Perhaps that's so; as I further explained to him, I have no idea how people are breaking the law and tampering with votes, but somebody's doing just that . . . and I didn't appreciate him dismissing my concern as invalid. (He pointed out that he never used the word "invalid." To which I replied, "Oh, let's split hairs, shall we?" If he's supposed to be the community relations outreach, that office is in sad need of a fresh perspective. Anyway, the conversation was patronizing, to say the least.)

Outcome: Unknown.

(But I hope the Georgia Secretary of State will get the comeuppance he so richly deserves.)

10. 11-28-20—Upon learning about the Georgia lawsuits, I contacted the office of Lin Wood and was invited to submit this declaration. Thank you for your courage and personal sacrifice in pursuing the perpetrators of this fraud upon the American people.



November 28, 2020



ATTACHMENTS TO THIS DECLARATION:

- 1 of 2—Photo of Muscogee County voter intake form
- 2 of 2—Fraud Report to the Georgia Secretary of State

****** OFFICIAL USE ONLY ******

BALLOT#_____ REG#_____ ID TYPE_____ (GA DL/ID#)

PRECINCT# _____ COMBO#_____ PRECINCT NAME_____

ELIGIBLE: YES NO DATE_____ APPROVED BY_____

If voter is ineligible to receive an AIP ballot, give REASON FOR REJECTION:

********** MUSCOGEE COUNTY RESIDENTS ONLY **********

Failure to complete and sign the oath will void your application

BALLOT TYPE: **DEMOCRATIC** **NONPARTISIAN** **REPUBLICAN**

(Required for PRIMARY ELECTIONS)

_____ MARCH 24, 2020 Presidential Preference Primary (PPP) and Special Election

_____ MAY 19, 2020 General Primary Election, Nonpartisan General Election and Special Election

_____ JULY 21, 2020 General Primary Runoff, Nonpartisan General Runoff and Special Runoff

__✓__ NOVEMBER 3, 2020 General Election and Special Election

_____ DECEMBER 1, 2020 General Election and Special Election Runoffs for Local and State Offices

_____ JANUARY 5, 2021 General Election Runoff for Federal Offices

Name *As Registered:* [redacted]

Address *As Registered:* [redacted]

(If the above address is no longer current, or your name has changed, please complete a *Voter Change Form* before leaving today.)

X [redacted]

SIGNA[redacted]

X_____

SIGNATURE OF PERSON PREPARING APPLICATION

OATH OF ELECTOR:

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and the State of Georgia; that my residence address is in Muscogee County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes as act of voter fraud and is a felony under Georgia law. O.C.G.A. Section 21-2-384(c), and O.C.G.A. Section 21-2-570.

Elector's Birthdate: 8/15/52 **Signature or Mark of Elector:** [redacted]

OATH OF PERSON ASSISTING ELECTOR:

I, the undersigned, do swear or affirm that I assisted the above named elector in marking such elector's absentee ballot as such elector personally communicated such elector's preference to me, and that such elector is entitled to receive assistance in voting under provisions of subsection (a) of Code Section 21-2-409.

Signed on this, the _____ day of _____, 2020. Name of person assisting elector **(PRINT)** _____

Signature of person assisting elector _____

Reason for assistance: (Check One) ☐ Elector is unable to read English. ☐ Elector requires assistance due to physical disability.

OFFICE OF SECRETARY OF STATE

Thank You

Thank you for submitting your question or comment to the Office of Secretary of State.

We will respond to your inquiry as quickly as possible.

You submitted the following information:

[redacted]
State: GA
Zip Code: 31909
County: Muscogee

[redacted]

Location of Violation: All early voting locations in Muscogee County.

Description of Violation: On arrival to vote 10/23, all voters were instructed to complete an intake form while standing in line and to FILL OUT ALL HIGHLIGHTED AREAS. The county re-used forms prepared for the earlier primary, and as a result, one of the highlighted areas we were instructed to complete was to circle whether we were voting one of three choices: Democrat, Nonpartisan, Republican. Obviously, this is private business during the general election. Yet people all around me were filling this out. Anyone looking at the form would know exactly who I voted for on my official ballott!!! I contacted the county registrar (Asst. Dir), who assured me this would be fixed immediately. I just want to make sure that it HAS been fixed. This is very disturbing and opens the potential for anyone involved to tamper with results they don't particularly like. Please let me know the outcome, if at all possible. I can provide you with a photo of my form if needed. Thank you!

Pursuant to 28 U.S.C Section 1746.

I. [redacted] Make the following declartion.

I am over the age of 21 years old, and I am under no legal disability, which would prevent me from giving this declartion.

I recieved a letter and ballot from The Forsyth Democrats (which I did not Request) for the Run OFF Election in Jan 2021. It contained no information on the ballot. (My name, address, etc) and no return envelope. It was signed by a Jen C, a Democratic volunteer. I have never voted, nor requested a ballot for an election.

My address is:

[redacted]

If any further information is needed, please do not hesitate to contact me.

[redacted]

Declaration of Garland Favorito

Pursuant to 28 U.S.C Section 1746, I, [redacted], make the following declaration regarding my observations of the full hand count audit conducted by Fulton County for the November 3rd 2020 Presidential race and the associated recount where a Dominion server malfunction forced the recount process to stop and be repeated.

I am a career Information Technology professional with over 40 years of experience in a variety of technical disciplines including programming, analysis, development methodologies, internet system design, financial transaction processing and multi-factor online systems security.

In 2006, I co-founded *Voters Organized for Trusted Election Results in Georgia* (VoterGA), a nonpartisan, non-profit, all-volunteer, dues free organization that has been a leader in the Georgia election integrity movement for 16 years. During that time, I performed extensive research, made many presentations around the state and produced several studies such as the one entitled: "*Unresolved Security Risks in Ballot Marking Devices*" which I presented at the National Voting Rights Task Force in 2019.

I reside at [redacted]

My declaration highlights that the conduct of the full hand count audit and recount I observed clearly warrant an immediate court order to inspect absentee ballots and to preserve certain Dominion system components for forensic review to ensure the integrity of the election.

Declarations:

1. After the November 3, 2020 election, I monitored the hand count audit and re-count conducted by Fulton County, for the Presidential race in November at the World Congress Center;
2. On November 14, 2020, I participated as a monitor in the full hand count audit conducted by Fulton County. During the first day of that audit, four hand count auditors who counted ballots confided to me and other monitors how they noticed potentially fraudulent absentee ballots. These were not marked with a writing instrument, not creased from mailing and not on normal ballot stock. All four of the hand count auditors are highly experienced poll workers and have submitted notarized affidavits of their findings to attorneys.
3. On November 29, 2020, Fulton County experienced a Dominion server malfunction during the recount. The malfunction caused the county election staff to be unable to upload previously scanned ballot images to a central Dominion county server for tabulation AND further caused the county election staff to be unable to upload previously scanned ballot images to a new replacement server that was brought on site but not set up with a matching Election ID and election files.
4. The malfunction was so severe that Fulton County election officials had to call for a Dominion software technician to be flown in from Colorado in an attempt to correct the problems;

5. The malfunction was ALSO so severe that Fulton County election officials decided to begin scanning all ballot images a second time in case the technician would be unable to resolve the problem once on site;
6. The onsite Dominion technician established new election files on the same Dell All-in-One computers that contained the ballot images previously scanned and the staff began scanning the ballot images again to the same Dell- All-In-One computers that still contained the previously ballot images;
7. This highly unusual deviation of standard recount processing for the 2020 Georgia Presidential election is NOT necessarily nefarious BUT it opens a door for new security risks and potential errors in terms of duplication of ballot scanning, technical ballot images transfers and eventual tabulation of already questionable election results,
8. In addition, VoterGA has independently confirmed that the Dominion voting system flipped votes from President Trump to former Vice President Biden in at least one Georgia County. In Ware County the electronic vote totals shorted President Trump by 37 votes and allocated those votes to former Vice President Biden as proven by their hand count audit. This irregularity was discovered thanks to the extra due diligence Ware County election officials performed in producing their own system of record source totals for the hand count audit to double check totals contained in the Secretary's ARLO system ;
9. In summary, four highly experienced hand count auditors detected potentially fraudulent ballots during the Fulton County hand count audit, there is a known instance of the Dominion voting system flipping votes in the Ware County Presidential election results, the reported malfunction of the Fulton County server has introduced new potential for security risks and errors;
10. The closeness of the Presidential election, the impact of Fulton County results on Georgia election results and the impact of Georgia election results on the national Presidential election demands a court to act to protect the integrity of the 2020 Presidential election in Georgia counties,
11. In light of the evidence above, I believe it is imperative for a court to order an immediate inspection of Fulton County absentee ballots, preservation of the Ware County Dominion voting system equipment as well as preservation of the malfunctioning Fulton County server, scanned ballot images, associated memory devices containing those images and the new server onto which the scanned ballot images will be transmitted.
12. These specific actions if taken by a Georgia court are essential to ensure that all Georgians can be confident that Fulton County and Georgia election results are accurate.
13. I am prepared to sign a sworn affidavit for the above statements to ensure any court of their veracity;



Date: December 1, 2020
Location: Roswell, GA

Declaration of James Nelson
Pursuant to 28 U.S.C Section 1746, I, [redacted] make the following declaration.

I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
I am a retired business owner and military veteran of the Vietnam era.
I reside at [redacted]
My affidavit highlights anomalies and red flags during monitoring the scanning of re-counted absentee ballots at the world Congress Center in Atlanta Georgia November 25, 2020.

The most important thing about them is some absentee ballots didn't look folded or creased which I only started looking for near the end of my day after someone told me to look for them. It's strange that they were not folded because you have to return them in two envelopes.
I saw one box marked No. 98 that were military absentee ballots but they were on election day ballot forms, the smaller forms. It is strange to me that they were not regular absentee ballots and folded or creased since, to my knowledge, all absentee ballots must be in two envelopes, one with the voter's signature. Scanner one kept breaking down and I saw it take more than one ballot at a time. It kept breaking down several times, had error messages that said it should be restarted. The first operator on scanner one seemed need several consultations to learn the procedure and the lady at Scanner two was helping him several times. Most of the operators seemed experienced but several did not appear to be experienced. I gave a list of which operators I thought were experienced to another monitor to compare with his lost of who we thought was experienced and who was not. I witnessed two workers reproducing ballots that would not go through scanners, each on their own with no one watching. In other words, they could have input any candidate by mistake or otherwise and how would anyone know. One lady hid her input when I started watching her. Only two monitors from each party were allowed on the flow to cover thirteen scanners, two reproduction computers and two men bringing and taking away boxes of ballots to and from the scanners. Not enough monitors to monitor all that. I got a very intimidating stare from the Fulton Director of Elections, (Mr Berry or Barrett) that lasted 15 to 30 seconds. I assume he was giving body language that said don't monitor us, because this is my territory.

The audit prior, on approximately November 14 when I was monitoring for the Republican Party in Fulton County, I witnessed a stack of Biden ballots of over 5 inches with no Trump ballots. Also, some counters were working alone. In other words, each person at the table were counting on their own.

In Cobb and Fulton the pairs of people counting were not decided by political party. They might both be the same party.

My wife and I voted early in person at the Sandy Planes polling place in Marietta. After we printed our ballots we carried it across the room and a poll worker took our paper ballots

looked at them and put it into the scanner. I learned it is against the law for them to look at or touch our ballot.

Docusigned by:
02568EB4C38444E...

[redacted]

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted], make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.

2. BACKGROUND: I am an automaton engineer who has spent considerable time (30+ years) in manufacturing QA, procedures development, ISO 9000 (QA) certifications of engineering procedures, statistical analysis, process-related bulk data collection/reporting, continuous quality improvements, office/task automation, and many other tasks that generate, collect, and report various types of data. Early in my career, I worked in US DOE nuclear weapons facilities across the Southeastern US where I was required to obtain and maintain a Government "Q" clearance to safeguard *CLASSIFIED* information vital to the national security of our nation. In addition, I have spent much of the last 10 years of my career involved in formalized validation of mfg process data, related computer code, and sequence of operations in general manufacturing settings as well as FDA/DEA regulated pharmaceutical manufacturing industries. In the case of pharma (FDA/DEA) regulated industries, I have managed, authored, and executed protocols (formal testing docs) in the strictly-regulated and procedure-driven validation of manufacturing equipment, processes, and related computer code. Note that FDA regulations regarding data validation are intended to

guide the *PRODUCTION* of the data and code to produce a consistent product, and DEA regulations govern the *SAFEGUARDING* of the product(s) containing controlled substances (narcotics). The regulations in each of these governing bodies are designed to check and double check data along all production steps of the product life cycle and strictly protect the chain of custody of the data. Note also that validation and auditing processes are similar and synonymous, whereas each looks to uncover disparate data (if present) and to prove or disprove through independent unbiased methods that the collected data is accurate and true. If not, the auditing/validation process is halted and investigated further before proceeding to the next step.

3. I reside at [redacted].

4. My affidavit highlights my observations and credentialed "monitoring" of the State of Georgia's presidential race ballot "audit" proceedings that took place over a week in November 2020, when I was present at the Gwinnett County, GA location on 11/14/2020, 11/16/2020, and 11/17/2020. The specific location referenced is Gwinnett County Voter Registration and Elections Office, 455 Grayson Highway, Lawrenceville, GA 30046. I have and can produce a letter from the Georgia GOP stating that I (and my wife) were listed as the party's designees to serve as a Monitor for the whole duration of the Risk Limiting Audit, pursuant to O.C.G.A. § 21-2-408, § O.C.G.A. 21-2-483, State Election Board Rule 183-1- 13-.06,

and/or State Election Board Rule 183-1-14-0.9-.15.in Gwinnett County.

5. OBSERVATIONS: Over the 3 days that I was present in the Gwinnett County location, I observed and talked with a number of people regarding the process taking place. My primary interest was the data validation process and chain of custody of the data. The key individuals I interfaced with and significant subject matter were:

   Kristi Royston, Election Supervisor. Kristi was very accommodating to every issue that was raised by all observers and monitors over the days I (and my wife) was/were present. There were a few issues regarding data tabulation on the manual sheets and data entry into the "ARLO" system (described in more detain herein) that we reported where she immediately went to speak to specific tables. Another item of note is that Kristi indicated on Monday (11/16) that no local spreadsheet was being maintained to serve as backup to the data being sent to the state.

   Chantelle Black, one of 3 Assistant Election Supervisor (for this audit/re-count). Chantelle's fulltime job is the Voter Registration Manager for Gwinnett County. Chantelle was one of the hardest-working officials I saw there. She explained to me the distinction between a re-count and an audit. She indicated that the Dominion system had been used to scan all the paper ballots (mail-in, absentee, in-person) and the audit being performed would manually collect

presidential race data from those same paper ballots as a comparison, and this data was being collected and entered onto a different system that was not connected to the Dominion system. However when I asked software-related questions, hardware-related questions, Chantelle had limited knowledge. She claimed that the system was easy to use, required little training, but she was not knowledgeable about how it worked.

Jesse Harris, I believe that Jesse is a 2nd of 3 Assistant Election Supervisors. The only interaction I had with Jesse was 11/17 during a Q&A session outside the waiting area on or about 8:00 a.m. when he instructed the new Monitors and Observers on what was happening that day and how to conduct themselves once they/we went back to the re-count/audit area.

My questions of Jesse were:
Q: Is the ARLO system that is being used to tally the manually-counted votes connected to the Dominion system?
A: No, the ARLO system is an independent auditing system that is being used to compare with the Dominion system count.
Q: Is the ARLO system being used in the re-counts of all 159 counties in Georgia?
A: Yes
Q: Has the ARLO system ever been used before in the state of Georgia?
A: No.

Dayna Causby, Independent Election Consultant. I observed Dayna helping with logistics of computer and table setups, as well as overseeing the ARLO system. Dayna is from North Carolina, having recently moved from Montana. Her LinkedIn profile is here: https://www.linkedin.com/in/daynacausby/. Dayna never wore a name badge. The 3 days I saw her at the site, she had the same visitor's badge "V-12". Any time I talked to her, I would greet/address her as "V-12". I never knew her name until 11/17 when I said "good bye" and she told me that it was "dana". When I signed out, I saw a name 2 slots under mine: Dayna Causby, with no entry for affiliation. Over the 3 days, I asked Dayna many questions about the Arlo auditing system:

Q: Is a running total being tabulated for this site in ARLO?

A: No. The tally is maintained on a central site elsewhere. All counties feed their numbers there.

Q: Is there an ARLO server here?

A: No. ARLO is an internet cloud-based web application. There is no need for local servers.

Q: How will you know what the total count is (for each presidential candidate) for this county?

A: The state will tell us.

Q: How will that number be validated against an independent backup accounting for the Trump/Biden totals on all those sheets in the green folders? (*note: the green folders held individual ballot batch tallies. My estimate is that there were approx 4000 tally sheets*

to account for the 400,000 votes for President in Gwinnett county).
A: I don't understand the question. The Arlo system **IS** the backup data source to the Dominion system. If there are discrepancies between the Dominion totals and the paper ballots, this ARLO accounting will capture such differences.
Q: I understand that. However, if I send totals up to the mothership's database from my county and the mothership tells me my totals are similar to the Dominion totals, how do I know that the specific totals I sent were representative of what was counted here? Was an independent tally, perhaps in a spreadsheet, (being) maintained?
A: No. I think those might have been maintained in other counties. Not sure. But definitely not here in Gwinnett. We talked (she and supervisor(s)) last night (11/16) about creating such a sheet before they "certified" the count as being finished. We have some final QA checks we will do before informing the state to total the count. We might do and export of the ARLO data into a spreadsheet and approach it that way. The ARLO system data is not easily sorted by batch sheet index number. It would be difficult and time consuming to cross-check the data on the tally sheets in the green folders inside the ARLO app. However, we could easily do this by exporting and then sorting in Excel. If we do this, it must be completed before midnight Wednesday.
Q: If that process is being done, are party Monitors able to monitor?
A: I do not know. Perhaps you can ask a supervisor.

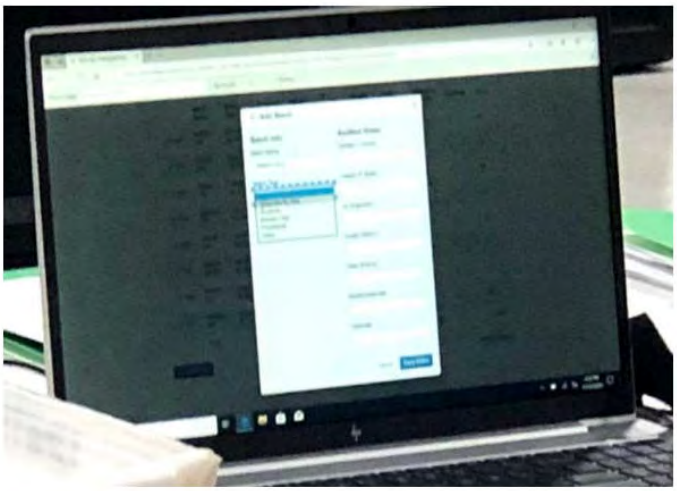
Note: I asked Chantelle and she was unaware that such a count

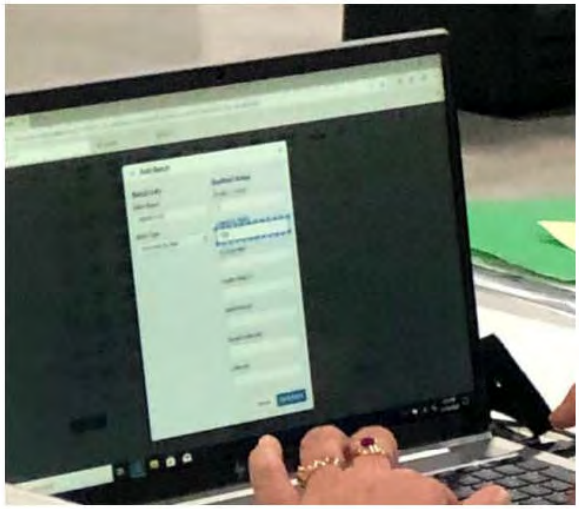
would occur. I could not find Kristi before I left, so I do not know if such an event took place. I alerted my party representative of this issue.

6. ADDITIONAL OBSERVATIONS: In general, my wife and I got the impression that approx 25% of the audit workers followed a consistent 2-person check/balance data collection (manual tally sheets) process and a similar percentage of the during data entry (ARLO) process such that one person checked against the other person's work. These 25% of the audit workers seemed to have a full grasp of the QA backcheck and double check process and they all appear to have been similarly trained. In contrast, the bulk of the workers seemed to deploy a variety of methods to achieve a result (completed tally sheet, ARLO data entered) and seemed to treat the task as rote and mundane and they did not routinely call out their data for verbal verification nor did they routinely and systematically double-check each other. There were many situations when the supervisors addressed individual tables, but it would have been nice to see an overall 5 min re-training announcement on how to best and consistently process the ballots and enter data. I assume they were all trained, but many needed to be re-trained.

7. ARLO SYSTEM BACKGROUND: From what I can tell, the ARLO system has been and is being used widely across the country and globe to audit and validate election results. This web-based application appears to be possibly vulnerable to cyber attack, in my

opinion. From the web site, the code is open source (can be easily edited) and there are many ways to alter it, customize it, hack it, etc., if uncompiled versions are used to execute the code. I took the following photos from the "general public" area to illustrate the interface. This evidence can be used to possibly corroborate that a specific ARLO web app was used.





8. TECHNICAL OVERVIEW OF THE ARLO APPLICATION:

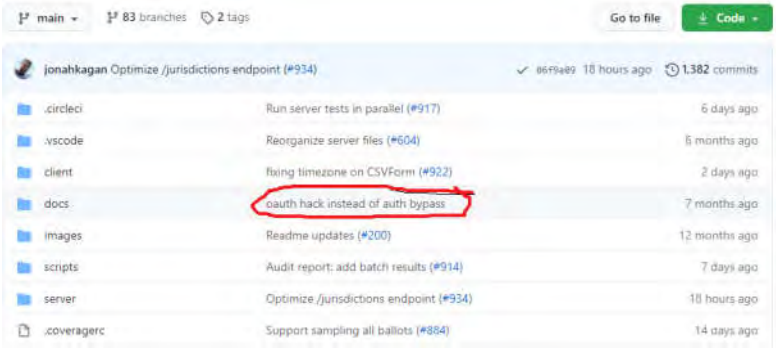
https://voting.works/risk-limiting-audits/

On the voting works site, it states that the code for Arlo is open source and freely available. A link leads to another site that is a repository in the public domain where coders around the world share code samples regarding setup, "tweaking", and also hacking the code.

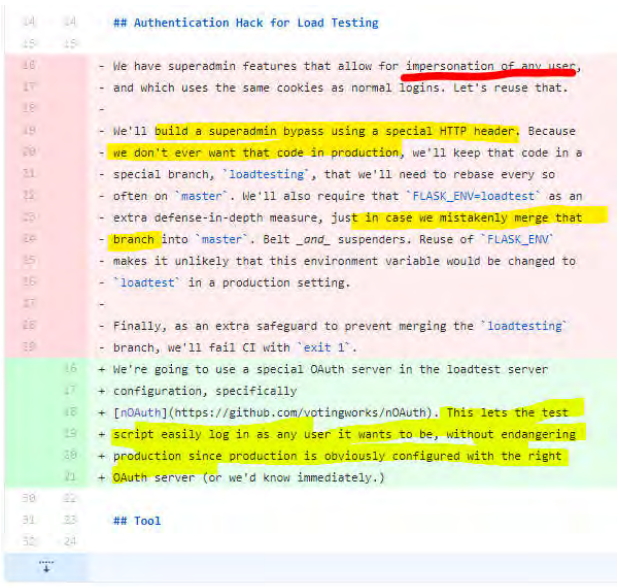
For further investigation, see

https://github.com/votingworks/arlo

See also the sample code for "hacking" and unauthorized bypassing login and masquerading as a user with administrative credentials.



The programmer's notes at the end of the code example are alarming, in my opinion:



```
## Authentication Hack for Load Testing

- We have superadmin features that allow for impersonation of any user,
- and which uses the same cookies as normal logins. Let's reuse that.
-
- We'll build a superadmin bypass using a special HTTP header. Because
- we don't ever want that code in production, we'll keep that code in a
- special branch, `loadtesting`, that we'll need to rebase every so
- often on `master`. We'll also require that `FLASK_ENV=loadtest` as an
- extra defense-in-depth measure, just in case we mistakenly merge that
- branch into `master`. Belt _and_ suspenders. Reuse of `FLASK_ENV`
- makes it unlikely that this environment variable would be changed to
- `loadtest` in a production setting.
-
- Finally, as an extra safeguard to prevent merging the `loadtesting`
- branch, we'll fail CI with `exit 1`.
+ We're going to use a special OAuth server in the loadtest server
+ configuration, specifically
+ [nOAuth](https://github.com/votingworks/nOAuth). This lets the test
+ script easily log in as any user it wants to be, without endangering
+ production since production is obviously configured with the right
+ OAuth server (or we'd know immediately.)

## Tool
```

I personally cannot supply evidence of hacked code. only suspicion. I have no evidence of the apps being intercepted or tampered with. However, I was present when another GOP monitor reported an incident of a yellow post-it note (that could be clearly seen in the public viewing area) containing the wifi access password that connected 50+ Arlo laptop apps to the internet and cloud-based collection server. I can supply contact info for the GOP lead person who reported that incident to party officials.

Perhaps a legal team can subpoena Arlo records to investigate further.

I do suspect that because no backup data was seen at this ballot tallying site, it will be very difficult for the public to trust in the tallying of 400,00+ Gwinnett County votes. This suspicion might also apply to many (if not all) of the 158 other counties in Georgia.

[redacted]

November 25, 2020

Berkeley Lake, Georgia

Declaration of [redacted]
Pursuant to 28 U.S.C Section 1746, I, [redacted] make the following declaration.

I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.

I am a retired business executive, I reside at [redacted] and I am a member of Saint Ann's Catholic Church in Marietta Georgia.

My husband and I voted early in person at the Sandy Planes polling place in Marietta. After we printed our ballots we carried it across the room and a poll worker took our paper ballots looked at them and put it into the scanner. I learned it is against the law for them to look at or touch our ballot.

[redacted] Dr

State of Georgia
County of Bibb

AFFIDAVIT

I, [redacted] personally appeared before the undersigned notary public. I am over the age of 18 years of age, a bona fide resident of the State of Georgia, and competent to make this Affidavit. Under oath, I do hereby swear or affirm that the facts contained herein are true and correct to the best of my personal knowledge and belief. The statement below is based on my own observations of what I have witnessed:

On October 12, 2020, I was an authorized, credentialed poll watcher monitoring early voting at the Theron Ussery Community Center at approximately 8:30 a.m.

I observed that the absentee ballot box was right by the door, with only one seal on the front side of the box and the back side of the box unsealed so that anyone could have removed or added ballots to the ballot box easily. No one was monitoring the box, and people were streaming in past the box.

I left the Theron Ussery Community Center and went to the Elaine Lucas Senior Center, where I met up with Janet Carter. I entered the center around 9:15 a.m. The absentee box there was also unsecured on one end; we asked the poll manager if there was supposed to be a seal on the back of the box, and the poll manager stated that she hadn't had time to seal the box. Again, no one was monitoring the box.

On election day, November 3, 20202, I was a credentialed poll watcher at the Robert J. Williams Complex at Ballard Hudson, 1780 Anthony Road, Macon, 31204. I observed a man named Keith Wilson checking in. The registration machine said he had already voted, and Mr. Wilson said that he had not voted. The poll worker gave him a green voting machine card and the man voted at a voting booth without signing an affidavit or any checking or confirming of whether the man was being truthful.

Later, a man came to vote without photographic ID. He had a piece of paper, and I heard the poll worker say that it was a poll watcher paper, but I did not see the paper itself. He then voted on a green voting card.

At 10:55 a.m., a group began handing out food, water, gloves, face masks, and other "gifts" to voters.

At 1:50 p.m., there was a man who called himself "Mr. Hyatt," and he had a man with him, "Drew Dragdon" and both of them stayed outside, sitting in chairs with backpacks and computers. Mr. Hyatt stayed in the parking lot the whole time. The men said they were Democrats who were sent from Birmingham, Alabama, to watch the polls. He had a computer with him the whole time, and I am uncertain what he was doing with his computer.

In the afternoon, a lady named Ms. Eady came in. The computer system came up stating that she had already voted, so they had her sign an affidavit and then allowed her to vote on a green voting card.

At 5:10 p.m., Mr. Hinley came in to vote and the registration showed that he had already voted. He said he didn't. They gave him an affidavit form and allowed him to vote on the voting machine.

AFFIDAVIT CONTINUES TO NEXT PAGE.

I know and understand the contents of the statement above; and I do swear or affirm the statement to be true. Today's date is November 14, 2020

[redacted]

[redacted] ID: GA Driver's License

LAUREN DEAL NOTARY PUBLIC GEORGIA EXPIRES 01/14/2024 BIBB COUNTY

SWORN TO AND SUBSCRIBED BEFORE ME,
THIS THE 14th day of November, 2020.

Lauren Deal
NOTARY PUBLIC
My commission expires: 1/14/2024

A couple came in with a woman who was registered in Fulton County and a Fulton driver's license and a man who didn't appear to be registered. The man claimed to be from New York. Their automobile had a Florida license plate. They argued with Jeanetta and Mike Kaplan, and then Jeanetta Watson allowed them to vote on provisional ballots. I heard Mike Kaplan say that "we're just going to rip up [the provisional ballot] on Monday," but I don't know if that happened.

On November 13, 2020, at the Board of Elections of Bibb County, on Pio Nono, I was present to observe the recounting of ballots. There was no audit of signatures or names on absentee and provisional ballots. Ballots were being counted on 8 separate tables by employees of the Board of Elections. There were NOT one Republican and one Democrat at each table. Later in the evening, there was a problem with "Batch 39" and they would not explain to me what the problem was. The employees were very evasive in explaining the problems. Then, all of us, poll watchers, were told to leave. Jeanetta and the Board of Elections employees did not leave – the ballots were not locked up or secured for the night.

The process being used at the Board of Elections is unsecured. The ballots come in on one end of the room, travel in wheeled suitcases around the room being counted at one of eight different tables, then the open boxes of ballots are transferred to another table where a BOE worker enters tallies into a computer, then the ballots are transferred to Jeanetta Watson, Elections Supervisor, who is "doing her own thing" and from Jeanetta, the unsecured and unsealed cases are taken out of the room. Only TWO Republican poll watchers are allowed to watch the counting, and the room is the size of a elementary school gymnasium and there is no way for the two watchers to see what's happening at each table. Further, the woman who is entering information into the computer is backed into a corner so that watchers cannot see what she is entering or determine if what she's entering is valid.

[redacted]

[redacted]

Lauren Deal
NOV. 14, 2020

LAUREN DEAL NOTARY PUBLIC GEORGIA EXPIRES 01/14/2024 BIBB COUNTY

My commission expires 1/14/2024.

Declaration of Kelly Thornberry

Pursuant to 28 U.S.C. Section 1746. I, [redacted] make the following declaration. I am over the age 21 years and I am under no legal disability, which would prevent me from giving this declaration. I am a citizen who volunteered my time on Friday, November 13th at the Forsyth county BOE, as a vote review panelist for the GOP.

I reside at [redacted]

My affidavit highlights unsecured ballot boxes, that I witnessed between 9am and 3pm on November 13, 2020.

1. I witnessed numerous ballot boxes, that were brought out to the recount tables, that had the red security tape only partially adhering to the boxes. In other words, the tape was not secure, but rather had "popped" off one side of the box, so that the box was no longer secured by the security tape. At the beginning of the day, the person in charge of the recount, showed us an example of how the boxes would be brought out to the recount tables, and would be opened by cutting the security tape, after they were placed there. But through out the day, I noticed that many of the boxes being brought out were not secured by the red tape, as indicated would be the case.

2. I witnessed several boxes of ballots, being brought out to the recount tables, in non-uniform cardboard boxes. They were varying in sizes, both in height and width. It was as if the boxes were previously used for something else, and were used as make-shift ballot boxes.



My name is [redacted] I witnessed some events at 120 Interstate North Parkway, Suite 210, Atlanta, Ga. today, November 30, 2020.

I arrived at the location just before 12:00 p.m. I drove to the back of the office complex. Other Patriots were at the location, which is a temporary office for the Secretary of State. There was a black Secretary of State van parked behind suite 210.

At 12:57 p.m., a large moving van pulled up to the dock that belonged to suite 210. Myself and another Patriot, John, tried to video what they were loading/unloading. The truck driver and another person blocked the visibility with cardboard so we could not video what they were doing. We kept videoing. I could hear things that were being unloaded that sounded like something with wheels, and there were several of them. They were clearly concerned about us videoing the process, as they tried to hide it. Pictures and videos are attached.

At 2:29 p.m., a UPS truck pulled up to the dock at 210 Interstate North Parkway. Absentee ballots were being loaded into the UPS truck. I will send pictures and videos in another email.

I hope this helps with exposing the fraud in this election. I thank you for all that you, Lin, and Sidney are doing to protect our democracy and freedoms! God Bless America!

[redacted]




ACT
AAA COOPER TRANSPORTATION


27 611



Sent from my iPhone

[redacted]

12/1/2020

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, (Name), make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I'm a self employed Utilities Construction Contractor as well as a concerned citizen.
3. I reside at [redacted]
4. My affidavit highlights my surveillance of 7000 Highlands PKWY and 120 Interstate North PKWY STE. 210 on November 30 2020.
5. On 11/29/2020 I answered the call from Lin Wood to get down to the Georgia World Congress Center because they were currently wiping the voting machines there. When I arrived all was quiet and there was zero sign of anyone else there that was answering the call. I remained for several hours watching the drama of the judge that didn't know how to make a decision unfold while I waited.
6. Eventually I returned home only to see this tweet from Link Wood.

   https://twitter.com/LLinWood/status/1333182964650348546?s=19

   I decided to go see things for myself and confirm.

   I arrived at 7000 Highlands Pkwy SE, Smyrna, GA 30082 at 12:46 a.m. on 11/30/2020.

   Here is a link to a location screenshot and video I recorded upon arrival.

   https://twitter.com/Quisling_hunter/status/1333286324086956032?s=19

   I stayed surveilling that location for approximately 2.5 hours. It was quiet however there was an AT&T van in the parking lot. I did a wifi scan and the only available was Eatonvisitor. Compare that to the video Lin Wood posted. There was more than 10 networks available and 2 SOS named ones. I thought that this is definite proof of trying to hide something.

7. I then decided to go to the Secretary of State Elections warehouse at 120 Interstate N Pkwy E SE, suite 210, Atlanta, GA 30339

   I arrived at approximately 4 a.m.

   At 4:26 a.m. a Waste Management trash truck pulled into the main entrance of the complex and made a beeline for the dumpster behind suite 210 emptied it and then left the complex through the back entrance. There's more than 50 dumpsters here and it only picked 1. This would indicate a special pickup.

   Here is a link to the videos and map.

   https://twitter.com/Quisling_hunter/status/1333348935184879617?s=19

8. I remained on site until 5:55 am. I was informed through people I was in contact with through Twitter that another groupof concerned citizens was minutes away so I left. They did not stay long so I coordinated with guy named Kyle to cover until I could return. I returned at approx 9:30 am. Kyle and I agreed to split up. I took over watching the front and he watched the back. I remained in my car in a parking space that viewed the front entrance to suite 210 for several hours observing absolutely nothing. At 1:44 pm I observed 2 Cobb county police cars pass in front of me and go to the back of the building. I pulled around back to see the police talking to several people. I approached them after the police left to find out what was going on. Turns out they had shown up for the same reason as Kyle and I and had been at the back for several hours. They informed that a semi truck with trailer had backed up to suite 210 loading dock. The workers inside the SOS warehouse then blocked off the sides of the trailer at the dock so that no one could observe what was being loaded. (They showed me the video for proof) This caused everyone there to wonder what they were hiding. A couple by the names of John and Valerie decided to follow the truck. The driver went to

Truest park, stopped and went to the guard shack. A few minutes later Cobb County Police showed up. John and Valerie explained what was going on and the officer then went and talked to the driver. When the officer returned to them he informed them that the driver refused to say what he was transporting and that he had no probable cause to search the trailer. (This was a situation where the officer was unaware of commercial trucking regulations. A commercial driver is obligated to disclose what they have on the truck, whether asked by fire or law officials - the cop might not be CDL Cert but that driver is always aware of his obligations.) The officer then informed them they could not follow because it's harassment. He also told them he understands the situation but that he could not follow either because that would be harassment as well. He then offered to follow back to suite 210 and at least file a report. That is where I came in. When John and Valerie were stopped from following Kyle in a Mercedes SUV and another person in a Suburban who's name i do not know decided to pick up the trail. I stayed at suite 210 listening to Kyle on speaker phone describing what was happening. The driver was going in circles all over Cobb county trying to lose them. At 3:30 I had to leave again. I returned at 6:30 pm John and Valerie were still there along with several others. At around 8:00 pm Kyle and the guy in the suburban returned. They filled me in on the rest of their adventure. Shortly after I left they said the truck driver pulled into what they described as a run down roach motel, stopped, opened the back and acted like he was making a delivery. An orange Dodge Charger then pulled up and blocked Kyle's SUV in and the truck driver hopped in the truck and blocked the suburban in. A verbal altercation then ensued. The driver then called into the office at suite 120 on speaker phone and said that these crazy folks that started following me from your parking lot won't leave me alone what do you want me to do. The person from the office

asked if he had a lock and the driver said yes. The office person said to take it to the yard and lock it up then. Everyone got in their vehicles and proceeded to AAA Coopers logistics yard at 1800 Westgate Pkwy SW, Atlanta, GA 30336. (Side note: the truck and trailer both carried the AAA Cooper logo but when we ran the trailer license plate it came back registered to Georgia Dept of Fleet Management) When they arrived Fulton County Sheriffs were waiting and pulled Kyle over. They did not harass him but told him to move on. I fully understand that this is a second hand account but they corroborated everything with pictures and videos. I'm merely providing this for corroboration of a series of very very suspicious events. My biggest concern is why in the world did the driver refuse to go to his destination? I can speculate many reasons, none good, but I will refrain. After all that we settled in for a cold, snowy, uneventful night. I left at 5:45 am. and have not returned.

[redacted]

[redacted]

November, 11 2020

[redacted]

[redacted]

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted] make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.

2. I am an Air Force spouse with a degree in elementary education. I currently stay at home with our children and provide support on our base at Keesler.

3. I reside at [redacted]

4. My affidavit highlights how my husband and I received multiple ballots for the general and runoff elections (November 3, 2020 and January 5, 2021.) It also highlights that we voted for President Trump and all Republicans on the ticket.

5. At the end of September, we requested UOCAVA absentee ballots from the McDonough elections office. The e-ballots we had previously requested would not print correctly. The watermark and printing capacity failed multiple times, leading us to request mail-in ballots. I was told by McDonough elections office worker, Jan Mayo, that the watermark did not matter and reassured me that they compare each ballot with our signatures. Concerned that our ballots would be rejected due to cosmetic variance, we requested mail in ballots.

6. We received our first ballots from Elections and Registration (Postmarked on the 26th of September, 2020) from the address: 40 Atlanta St. McDonough, GA, 30253. These ballots included duplicate run off ballots for January 5th (printed on normal paper, one missing an envelope) and a ballot and envelop for a runoff December 1st. We filled out our November 3rd ballots, voting for President Trump, Senator Kelly Loeffler and all other listed Republicans. We sent those in around the 12th of October.

7. Probably a week or two later, we received a new set of ballots (which I have kept for proof) from the Georgia Secretary of State, Elections Division located at 2 Martin Luther King Jr. Dr. SE. 802 West Tower. Atlanta, GA, 30334. These came via presorted First Class mail, marked in the top right corner "PAID GEORGIA SECRETARY OF STATE." I could not find a watermark on the envelopes so do not have the exact date of their arrival. These did not include run off ballots. The envelops were not in color, came from the Georgia Secretary of State, and came from a different address. However, the return address was to the McDonough elections office, not the address in Atlanta from which they came. All these minor details concerned me. The ballots appeared official and had Copyright 2020 Dominion Voting Inc All Rights Reserved at the top.

8. Concerned that fraud was occurring, I left two voicemails for Jan Mayo at the McDonough election office. I never heard back from her.

9. Finally, postmarked the 20th of November, we each received another set of runoff ballots for January 5th. These came from Elections and

Registration at 40 Atlanta Street, McDonough, GA. 30253. They were printed on official cardstock paper and came in the normally (red ink) marked envelope. These were, in summary, the third set of ballots we received for a runoff election January 5th.

10. If 100% of military absentee ballots in GA were reported to have voted for presidential nominee Joe Biden, there is no doubt that there was voting fraud since my husband and I went to great effort to ensure that our votes were submitted for President Trump. We took them to the post office, carefully filled in each selection, and have kept every piece of extra ballots we have received as evidence.

[redacted]

Date: November 27, 2020

[redacted]

24 November 2020

[redacted]

REF: Georgia Military Absentee Ballot for 2020 Presidential Election

To Whom It May Concern:

This document contains a summary of my missing Georgia Military Absentee Ballot for the 2020 Presidential Election.

On/around 20 January 2020 I requested an absentee ballot for future elections with the Fulton County Board of Elections as I was mobilized to active duty with the United States Special Operations Command in Tampa, Florida. My home of record during this active duty tour was (and still is) Roswell, Georgia, located in Fulton County. I requested future absentee ballots as I was not physically located in Georgia during the Presidential Primary and subsequent elections as I was expecting to continue on active duty into 2021. I am a Colonel in the United States Army Reserve and was expecting to be on Reserve duty on Election Day 2020.

On 23 September 2020 I received my Presidential Election military absentee ballot at my home of record in Roswell, Georgia.

When early voting in Fulton County commenced around Columbus Day 2020, I filled out my absentee ballot which included a signed affidavit that I was a member of the United States Military and deposited this absentee ballot in a designated Fulton County Absentee Ballot Drop Box at the East Roswell Library, located at 2301 Holcomb Bridge Road, Roswell, GA 30076, at approximately 1400 EDT on Monday 19 October 2020.

On Election Day I wanted to verify that my absentee ballot was received and accepted so I searched the Georgia Secretary of State website and noticed that my ballot was not received nor accepted.

On 4 November I called the Georgia GOP Election Fraud hotline and reported that my ballot was not accepted nor counted according to the Georgia Secretary of State website. I was told to check this site again and call back with status on 6 November. On 6 November I again contacted the Georgia GOP Election Fraud hotline and was informed to contact Fulton County Board of Elections the following week.

On 9 November (my birthday) I contacted the Fulton County Board of Elections regarding the status of my ballot. The individual receiving the phone call asked me "what makes you think your ballot wasn't counted" of which I quickly replied "I just finished checking on the Georgia Secretary of State My Voter Page website." I was informed on this day that all military absentee ballots were being counted and to check back within a week. The individual did take down information including the date and

location I dropped of my absentee ballot at one of the designated drop boxes, but promised nothing else.

On 16 November I again contacted the Fulton County Board of Elections and was told that ballots were still being recounted and to recheck the Georgia Secretary of State website for an updated status within the next week. On 23 November I checked the same website and my ballot is still not being shown as being counted. As of 2100 on Tuesday 24 November my ballot is still not being shown as either being accepted or counted.

It is important to also inform you that from September 2017 to August 2019 I was a Schedule-C Political Appointee in the Trump Administration assigned to the Office of the Secretary of Defense. Thanks to a Freedom of Information Act request from ProPublica, I am identified on internet searches as a former member of the Trump Administration.

Bottom line…my military absentee ballot issued in the State of Georgia in Fulton County was not counted in this recent Presidential Election.

I can be reached at for additional questions or information.

Sincerely,

11/24/2020

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, Seth Keshel, make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I am a trained data analyst with experience in multiple fields, including service in the United States Army as a Captain of Military Intelligence, with a one-year combat tour in Afghanistan. My experience includes political involvement requiring a knowledge of election trends and voting behavior.
3. I reside at [redacted].
4. My affidavit highlights substantial deviance from statistical norms and results regarding voting patterns in Georgia.
5. All 2020-related voting totals are taken from the Decision Desk HQ unofficial tracker, are not certified, and are subject to change from the time of the creation of this affidavit. Other voting totals are from the Georgia Secretary of State.
6. Georgia has not been won by a Democratic presidential candidate since 1992. Then-Senator Barack Obama received a large increase in Democratic votes in his first campaign (2008), earning 1,844,123 votes; however, his support plunged 3.81% in his reelection campaign, leaving him with 1,773,827 votes. In 2016, Hillary Clinton earned 1,877,963 votes, just 1.8% more than where Obama had been eight years before. Donald Trump had very little improvement over Mitt Romney in 2016, but has improved 17.7%

from his 2016 performance, an addition of 368,899 votes. This strong performance casts substantial doubt on a 31.6% improvement for Joe Biden on top of the Clinton total from just four years ago.

7. Metro Atlanta is full of votes, and the urban and suburban counties support Democratic candidates, while the exurban counties support Republican candidates. This shift was made complete when Cobb and Gwinnett Counties moved away from Donald Trump in 2016. The Atlanta region has added substantial voter registrations, which has not always correlated to a drastic increase in amount of votes cast. This year, Gwinnett and Henry Counties have already cast more than 40% more Democratic votes than in 2016, with Donald Trump still gaining votes in the counties. Cobb and Douglas Counties have now cast over 35% more Democratic votes than 2016, while all other metro Atlanta counties are up substantially from the 2012 and 2016 elections. Population growth can certainly drive turnout higher, but with the reported signature verification issues and transparency violations present in Georgia, these totals are highly suspect. The bar graph highlighting Democratic vote increases in the 12 most heavily Democrat-voting counties is contained in Exhibit A.
8. President Trump improved his margins in just 70 of 159 counties in the state, mostly in the southeast, but also in minority-heavy counties that he did not win. The most shocking losses of margin are in strong Republican counties that are not showing indications of flipping like Cobb or Gwinnett Counties did. President Trump backtracked 14% in Forsyth, 13% in Fayette, 12% in Paulding, 11%

in Cherokee, and 8% in Hall, all while compiling substantially more votes than in 2016, when many nominal Republican voters opted to support minor party candidates. Many rural counties in Northern Georgia have President Trump running 4-8%, or even worse, behind his performance in 2016, despite high voter registration percentages and overall vote increases. The major Republican counties (Forsyth, Fayette, Paulding, Cherokee, Hall) and heavily Republican rural areas showing heavy downward margin shift suggest that vote tabulation errors or machine troubles are present in Georgia and should be audited. Exhibit A contains a side-by-side comparison of the County Classification Map of Georgia and the current analysis of how margins have shifted in 2020 as President Trump struggles to hold on to his margins in Northern Georgia.



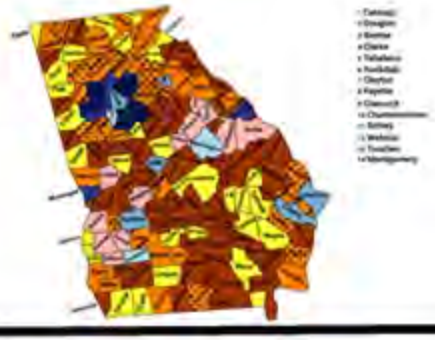
17 Nov. 2020

Aledo, Texas

gia Margin Analysis – 2016 vs. 2020

rgia 2020 - Trump Margin Shift Map

ump Margin Improvement in County Won in 201
ump Margin Improvement in County Lost in 2016
ump Loss of Margin 0-2% in County Won in 2016
ump Loss of Margin 0-2% in County Lost in 2016
ump Loss of Margin 2-4% in County Won in 2016
ump Loss of Margin 2-4% in County Lost in 2016
ump Loss of Margin 4-8% in County Won in 2018
ump Loss of Margin 4-8% in County Won in 2016
ump Loss of Margin >8% in County Lost in 2016
ump Loss of Margin >8% in County Won in 2016



Georgia Political Landscape – Pre 2020 Evaluation

Crimson Class *– Voted for Romney and Trump – Trump with higher margins than Romney, Sometimes significantly*
Republican *– Voted for Romney and Trump, but with no margin increase, or decrease With third party throwaway votes*
Rural Flip *– minor counties Trump flipped*
Competitive *– room to improve or worsen*
Unpredictable Suburb *– Shown to be moving away from GOP – margin not known*
Dem Machine *– Metro Atlanta – Fulton, DeKalb, Clayton, and other smaller ones throughout GA*



lyst Assessment

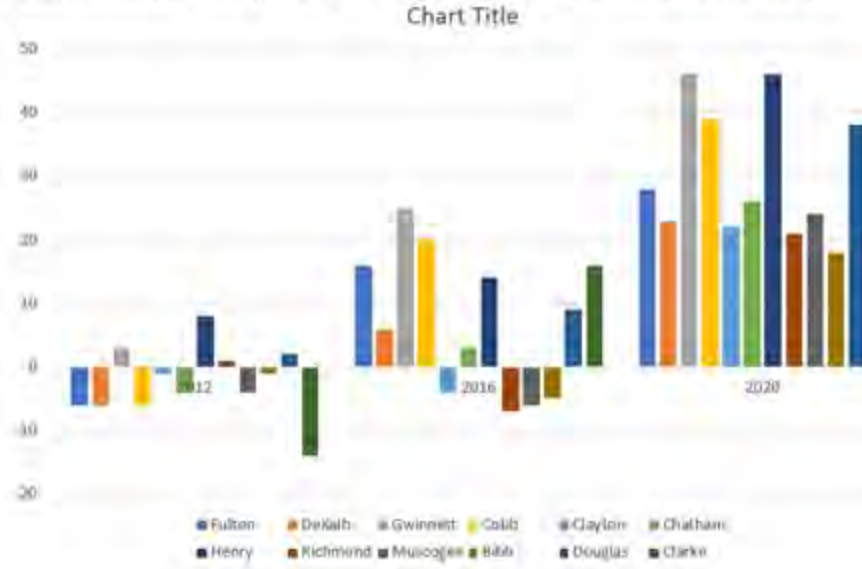
n Class *– Trump is exceeding margins in a lot of Crimson Class counties in the ast of GA. The far Northwest is seriously dented with no reason, as is the area in uth near the Florida Panhandle, which surged to Trump more this year than last. eas in Crimson should not be. I can't see a scenario where Trump is losing more ominal (<2%) margin in Crimson Counties, if not expanding 100%.*

lican *– Subject to reduction in margin for coalition shift or new transplants, but otals are shocking. Forsyth -14%, Fayette -13%, Paulding -12%, Cherokee -11%, %, all with Trump showing sizeable vote increase. Northeastern ATL counties hit larly hard in this category (most of the plain "Red" counties in map to top right.*

dictable Suburb *– Trump showing a vote increase after decreasing in 2016 in Cobb, ett, Henry, Douglas, but increase % in Dem votes is off the charts unreasonable – phic to right. Need full audit with signature match to account for "turnout."*

Machine *– Loss in margin in Clayton is negligible, and Fulton and DeKalb are down, where near the levels of the Republican counties and suburban counties.*

Georgia Key Democrat Counties – Dem Vote % Increase/Decrease Year Over Year
Example – In 2012, Fulton County had 6% fewer raw Democrat votes than in 2008 (255k in 2012, 272



Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted], make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I have lived in Cherokee County for 18 years. I have been a registered voter throughout that time and have voted in most elections. I was also a poll worker for the general election on November 3, 2020 at the Toonigh Precinct.
3. I reside at [redacted]
4. I voted in the General Election on October 15, 2020 at approximately 3:30 pm at the Cherokee County Election Office on Marietta Hwy (see Exhibit 1 copy of post to Facebook after I voted)

   I am interested in politics and even worked as a Poll worker for this election. I have been keeping up with the issues related to missing and changed votes in the Georgia general election. Recently (probably Nov 23), I saw a message that encouraged all Georgia voters to check the "My Voter Page" to ensure that their vote was counted. I researched how be sure that my vote was counted and found the attached screenshot of an article (exhibit 4) https://www.11alive.com/article/news/politics/how-to-confirm-your-early-vote-is-counted-in-georgia-midterm-election/85-4c1bd2b1-ebff-461d-8866-0752c58c322e)
   I followed the instructions and, as described in the article, my "My Voter Page" showed that the "**Click here for Absentee Ballot/Early Voting status"** was "light gray" and would not click through. The instructions in the article state that that means that my vote was not counted. (see exhibit 2)
5. On November 24 (see exhibit 3 A and B), I decided to call the Cherokee election office to find out why it wasn't counted. I spoke with a young woman; her name may have been Logan or something that started with an L. I explained the issue and she looked on the "system." She seemed confused. She said that she would check into it and call me back.
6. On Nov 25, the woman from the Cherokee Election Office called me back and said that they don't know what happened to my vote. She

said that there was a day during early voting that the state system went down and that may be why it is not showing up. She asked if I had printed my ballot and scanned it. She "assured" me that if I did that, then my vote was counted. I don't feel confident about that.

7. I also tried to find a way to contact the State Elections board. The MVP had a link to "Stop Voter Fraud" (that was the closest thing that I could find to my problem in the list of options) (Exhibit 5). I went into that page and submitted the information. I have not heard back from them.

I solemnly swear that this is the truth,

[redacted]

Nov 28, 2020

[redacted]


Photos
Write a comment...
[redacted]
Less than 30 min at the Marietta Hwy office
I'm a Georgia Voter
[redacted]
3 Comments
Friends
zel
iman

My Voter Page

GEORGIA SECRETARY OF STATE BRAD RAFFENSPERGER

GEORGIA LEADS

Corporations | Elections | News Room | Professional Licensing Boards | Securities | Charities

My Voter Page

Voter Information

[redacted]

Race: White not of Hispanic Origin
Gender: Female Status: Active
Registration Date: [redacted]

Change Voter Information

Click Here for Sample Ballots

Polling Place for State, County, and Municipal Elections

Precinct 024
LIBERTY ELEMENTARY SCHOOL
10500 BELLS FERRY RD
CANTON, GA, 30114 - 0000
Election Day polling place hours are 7:00 am - 7:00 pm.

Directions to Polling Place

Click Here for Early Voting Locations and Times
Click Here for Municipal Polling Place

NOTE: Non-specific rural addresses may not be available.

Absentee Ballot Request Information

If you prefer to vote off-site, mail, fax or email your absentee ballot application to your county registrar.

Click Here for an Absentee Ballot Application

Click here for Absentee Ballot/Early Voting status

Your Elected Officials

Candidates Elected:	Officials Elected Statewide
District Maps:	Congressional District Maps
U.S. Congress:	District 011
Georgia Senate:	District 014
Georgia House:	District 021
Judicial:	Blue Ridge District
Commission:	District 003
School:	District 001

Click Here for Qualified Candidates

Georgia Voter ID
Learn more about Georgia Voter Identification Requirements

Stop Voter Fraud
Do Your Part to Help Ensure Secure and Fair Georgia Elections

Elections Division
Georgia Secretary of State's Elections Division

Elections Advisory Council
Share Your Ideas to Help Strengthen Georgia Elections

Georgia VoteSafe
Learn more about the Georgia VoteSafe Program

Please Note: Polling places are subject to change. Always check your designated polling place location via this website prior to going to vote.

Newly Registered Voters: Please review your registration date which is located under your name and address above. You must be registered on or before the established deadlines to vote in upcoming elections. Please view the current election calendar to confirm the first election in which you will be eligible to vote.

Print / Email Precinct Card | Back

[redacted]
November 24 at 11:46 AM ·

Be sure to check to see if you early vote or absentee vote was counted - my wasn't

MVP.SOS.GA.GOV
Georgia My Voter Page

See the results and other info about the 2020 US Election.
See Election Results

Sue Kearney, Shawn Kudrick Fernandez and 6 others — 13 Comments

Like · Comment · Share

[redacted]
Did they say why?
Like · Reply · 4d

[redacted] replied · 1 Reply

[redacted]
Here is the article that tells how to check (it says midterm, but it's the same)
https://www.google.com/amp/s/www.11alive.com/amp/article/news/politics/how-to-confirm-your-absentee-or-early-vote-is-counted-in-georgia-midterm-election/85-4c1bd2b1-ebff-... See More



11ALIVE.COM
How to confirm your absentee or early vote is counted in Georgia midterm election

Like · Reply · Remove Preview · 3d

[redacted]
Let them know how you feel [redacted], I am so sorry for all this happening to America, your Dad and Mom would be so disappointed.
We will make it right again!!... See More
1
Love · Reply · 3d

[redacted]
Thanks Shawn i found it. Ours were counted. 🙏🙏🙏 for the 🇺🇸🇺🇸🇺🇸🇺🇸

My Voter Page | facebook login - Yahoo Search R | (1) Facebook | How to confirm your

ent_id=10218156968778904&notif_id=1606490877263794&notif_t=feed_comment&ref=notif

One Sign In | Georgia Boating Lic... | American Express L... | Pizza Profile Login -... | Mom Stuff | Neurotrack | Set

[redacted] 13 Comments

Like Comment Share

[redacted]
Did they say why?
Like · Reply · 4d

[redacted] replied · 1 Reply

[redacted]
Here is the article that tells how to check (it says midterm, but it's the same)
https://www.google.com/amp/s/www.11alive.com/amp/article/news/politics/how-to-confirm-your-absentee-or-early-vote-is-counted-in-georgia-midterm-election/85-4c1bd2b1-ebff-... See More



11ALIVE.COM
How to confirm your absentee or early vote is counted in Georgia midterm election

Like · Reply · Remove Preview · 3d

[redacted]
Let them know how you feel [redacted] I am so sorry for all this happening to America, your Dad and Mom would be so disappointed.
We will make it right again!!... See More
Love · Reply · 3d 1

[redacted]
Thanks Shawn i found it. Ours were counted. 🙏🙏🙏 for the [redacted]
Like · Reply · 3d

[redacted]
Well - I did not get encouraging info. They could not find any info about my vote. They said that there was a day that the state computers went down and some info is not showing up. However, she said that as long as I printed a ballot and scanned it... See More
Like · Reply · 3d

[redacted]
I would not trust anyone. Be sure your vote gets counted. This election in Georgia is so important!
Like · Reply · 3d 1

[redacted]
Contact Lin Wood

s/politics/how-to-confirm-your-early-vote-is-counted-in-georgia-midterm-election/85-4c1bd2b1-ebff-461d-8866-0752c58c322e

x (16) - sandgb... Your Orders Cap One Sign In Georgia Boating Lic... American Express L... Pizza Profile Login -... Mom Stuff Neu

ther Sports Connect Watch Live

ad More »

Credit: Georgia Secretary of State

The My Voter Page for absentee voters registered to in Georgia

3. Click on the text that says, "Click here for absentee ballot status." If the text is light grey and not clickable -- your vote has not been accepted.



Credit: Georgia Secretary of State's Office

Registered voters who filed an absentee ballot in Georgia will see a page like this when checking ballot status. The light grey shading indicates the ballot has not been accepted.

4. If you voted absentee or early, the link will be clickable and you'll see a pop-up window with the date and status of your early vote.

5. If your vote was not recorded, please screenshot the page and also report it to your county elections office.

Several candidates in tight races are encouraging those who are having issues with recorded

My Voter Page

GEORGIA SECRETARY OF STATE
BRAD RAFFENSPERGER

GEORGIA LEADS

Corporations | Elections | News Room | Professional Licensing Boards | Securities | Charities

My Voter Page

Voter Information

[redacted]

Race: White not of Hispanic Origin
Gender: Female Status: Active
Registration Date: 03/18/2003

Change Voter Information

Click Here for Sample Ballots

Polling Place for State, County, and Municipal Elections

Precinct 024
LIBERTY ELEMENTARY SCHOOL
10500 BELLS FERRY RD
CANTON, GA, 30114 - 0000
Election Day polling place hours are 7:00 am - 7:00 pm.

Directions to Polling Place

Click Here for Early Voting Locations and Times
Click Here for Municipal Polling Place

NOTE: Non-specific rural addresses may not be available.

Absentee Ballot Request Information

If you prefer to vote off-site, mail, fax or email your absentee ballot application to your county registrar.

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Click here for Absentee Ballot/Early Voting status

Your Elected Officials

Candidates Elected:	Officials Elected Statewide
District Maps:	Congressional District Maps
U.S. Congress:	District 011
Georgia Senate:	District 014
Georgia House:	District 021
Judicial:	Blue Ridge District
Commission:	District 003
School:	District 001

Click Here for Qualified Candidates

Georgia Voter ID
Learn more about Georgia Voter Identification Requirements

Stop Voter Fraud
Do Your Part to Help Ensure Secure and Fair Georgia Elections

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Georgia Secretary of State's Elections Division

Elections Advisory Council
Share Your Ideas to Help Strengthen Georgia Elections

Georgia VoteSafe
Learn more about the Georgia VoteSafe Program

Please Note: Polling places are subject to change. Always check your designated polling place location via this website prior to going to vote.

Newly Registered Voters: Please review your registration date which is located under your name and address above. You must be registered on or before the established deadlines to vote in upcoming elections. Please view the current election calendar to confirm the first election in which you will be eligible to vote.

Print / Email Precinct Card | Back

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted] make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I am a retired US citizen. I was a member of the United States Army and served duty in Desert Shield.
3. I reside at [redacted]
4. My affidavit highlights my firsthand knowledge of voter fraud committed by my niece, Rachael Marie Tenney (DOB 12/12/1995).
5. My niece moved to Dallas, Texas in the summer of 2019 after accepting a full time position as a registered nurse at Parkland Memorial Hospital.
6. Rachael Tenney permanently resides at 3604 Cedar Springs Rd Apt 440, Dallas, Texas 75219.
7. On October 19, 2020, Rachael flew to Atlanta, Georgia where she remains a registered voter. She voted during her stay (or turned in her absentee ballot) while visiting her family. She flew back home to Dallas, Texas on October 22, 2020. [redacted]

[redacted]

Declaration of [redacted]

Pursuant to 28 U.S.C Section 1746, I, [redacted], make the following declaration regarding my observations of the full hand count audit conducted by Fulton County for the November 3rd 2020 Presidential race and the associated recount where a Dominion server malfunction forced the recount process to stop and be repeated.

I am a career Information Technology professional with over 40 years of experience in a variety of technical disciplines including programming, analysis, development methodologies, internet system design, financial transaction processing and multi-factor online systems security.

In 2006, I co-founded *Voters Organized for Trusted Election Results in Georgia* (VoterGA), a nonpartisan, non-profit, all-volunteer, dues free organization that has been a leader in the Georgia election integrity movement for 16 years. During that time, I performed extensive research, made many presentations around the state and produced several studies such as the one entitled: "*Unresolved Security Risks in Ballot Marking Devices*" which I presented at the National Voting Rights Task Force in 2019.

I reside at [redacted]

My declaration highlights that the conduct of the full hand count audit and recount I observed clearly warrant an immediate court order to inspect absentee ballots and to preserve certain Dominion system components for forensic review to ensure the integrity of the election.

Declarations:

1. After the November 3, 2020 election, I monitored the hand count audit and re-count conducted by Fulton County, for the Presidential race in November at the World Congress Center;
2. On November 14, 2020, I participated as a monitor in the full hand count audit conducted by Fulton County. During the first day of that audit, four hand count auditors who counted ballots confided to me and other monitors how they noticed potentially fraudulent absentee ballots. These were not marked with a writing instrument, not creased from mailing and not on normal ballot stock. All four of the hand count auditors are highly experienced poll workers and have submitted notarized affidavits of their findings to attorneys.
3. On November 29, 2020, Fulton County experienced a Dominion server malfunction during the recount. The malfunction caused the county election staff to be unable to upload previously scanned ballot images to a central Dominion county server for tabulation AND further caused the county election staff to be unable to upload previously scanned ballot images to a new replacement server that was brought on site but not set up with a matching Election ID and election files.
4. The malfunction was so severe that Fulton County election officials had to call for a Dominion software technician to be flown in from Colorado in an attempt to correct the problems;

5. The malfunction was ALSO so severe that Fulton County election officials decided to begin scanning all ballot images a second time in case the technician would be unable to resolve the problem once on site;
6. The onsite Dominion technician established new election files on the same Dell All-in-One computers that contained the ballot images previously scanned and the staff began scanning the ballot images again to the same Dell- All-In-One computers that still contained the previously ballot images;
7. This highly unusual deviation of standard recount processing for the 2020 Georgia Presidential election is NOT necessarily nefarious BUT it opens a door for new security risks and potential errors in terms of duplication of ballot scanning, technical ballot images transfers and eventual tabulation of already questionable election results,
8. In addition, VoterGA has independently confirmed that the Dominion voting system flipped votes from President Trump to former Vice President Biden in at least one Georgia County. In Ware County the electronic vote totals shorted President Trump by 37 votes and allocated those votes to former Vice President Biden as proven by their hand count audit. This irregularity was discovered thanks to the extra due diligence Ware County election officials performed in producing their own system of record source totals for the hand count audit to double check totals contained in the Secretary's ARLO system ;
9. In summary, four highly experienced hand count auditors detected potentially fraudulent ballots during the Fulton County hand count audit, there is a known instance of the Dominion voting system flipping votes in the Ware County Presidential election results, the reported malfunction of the Fulton County server has introduced new potential for security risks and errors;
10. The closeness of the Presidential election, the impact of Fulton County results on Georgia election results and the impact of Georgia election results on the national Presidential election demands a court to act to protect the integrity of the 2020 Presidential election in Georgia counties,
11. In light of the evidence above, I believe it is imperative for a court to order an immediate inspection of Fulton County absentee ballots, preservation of the Ware County Dominion voting system equipment as well as preservation of the malfunctioning Fulton County server, scanned ballot images, associated memory devices containing those images and the new server onto which the scanned ballot images will be transmitted.
12. These specific actions if taken by a Georgia court are essential to ensure that all Georgians can be confident that Fulton County and Georgia election results are accurate.
13. I am prepared to sign a sworn affidavit for the above statements to ensure any court of their veracity;

[redacted]

Date: December 1, 2020
Location: Roswell, GA

---------- Forwarded message ---------
From: **Sidney Powell** <sidney@federalappeals.com>
Date: Sun, Nov 29, 2020 at 6:58 PM
Subject: Re: 20-cv-04809-TCB Pearson et al v. Kemp et al
[redacted]

Counsel for Mr. Lin Wood sent a spoliation letter to Fulton County on November 24, 2020, in a separate case. It is attached.
And this recent decision would appear to be dispositive on the issue of the Secretary of State being the proper party. Defendants' authorities concern changes in election law. Jacobson, under FLorida law, is inapposite. Curling applies and makes clear the proper parties are named in this suit and they have the authority to grant the relief requested.

This is a simple, short-term preservation of evidence order that should have minimal effect on the interests of the State--which frankly should be primarily be to lay to rest any concern by voters about the Dominion system for which the Secretary of State rushed through a $107 million dollar contract at taxpayer expense for a system left completely open to hacking by adverse nation states and fraught with vulnerabilities and defects that render it completely untrustworthy. The rule of law and the sacred status of the votes of American citizens mandate the brief injunctive relief Plaintiffs request. The country was already on notice against spoliation. It proceeded anyway,

and the State's attorneys should be held to higher standards that to encourage or allow the destruction of evidence in the face of evidence and concerns of this magnitude. Not only the country but the world is watching the now obvious corruption in Georgia.
Thank you. Sidney Powell

Sidney Powell
Texas Attorney & Author of *Licensed to Lie: Exposing Corruption in the Department of Justice*, available on Amazon or at www.LicensedtoLie.com + Senior Policy Advisor @AmericaFirstPol and Senior Fellow at the London Center for Policy Research
www.FederalAppeals.com

[redacted]

Judge Batten needs a response from Defendants as soon as possible on whether the relief Plaintiffs seek is within their control or not.

Thank you,

Katie

From: Sidney Powell <sidney@federalappeals.com>
Sent: Sunday, November 29, 2020 5:25 PM
[redacted]
Subject: Re: 20-cv-04809-TCB Pearson et al v. Kemp et al

CAUTION - EXTERNAL:

Sidney Powell
Texas Attorney & Author of *Licensed to Lie: Exposing Corruption in the Department of Justice*, available on Amazon or at www.LicensedtoLie.com + Senior Policy Advisor @AmericaFirstPol and Senior Fellow at the London Center for Policy Research

www.FederalAppeals.com

Also please see attached directive from the State of Georgia to all county election officials and county registrars to make certain none of the information Plaintiffs request is released under the Open Records Act or except by court order. Obviously, the Secretary of State is calling all the shots and both suppressing and aiding and abetting the destruction of evidence of the massive fraud in Georgia. This Court's immediate action is needed to stop any further destruction of evidence state wide. That any county would begin this today after the state's lawyers had full knowledge of these suits and challenges--including the allegations of fraud--warrants the harshest ruling of this Court. Mr. Harvey, the Elections Director for the Secretary of State, who issued this directive was appointed by Brian Kemp when he was Secretary of State.

---------- Forwarded message ---------
From: **Sidney Powell** <sidney@federalappeals.com>
Date: Sun, Nov 29, 2020 at 5:00 PM

[redacted]

Plaintiffs request immediate reconsideration of the Court's order reversing its injunction, and Plaintiffs request immediate re-entry of the original order issued today. The Secretary of State purchased the Dominion Voting Machines on behalf of the entire state of Georgia for $107 million dollars.

The Secretary of State is responsible by law for election results and conducting and overseeing elections across the state of Georgia.
The Secretary of State's website recites that it will produce the ballots for review specifically referring to the Dominion machines.
The Secretary of State for Georgia is the proper party responsible for all elections state-wide.
The Secretary of State wrongly issued directions to all counties not to cooperate with
Jacobson v. Florida Secretary of State, 974 F.3d. 1236 (11th Cir. 2020) is inapposite. That case was about the way candidates were printed out on the ballots but had no power to enforce the layout of the candidates on the ballot.
Georgia law places the Secretary of State in the position of responsibility for the conduct, oversight and enforcement of the proper conduct of statewide elections. Only the Georgia Secretary of State can purchase and control the voting machines required to be used throughout the State and in each county. O.C.G.A. 21-2-70 (5) (excepting voting machines from county duties).
Plaintiffs do not have to sue more than 600 defendants for Georgia's 159 counties to stop the destruction of evidence on machines purchased by the Secretary of State. The Georgia Secretary of State's own website makes that clear. https://sos.ga.gov/securevoting/.
The Georgia Secretary of State is responsible for the conduct alleged in Plaintiff's suit as a matter of law. "They are also accountable for investigating election fraud and

enforcing state election laws." This suit clearly seeks to enforce those laws. The defense's arguments are specious.

This is a pure error of law which should be corrected by immediate re-issuance of the emergency injunction to prohibit the wiping of or any alteration of the voting machines throughout the state of Georgia. The Secretary of State is the proper party. Ex Parte Young, 209 U.S. 123, 128 (1908) (to be a proper defendant the party need only have "some connection" with the enforcement of the challenged law. Id. at 157).
The law does not countenance the willful and deliberate destruction of evidence, which is exactly what is happening right now. This is spoliation of evidence of the worst kind. Indeed, it is obstruction of justice in what should be -- and may soon be--a federal criminal investigation.

Sidney Powell
Texas Attorney & Author of *Licensed to Lie: Exposing Corruption in the Department of Justice*, available on Amazon or at www.LicensedtoLie.com + Senior Policy Advisor @AmericaFirstPol and Senior Fellow at the London Center for Policy Research
www.FederalAppeals.com

On Sun, Nov 29, 2020 at 3:39 PM [redacted] wrote:
Hi counsel,

In light of Defendants' response, Judge Batten intends to issue the attached order instead of the one we sent earlier. Please contact me with any questions.

Thank you,

Katie

[redacted]

CAUTION - EXTERNAL:

Dear [redacted]

Pursuant to the court's request for a response, this responds to Plaintiffs' claims for extraordinary relief while a statewide recount and local run-off elections are taking place this week and before the Court has even determined that Plaintiffs are entitled to any relief on the merits of their claims.

As a threshold matter, before considering Plaintiffs' requests, the Court must first determine whether it has subject-matter jurisdiction over the action and that Plaintiffs can establish Article III standing.*Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236, 1245 (11th Cir. 2020). The Court must also determine whether this case has been mooted by the state certification of the election results. *Brooks v. Ga. State Bd. of Elections*, 59 F.3d 1114, 1118 (11th Cir. 1995) (explaining that an appeal is moot where it is "impossible for the court to grant any effectual relief whatever to a prevailing party").

Plaintiffs also represent that they "have moved and will continue to move expeditiously." The record belies that assertion, and, when the State is presented with a full opportunity to be heard, it is likely that the Court will find, much like the court in *Wood* just found, that Plaintiffs' unreasonable delay in bringing these claims necessitate that they are either barred by laches or fail to justify the imposition of the extraordinary emergency relief requested.

Additionally, Plaintiffs must demonstrate that emergency injunctive relief is warranted. "A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 24 (2008). In order to prevail on a motion for preliminary injunction, Plaintiffs must *clearly* establish: (1) a substantial likelihood of prevailing on the

merits; (2) that the Plaintiffs will suffer irreparable injury unless the injunction issues; (3) that the threatened injury to the movant outweighs whatever damages the proposed injunction may cause the opposing party; and (4) the injunction would not be adverse to the public interest. *Duke v. Cleland*, 954 F.2d 1526, 1529 (11th Cir. 1992). The Court "should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Winter*, 555 U.S. at 24.

The State Defendants will show in their responsive pleadings that Plaintiffs will not succeed on the merits and are not entitled to any relief, and State Defendants have a right to be heard on these issues before the Court rules on Plaintiffs' motion.

State Defendants respond to Plaintiffs' counsel's numbered requests as follows:

1. Ballot images

Counties are the custodians of all ballot images, paper ballots, and other voting documents—not the Secretary of State. County election superintendents are required by law to maintain ballots and other voting-related documents under seal. O.C.G.A. § 21-2-500(a). Plaintiffs did not name any county election superintendents as defendants in this case. The Eleventh Circuit has made clear that federal courts do not have the authority to exercise jurisdiction to order relief against county officials who have not been named as parties, especially where those county election officials have already completed their statutory obligations regarding the 2020 general election. *Jacobson*, 974 F.3d at 1253.

2. Impoundment of voting equipment

The State Defendants have a "strong interest in their ability to enforce state election law requirements." *Hunter v. Hamilton Cty. Bd. of Elections*, 635 F.3d 219, 244 (6th Cir. 2011). For this reason, the Supreme Court "has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election." *Republican Nat'l Comm. v. Democratic Nat'l Comm*., 140 S.Ct. 1205, 1207 (April 6, 2020) (per curiam) (citing *Purcell v. Gonzalez*, 549 U. S. 1 (2006)).

The Supreme Court and Eleventh Circuit have not been shy about staying lower court injunctions that altered election rules once the 2020 general election cycle commenced.*See, e.g.*, *Andino v. Middleton*, No. 20A55, 592 U.S. __, 2020 WL 5887393, at *1 (Oct. 5, 2020) (Kavanaugh, J., concurring) ("By enjoining South Carolina's witness requirement shortly before the election, the District Court defied [the *Purcell*] principle and this Court's precedents." (citations omitted)); *Merrill v. People First of Ala.*, No. 19A1063, 591 U.S. __, 2020 WL 3604049, at *1 (July 2, 2020); *New Ga. Project v. Raffensperger*, No. 20-13360, 2020 U.S. App. LEXIS 31405, at *11-12 (11th Cir. Oct. 2, 2020) ("[W]e are not on the eve of the election—we are in the middle of it, with absentee ballots already printed and mailed. An injunction here would thus violate *Purcell*'s well-known caution against federal courts mandating new election rules—especially at the last minute.").

Here, Plaintiffs seek relief that, if granted, would affect not only the currently underway recount of the November 3, 2020, general election but would also have catastrophic impact on election officials ability to conduct both the December 1, 2020, non-federal run-off elections around Georgia as well as the January 5, 2020, special election for two seats in the United States Senate as well as a seat on the Public Service Commission.

Additionally, Plaintiffs have the same redressability issues that infect the vast majority of their complaint. The voting equipment that they seek to impound is in the possession of *county* election officials, and the 11th Circuit has made clear in *Jacobson* that the State Defendants cannot stand in as a proxy for local election officials against whom the relief should be sought. 974 F.3d at 1256-58.

3. Allow imaging and inspection of voting equipment in 10 named counties

The same *Purcell* arguments about interfering with an ongoing election process identified in (2) above apply with equal force here. In addition, Plaintiffs have the same fatal defect as to standing and redressability in light of *Jacobson* that their requested relief in (1) and (2) has.

4. Request additional imaging and inspection of voting equipment beyond the 10 named counties

As noted in (3) above, Plaintiffs' request in 4 The same *Purcell* arguments about interfering with an ongoing election process identified in (2) above apply with equal force here. In addition, Plaintiffs have the same fatal defect as to standing and redressability in light of *Jacobson* that their requested relief in (1), (2), and (3) has.

Plaintiffs' counsel also incorporates a drive-by *ad hominem* attack against Dominion in their request for relief, unsupported by any evidence before the Court. The State Defendants point out that Dominion is not a party to this litigation. The State Defendants reserve the right to address further the unsupported arguments made by Plaintiffs once the State has the opportunity to fully respond to the unsupported allegations made by Plaintiffs.

5. Produce video recordings of voting locations in the 10 named counties

First, discovery has not commenced, and there is no obligation on the part of the State Defendants to produce anything at this juncture, especially when, as Plaintiffs' counsel acknowledges, all of his service on the State Defendants is either partial or inchoate at this juncture. However, setting that aside, this request by Plaintiffs suffers the same fatal defect as to standing and redressability that the requests in (1), (2), (3), and (4) have. Plaintiffs seek recordings which, while they may be in the possession of *county* officials, are *not* in the possession of the State Defendants. Accordingly, no relief can be ordered against the *State* Defendants when the relief can only be effectuated by *county* officials.

6. Produce an executed version of the contract between the State and "Dominion/Smartmatic"

As noted above, discovery has not commenced, and there is no obligation on the part of the State Defendants to produce anything at this juncture, especially when, as Plaintiffs' counsel acknowledges, all of his service on the State Defendants is either partial or inchoate at this juncture. Additionally, while the State has a contract with Dominion, it is our understanding that Smartmatic was an unsuccessful bidder on the project and there is thus no contract between the State and Smartmatic.

Respectfully,

[redacted]

[redacted]
Senior Assistant Attorney General: Section Chief
Office of the Attorney General Chris Carr
Government Services & Employment
Tel: (404) 458-3316
rwillard@law.ga.gov
Georgia Department of Law
40 Capitol Square SW
Atlanta, Georgia, 30334

From: Katie Klimko <Katie_Klimko@gand.uscourts.gov>
Sent: Sunday, November 29, 2020 2:44 PM
To: Sidney Powell <sidney@federalappeals.com>
[redacted]TCB Pearson et al v. Kemp et al
Importance: High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi counsel,

Please see the attached order. Judge Batten has just signed it, and it will be docketed shortly.

Thank you,

Katie

From: Sidney Powell <sidney@federalappeals.com>
Sent: Sunday, November 29, 2020 2:32 PM
To: Katie Klimko <Katie_Klimko@gand.uscourts.gov>

Cc: Harry MacDougald <hmacdougald@cpdlawyers.com>; Howard Kleinhendler <howard@kleinhendler.com>; Charlene McGowan <CMcGowan@law.ga.gov>; lwood@linwoodlaw.com; Russell D. Willard <rwillard@law.ga.gov>
Subject: Re: 20-cv-04809-TCB Pearson et al v. Kemp et al

CAUTION - EXTERNAL:

We have just received an urgent phone call that software is being reset right NOW in the World Congress Center.

Sidney Powell
Texas Attorney & Author of *Licensed to Lie: Exposing Corruption in the Department of Justice*, available on Amazon or at www.LicensedtoLie.com + Senior Policy Advisor @AmericaFirstPol and Senior Fellow at the London Center for Policy Research
www.FederalAppeals.com

On Sun, Nov 29, 2020 at 11:34 AM Katie Klimko <Katie_Klimko@gand.uscourts.gov> wrote:
Hi counsel,

Judge Batten has reviewed your positions and would like Defendants' counsel to respond to Mr. McDougald's email below by 3:00 p.m. today. The response should include a direct reply to each of Plaintiffs' specific requests in Mr. McDougald's email.

Thank you,

Katie

From: Harry MacDougald <hmacdougald@cpdlawyers.com>
Sent: Sunday, November 29, 2020 10:37 AM
To: Katie Klimko <Katie_Klimko@gand.uscourts.gov>
Cc: Sidney Powell <sidney@federalappeals.com>; Howard Kleinhendler <howard@kleinhendler.com>; Charlene McGowan <CMcGowan@LAW.GA.GOV>; lwood@linwoodlaw.com; Russell D. Willard <rwillard@law.ga.gov>
Subject: Re: 20-cv-04809-TCB Pearson et al v. Kemp et al

CAUTION - EXTERNAL:

Ms. Klimko:

We strongly disagree with the State Attorney's request for an adjournment of the pending emergency motion until December 4, 2020.

Defendants' response cements what has been purely a stall tactic since Plaintiffs' counsel notified them of the complaint on November 26, 2020. Despite multiple efforts of outreach by Plaintiffs' local counsel Harry MacDougald, Defendants did not respond until this email to answer correspondence from this Court. Now Defendants ask this Court to *license by delay* the very destruction of evidence Plaintiffs' emergency motion seeks to prevent. They intend to wipe the machines of all data on Monday November 30, 2020, in connection with a machine recount, using the same defective system that has cast a pall of doubt over election results in 29 states and the entire nation. We have filed and attach hereto a redacted declaration from a Union County poll worker attesting to these facts.

The Plaintiffs are Republican Electors for the President, a county GOP chairman, and the assistant secretary of the Georgia GOP.

Fraud has infected this election on an unprecedented level as evidence of its magnitude increases by the day. By federal statute, the electors must be seated and allowed to vote no later than December 14, 2020.

Plaintiffs must be able to present their case and provide sufficient time for the court to rule and for any appellate process to conclude before that date. Plaintiffs have moved and will continue to move expeditiously.

Moreover, Defendants are required by 52 U.S.C. §20701 and O.C.G.A. § 21-2-500 and Secretary of State Rule 183-1-12-.13-to maintain all voting records—including the ballot "image" created by the Dominion system which becomes the actual "vote" read by the Dominion scanner/tabulator and the "AuditMark" images that show how the tabulators interpreted and passed the vote on to next stage of the Election Management System (EMS) before the state ARLO system produces the official tabulation results. The "adjudication" process is rife with opportunity for election fraud.

The Georgia Secretary of State and his Deputy are aware of this problem. Indeed, Dominion was rushed into Georgia by virtue of a rare no-bid contract for the $100 million system in 2019.[1] Updates that rendered the system uncertified were conducted by Dominion on October 31, 2020—just three days before the election—and after thirteen days of early voting.

Another equally impermissible and uncertified "update" was performed on the systems in Morgan and Spalding counties the night before the election. Accordingly, Dominion machines could not have been lawfully used in Georgia for the election even under Georgia law—much less under federal law.

The Secretary of State advertises on its website:

> "Dominion will be working with the Secretary of State's office to address perceived concerns regarding use of marked ballots that feature barcodes. For example, the state can make scanned images of all ballots cast in statewide elections available, allowing anyone to do a ballot count to check the accuracy of the results."

Defendants have the vast resources of the State of Georgia with which to defend this case. The claim that counsel is occupied with briefing in an entirely unrelated case brought by a private party, does not withstand scrutiny. The massive fraud and ballot-stuffing claims which predominate this case and necessitate access to and inspection of the machines are not raised in Mr. Wood's case on appeal in the 11th Circuit. The claims here are significant and distinct.

The State's claims about service of process are also unavailing. We have offered numerous ways of delivering the pleadings electronically. And, they are all available on the court's ECF system. Now that Defendants have finally responded to correspondence from this Court, the Secretary of State should be required to:

1. Immediately produce to Plaintiffs on Monday November 30, 2020, all "scanned images of ballots cast in the statewide election" thereby "allowing anyone to do a ballot count to check the accuracy of results" as stated on its website.

2. Impound all machines used in the creation, assessment, tabulation, submission, and reporting of election results statewide to prevent any additional destruction of evidence for a period of seven days or until further order of this Court. While Plaintiffs understand the public interest in proceeding with a recount, there is much greater public interest in ensuring the integrity of the process to Georgia, to the nation, and to the world which is watching how the United States of America addresses these troubling allegations and evidence of fraud.

3. Allow Plaintiffs to proceed immediately on Monday November 30 to have their experts mirror-image all parts of the Dominion voting process in *ten counties over five days to collect a random sample for analysis.*

   The counties should include: **Fulton, Gwinnett, Cobb, DeKalb, Henry, Cherokee, Forsyth, Hart, Paulding, and Hancock**.

   This imaging and the related examinations need to be conducted by Plaintiffs' experts on the equipment for Dominion at all stages of the process, including the "poll pad," the "Image Cast ballot marking device," the "scanner tabulator (ICP) which reads the QR code generated on the image which becomes the ballot, the Central County tabulator (ICC) to include any machines utilized for adjudication, as well as the Election Management System (EMS) equipment, storage devices and the state's ARLO official tabulation results. This includes

the “English Street Warehouse” located at 1365 English St. NW, Atlanta, GA 30318 for Fulton County and especially its “lunchroom.”

4. Plaintiffs propose to report at least their initial results to the Court by Monday, December 7, 2020, for the Court and parties to evaluate whether additional examinations of machines are warranted. At this stage, it is possible that Dominion has already destroyed the evidence of its fraud, as its own handbook concedes facts establishing that its audit trail amounts to nothing reliable at all. More races are affected by the fraudulent system that merely the presidential race.

5. Moreover, Defendants should be required to produce on Monday, November 30, 2020, the video evidence for all voting locations at all voting sites and ballot boxes for 48 hours surrounding the election in the counties designated above, and especially for the State Farm Arena in Fulton County, Georgia, where the election officials lied about the water leak and witnesses saw three women working on the computers for the voting machines in the wee morning hours after ordering all others to leave the facility.

6. Defendants should also be required immediately to produce the executed version of the contract between Georgia and Dominion/Smartmatic.

Accordingly, we urge the Court to consider and grant Plaintiffs’ Emergency motion—at least to the extent outlined herein. Properly counting the legal vote of American citizens is sacred to maintaining this Republic. The overwhelming public interest demands nothing less than the full transparency provided by the relief requested in Plaintiffs’ Motion for TRO and herein. Time is of the essence.

Respectfully submitted,

[redacted]ach, LLP

From: Russell Willard <rwillard@law.ga.gov>
Date: Saturday, November 28, 2020 at 9:22 PM
To: 'Katie Klimko' <Katie_Klimko@gand.uscourts.gov>
Cc: Sidney Powell <sidney@federalappeals.com>, Howard Kleinhendler <howard@kleinhendler.com>, Charlene McGowan <CMcGowan@LAW.GA.GOV>, "lwood@linwoodlaw.com" <lwood@linwoodlaw.com>, Harry MacDougald

<hmacdougald@cpdlawyers.com>
Subject: RE: 20-cv-04809-TCB Pearson et al v. Kemp et al

Dear Ms. Klimko,

In response to your inquiry, no, the State has not begun preparation of a brief in opposition to the Plaintiffs' motion. While Ms. McGowan and myself are in receipt of certain of Plaintiffs' filings that have been made in this case, the initial filings, including the complaint, were made after hours on the Wednesday before Thanksgiving, and there were apparently some filings made slightly before midnight on Friday, which was also a state holiday. We have not heard directly from nor been able to speak with any of our clients about that correspondence, which included copies of only select filings along with a link to a shared file drive, which many IT systems will not permit download from due to security parameters in place. As Plaintiffs' counsel acknowledges in his email, our clients have not been served nor has counsel sent waiver of service packets to any of the defendants. As Plaintiffs' counsel further acknowledges, a portion of his pleadings were sent by express package delivery after hours last night (with no representation as to whether those were placed in a drop box with Saturday pickup or Monday pickup nor as to what type of package delivery was selected) with a promise to drop off the remaining documents, *including the complaint and all of the exhibits relied upon*, at an express package delivery sometime today. Neither of those representations about inchoate delivery provides meaningful notice to our clients.

We are currently reviewing the filings that we have been able to retrieve, which encompass hundreds of pages and over thirty exhibits including over twenty witness declarations. The State intends to file a brief in opposition to Plaintiffs' motion as soon as possible, and we will be consulting with state elections officials on what declarations may be necessary to refute plaintiffs' allegations. However, those elections officials are preoccupied with the on-going statewide recount, and we expect that it will be several business days before we will be in a position to file a complete response.

Furthermore, several of the claims raised in Plaintiffs' action are currently before the Eleventh Circuit on an expedited appeal in the related case of *L. Lin Wood v. Raffensperger*, Civil Action No. 1:20-cv-04651-SDG (Appeal No. 20-14418). Mr. Wood functions as the sole plaintiff in that litigation, but he makes many of the same or substantially related claims as counsel for the plaintiffs in the instant action. We expect that case, which is under appeal after Mr. Wood's request for emergency relief was denied by Judge Grimberg, will resolve many of the issues before the Court in this action. Pursuant to two orders entered by the 11th Circuit on Wednesday, Ms. McGowan and I have been working through the holiday already (and continue to do so) preparing two separate briefs that the 11th Circuit has ordered be filed in the expedited

appeal on Tuesday, December 1. We are hopeful that the Eleventh Circuit will rule expeditiously during the coming week.

Accordingly, the State respectfully requests that the Court refrain from scheduling a hearing on Plaintiffs' motion prior to December 4, 2020, which should allow the State, after filing the *Wood* briefs, to respond meaningfully to the Plaintiffs' motion. Although Plaintiffs have styled their motion as an "emergency," Plaintiffs waited until the commencement of the Thanksgiving holiday, and 5 days *after* the Secretary of State and Governor certified the slate of presidential electors on November 20th, to bring their claims. Plaintiffs are making the unprecedented request that the Court "de-certify" and set aside the results of the presidential election. It would be highly prejudicial to the State Defendants and to the voters of Georgia to schedule a hearing before the State Defendants have been afforded at least a reasonable period of time to respond to Plaintiffs' belated allegations.

We would be happy to participate in a scheduling conference with the Court to discuss this matter further at the Court's convenience.

Respectfully,

Russell D. Willard
Senior Assistant Attorney General

Russell D. Willard
Senior Assistant Attorney General: Section Chief
Office of the Attorney General Chris Carr
Government Services & Employment
Tel: (404) 458-3316
rwillard@law.ga.gov
Georgia Department of Law
40 Capitol Square SW
Atlanta, Georgia, 30334

From: Katie Klimko <Katie_Klimko@gand.uscourts.gov>
Sent: Saturday, November 28, 2020 3:11 PM
To: Harry MacDougald <hmacdougald@cpdlawyers.com>
Cc: Sidney Powell <sidney@federalappeals.com>; Howard Kleinhendler <howard@kleinhendler.com>; Charlene McGowan <CMcGowan@LAW.GA.GOV>; Russell D. Willard <rwillard@law.ga.gov>; lwood@linwoodlaw.com
Subject: RE: 20-cv-04809-TCB Pearson et al v. Kemp et al

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you, Mr. MacDougald!

Mr. Willard and Ms. McGowan, will you let us know if you are in the process of preparing a brief in opposition to Plaintiffs' emergency motion?

Thank you all!

From: Harry MacDougald <hmacdougald@cpdlawyers.com>
Sent: Saturday, November 28, 2020 1:51 PM
To: Katie Klimko <Katie_Klimko@gand.uscourts.gov>
Cc: Sidney Powell <sidney@federalappeals.com>; Howard Kleinhendler <howard@kleinhendler.com>; Charlene McGowan <cmcgowan@law.ga.gov>; Russell Willard <rwillard@law.ga.gov>;lwood@linwoodlaw.com
Subject: Re: 20-cv-04809-TCB Pearson et al v. Kemp et al

CAUTION - EXTERNAL:

Hi Ms. Kimbo:

Thank you for your email.

As for service, summonses have not yet been issued and there have been no acknowledgments thus far.

However, I emailed the complaint and its exhibits and the subsequent filings to all Defendants other than the Governor and Secretary of State late last night and this morning. I do not have an email address for the Governor, and the address for the Secretary of State that I used rejected the emails as over-sized. The emails to the members of the State Board of Elections appeared to go through as I heard back from one of them, Mr. Mashburn.

I also emailed the Complaint and Exhibits on Thursday and the subsequent filings this morning, to two lawyers from the State AG's office who appeared for the State Defendants in Wood v. Kemp, et al, an election case before Judge Grimberg, Charlene McGowan and Russell Willard, whom I am also copying on this email.

The case number was not assigned until mid-day yesterday.

On Friday I asked Ms. McGowan and Mr. Willard if they would acknowledge service.

This morning I emailed the documents filed yesterday to both of them, including the motion for emergency relief.

That describes delivery by email. Now for delivery by FedEx.

A FedEx to the Defendants of hard copies of yesterday's filings was dropped into a FedEx box very late last night.

A FedEx to the Defendants of hard copies of the Complaint and the Exhibits, which are voluminous, is being assembled now and will be turned over to FedEx this afternoon.

I have not heard back from any counsel for any Defendant.

Please note that I have also copied Sidney Powell and Howard Kleinhendler on this email, for whom I am serving as local counsel.

With the Court's permission, if there are any telephone conferences over the weekend, Ms. Powell and Mr. Kleinhendler would also like to participate.

If there are any other questions, please do not hesitate to call on me.

With best regards,

Harry W. MacDougald
Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive
Suite 1600
Atlanta, GA 30346
404–843–1956
Direct 404-843-4109

> **From:** Katie Klimko <Katie_Klimko@gand.uscourts.gov>
> **Date:** Saturday, November 28, 2020 at 1:26 PM
> **To:** Harry MacDougald <hmacdougald@cpdlawyers.com>, "lwood@linwoodlaw.com" <lwood@linwoodlaw.com>
> **Subject:** 20-cv-04809-TCB Pearson et al v. Kemp et al
>
> Hi counsel,
>
> Judge Batten is aware of the pending TRO motion. We wanted to touch base on where things are with service, etc. Have Defendants been served and if not, do you know when you anticipate service? Also, do you know who will be representing Defendants?
>
> Thanks so much,

Katie Klimko
Law Clerk, Hon. Timothy C. Batten, Sr.
United States District Court
Northern District of Georgia
404-215-1420
Katie_Klimko@gand.uscourts.gov

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[1] Dominion's lobbyist Jared Thomas worked on Governor Kemp's campaigns since his first race for the Georgia Senate in 2002. https://www.govtech.com/security/Georgia-Awards-107M-Voting-Machine-Contract-to-Dominion.html

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EMAIL ATTACHMENT SPOLIATION LETTER BELOW

SMITH & LISS, LLC
ATTORNEYS & COUNSELORS AT LAW

FIVE CONCOURSE PARKWAY
SUITE 2600
ATLANTA, GEORGIA 30328
TELEPHONE: 404-760-6000
FACSIMILE: 404-760-0225

November 24, 2020

VIA U.S. CERTIFIED MAIL
7020 0640 0001 0336 0969

Fulton County Board of Registration & Elections
Attn: Richard Barron, Director
130 Peachtree Street, SW
Suite 2186
Atlanta, GA 30303

Re: *L. Lin Wood, Jr. vs. Brad Raffensperger, et al.*
Case No. 1:20-cv-04651-SDG
Fulton County – Ballot Auditing

To Whom It May Concern:

Please be advised that this office represents L. Lin Wood, Jr. in connection with the above-mentioned matter. It is our understanding that you and/or your agents, and/or representatives are in possession of the certain materials connected to the November 2020 Presidential Election. For purposes of this request (a) "Absentee ballots" shall include, but are not limited to, mail-in ballots or vote by mail; (b) "Audit" refers to the audit conducted by Pro V&V; and (c) "Dominion" refers to Dominion Voting Systems and their subcontractors, including but not limited to KNOWiNK.

Accordingly, **we hereby request any and all evidence, including but not limited to:**

1. Any and all Absentee ballots and their respective original envelopes;
2. Any and all records the show, or tend to show, the chain of custody of all Absentee ballots;
3. Any and all records that show, or tend to show, the location(s) where Absentee ballots were preserved prior to an STET elections;
4. Any and all records that show, or tend to show, location(s) were Absentee ballots were preserved after the elections;
5. Any and all records certifying the receipt of voting boxes, bins, and/or ballots;
6. Any and all records certifying that voting boxes, bins, and/or ballots received prior to the elections were maintained in a secure location;
7. Any and all policies and procedures regarding the maintenance and security of voting boxes, bins, and/or ballots received prior to the elections;
8. Any policies and procedures provided to auditors, poll workers, managers, and supervisors with regard to November 2020 Presidential Election;
9. Any and all documentation in connection with the Pro V&V Audit, including but not limited to memorandums, emails, letters, etc.;
10. Any and all documentation, including but not limited to emails, correspondence, and/or letters, between any state agency and Pro V&V for the last five (5) years;

{00584500. }

11. Any and all bids, contracts, correspondence, or other documentation evidencing discussions with any companies or entities other that Pro V&V for auditing services;
12. Any interoffice memorandums, emails, letters, or other written communications regarding the Audit.
13. Any and all voice recordings or audio messages concerning the Audit;
14. Any and all cellular telephones issued to employees, volunteers, auditors, poll workers, managers, or supervisors;
15. Any and all video surveillance for November 2, 2020 through November 18, 2020;
16. Contact information for all individuals involved in the counting and/or processing of Absentee ballots in connection with the November 2020 Presidential Election;
17. Any and all machines used to calculate votes, including software documentation connected with the machines;
18. Email correspondence, text messages, cellphone records, and/or correspondence between any election officials and Dominion for the last five (5) years;
19. The full contract between Dominion and any Georgia and/or United States government employee or agency;
20. Payments, invoices, made by Dominion and received by Dominion and any and all payments and invoices made by the federal, state and local government to Dominion;
21. Any correspondence with the Federal Government of the United States;
22. Any complaints made by anyone to any election officials, volunteers, employees, etc. related to fraud, voting irregularities and voting machine complaints;
23. Any and all container information sheets;
24. Any Audit board batch sheets;
25. Any and all documentation reflecting the number of votes tallied for each presidential candidate on November 3, 2020;
26. Any and all raw data, intermediate data, and documentation reflecting the number of votes tallied for each presidential candidate at the conclusion of the initial/original count;
27. Any and all raw data, intermediate data, and documentation reflecting the number of votes tallied for each presidential candidate at the conclusion of the recount;
28. Any documentation of complaints or termination paperwork connected with the actions of any poll workers during the November 2020 Presidential Elections;
29. Any protocols, policies, or procedures drafted in connection with the audit, recount, and recanvas conducted by the Georgia Secretary of State;
30. Any documents in connection with the risk limiting audit conducted by the Georgia Secretary of State;
31. Any and all documents in connection with the established procedures to manually count a random sample of ballots in order to ensure that the voting machines was accurate;
32. Any and all protocols or other documents identifying the manner in which employees or volunteers were instructed to count or process votes;
33. Any and all communications with any third-party that participated in the election process, including but not limited to, the Department of Justice, Federal Bureau of Investigation Central Intelligence Agency, Republican National Committee, Democratic National Committee, The Clinton Foundation, any foreign corporations, and/or any foreign governments;
34. Any and all USB, compact flash drives, portable drives, and/or hard drives of any kind that are used for storing data relating to the election process, votes and audits;

35. Any policies or procedures, memorandums, or other documentation concerning poll watchers;
36. Any digital images created by a Ballot Marking Device (BMD) indicating how the voting system interpreted the paper input;

Furthermore, no repairing, maintenance, altering or destroying of said evidence is to be done. You have a legal obligation to preserve evidence, regardless of whether any Court Order, to that effect has ever been entered, because you know or with the exercise of due diligence should know that litigation has risen out of this matter.

Should you not be the persons and/or entity in control or possession of the above referenced evidence, we hereby request that this letter be forwarded immediately to the proper agent who can respond accordingly to this urgent matter. **Finally, please contact us for permission for us to conduct an inspection of the above referenced evidence. Alternatively, you may send us a copy of the evidence or contact my office to make arrangements to have someone recover same**. Thank you for your attention to this matter, and should you require anything further, please do not hesitate to contact me directly.

With kind regards, I am

Very truly yours,

SMYTH & LISS, LLC

Ray S. Smith, III

RSS

cc: Rebecca N. Sullivan - Georgia Department of Administrative Services
Christopher M. Carr, Esq. – Attorney General
Vincent R. Russo, Esq. – Robbins Ross Alloy Belinfante Littlefield, LLC
Brian Kemp – Governor of Georgia
Brad Raffensperger - Secretary of State of Georgia

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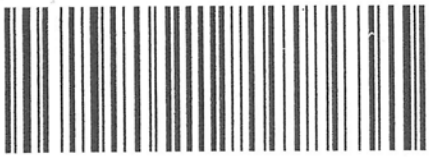

7020 0640 0001 0336 0969

ITH & LISS, L
Attorneys & Counselors
E PARKWAY
IA 30328

Fulton County Board of Registration & Elections
Attn: Richard Barron, Director
130 Peachtree Street, SW
Suite 2186
Atlanta, GA 30303

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Fulton County Board of Registration & Elections
Attn: Richard Barron, Director
130 Peachtree Street, SW
Suite 2186
Atlanta, GA 30303

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2. Article Number *(Transfer from service label)*

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United States District Court
Northern District Of Georgia
Atlanta Division

Coreco Jaqan Pearson, et al.,
Plaintiff,
vs.
Brian Kemp, et al.,
Defendant.

Civil Action
File No. 1:20-CV-4809-TCB

Atlanta, Georgia
Sunday November 29, 2020
7:45 p.m.

Transcript of Motions Hearing
Before The Honorable Timothy C. Batten, Sr.
United States District Judge

APPEARANCES:

FOR THE PLAINTIFFS: Sidney Powell
L. Lin Wood, Jr.
Howard Kleinhendler
Harry MacDougald
Christine Dial Buckler
Attorneys at Law

FOR THE DEFENDANTS: Russell David Willard
Charlene Swartz McGowan
Attorneys at Law

Lori Burgess, Official Court Reporter
(404) 215-1528

Proceedings recorded by mechanical stenography, transcript produced by CAT.

THE COURT: Hi. I'm Judge Batten.

THE CLERK: I think we have everybody here. Harry MacDougald.

MR. MACDOUGALD: I want to announce that my associate Christine Buckler is in the office with me but off camera.

THE COURT: Thank you, Mr. MacDougald.

THE CLERK: Howard Kleinhendler.

THE COURT: Howard. Who are you with?

MR. KLEINHENDLER: I am with the Plaintiffs.

THE COURT: Keep going.

THE CLERK: Sidney Powell.

THE COURT: I don't see Ms. Powell.

MS. POWELL: I am also here with Lin Wood for the Plaintiffs.

THE COURT: I don't see either of y'all.

THE CLERK: If you will turn on your video, please, Ms. Powell.

MS. POWELL: I am not sure it is working properly, but I have given it my best shot.

THE COURT: Who else do we have on the call besides Ms. Powell and Mr. Wood?

THE CLERK: Charlene McGowan.

THE COURT: Is she on the video?

THE CLERK: Everyone's video is on except Ms. Powell

and Rus Willard.

THE COURT: I can't see everybody. I suppose that is okay as long as I can hear everybody. So I think we are ready to proceed. Are the Plaintiffs ready to proceed and are the Defendants ready to proceed? One at a time. Plaintiffs?

MS. POWELL: Yes.

THE COURT: And the Defendants?

MR. WILLARD: Yes, Your Honor.

THE COURT: You know, I am not really sure exactly what it is the Plaintiffs are trying to obtain in the case right now regarding these machines. There has been a mention of wiping of a machine at the World Congress Center, and also been a discussion about reference to the fact that Union County is going to wipe their machines. You know, I understand that these county officials are obligated by state law to preserve the data from the election on November 3. What is it exactly that the Plaintiffs want me to order the Secretary of State and/or the other Defendants to do? I am not -- excuse me, I am sorry -- I am not talking about ultimately under the complaint that has been filed, I am talking about this emergency temporary relief right now. I know you want me to throw out the election results and et cetera, but I just mean on the short-term basis, what is it exactly that the Plaintiffs would like? Ms. Powell?

MS. POWELL: Right now what you ordered in your

first order of the day would be perfect. We need access to the machines as soon as possible so we can do mirror images of the data that is on there and the operations that are on there, because it's well-established throughout Dominion software systems and anybody who knows anything about them that they can be easily altered. And we understand, from what is going on at the Center today, that process has already begun. Apparently from 11:00 to 1:30 they began substituting software in the machines that was completely unnecessary to count the ballots.

THE COURT: Let me stop you right there and ask Mr. Willard, first of all, I understand the State's argument that -- the Defendants' argument that the Plaintiffs lack standing. I also understand that they cite *Jacobson* for the proposition that they aren't the right people to be sued to provide this relief and that instead it should have been the county elections officers. I understand all of that. But I am wondering, and I am just trying to get factual information here, what is it about access to the voting machines that the Defendants have a problem with? Why can't the Plaintiffs' experts go ahead and do a forensic examination? Are they going to damage anything or in any other way interfere with the performance of the government officials' duties?

MR. WILLARD: Your Honor, I appreciate the

opportunity to respond. I apologize about the video. With the weather out there, we've had it bad with issues all weekend in my subdivision. I will say that we've got a concern because what your original proposed order and what the Plaintiffs are seeking is going to basically take certain voting equipment out of the equation for the election scheduled to take place this Tuesday, as well as the election scheduled to take place on January 5th, because Plaintiffs are wanting us to hold and basically mothball and preserve these machines at the county level - not in our possession, not in our custody and control - at the county level. They want to preserve those in the form that they were in after the November 3rd election. Under state law there is an obligation on those county election officials to preserve the data. But the State of Georgia has set up a system where the actual equipment is used at each successive election in the cycle. And there is a certain amount of recalibration in terms of getting them ready. For the individual machines, they are not going to have the November 3rd, 2020 ballot card being inserted in them. They are not going to have that database built in any longer. You're going to have a December 1st, 2020 database in the machines and in the tabulation computers. You're going to have a January 5th, 2020 database tabulating the results of the federal and state-wide run-off on January 5th. They have cited to *Curling*. *Curling* is inapposite

because it was decided before the 11th Circuit's redressability decision in *Jacobson*. In addition, they are wanting you to poke the procedure. You've got election officials who, as of Tuesday morning, have to turn on the lights, conduct in-person voting, Tuesday night of this week have to tabulate results on the very equipment that the Plaintiffs are wanting you to take out of circulation. And that gets -- now it is so broad, based on what Ms. Powell has asked in some of her more recent emails, you've now implicated the *Purcell* line of cases and the progeny as interpreted by this circuit that says Plaintiffs don't get to come in and poke at an election procedure that is currently underway.

THE COURT: Let me interrupt you, Mr. Willard. First of all, refresh my recollection. The election in two days, which is December 1, is that the run-off for the Public Service Commissioner? Or is that on January 5, 2021?

MR. WILLARD: The Public Service Commission race has been moved to January 5th, 2021.

THE COURT: What is December 1?

MR. WILLARD: Basically any local race that is still out there that --

THE COURT: Okay.

MR. WILLARD: For example, the Athens Clarke County, Oconee County and, I forget, I think it's the Northeastern Judicial Circuit, that District Attorney's race is on the

ballot for this Tuesday.

THE COURT: I remember that.

MR. WILLARD: Clarke County and Oconee are going to be voting in that.

THE COURT: Right.

MR. WILLARD: I am not aware here on Sunday evening at 7:59 what other counties may have races on Tuesday and what may not. We've been sort of struggling ever since the Plaintiffs filed their emergency motion right before midnight on Friday that we saw sometime around lunchtime on Saturday. We've sort of been scrambling. I don't think all of my clients have still seen everything, as Plaintiffs acknowledge. There has been a complete absence of notice requisite to grant any relief as to the temporary hearing at this point, because I haven't been able to communicate with all of my clients to see if all of my clients have even been properly served with the emergency motion.

Plaintiffs have been sort of trying to do this by the seat of their pants, and they keep asking for this sort of ever-shifting claim of relief that they are saying isn't going to matter all that much in the grand scheme of things, but in terms of a currently underway election, it is going to be throwing sugar in that gas tank and gumming up the works for not only the December 1st election, but also the January 5th election, as well as the recount that is underway.

THE COURT: Well, I am having the impression, from what you've just said, Mr. Willard, that there really is not expected to be much turnout for Tuesday's elections, whatever remains statewide. Obviously we are going to have an enormous turnout January 5th, 2021. I just -- you know, I don't fault the Defendants for complaining about the timing, and the fact that they've been given precious little time to respond to the Plaintiffs' requests. I don't blame them. And my draft proposed orders, the two that we are discussing from today, both reflect a hearing schedule that reflects my understanding of the State's position. In other words, I feel like, you know, you've complained, understandably, about the timing and said you need a little more time, and I feel like I am giving you that by having the hearing on Friday, giving you till Wednesday to file the brief in opposition. Believe me, I am not saying that you are getting an abundance of time, but to me, I divided that baby as fair as I thought I could, and I feel like I am giving you enough time. My point is, if I am going to give you that time, I don't understand why it is asking too much. And forget for just a moment the argument about it's not under the Secretary of State's control. I understand that argument. I am going to deal with that in a minute. Laying that aside for a second, the question is, why isn't there enough already -- let me put it like this. What you are asking for, why should you not correspondingly agree

to allow a quick inspection of these machines? And I guess -- you know, I don't know how many counties the Plaintiffs are talking about. I think that *Jacobson* may be on point. I am not sure yet. I don't know. It seems to me hard to believe that the Plaintiffs should have to sue 159 elections commissioners to get the relief they want. I understand exactly what *Jacobson* said, but that was a different case. What I am trying to accomplish here is, taking into both sides' consideration, their arguments, their respective positions, but incorporating into them also the law. The Plaintiffs want to seize these and impound these machines for a forensic audit by their experts.

Let me go back to Ms. Powell and ask you, Ms. Powell, which machines are we talking about? Are you talking about in every county in Georgia? Where exactly are you talking about?

MS. POWELL: No, Your Honor. In our motion we asked specifically for machines in ten counties.

THE COURT: Those ten counties that you've highlighted. Okay.

MS. POWELL: Yes, sir.

THE COURT: And what do you want to do with those machines? How long is it going to take your experts to do their thing on those machines?

MS. POWELL: It will take approximately a day of

time per county, but we can dispatch three separate teams and be able to do the bulk of it I would think within three days.

THE COURT: Okay. What do you say in response to Mr. Willard's argument -- I wasn't -- let me go back to Mr. Willard and just make sure I am clear on this. Mr. Willard, specifically with respect to the Clarke County and Oconee County DA's I guess it is a run-off. I don't remember if it's a run-off or a special election. But for the record, which is it, Mr. Willard?

MR. WILLARD: It is a special election run-off.

THE COURT: Yeah.

MR. WILLARD: Your Honor, if I can clarify for the record, that is just one example of a race that is scheduled to be run on Tuesday. There are a myriad other races that we anticipate are being held throughout Georgia, we just haven't had the opportunity to compile an exhaustive list.

THE COURT: I understand.

MR. WILLARD: But we are letting you know that there is a race scheduled for Tuesday.

THE COURT: Right. I understand. I guess what I am wondering is -- well, I guess -- let me think this through. It seems to me that the question should be, and we might -- I might give y'all a little bit of time to find this out. Other than the -- are there any elections set in these ten counties that are going to take place this Tuesday, December 1? And if

so, are the Plaintiffs going to, to get the relief they want, are they going to have to access these machines and not have a -- which would prevent these ten counties from having the machines to use for those Tuesday elections?

MR. WILLARD: I'm sorry, Your Honor, is that addressed to me or Ms. Powell?

THE COURT: I am kind of thinking out loud and addressing both of you. Basically we have narrowed it from 159 down to 10 counties. And the Defendants right now can't tell me, and I don't fault them for that at all, what elections are taking place, if any, in those ten counties this coming Tuesday in two days. So how am I supposed to -- and so that is one issue, is this may be moot if it turns out that there is not even an election taking place in those ten counties on Tuesday, I don't see what the problem would be of me entering a temporary restraining order allowing the Plaintiffs to have quick access to those machines for a forensic examination. On the other hand, if there is going to be an election in any of those ten counties, that raises the question of can they still have the election without those machines. Do you have to look at every single machine? I mean, I don't understand how it works.

So I guess I would ask Ms. Powell, let's suppose that in two or three of the ten counties that you are interested in, there are in fact going to be run-off elections

on Tuesday, December 1. How can your objective be met, your objective being a forensic examination of those machines in those counties if there is going to be an election there on Tuesday?

MS. POWELL: We can get experts to them tomorrow, Your Honor. We've got at least three teams of experts that could be dispatched to three separate counties to collect the information from the machines. The important part is, it's not just the data that comes out of the machines that is crucial to the fraud case that is so rampant across the country, it is the fact that an algorithm we believe was uploaded to the Dominion machines that weighted the votes for Mr. Biden over the votes for President Trump at approximately 1.22 versus .78, and that is what would change with any alteration of the software that is crucial to making the proof of the fraud absolutely conclusive and irrefutable. We know they have already gone into the machines in Fulton County to change the software with no basis to do so whatsoever. In fact, there is an attorney that contacted me just earlier today, in fact while I was replying to the last message from the Court. I believe her last name is Broyles, a Ms. Broyles, who had been contacted by a witness who was very concerned by what she had seen down at the Center today, and felt like it was an abject pretense that they were going to be redoing all the same ballots and there was no reason to change the

software for any reason whatsoever.

THE COURT: All right. Mr. Willard, what is your response to that?

MR. WILLARD: Your Honor, I apologize. I am used to dealing with facts and law, not innuendo and accusation. The bottom line here, the Plaintiffs have sent you a copy of the *Curling* order which, as I mentioned earlier, is inapposite because it predates *Jacobson*. But in that case, where the security and reliability of the DRE machines, which have now been retired, even Judge Totenberg recognized that you cannot willy-nilly allow individuals from outside of state and county custody and control procedures to have access to these machines. It poses a security risk for Ms. Powell's minions to go in and image everything, download the software, and figure out for future elections a way to hack in so that their preferred candidates can win. That is in effect what they are seeking here. They want to image, as they just said, not only the data on the machines, but also the entire software package and the security protocols that are set up. That is something that no Federal Court can possibly countenance. Even if they had the appropriate defendants here, which they don't, you cannot allow, during the midst of an election cycle, a third party to come in and get the proverbial keys to the software kingdom. I will say that we are trying to get up to speed on this as much as possible. Our office is not representing the

Secretary in the *Curling* litigation because our office was forced to declare a conflict several years ago, but we have Conflict Special Attorneys General who have spent months and years dealing with the security of the State's electronic voting system in Federal Court. There was a whole procedure set up where you had a white room established in Virginia where experts were only permitted to go in and inspect a single machine at that white room after security protocols were set in place where they couldn't remove anything from there, where they weren't able to take anything that could later compromise the system with them when they left.

MS. POWELL: Well it's a little bit late to be worrying about the compromise of the system. That happened, as we have evidence that both Iran and China were hacking into the system during our election, not to mention any number of other foreign entities and domestic actors as well. The entire system was built to be both hackable from afar and locally to overwrite votes, to overwrite review of signature, to drag and drop ballots into the trash can as wanted. It was conceived and created by Mr. Chavez's regime for the very purpose of ensuring that he won future elections. As corrupt as it could possibly be. And that's the system that the Georgia Secretary of State decided was appropriate to run in Georgia, despite any number of revelations of the myriad problems it has.

THE COURT: The problem I have --

MS. POWELL: A two-year-old can hack these machines as they are now, and we are certainly amenable to having an observer and videotaping the process that we use to create the mirror images, and to submitting it and holding it under a protective order.

THE COURT: And am I correct in expecting that the Defendants further contend that these are -- there is proprietary information on these machines that should not be publicly disclosed?

MR. WILLARD: Yes, Your Honor, as well as from a security protocol standpoint.

THE COURT: Right. Okay. Well, here is the problem. It's Sunday, November 29th at 8:12 p.m. This motion did not come in until late Friday night. I was not aware of the motion until Saturday. And the State, including the Secretary of State, the Governor, and the Elections Board members have hardly had any opportunity to respond to these allegations. I don't know if that is anybody's fault. I don't know at this particular point -- I haven't considered the issue of whether the suit should have been brought earlier and the Plaintiffs are guilty of laches. I have no opinion on that issue at this point. But what I do have an opinion on is that the burden is on the Plaintiffs, and the relief that they seek is extraordinary. And although they make allegations of

tremendous worldwide improprieties regarding the Dominion voting machines, those allegations are supported by precious little proof. Now let's just suppose hypothetically that the obligations are true, and there simply has not been time to marshal the evidence in support of those allegations. The problem with that is that that doesn't create an exception for me as to whether I should grant this extraordinary relief of a temporary restraining order, which of course can only be granted in truly extraordinary circumstances, and the Defendant -- and it's not even clear to the Court that the named Defendants are the proper parties to this lawsuit with respect to this particular form of relief that the Plaintiffs are seeking. So I am going to deny the Plaintiffs' request for a temporary restraining order on the grounds that the Plaintiffs have failed to carry their burden of showing a substantial likelihood, a real likelihood of prevailing on the merits on this claim, or at least I am going to refrain from granting that relief now. If, in the course of discovery in this case, the Plaintiffs become -- the Plaintiffs acquire additional proof that would support their allegations that might make a difference, I am happy to revisit this order. But for now, that is going to be the order of the Court. I am going to deny the request for temporary injunctive relief.

And here is what we are going to do regarding the scheduling. The Plaintiffs' response to Defendants' motion

will be due on Wednesday December 2 by -- I am going to change that to 5 o'clock p.m. Eastern Standard Time. If the Plaintiffs choose to file a reply, it will be due 24 hours after the Defendants' response is filed. And we will have an in-person hearing in my Atlanta courtroom this coming Friday at 10 o'clock a.m. to consider the balance of the claims that have been raised by the Plaintiffs in their complaint. All right. Anything else, Counsel?

MR. WOOD: Judge Batten, this is Lin Wood. How are you, sir?

THE COURT: Yes, sir. How are you doing, sir?

MR. WOOD: I am doing well. Please let me make one request.

THE COURT: Okay.

MR. WOOD: I understand Your Honor's ruling. I kind of live under the theory that he who has nothing to hide hides nothing. Would there be any way -- would there be any way to give us a very limited, such for example let us go in tomorrow, pick two or three counties, and then randomly two or three machines and do the forensics on that? Because at least we would have some information in the event all of these machines end up being wiped clean? Something very --

THE COURT: At first blush, I don't have -- I would not have too much of a problem with that. It certainly is more reasonable than what we have talked about. But the

problem is, again, the State has represented to me that -- the Defendants have represented to me, through counsel, that there are security concerns that they have, and I am being asked to decide this on a Sunday night, have been received no evidence from the Defendants because they haven't had a chance. So I am going to respectfully deny, Lin, your request. But you know, I am going to leave it with -- it is hard for me to believe -- let me ask this. Let me put it this way. Doesn't sound like 159 counties in Georgia are going to have special run-off elections on Tuesday, special election run-offs, I should say, on Tuesday. Why can't you -- if we can find ways to protect the State's legitimate interest in security and proprietary software, can you not look for the algorithm that you claim is there and any other incriminating evidence from some of the other counties, from one or more of the counties where no election is going to take place Tuesday? Why can't you do that?

MR. WOOD: Your Honor, this is Mr. Wood again. We can do that. And in fact, this one solution would be if we identify a very limited number of machines, number of counties, we can have our experts come in and do a mirror image, we can turn it over to the Court so there are no security concerns, and then it can be examined at a different time. But the problem is, once the machines are wiped, the evidence is gone. If there is nothing there, there is nothing

there. But at least we will have an opportunity to check on a limited basis and we can preserve it and secure the security of it by having our experts, with their oversight, mirror image and then turn it over to the possession of the Court for a later review. But we don't get that opportunity, once lost we will never get it again. I don't see any harm to the State to preserve this information on a very limited basis.

THE COURT: Okay, I am having a hard time identifying any such harm myself. Mr. Willard, what would be wrong with the Plaintiffs being granted access to three of the counties not among -- not in any county where there is going to be an election this coming Tuesday, but tomorrow be granted access in three of these where all of the evidence that are obtained by Plaintiffs' experts will be accompanied by forensic experts from the Defendants. I know you may not be able to line that up by tomorrow, so it probably wouldn't be tomorrow, but where we can have a forensic expert with the Plaintiffs on behalf of the Defendants accompanying and overseeing the Plaintiffs' expert's inspection of the machines; and then with all of the data and all of the information obtained from that inspection, or those three inspections, to be turned over to the Court in camera and not provided to Plaintiffs or their counsel or anybody else until further order of the Court? That's -- I want to hear your response, Mr. Willard. But I have to say, at first blush that

doesn't sound very unreasonable to me. What is the response? And again, we are laying aside for a moment whether or not they have sued the right parties. We are not going to address that yet. But let's assume that they did, and let's assume that they do have standing, what is wrong with that proposal that I have just suggested?

MR. WILLARD: Well Your Honor, I think you've hit the nail on the head, and it is sort of impossible to set aside *Jacobson*. There is no redressability here as to any of these machines right now. They are not in the custody and control of the State Defendants. You can order us every day this week; we cannot give you access to the Hart County voting machines. I cannot go in and tell the Hart County Elections Superintendent to do squat in regards to discovery in a case that they are not a party to. Second, if you are violating trade secrets and security protocols, it doesn't matter if you are doing it for one machine or the entirety of machines. If Plaintiffs' experts are going to come in with a thumb drive and stick it in and take their screwdrivers out and do everything to these machines, we have no safeguards that we can put in place, in this very compressed time frame that Plaintiffs are wanting to have, where you prevent somebody from sticking that thumb drive in their pocket and walking out the door, or doing something else that is going to impact that machine for future elections.

THE COURT: Mr. Wood, I will give you the last word.

MR. WOOD: I don't believe we will be using screwdrivers. I think we can do a simple mirror image, they can see it done, and then it will be turned over to the Court. If we've got the wrong parties, we've got the wrong parties. But if we have the right parties, and the Court determines that the Secretary of State does have the authority as we contend that the Secretary of State does, I don't see any harm. We will turn it over to the Court. The battles can be fought. If we win, then we can have -- we can have the examination completed. But if we don't get something, then we end up with nothing, and we don't know whether or not it was erased. I don't see any downside, Your Honor. We turn it over to you and hold it until further rulings in the case. It is just a matter of preserving some reasonably minimum amount of evidence with respect to some of these machines.

MS. POWELL: I believe there are no elections Your Honor in Cobb, Gwinnett, Cherokee, or Forsyth, or Paulding, or Hall, or Houston, or Hart, or Hancock, all of which we have requested, or Gwinnett or Henry. In fact, Defendants haven't said where there are any elections at all.

THE COURT: Okay.

MR. WILLARD: One last point, if I could.

THE COURT: Yes.

MR. WILLARD: I would point you -- you know, I know

there has been some question about whether the *Jacobson* decision applies to voting equipment, and decisions made regarding voting equipment. I would point you to the *Anderson* case, *Anderson versus Raffensperger*, decided by Judge Brown last month, the docket number is 1:20-CV-03263. It is a 78-page decision, and it is very well-reasoned. And pages 62 through 68 go into great detail about how the failure to include county election officials presented a redressability problem. Remember, Your Honor, you didn't choose who the Plaintiffs sued, I didn't choose who the Plaintiffs sued. The Plaintiffs knew or should have been aware of the *Jacobson* line of cases and its progeny. You --

MS. POWELL: *Jacobson* is Florida law.

THE COURT: Let him finish.

MR. WILLARD: -- cannot craft relief to county defendants --

THE COURT: Go ahead.

MR. WILLARD: You cannot craft relief that goes to county defendants and equipment in county custody and control where the Plaintiffs have only chosen to sue State Defendants.

THE COURT: Ms. Powell, let me ask you this along those lines of what he is saying. I understand the distinction that the Plaintiffs have argued through their counsel's emails to me today between this case and *Jacobson*. But you know, it sounds to me that Mr. Willard is probably

correct that as a matter of fact and law, the Secretary of State can't call up to Marietta and tell the Cobb County elections officials what to do with their machine. What you want to do is access the machine. You are not talking about data results from the election. You want to actually access the physical machines for a forensic inspection. And --

MS. POWELL: Your Honor.

THE COURT: Just a second. And so this is the first time we are really addressing the redressability issue. Tell me what is the Plaintiffs' response to that.

MS. POWELL: The machines are owned by the State of Georgia. They were purchased by the State of Georgia for $107 million of taxpayer money. They are controlled by the Secretary of State's office which has legal responsibility both for investigating the fraud and making sure the machines are what are supposed to be used and properly used and enforcing the rules and regulations and laws related to elections for the State of Georgia. It is clear from the *Curling* decision that we do not have to sue 600 people in 159 counties to obtain the relief we want. It couldn't be more clear as a matter of law.

MR. WOOD: Judge, could I say one last thing?

THE COURT: Yes, sir.

MR. WOOD: And I appreciate this has all been done with not a lot of time.

THE COURT: Right.

MR. WOOD: Again, if we don't have the correct parties, we can add the correct parties before the Court would release for further examination the materials that we would collect in the next day or two.

THE COURT: I don't understand why the Plaintiffs don't just move to add Cobb County as a party to the case, or the Cobb -- I don't know who it is, Cobb County elections officers? I don't know. I am not going to give you a legal opinion.

MR. WOOD: Let me say this. If the Court gives us until Tuesday to examine, we will add the counties that the Court lets us go examine, we will add them tomorrow; add them tonight. I just don't think -- I think that is a procedural issue, and ultimately one the Court can decide, but there is no harm, Your Honor, in preserving what could be critical evidence with respect to this election. We are not asking to look at it until we've got it all down pat and Your Honor is satisfied we are entitled to it, but let's preserve at least some small amount reasonably so we don't find ourselves with no evidence simply because the evidence was erased or destroyed. If there is nothing there, there is nothing there. But, Your Honor, if there is something there, then this state has a serious problem. And I think it ought to be in the interest of the taxpayers and the voters that this material,

on a reasonable basis, limited basis, be preserved so that down the road, if we meet all the other qualifications to have it fully examined, we've at least got it preserved. That seems to me to be in the best interest of the citizens of the State of Georgia.

THE COURT: Well let me go back --

MS. POWELL: We have obtained access to machines in another state, with no problem of damage to the machines or exposure of trade secrets or any other concern, and in that instance we found that there were 1,474 votes on two rolls on a machine, 1,474 which were changed across the two rolls, almost the same number of voters that voted had their votes completely changed on Dominion machines.

THE COURT: Where was that?

MS. POWELL: That is a county in Michigan.

THE COURT: That was this year?

MS. POWELL: Yes, sir. Just a few days ago.

THE COURT: Right, okay. And again, just for my factual understanding, Mr. Willard, are you telling me that if I grant this relief, let's say to -- if I were to add a couple of these counties as defendants, or whatever the right entity or person is that should be the defendant, are you telling me that if I grant this relief for this forensic inspection, there is no way that any election run-off can take place on Tuesday in that county? Or do you know?

MR. WILLARD: That is my understanding right now. Once again, I am working on Sunday night at 8:28 p.m. and something that I've been aware of for a little over 24 hours. But at this point in time, Your Honor has already indicated which way he was going to rule, and now Plaintiffs are trying to shift the ground underneath us. The fact is, as I indicated to your clerk last night, Ms. McGowan and I have now given up the entirety of our Sunday, we have responded in a timely fashion, at the Court's request, first on a three-and-a-half-hour turnaround, and then on an hour turnaround, substantively responding to Plaintiffs' arguments. And their responses have been long on rhetoric and short on any authority. We are at a situation now where if the Court is willing to do what it said it was going to do earlier in this call and earlier this evening via email and deny relief, we go on and we prepare for the Friday hearing. If the Court is inclined to grant the relief, we would ask you to certify it so that we can immediately take it up to the 11th Circuit and the 11th Circuit can reassure the Plaintiff that it meant what it said when it ruled in *Jacobson*.

THE COURT: All right, I am going to have to think about it. I am not sure yet what I am going to do, but I need to do some research and think about it a little bit. I am trying to -- I would like, Mr. Willard -- I am sure we are going to talk again tomorrow. I guess we ought to just --

let's plan on an 11 o'clock Zoom hearing tomorrow to address some of these issues. And I am going to want to know -- let me just say, in terms of what I am thinking out loud is that if I were to allow -- let me first ask this question of Ms. Powell and Mr. Wood. If I were to allow the forensic inspection of either the Cobb or Gwinnett or Cherokee or Hart, whatever -- wouldn't it just be sufficient to add one of those counties? If it is the same machine?

MS. POWELL: No, Your Honor. The counties can read differently. We really request Cobb, Gwinnett, and Cherokee counties at the bare minimum.

THE COURT: Okay. I hear you.

MS. POWELL: And we can add those as Defendants tonight if that is important to the Court. I really don't think it's necessary as a matter of law, but we can certainly add them.

THE COURT: Who exactly would you move to add?

MS. POWELL: The Board of Elections of each -- all the members of the boards of those four counties. We would have to add 12 people.

THE COURT: I heard three counties. Cobb, Gwinnett, and Cherokee.

MS. POWELL: Three counties, but four people per county, is my understanding.

THE COURT: Okay. Here is what I would like to do.

Mr. Willard, if you could tell me when we resume tomorrow at 11:00, if you could tell me, having done a little research, what impact, if any, allowing this forensic examination on these three counties' machines would have on the elections that are supposed to take place Tuesday? It may be that there is no election in any of those counties, there may be an election in all three of them. I have no idea.

MS. POWELL: It is my understanding, Your Honor, there is no election in those three counties.

THE COURT: Let me have that confirmed. I will give Mr. Willard a chance to confirm that tomorrow. And also --

MR. WILLARD: That was Cobb, Gwinnett, and Cherokee. Correct, Your Honor?

THE COURT: Yes, sir.

MS. POWELL: Correct.

THE COURT: I want to hear a little more on the issue of how would -- you know, one of the issues in the decision of whether to grant injunctive relief is what harm the party opposing the injunction would suffer if the relief were granted. That is one of the four factors that I am sure all of you know quite well, I certainly would expect that you do. I know you do. I would like to hear, Mr. Willard, from you tomorrow morning if you could please tell me -- if you could answer that question for me. What harm would it do the State or to these Defendants, including any newly added

Defendants, if I were to grant that relief?

MR. WILLARD: Your Honor, I will do my best, but it may not be me on the call. As I indicated to your clerk, we've got two brief responses in the *Woods* case due on Tuesday. We've already had to give up our Sunday responding to this, after I asked your clerk last night not to schedule anything until after those briefs were filed. Now because of Plaintiffs' shifting demands, they want to go forward with a hearing in the morning. Whoever is going to respond to that hearing is going to have to take time away from getting the responses filed in the 11th Circuit on Tuesday, including our client, in the midst of an ongoing state-wide recount for President, in the midst of conducting and supporting county election officials with the December 1st election, as well as getting ready for early and advanced voting for the January 5th election. We --

THE COURT: I understand, Mr. Willard. Let me ask a question of Ms. Powell. If there are in fact no elections taking place in those three counties, why does this have to be done tomorrow? Why do we have to have the answer to this by tomorrow or Tuesday?

MS. POWELL: Time is of the essence, Your Honor, on the entire election proceeding.

THE COURT: I got you. In other words, the general time-is-of-the-essence principle. It sounds to me like having

a response by 11:00 tomorrow is not necessary and would be unreasonable to expect the Secretary of State, the Governor and the Elections Board Defendants to be able to respond so quickly. So here is what I am going to do. I am going to reserve ruling. I am going to keep the schedule regarding briefing and the hearing, and I am going to reserve ruling on the Plaintiffs' request -- I am going to consider it a motion to amend the pleadings, and a motion to add as parties these elections officers in Cobb, Gwinnett, and Cherokee counties. I want the Secretary of State to let me know -- I will give you a deadline in the second, but what I want the Secretary of State and the other Defendants to let me know is what opposition, if any, they have or what conditions they would like to see complied with if these machines are going to be inspected. In other words, if they want their own inspector there, et cetera. I agree with Ms. Powell on the general principle that time is of the essence, but it is not at all reasonable to give the Defendants in this case until 11 o'clock tomorrow morning. There is just no way they can do that. I am trying to decide right now how much time to give them. It certainly is going to be this week. I guess, Mr. Willard, what I would like you to do is let me know, as soon as you find out, but in any event you are going to have to let me know by Wednesday. That is what my first blush issue is this issue. I just don't see what the urgency is.

The case will still be pending after this week. So I just -- you know, I understand the -- I completely understand the general urgency of the case, but the Defendants have got to have a little bit of time to provide that information I want, which again namely is whether they would oppose these three counties' machines being forensically examined, and why they would -- what the basis for any such opposition would be, and I would want that supported with an affidavit or affidavits from an expert or experts or somebody affiliated with the Defendants who could provide evidence to why that would be harmful. Again, we are focusing on the -- I believe is the third prong -- I may have them in the wrong order -- of the four-part test, which is what the harm would be to the party opposing the injunctive relief. So that is going to be the order of the Court. And I will --

MR. KLEINHENDLER: Your Honor.

THE COURT: Yes, sir?

MR. KLEINHENDLER: I wanted to make one point here. And that is, I understand the State's concern about having us go in and look at their machines. However, what we have alleged with affidavit testimony is that they are erasing their machines. So while they are thinking about what the harm is, and while they are figuring out where their elections are that they can't identify, at a minimum, Your Honor, where there are no elections to be taking place, there should be an

order entered now that no machine should be erased. Because that is very troubling, it is spoliation, it's irreparable injury. That is point one. I want to make one other point for you, Your Honor. They mentioned that the county is under an obligation to preserve the evidence of the election. Let me explain to you what they preserve. They have these machines that people vote on, and they produce these memory cards. They make a copy of the memory card, but the machine stays the same. It's sort of like you have an iPhone --

THE COURT: I understand.

MR. KLEINHENDLER: You can take out the sim, right?

THE COURT: Right.

MR. KLEINHENDLER: So I would ask Your Honor to please order no more erasing machines that are not being --

THE COURT: Okay.

MR. KLEINHENDLER: -- used for these local elections --

THE COURT: That sounds reasonable to me, Mr. Willard, until we resolve this in just a few days. Do your clients have any objection to that? The way I would phrase it, and I am going to give you a chance to respond to this, but my inclination is to order and temporarily restrain the Defendants to the extent it is within their lawful authority, from altering or destroying or erasing or allowing the alteration, destruction, or erasing of any of the computer

information on any of the machines in these three counties that we discussed, specifically Cobb, Gwinnett, and Cherokee. What is y'all's response? What is the State's response to that, Mr. Willard?

MR. WILLARD: Your Honor, I will say that there are no State officials, there is no one within the direction and control of any of the named State Defendants who is going to be doing anything in regards to this voting equipment this week or in the coming months. So you still have the same redressability issue. You can order us to stop all you want, but if we are not the ones behind the wheel, it is not doing anything.

THE COURT: Well then I would think that the Defendants wouldn't have any problem being ordered to stop. If they are not doing anything, there is nothing for them to stop. So that is going to be another feature of this order. And we are not going to enter a written order, it will be in the transcript. But again, to the extent that it's within the Defendants' lawful authority, they shall not alter, destroy, or erase any of this information from any of these three computers, nor will they allow anyone within their control and authority, legal authority, from doing any of those things. It sounds to me like you've been put on notice, Plaintiffs' counsel, by Mr. Willard, quite clearly that you need to direct these concerns towards these county officials. The State, in

this -- obviously the Defendants in this case are disavowing any authority or any responsibility or connection with these county machines in this sense, they are not going to be going down to any -- they are not going down to Lawrenceville or Canton, or Marietta to try to erase any of these machines, the concern that -- is Mr. Kleinhendler?

MR. KLEINHENDLER: Kleinhendler, Your Honor.

THE COURT: I was close. Closer than you usually get, I'll bet. So let's do that. Why don't we do this, why don't we have a Zoom call tomorrow afternoon at 4 o'clock where we will wait to hear back from someone on behalf of the Defendants, if it is either Mr. Willard or someone else, to respond, and let us know if there is something that the Court is missing regarding the inspection, the forensic examination of these machines. So my --

MR. WILLARD: Your Honor?

THE COURT: Yes, sir.

MR. WILLARD: Your Honor, we have moved again from Wednesday. To say --

THE COURT: All I want tomorrow, Rus, is an update. If they can give us an update. If you want to update. In fact, I will leave it like that. But if you want to update us, just let us know tomorrow, and we'll be ready for a call at 4 o'clock. But if you don't have anything to report tomorrow, that is perfectly fine. I understand the competing

interests that the Defendants have. They are trying to juggle a lot of balls in the air at one time. I understand that. Let me know if you know something tomorrow. And if not -- I guess, you know, I am -- I have to admit, you know, when I think out loud like this, which is not something judges enjoy doing because it gets pointed out to them that they are changing their mind. And I am inclined to agree with Mr. Willard on this. Let's wait until Wednesday to hear back from Mr. Willard. How about something in writing, Mr. Willard, by the same time that the brief is due on Wednesday, 5:00 p.m., in response to this inquiry that the Court has as to the basis for any opposition by the Defendants to this particular relief regarding the forensic examination of the Dominion equipment in these three counties. That is what the order of the Court is going to be. And contrary to what I said a minute ago, I will put it in writing so everyone can see it and it will be clear and you don't have to read the transcript. That order will be entered either tonight or more -- I would say almost certainly not until tomorrow morning. Okay? Anything else, Counsel? Yes, sir?

MR. WILLARD: Just two procedural points. One, do you want as a unified filing on Wednesday, or do you want us to make them as two separate filings?

THE COURT: Separate filings.

MR. WILLARD: All right. So I won't need, I think

at this juncture, to ask for a page limit extension, but I may revisit that issue with the Court.

THE COURT: You can have however many pages you need. There is no limit on the pages.

MR. MACDOUGALD: The Plaintiffs as well, Your Honor?

THE COURT: The Plaintiffs' response as well.

MR. MACDOUGALD: Thank you.

MR. WILLARD: Your Honor, the second point, and now that you have said that you are going to reduce this to writing, I know that there has been a lot of rumor, innuendo, and misinformation spread out there regarding what has taken place in a number of courts around the country, and this Court today, there were a number of social media posts made about this Court's indication of the two earlier rulings.

THE COURT: Right.

MR. WILLARD: I ask you to make clear in your order that only the State Defendants are being enjoined by anything in your order and it is not enjoining any county officials from doing anything.

THE COURT: Not at this time. They are not parties to the case yet.

MR. WILLARD: Thank you.

MR. WOOD: Judge, for what it's worth, when we add them tonight, we will be sending spoliation litigation hold letters. I think they have already received those a week ago,

but we will redo it.

THE COURT: And Mr. Willard, just to be clear, you are referring to -- you refer to the Governor and the Secretary of State, not the other members of the Elections Board? Is that right?

MR. WILLARD: I am actually referring -- I'm sorry?

THE COURT: The Governor and the Secretary of State. Let's see, of course I don't -- the Governor is a party and of course the Secretary of State is a party, and then we have the --

MR. WILLARD: The Election Board --

THE COURT: -- four other Election Board members. And what you just wanted to make clear to me, or clarify with me, was that it was your understanding that the order I am going to enter would only be enjoining the Governor and the Secretary of State and not the four Election Board members who are also named as Defendants. Am I right about that?

MR. WILLARD: No, Your Honor. I am requesting that you make clear in your order that only the State Defendants are enjoined, and there is no injunction against any of the unnamed county defendants.

MR. KLEINHENDLER: Your Honor, this is Howard again. I think your language earlier was right on. You said you are going to enjoin the State Defendants and anybody in their control. And our argument is that all these counties are

under the control of the Secretary of State. So now if the State wants to play a game and say, well, we have no ability to control the counties, okay, we will deal with that on a sanctions motion. But I think you were very clear, Your Honor, anybody -- the Defendants and anybody under their control. What the State is asking for now is to wiggle out of that order, and I would urge you not to give to them that language. It is enough for you to say the Defendants in the case and anybody under their control.

THE COURT: Okay. I understand the issue. The only point I was trying to make with Mr. Willard was I was trying to see if he was trying to exclude the Governor. I understand that his main point was really that I was not ordering directly any county officials to do or not do anything. I understand that that is what he was saying. I think I understand it. I am actually clear on it. So I think everybody has their marching orders, we know what to do. I am the one that has to move next. I have to enter an order that clarifies all of this, and I think I do that with no problem. It will probably be in the morning, okay?

MR. MACDOUGALD: Judge, one housekeeping matter. In terms of serving future papers and filings on the Defendants, can we agree or can the Court order that service on Mr. Willard and Ms. McGowan is sufficient service on the State Defendants?

THE COURT: I can't order them to waive their right to be served.

MR. MACDOUGALD: Okay, but what we would have to do otherwise is send the papers directly to the State Defendants.

THE COURT: Right. That is a matter for you and Mr. Willard to discuss when I am not on the line. If the Defendants want to acknowledge and waive service that is fine, and if they don't that is not something that I am going to upset with a ruling.

MR. MACDOUGALD: Okay.

THE COURT: We are adjourned, and you will hear from me in the morning. Y'all have a good night.

(End of hearing at 8:48 p.m.)

* * * * *

REPORTER'S CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

_____

Lori Burgess
Official Court Reporter
United States District Court
Northern District of Georgia

Date: November 30, 2020

Below please find a Tweet of Congressman Jody Hice, including a video proving that the "pipe burst" at the State Farm Arena in Fulton County, Georgia never happened. Further, this shows election workers working in the wee hours of the morning, pulling "votes" out from under the table after they lied to poll workers and sent them home.

https://twitter.com/CongressmanHice/status/1334609467703521283?s=20

https://youtu.be/nVP_6oHm4P8

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

CORECO JA'QAN PEARSON, et al., **Plaintiffs,** **v.** **BRIAN KEMP, et al.,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF FILING OF APPELLATE APPENDIX VOLUME 4

Come Now the Plaintiffs and submit this Notice of Filing of the following:

Volume 4 of the Appendix on Appeal of this case, which contains the following affidavits and declarations:

Affiant A..... Pages 1-5

Affiant B..... Pages 6-7

Affiant C..... Page 8

Affiant D..... Page 9-12

Affiant E..... Pages 13-14

Affiant F..... Pages 15-16

Affiant G..... Pages 17-19

Affiant H..... Pages 20

Affiant I..... Pages 21-22

Affiant J..... Page 23

Affiant K..... Page 24

Affiant L ..... Pages 25-26

Affiant M..... Pages 27-28

Affiant N..... Pages 29-30

Affiant O..... Pages 31-53

Affiant Q..... Page 54

Affiant R..... Pages 55-57

Affiant S.....Pages 58-66

Affiant T ..... Pages 67-69

Affiant U..... Page 70

Affiant V..... Page 71

Affiant W.....Pages 72-74

Affiant X.....Pages 75-78

Affiant Y..... Pages 79-81

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Respectfully submitted, this 6th day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Notice of Filing with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

This 6th day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 4630s76

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

Exh. A

Supplemental Declaration of Eric Quinnell, Ph.D and S. Stanley Young, Ph.D.

December 6, 2020

Pearson v. Kemp, Case No. 1:20-cv-4809-TCB

United States District Court for Northern District of Georgia

Expert Response of Eric Quinnell, PhD and S. Stanley Young, PhD

Eric Quinnell, Ph.D.

S. Stanley Young, Ph.D.

I. BRIEF RESPONSE

Today, we reviewed a response from Jonathan Rodden, PhD, and graduate student William Marble which attempts to make arguments to render our timeseries analysis ungrounded. We thank the two authors for their report, as they were privy to data that we did not have and have thereby granted us more data to strengthen our argument.

Due to the exceptional time requirements of the expedited case and filing deadlines, our response must be brief. As provided in other filings, our qualifications and CVs have already been provided to the court. Our rate of compensation is $0/hour, which is in stark contrast to what Dr. Rodden already filed, citing $500/hour.

Dr. Rodden and Mr. Marble (RM) cast doubt on the validity of Edison time series data. As already seen in our affidavit, we cited multiple timestamps of the analyzed data points being stable for over 24 hours, nullifying any of the human-error examples RM pointed to in other states. Without access to any other data, one is free to question the validity of the Edison data and query a representative of Edison Research to attest to their data's availability and fidelity. Final checks of the end of the timeseries corroborate the voting tallies from the Secretary of State.

RM provided us a reinforcing data point showing a graph where nearly 100% of all absentee ballots were received by the Nov 3 deadline. They follow with a multitude of hypotheses to explain the possible timeseries results – seemingly preferring the theory that the vote counters could only process 50% at one time. This constraint is a curious theory, as we understand that ballots were allowed to be opened, scanned, and presumably organized in a centralized location when received for a full 3 week period before November 3rd. Nonetheless, this hypothesis merely strengthens our argument that it is mathematically impossible to have a result where no precincts in all of Fulton county have greater than 70% of their absentees counted.

RM literally reinforces our argument by providing a simulation to achieve 100% of all absentee votes in some precincts in the first 50% of processing. They provide a coin-flip simulation and successfully regenerate our distribution of Trump's absentee vote tallies per precinct, declaring that one *should expect* 100% bins. Their simulation works for Trump data; it fails to produce the Biden result. Had they read our affidavit, they would realize the 0.01% probability constraint we cite in paragraph 31 is for the Biden distribution specifically. The RM Biden graph is not provided because it is mathematically impossible – not improbable; impossible.

RM concludes their remarks suggesting skewness and kurtosis are non-relevant metrics to describe a distribution pattern, while querying why we would bother to compare statistics against a skewness of 0 and kurtosis of 3. Comparing against these values is the "standard method" in all of science that uses comparisons against the "standard normal" until proven otherwise. Note they are named "standards" because they are standards. As to our argument, the skewness and kurtosis of the Biden distribution again reinforce quantitatively that the data set is bad.

Finally, as mentioned in many responses to Dr. Rodden at this point, nowhere in our affidavits do we claim any hypothesis or fraud in the data itself. Our analysis is on the available data as it stands. To quote RM, "Simply put, the histograms that are presented in QY's report are roughly what we should expect based on elementary probability theory." We agree that the data should be normally distributed in a bell-shaped distribution. Elementary probability theory says the Biden data is corrupted as it is not bell-shaped; we need no advanced method to prove it so. A query to Edison Research or access to the SoS timeseries data would easily provide an answer – but as it stands, the available data timeseries points cannot co-exist mathematically.

Exh. B

Declaration of
Stephen Joseph Matzura, Jr.

Declaration of Stephen Joseph Matzura, Jr.

Pursuant to 28 U.S.C Section 1746, I, (Name), make the following declaration.

1. I am over the age of 21 years and I am under no legal disability, which would prevent me from giving this declaration.
2. I spent five years in the U.S. Navy with the rating STG3, where I held a top secret clearance from 1998 through 2002. I spent my time at four bases: Naval Amphibious Base, Coronado, CA; NSGA, Kunia, Hawaii; Lackland Air Force Base, San Antonio, Texas; Anti-Submarine Warfare Base (Naval Base Point Loma), San Diego, CA.
3. I reside at 1012 N. Ocean Blvd. # 811 Pompano Beach, FL 33062
4. My affidavit highlights two videos and four photos found on the Internet showing presumably Ruby Freeman and presumably her daughter (Shaye Freeman Moss) in one of the photos at an election site in Georgia with potential election irregularities.
5. Two of the images are freeze frame images of presumably Ruby Freeman prior to moving suitcases of ballots from the four screen split videos that have gone public on the news.
6. One of the photos shows a photo of presumably Ruby Freeman with a name identifying Ruby Freeman on her desk. The identifier was a sign stating 'La Ruby's Unique Treasures'.
7. One of the videos shows what appears as election material being handed off (video USB handoff) by presumably Shaye Freeman Moss

who I believe is Ruby Freeman's daughter. Presumably Ruby Freeman appears in that video as well.

8. The other video is presumably Ruby Freeman videoing herself at an election center filled with ballots and boxes.

Stephen Joseph Matzura Jr -

Name: Stephen Joseph Matzura, Jr.

Date: 12/06/2020

Location: 1012 N. Ocean Blvd. # 811 Pompano Beach, FL 33062

Exh. C

Declaration of Wilburn J. Winter, Jr.

Declaration of Wilburn J. Winter, Jr.

1 My name Wilburn J. Winter, Jr. I am over 21 years of age and I am competent to testify in this action. I am a resident of and a registered voter of Fulton County, Georgia. All of the facts stated herein are true and based on my personal knowledge.

2 I was appointed and served as a Republican member of the Fulton County Vote Review Panel ("VRP") from October 27, 2020 through December 4, 2020. When a ballot is cast and it is unclear as to which candidate the voter intended to vote, under Georgia Law, the VRP is called upon to determine the intent of the voter and, when the intent of the voter is determined, adjudicate the ballot accordingly. During the period October 27, 2020 to December 4, 2020, the VRP adjudicated ballots of the following: (a) the General Election of November 3, 2020 ("General Election"); (b) the manual hand recount of the General Election; (c) the recount of the General Election regarding the Presidential race only; and (d) the runoff election of December 1, 2020.

3 On December 2, 2002, as a member of the VRP, I adjudicated both electronic images of ballots and paper ballots of the recount of the General Election regarding the Presidential race only. I believe that the paper ballots were absentee ballots that were mailed in or deposited in a drop box but not ballots that were cast in person at polling places.

4 While adjudicating the paper ballots, I observed that some of the paper ballots had been folded and some of the ballots had not been folded ("Pristine Ballots"). I inspected the Pristine Ballots by rubbing my finger across the filled-in oval adjacent to the name of the candidate for whom the voter was voting. I could tell that the oval was filled in manually and was not filled in by a printer.

5 I showed both a folded ballot and a Pristine Ballot to the Fulton County Elections Department official who was supervising the VRP and asked why some of the ballots were not folded. The official stated that when a ballot is spoiled or otherwise-not able to be processed, a Fulton County Elections Department person creates a duplicate ballot from information on the original ballot that was not able to be processed. The official explained that this duplicate, unfolded ballot is the Pristine Ballot I observed. I never observed the original spoiled ballot. The Pristine Ballots were not marked "Duplicate" nor was the designation of the polling place indicated on the Pristine Ballot.

Note: Georgia Code Title 21. Elections § 21-2-483 states:

> (f) If it appears that a ballot is so torn, bent, or otherwise defective that it cannot be processed by the tabulating machine, the superintendent, in his or her discretion, may order the proper election official at the tabulating center or precinct to prepare a true duplicate copy for processing with the ballots of the same polling place, which shall be verified in the presence of a witness. All duplicate ballots shall be clearly

labeled by the word "duplicate," shall bear the designation of the polling place, and shall be given the same serial number as the defective ballot. The defective ballot shall be retained.

6 I estimate that my VRP team, consisting of a Democrat VRP member and me, adjudicated at least 100 paper ballots of which at least 20 were Pristine Ballots. On December 2, 2020 there were three other VRP teams and I believe that those other VRP teams had roughly the same mix of Pristine Ballots and folded ballots because the ballots each team was assigned were drawn from the same large stack of ballots.

I declare under penalty of perjury that the foregoing is true and correct.

December 4, 2020

Wilburn J. Winter, Jr.

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

CORECO JA'QAN PEARSON, et al., **Plaintiffs,** **v.** **BRIAN KEMP, et al.,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF FILING

Come Now the Plaintiffs and submit this Notice of Filing of the following:

1. The Supplemental Declaration of Eric Quinnell, Ph.D. and S. Stanley Young, Ph.D. as Exhibit "A";

4. The Declaration of Stephen Joseph Matzura, Jr., as Exhibit "B"; and

5. The Declaration of Wilburn J. Winter, Jr., attached as Exhibit "C."

Respectfully submitted, this 6th day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

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This 6th day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 4630s76

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

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

CORECO JA'QAN PEARSON, et al., **Plaintiffs,** **v.** **BRIAN KEMP, et al.,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

PLAINTIFFS' CONSOLIDATED RESPONSE TO THE MOTIONS TO DISMISS AND REPLY IN SUPPORT OF EMERGENCY MOTION FOR INJUNCTIVE RELIEF

L. Lin Wood
L. LIN WOOD, P.C.
P.O. Box 52584
Atlanta, GA 30305-0584
(404) 891-1402
lwood@linwoodlaw.com

Sidney Powell
Counsel of Record
SIDNEY POWELL PC
2911 Turtle Creek Blvd., Suite 300
Dallas, TX 75219
(214) 717-1775
sidney@federalappeals.com

Harry W. MacDougald
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956

Howard Kleinhendler
HOWARD KLEINHENDLER ESQUIRE
369 Lexington Avenue, 12th Floor
New York, NY 10017
(917) 793-1188

Counsel for Plaintiffs-Petitioners

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

CORECO JA'QAN PEARSON, et al, **Plaintiffs,** **v.** **BRIAN KEMP, et al,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

PLAINTIFFS' CONSOLIDATED RESPONSE TO THE MOTIONS TO DISMISS AND REPLY IN SUPPORT OF EMERGENCY MOTION FOR INJUNCTIVE RELIEF

Come now the Plaintiffs and submit this Conslidiated Response to the Motions to Dismiss and Reply in Support of Emergency Motion for Injunctive Relief.

INTRODUCTION

The motions to dismiss contends that Plaintiffs' claims are baseless. In fact, they are based on the Constitution, and are supported by substantial and voluminous evidence filed with the Complaint showing in multiple dimensions that the election was conducted in an unconstitutional manner and was infected with fraud, politically biased counting, and illegality more than sufficient to put the outcome in doubt. The evidence presented shows a substantial disregard for the State Legislature's Election Code for federal

elections, which are clearly within the jurisdiction and power of a federal court to redress. *Bush v. Gore*, 531 U.S. 98 121 S.Ct. 525 (2000). There is no question that Plaintiffs have alleged sufficient facts to conduct an inquiry into whether the acts of the State's administrative agents in this regard constituted a significant departure from the legislative scheme and that this Court has jurisdiction and authority to redress these grievances.

In response to Plaintiffs' substantial body of evidence from many credible fact and expert witnesses substantiating the allegations (further discussed below), the Defendants put their fingers in their ears. They address this evidence with self-serving press releases that cover the ugly and unconstitutional political malfeasance at the heart of this case. Instead, they offer a series of slogans – standing, subject matter jurisdiction, and failure to state a claim for relief – the evidence being the last thing they want the Court to notice. They contend that presidential electors, who legally are candidates in the election, O.C.G.A. § 21-2-10, have no standing to complain that the election was stolen from them by fraud, illegality, unconstitutional political discrimination in the counting of the votes and a wholesale "departure from the legislative scheme." They invoke an equitable doctrine, laches, to shield clearly unconstitutional election fraud and illegality from judicial scrutiny, as if equity would lend itself to such a purpose.

Plaintiffs could not claim the election was stolen until it actually was stolen and evidence of that theft emerged with sufficient clarity to support the allegations of this case. As the world now knows, the wrongdoing for which this case seeks relief was completed on and after November 3, 2020. This case was filed on the third business day after certification, well within the most closely analogous state law limitations period, which requires election contests be filed within five days of certification.[1] *See* O.C.G.A. § 21-2-524(a). *Cf. SCA Hygiene Prod. Aktiebolag v. First Quality Baby Prod., LLC*, 137 S. Ct. 954, 960 (2017) (laches does not generally apply within statutory limitations period). Even more to the point, this lawsuit was filed *before* the certification of the recount results.[2] Arguments that Plaintiffs have failed to state a claim betray unfamiliarity with the allegations, the evidence and the relevant law. The motion should be denied.

STATEMENT OF FACTS

Plaintiffs have alleged and submitted fact and expert witness testimony to multiple serious illegalities in the election which may be summarized in pertinent part as follows:

---

[1] For periods less than seven days, intervening weekends and legal holidays are not counted. See O.C.G.A. § 1-3-1(c)(3)

[2] See https://www.cnn.com/2020/12/02/politics/georgia-recount-results-brad-raffensperger/index.html (Raffensperger on December 2, 2020 "expects to re-certify President-elect Joe Biden as the winner.")

1. Illegal tabulation of a significant volume of absentee ballots in Fulton County out of public view in violation of O.C.G.A. § 21-2-483(b). *See* Complaint, paras. 10-11, 116-119. Republican observers were told to leave around 10:30 PM. Doc. 1-28 and 1-29. This has recently been confirmed by surveillance video obtained from State Farm Arena which clearly shows this activity, and further shows that the same ballots were scanned over and over, another clear election fraud. This video evidence will be filed with the Court Monday December 7, 2020.

2. Eye-witness testimony from a poll manager with 20 years' experience that stacks of utterly pristine mail-in ballots were counted – impossible for any absentee ballot returned in the mail (as they all are) because they have to be folded twice to fit in the envelope. To the witness' observation, 98% of these ballots were voted for Vice President Biden. Complaint ¶ 75; Doc. 1-16 (Affidavit of Susan Voyles, ¶¶ 14-16, 27). This evidence is supplemented by a declaration from another experienced observer that he also observed pristine ballots during the recount which were voted for Joe Biden. *See* Declaration of Wilburn J. Winter, filed December 6, 2020.

3. Expert testimony that 20,311 non-residents voted illegally. William. M. Briggs, Ph.D., a statistician, estimated based on survey data rigorously collected by Matt Braynard and the Voting Integrity Project, that 20,311 absentee or *early* voters voted in Georgia despite having moved out of state – sufficient in itself to put the outcome of the election in doubt. *See* Complaint ¶ 122(d); Doc. 1-1 (Briggs Declaration and Report); Doc. 45-1 (Expert Report of Matthew Braynard).

4. A massive number of unrequested absentee ballots were sent in violation of the legislative scheme, estimated to a 95% confidence interval to be between 16,938 and 22,771 ballots – sufficient in itself to put the outcome of the election in doubt. Complaint ¶ 122(b); Doc. 1-1 (Briggs Declaration and Report); Doc. 45-1 (Expert Report of Matthew Braynard).

5. A massive number of absentee ballots that were returned by the voters but never counted, estimated to a 95% confidence interval to be between 31,559 to 38,886. Complaint ¶ 122(a); Doc 1-1, Briggs Declaration; Doc. 45-1, Braynard Report.

6. A statistical analysis of Fulton County precinct voting results by Eric Quinnell, Ph.D. identifies 32,347 votes in Fulton County alone as statistically anomalous, and notes that in certain precincts Biden gained more than 100% of the increase in new registrations from the 2016 general election. Complaint ¶ 123; Doc. 1-27, ¶¶ 7-8. A second declaration from Dr. Quinnell and S. Stanley Young, Ph.D., a member of the American Association for the Advancement of Science in the area of statistics, further analyzes Fulton County absentee ballots and finds glaring statistical anomalies that are so extreme as to be mathematically impossible to co-exist in the absentee ballot data. *See* Doc. 45-2.

7. An analysis by Russell Ramsland of absentee ballot statistics showing that 5,990 absentee ballots had impossibly short intervals between the dates they were mailed out and the dates they were returned, and that at least 96,000 absentee ballots were voted but are not reflected as having been returned. Complaint ¶¶ 16 & 190; Doc. 1-10, ¶¶ 15 (Ramsland Declaration).

8. The absentee ballot signature rejection rate announced by the Secretary of State was .15%. Only 30 absentee ballot *applications* were rejected statewide for signature mismatch, with nine in tiny Hancock County, population 8,348, eight in Fulton County and *zero* in any other metropolitan county. Under the faulty consent decree, signatures could be matched (if there was any matching done at all) with the applications alone – allowing unfettered injection of bootstrapped signatures into the valid absentee ballot pool. Plaintiffs allege that these facts represent the de facto abolition of the statutory signature match requirement of O.C.G.A. § 21-2-386 in violation of state statute, the Elections and Electors Clause, and the Equal Protection and Due Process Clauses.

9. An analysis by Benjamin Overholt, filed at Doc. 45-3, calculates that the signature rejection rate in Georgia for absentee ballots in the 2020 election was .15%, and that the Secretary of State has used inconsistent methodologies in calculating the 2016, 2018 and 2020 rejection rates to make the 2020 rejection rate seem better by comparison. Overholt says the Secretary of State's press release is "misleading" and uses inconsistent methodologies and faulty comparisons.

10. The Dominion voting system ballots marked by Ballot Marking Devices are not voter-verifiable or auditable in a software-independent way. Complaint ¶¶ 13, 110(a) Doc. 1-5, ¶ 7; Doc. 1-8 *passim*). This issue has been litigated and decided against the State Defendants in *Curling v. Raffensperger*, 2020 WL 5994029 (N.D. Ga. 10/11/20), giving rise to issue preclusion against the Defendants.

11. The electronic security of the Dominion system is so lax as to present a "extreme security risk" of undetectable hacking, and does not include properly auditable system logs. Complaint ¶ 8, ; Doc. 1-4 (Hursti Declaration ¶¶ 37, 39, 45-48; Doc. 1-5, at p. 29, ¶ 28). Judge Totenberg's decision in *Curling v. Raffensperger*, 2020 WL 5994029 (N.D. Ga. 10/11/20) also gives rise to issue preclusion on this problem.

12. The process of uploading data from memory cards to the Dominion servers is fraught with serious bugs, frequently fails and is a serious security risk. Doc. 1-4 (Hursti Declaration ¶¶ 41-46).

13. There has been no inventory control over USB sticks, which were regularly taken back and forth from the Dominion server to the Fulton County managers' offices, another extreme security risk. *Id*. at ¶ 47

14. "The security risks outlined above – operating system risks, the failure to harden the computers, performing operations directly on the operating systems, lax control of memory cards, lack of procedures, and potential remote access, are extreme and destroy the credibility of the tabulations and output of the reports coming from a voting system." *Id*. at ¶ 49.

15. The Spider Affidavit, Doc. 1-2, reports on cyber security testing and analysis, penetration testing, and network connection tracing and analysis with respect to Dominion Voting Systems servers and networks. The Affiant is formerly of the 305th Military Intelligence Battalion with substantial expertise and experience in cyber security. In testing conducted November 8, 2020, he found shocking vulnerabilities in the Dominion networks, with unencrypted passwords, network connections to IP addresses in Belgrade, Serbia, and reliable records of Dominion networks being accessed from China. Doc. 1-2, ¶¶ 7-10. The Spider affidavit also

finds that Edison Research, an election reporting affiliate of Dominion, has a directly connected Iranian server, which is in turn tied to a server in the Netherlands which correlates to known Iranian use of the Netherlands as a remote server. *Id*. at ¶¶ 10-11. The Spider affidavit identifies a series of other Iranian and Chinese connections into Dominion's networks and systems. The affidavit concludes in ¶ 21:

> In my professional opinion, this affidavit presents unambiguous evidence that Dominion Voter Systems and Edison Research have been accessible and were certainly compromised by rogue actors, such as Iran and China. By using servers and employees connected with rogue actors and hostile foreign influences combined with numerous easily discoverable leaked credentials, these organizations neglectfully allowed foreign adversaries to access data and intentionally provided access to their infrastructure in order to monitor and manipulate elections, including the most recent one in 2020. This represents a complete failure of their duty to provide basic cyber security.

16. The Declaration of Russell Ramsland, Doc. 1-10, finds similar shocking vulnerabilities in the Dominion networks and systems, and confirms the findings of the Spider affidavit. He further shows that malware on SCTYL's servers can capture log in credentials used in the Dominion networks. *Id*. at ¶¶ 4-5. Ramsland finds that Dominion's source code is available on the Dark Web, and that Dominions election systems use unprotected logs, making undetectable hacking by sophisticated hackers possible. *Id*. at 6-7. This latter point confirms Judge Totenberg findings about the vulnerabilities in the Dominion system in *Curling v. Raffensperger*, 2020 WL 5994029 (N.D. Ga. 10/11/20).

17. In further analysis, Ramsland finds through sophisticated mathematical techniques that there was a distinct political bias in favor of Joe Biden and against Donald Trump in the results reported from Dominion machines vs. those reported on other systems. *Id*. at ¶¶ 8-10. Biden averaged 5% higher on Dominion and Hart systems than on other systems. *Id*. Looking at counties where Biden overperformed Ramsland's predictive model, where other machines were used Biden overperformed only 46% of the

time, indicating machine neutrality. However, in the Dominion/Hart system counties, Biden overperformed the model 78% of the time, an anomalous or unnatural result to the 99.99% confidence level. *Id*. at 10-12. This analysis was confirmed by checking it by another machine learning method. *Id*. at ¶ 12. See also ¶13 ("**This indicates the fraud was widespread** and impacted vote counts in a systematic method **across many machines and counties**.") (Emphasis in original).

18. Ramsland reaches the same conclusion as the Spider affidavit, and adds the following:

> Based on the foregoing, we believe this presents unambiguous evidence that using multiple statistical tools and techniques to examine if the use of voting machines manufactured by different companies affected 2020 US election results, we found the use of the Dominion X/ICE BMD (Ballot Marking Device) machine, manufactured by Dominion Voting Systems, and machines from Hart InterCivic, appear to have abnormally influenced election results and **fraudulently and erroneously attributed from 13,725 to 136,908 votes to Biden in Georgia**. (Emphasis in original).

19. Dominion's Chief Technical Officer, strategy director, and co-inventor on several patents assigned to Dominion, and primary defense expert witness in *Curling v. Raffensperger*, and holder of multiple patents on Dominion's software, is a member of Antifa, a violent revolutionary communist group, responsible for months of mayhem in Portland, Oregon, and violent rioting all over the United States. Dr. Coomer is consumed with an intense loathing and frothing psychotic rage towards Donald Trump and all of his supporters. Dr. Coomer said in an Antifa conference call "Don't worry. Trump won't win the election, we fixed that." Complaint ¶ 120. Dr. Coomer thus had motive, means and opportunity to rig the election through the Dominion software and openly declared he had done so.

It is claimed by the Defendants that the hand audit precludes the possibility of electronic election fraud. Not only is this not true, the State

Defendants are collaterally estopped from making this argument because it has been decided against them by Judge Totenberg in *Curling v. Raffensperger*, 2020 WL 5994029 (N.D. Ga. 10/11/20). As Judge Totenberg held:

> Georgia's Election Code mandates the use of the BMD system as the uniform mode of voting for all in-person voters in federal and statewide elections. O.C.G.A. § 21-2-300(a)(2). The statutory provisions mandate voting on "electronic ballot markers" that: (1) use "electronic technology to independently and privately mark a paper ballot at the direction of an elector, interpret ballot selections, communicate such interpretation for elector verification, and print an elector verifiable paper ballot;" and (2) "produce paper ballots which are marked with the elector's choices in a format readable by the elector" O.C.G.A. § 21-2-2(7.1); O.C.G.A. § 21-2-300(a)(2).
>
> Plaintiffs and other voters who wish to vote in-person **are required to vote on a system that does none of those things.** Rather, the evidence shows that the Dominion BMD system **does not produce a voter-verifiable paper ballot or a paper ballot marked with the voter's choices in a format readable by the voter because the votes are tabulated solely from the unreadable QR code**. Thus, under Georgia's mandatory voting system for "voting at the polls" voters must cast a BMD-generated ballot tabulated using a computer generated barcode that has the potential to contain information regarding their voter choices that does not match what they enter on the BMD (as reflected in the written text summary), or could cause a precinct scanner to improperly tabulate their votes.

Id. at 34-35 (emphasis added). These properties render the election unauditable by hand recount. Plaintiffs' evidence, and the evidence reviewed at length by Judge Totenberg, shows that BMD ballots are not auditable in any software-independent way. *See* e.g. Doc. 1-8, *passim*. Claims to the

contrary rest on a fallacious assumption that the veracity *vel non* of the BMD ballots is independent of the BMDs themselves – a classic case of circular reasoning.

In the face of all this evidence from the Complaint and before the Court, Defendants travel under the 12(b)(6) standard of review that requires the Court to assume all of the foregoing is true. They then argue there is "nothing to see here" and that we should all just move along. That argument is utterly without merit and should be rejected.

ARGUMENT AND CITATION OF AUTHORITY

I. PLAINTIFFS AS PRESIDENTIAL ELECTORS AND A POLITICAL PARTY ORGANIZATION HAVE STANDING

1. DEFENDANTS' STANDING ARGUMENTS

The Defendants first contend that Plaintiffs do not have standing. However, Plaintiffs Correco Ja'Quan Pearson, Vikki Townsend Consiglio, Gloria Kay Godwin, James Kenneth Carroll, Carolyn Hall Fisher, and Cathleen Alston Latham are all nominated Republican Presidential Electors for the State of Georgia. As such, in legal contemplation they are candidates in the election under O.C.G.A. § 21-2-10, which provides:

> At the November election to be held in the year 1964 and every fourth year thereafter, there shall be elected by the electors of this state persons to be known as electors of President and Vice President of the United States and referred to in this chapter as presidential electors, equal in number to the whole number of senators and representatives to which this state may be entitled in the Congress of the United States.

Pursuant to O.C.G.A. § 21-2-11, the duties of presidential electors are as follows:

> The presidential electors chosen pursuant to Code Section 21-2-10 shall assemble at the seat of government of this state at 12:00 Noon of the day which is, or may be, directed by the Congress of the United States and shall then and there perform the duties required of them by the Constitution and laws of the United States.

The standing of presidential electors to challenge fraud, illegality and unconstitutional political discrimination in a presidential election stands, as it were, on a different footing than that of an ordinary citizen elector. They are candidates, not voters. Theirs is not a generalized grievance, it is a particularized grievance. The election was not stolen from their preferred candidate, it was stolen *from them individually and particularly*. There are only 16 Republican Presidential electors in the whole state – six of them are plaintiffs in this case – versus 7,233,584 registered voters in Georgia.[3]

The Eighth Circuit case of *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020) is directly on point and highly persuasive, leading the Defendants to deride it as an outlier. In fact, the reasoning of *Carson* is directly analogous. *Carson* reviewed Minnesota law, including Minn. Stat. § 208.03, which provides that a vote for a presidential and vice-presidential candidate "shall be deemed to be a vote for that party's electors." *Carson* then concluded

[3] *See* https://sos.ga.gov/index.php/Elections/voter_registration_statistics, last visited November 5, 2020.

"Because Minnesota law plainly treats presidential electors as candidates, we do, too." *Id*. at 1057. Georgia law similarly treats presidential electors as candidates, and has a statute nearly identical to Minn. Stat. § 208.03, O.C.G.A. § 21-2-480(g), which provides that "[a] vote for the candidates for President and Vice President of a political party or body shall be deemed to be a vote for each of the candidates for presidential electors of such political party or body."

As the court in *Carson* explained, this drove its conclusion that presidential electors have standing:

> As candidates, the Electors argue that they have a cognizable interest in ensuring that the final vote tally accurately reflects the legally valid votes cast. An inaccurate vote tally is a concrete and particularized injury to candidates such as the Electors. The Secretary's use of the consent decree makes the Electors' injury certainly-impending, because the former necessarily departs from the Legislature's mandates. Thus, the Electors meet the injury-in-fact requirement."

Id. at 1058.

The causal-connection test is satisfied because the injury – an inaccurate vote tally – flows from the fraud, illegality and unconstitutionality in the conduct of the election as alleged in the Complaint.

The redressability test is satisfied because decertification of the election results, and/or certification of the Trump Electors, or prohibition of

the Biden Electors from voting in the Electoral College would redress the injury. *See id*.

Prudential standing is also satisfied because "[a] significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush v. Gore*, 531 U.S. 98, 112, 121 S.Ct. 525, 533-534 (2000) (Rehnquist, Scalia and Thomas concurring).

As the Eighth Circuit concluded, "[f]or these reasons, we conclude the Electors have Article III standing as candidates." *Id*. So should this Court.

The Defendants rely principally on *Bognet v Sec'y of Commonwealth*, No. 20-2314, 2020 WL 6686120 (3rd Cir. Nov. 13, 2020), where the court found that electors lacked standing based on the particularities of a Pennsylvania law that are not present here. In particular, the *Bognet* court did not discuss the significance of State law provisions pursuant to which Presidential Electors are candidates for office – the linchpin of the *Carson* decision. Moreover, none of the plaintiffs in *Bognet* were Presidential Electors.

Plaintiff Jason M. Shepherd is the Chairman of the Cobb County Republican Party and sues in his official capacity on its behalf.[4] All of the

[4] Mr. Shepherd's status as a plaintiff is alleged in paragraph 29 of the Complaint. He was not included in the caption due to inadvertence.

authorities cited by the Intervenors to support their right to intervene in this case support this Plaintiff's standing.

Plaintiffs' allege, first, and with great particularity, that Defendants have violated the Georgia Election Code to dilute the votes of Georgia's Republican voters (or voters for Republican candidates) with illegal, ineligible, duplicate or fictitious ballots that Defendants, in collaboration with public employees, Dominion and Democratic poll watchers and activists, have caused to be counted as votes for Democratic candidates. The fact and expert witness testimony describes and quantifies the myriad means by which Defendants and their collaborators illegally inflated the vote tally for Biden, including: double counting of the same vote, non-resident voters, impossible sent and received dates on absentee ballots, failure to match signatures, etc., etc. Thus, the vote dilution resulting from this systemic and illegal conduct did not affect all Georgia presidential electors or political parties equally; it had the intent and effect of inflating the number of votes for Biden and reducing the number of votes for Trump.

Further, Plaintiffs have presented evidence that Defendants disenfranchised Republican and Trump voters to reduce their voting power, in clear violation of "one person, one vote." *See generally Baker v. Carr*, 369 U.S. 186 (1962); *Reynolds v. Sims*, 377 U.S. 533 (1964). Defendants engaged in several schemes to devalue Republican votes as detailed in the Complaint,

including absentee ballots being returned but not counted, or **"1 person, 0 votes,"** and Dominion algorithmic manipulation, or for Republicans, **"1 person, 1/2 votes,"** and for Democrats, **"1 person, 1.5 votes."** *See e.g.,* Doc. 1-1 (Dr. Briggs Testimony regarding ballots not requested but sent, ballots returned but not counted), Doc. 1-10 (Ramsland testimony regarding additive algorithm), ¶¶ 116-119 (allegations of illegal tabulation at State Farm Arena, validated by video surveillance obtained December 2, 2020).

Plaintiffs' injury is that the relative values of their particular votes, and those of similarly situated voters for Republican candidates were devalued or disregarded, rather than a "generalized grievance" "no different than the interests of all Georgia voters as Defendants claim. Doc. 63-1 at 19. ,"Federal courts in Georgia and the Eleventh Circuit have long recognized that "plaintiffs have standing to bring Due Process and Equal Protection claims where they allege that their votes would likely be improperly counted," as they were here. *Curling v. Kemp*, 334 F.Supp.3d 1303, 1316 (N.D. Ga. 2018) (*citing Stewart v. Blackwell*, 444 F.3d 843, 855 (6th Cir. 2006) (finding voter plaintiffs had standing and substantial likelihood of success on equal protection and due process claims challenging use of voting machines likely to debase or devalue their votes).

2. State Defendants' Standing Arguments

What has already been said covers much of the State Defendants' standing arguments, except for one, after which we address their traceability and redressability arguments here.

The State Defendants rely on *Wood v. Raffensperger*, 2020 WL 7094866 (11th Cir. Case No. 201-14418 Dec. 5, 2020) for their argument that Plaintiffs here present only non-justiciable generalized grievances. While *Wood* applies this rule to Wood as a citizen elector, it expressly notes that if he had been a candidate – like the presidential elector plaintiffs in this case – he would have had standing:

> Wood asserts only a generalized grievance. A particularized injury is one that "affect[s] the plaintiff in a personal and individual way." *Spokeo*, 136 S. Ct. at 1548 (internal quotation marks omitted). For example, if Wood were a political candidate harmed by the recount, he would satisfy this requirement because he could assert a personal, distinct injury. *Cf. Roe v. Alabama ex rel. Evans*, 43 F.3d 574, 579 (11th Cir. 1995)

Id.

As for traceability and redressability, according to the State Defendants, they are mere bystanders to the election just conducted, having virtually nothing to do with any of the fraud and irregularity alleged by the Plaintiffs. The State Defendants' role is not so limited. Plaintiffs seek the remedy of de-certification (unlike Wood who sought only to delay certification in the district court proceedings) and an injunction against the State

Defendants' empowering and empaneling the Biden Electors to vote in the Electoral College on December 14, 2020. These remedies go directly to the statutory role of the Governor and Secretary of State in a presidential election under Georgia law.

With respect to certification, O.C.G.A. § 21-2-493(i) provides that election superintendents are not permitted to certify election results they know or have reason to know include fraudulent, illegal or erroneous results: "**If any error or fraud is discovered, the superintendent shall compute and certify the votes *justly*, *regardless of any fraudulent or erroneous returns presented to him or her***, and shall report the facts to the appropriate district attorney for action." (Emphasis added).

Similarly, as particularly applicable to the Secretary of State as the chief elections officer in Georgia, O.C.G.A. § 21-2-499 provides that

> [i]n the event **an error is found in the certified returns** presented to the Secretary of State or in the tabulation, computation, or canvassing of votes as described in this Code section, **the Secretary of State shall notify the county submitting the incorrect returns and direct the county to correct and recertify such returns**." (Emphasis added).

The pretense that the officials made responsible by O.C.G.A. § 21-2-31 for ensuring the legality and purity of Georgia elections are powerless to do the very job they are authorized and commanded to do is preposterous.

The State Defendants, after this lawsuit was filed, have re-certified the election following a machine recount despite the evidence presented in this case and in the public square. The injury caused by certification of results marred by fraud, illegality and error in an amount sufficient to put the outcome of the election in doubt is directly traceable to the actions of the State Defendants under controlling provisions of the Georgia Election Code. It is also redressable by the remedies prayed against the State Defendants. They cannot pretend they are blameless for the problems or helpless to correct them. They picked the Dominion system. Their polices lead to the de facto abolition of the signature match requirement. Their regulation to permit early processing of absentee ballots is unlawful and unconstitutional. Their Settlement Agreement breached the citadel for absentee ballots and is unlawful and unconstitutional. The claims against the State Defendants satisfy all elements of standing and justiciability.

II. THE COURT HAS SUBJECT MATTER JURISDICTION OVER COUNT V.

The Intervenor Defendants devote two sentences in a single paragraph to the top-level heading argument that the Court lacks subject matter jurisdiction over the state law election contest claim in Count V, relying on O.C.G.A. § 21-2-523(a) which states that an election contest under the relevant article of the Election Code shall be tried and determined in the

superior court of the county where the defendant resides. That is the extent of their argument.

But, as noted elsewhere in this brief, we are dealing here with a departure from the legislative scheme for appointing presidential electors. 20,188 non-residents were allowed to vote, in violation of the Georgia Election Code. The signature match requirement for absentee ballot applications was *de facto* abolished and applied in a highly unequal fashion between counties, in violation of the Equal Protection clause. The signature rejection rate for absentee ballots themselves was only .15%. Either nearly all Georgia voters have perfect penmanship, or the statutory requirement was effectively abolished. Ballots were tabulated after hours and out of public view, in violation of the Georgia Election Code. Ballots were scanned over and over again in violation of the Georgia Election Code. "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush v. Gore*, 531 U.S. 98, 112 (2000). Therefore, Count V of the Complaint presents not just a state law question, but a federal constitutional question as well, over which the Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (Presidential election) and 28 U.S.C. §1367 (supplemental jurisdiction for state law and constitutional claims).

III. LACHES DOES NOT BAR CLAIMS FOR DE-CERTIFICATION BASED ON ELECTION FRAUD AND ILLEGALITY ASSERTED THREE BUSINESS DAYS AFTER CERTIFICATION AND BEFORE POST-RECOUNT CERTIFICATION.

Defendant Intervenors assert that Plaintiffs claims are barred by laches.

> Laches is "a defense developed by courts of equity" to protect defendants against "unreasonable, prejudicial delay in commencing suit." *Petrella, supra*, at ___, ___ (slip op., at 1, 12). *See also* 1 D. Dobbs, Law of Remedies §2.3(5), p. 89 (2d ed. 1993) (Dobbs) ("The equitable doctrine of laches bars the plaintiff whose unreasonable delay in prosecuting a claim or protecting a right has worked a prejudice to the defendant").

SCA Hygiene Prod. Aktiebolag v. First Quality Baby Prod., LLC, 137 S. Ct. 954, 960 (2017).

Here there is no unreasonable delay in asserting Plaintiffs' rights and no resulting prejudice to the defending parties. Plaintiffs could not file a lawsuit claiming the election was stolen by fraud and illegality, fraudulent ballots, non-resident voting, unrequested absentee ballots, absentee ballots returned but not counted, politically discriminatory counting, illegal tabulation, scanning the same ballots multiple times, and apparent fraudulent electronic manipulation of votes until the election actually was stolen through those means.

The de facto abolition of the signature match requirement, and the State Defendants' failure to enforce the requirement and the other massive

irregularities surrounding absentee ballots did not happen until the election occurred. The appalling failure to protect this election against massive fraud through absentee ballots did not happen until Defendants caused or let it happen.

The claims of prejudice to the Defendants and to lawful voters who cast their legal votes in the election presume the point in controversy – whether the election was lawful or fraudulent. No Defendant, no candidate, no intervenor, no political party and no citizen can claim a legally protectible interest in a fraudulent election result. In legal contemplation, there can be no prejudice to anyone from invaliding such an election. Defendants would have us believe there is no cognizable legal, equitable or constitutional remedy for an election that has been won through fraudulent means. This notion is obnoxious to history, law, equity, the Constitution and common sense. Elections are regularly invalidated for fraud and illegality. There is no reason this one cannot also be invalidated if the evidence is sufficient to support that remedy.

The election was certified on November 20, 2020. Plaintiffs filed their Complaint on November 25, three business days later, and well within the state law limitations period for election contests of five days. *See* O.C.G.A. § 21-2-524(a). Plaintiffs seek de-certification. De-certification presumes prior certification. The claim was not ripe until then. Moreover, much of the

misconduct identified in the Complaint was not apparent on Election Day, as the evidence of voting irregularities was not discovered until weeks after the election and through very careful expert analysis. Finally, as noted, the election was *re-certified* after this lawsuit was filed.

Finally, the election was re-certified after the recount *after this case was filed.*[5] Laches cannot reach backward in time to bar a case filed before one of the events complained of

Under the heading of laches, the Defendants also argue that Plaintiffs claims must be barred because the requested relief would "erode the public's confidence in the electoral process" citing *Wood v. Raffensperger*, No. 1:20-cv-04561, ECF No. 54 at 22 (N.D. Ga. Nov. 20, 2020). That ship has sailed. Millions of people have seen the surveillance video from State Farm Arena showing two hours of illegal tabulation not in public view – after the press and partisan observers were unlawfully told to leave. Millions of people have seen election workers on this video scanning the same ballots over and over again. Millions of people who have seen this flagrant, large-scale, systematic, intentional and knowing election fraud by workers in the Fulton County Board of Registrations and Elections are utterly shocked and disgusted. There is no confidence left to preserve. Instead, it must be restored by

[5] *See* n. 2 above.

invalidating a fraudulent result and allowing the electors to be chosen by the Legislature under the plenary power granted them for this purpose by the Elections and Electors Clause. U.S. Const. Art. II, § 1, cl. 2. Ramming a fraudulent election result down the throats of the American people in the name of preserving confidence in the electoral process would be one of the most ridiculous and provocative acts of betrayal in our long and tumultuous history.

IV. PLAINTIFFS HAVE STATED CLAIMS FOR RELIEF

1. THE 12(b)(6) STANDARD.

Fed.R.Civ.P. 8(a)(2) requires that a pleading contain "a short and plain statement of the claim showing that the pleader is entitled to relief" in order to "give the defendant fair notice of what the ... claim is and the grounds upon which it rests." In order to survive a motion to dismiss, a plaintiff must articulate "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal,* 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009). While it is true that a pleading that merely offers "labels and conclusions" or "a formulaic recitation of the elements of a cause of action" may subject to dismissal under Rule 12(b)(6),

the "facial plausibility" standard does not give rise to a "probability requirement" at the pleading stage. *Twombly* at 556. The standard merely "calls for enough facts to raise a reasonable expectation that discovery will reveal evidence" of the claim. *Id.* In doing so, the Court must accept all of the plaintiff's allegations as true, construing them in the light most favorable to the plaintiff. *Pielage v. McConnell,* 516 F.3d 1282, 1284 (11th Cir.2008).

Twombly suggests that the Court adopt a "two-pronged approach" in applying these principles: 1) eliminate any allegations in the complaint that are merely legal conclusions; and 2) where there are well-pleaded factual allegations, "assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." Under *Twombly* and *Iqbal,* courts may infer from the factual allegations in the complaint "obvious alternative explanation[s]," which suggest lawful conduct rather than the unlawful conduct the plaintiff would ask the court to infer.

Defendant Intervenors argue the Court should apply Rule 9(b) to this election case and require that the alleged fraud be plead with particularity. This rule has no application to the context of election fraud or illegality because of the problems of proof in such cases arising from a constitutional guarantee of a private ballot. In election contests, it is only necessary to show enough fraud or illegality or irregularity to put the outcome in doubt – one does not have to be prove conclusively what the outcome would have been but

for the fraud. O.C.G.A. § 21-2-522. Therefore, pleading standards applicable to common law fraud claims, which always involve a claim of but for causation of actual damages, should not be applied to election disputes. In an election contest it is not necessary to show how the illegal ballots were voted because once ballots have been introduced into the pool that will be counted, it is normally not possible to identify which were illegally cast or counted. Recognizing this reality, the Georgia Supreme Court has held,

> The fallacy in the trial court's analysis is demonstrated by the impossibility of determining how the 481 electors would have voted had they been supplied with proper ballots. … It is precisely for this reason that we have held that the focus in an election contest involving illegal ballots is on whether they "exceeded ... the margin of victory." *Howell v. Fears*, supra at 628, 571 S.E.2d 392. Thus,
>
> > [i]t was not incumbent upon [Plaintiff] to show how the [] voters would have voted if their [absentee] ballots had been regular. [Plaintiff] only had to show that there were enough irregular ballots to place in doubt the result.

Mead v. Sheffield, 278 Ga. 268, 272, 601 S.E.2d 99, 102 (2004) (citing *Howell v. Fears*, 275 Ga. 627, 571 S.E.2d 392 (2002). *See also Miller v. Picacho Elementary Sch. Dist. No*. 33, 179 Ariz. 178, 180, 877 P.2d 277, 279, (S. Ct.1994) ("We therefore hold that a showing of fraud is not a necessary condition to invalidate absentee balloting. It is sufficient that an express non-technical statute was violated, and ballots cast in violation of the statute affected the election.")

Moreover, even if Rule 9(b) were applicable, the Complaint as summarized above particularizes the precise fraudulent conduct alleged here.

2. Allocation of the Burden of Proof with Respect to Electronic Election Fraud.

The difficulties of proof just discussed warrant further consideration.

Forensic examination of the black boxes inside which the election software operates is necessary to even approximately obtain direct evidence of electronic fraud in elections. Even that may be impractical or impossible due to the lack of protected audit and system logs inside the in *Curling v. Raffensperger*, 2020 WL 5994029 (N.D. Ga. 10/11/20) and due to the compressed time frame for resolving the controversy. A practical and appropriate method of allocating the burden and order of proof of electronic election fraud should be developed and applied.

The Supreme Court has laid down the mechanics for allocating the burden of proof in analyzing discriminatory-treatment cases where the evidence will depend on circumstantial or statistical evidence, as is the case here. In *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), the Supreme Court laid out a three-step analysis. *First*, plaintiffs must make out a *prima facie* case of the discrimination, *see id.* at 802, just as the Plaintiffs here have demonstrated harm by the statistical analysis of the results. *Second*, the burden shifts to the defendant to articulate a legitimate reason for the

challenged action – there is none here. *See id.* at 802-03. *Finally*, the plaintiff must establish that the reason articulated is mere pretext and that discrimination occurred. *See McDonnell Douglas*, 411 U.S. at 803.[6] Plaintiffs have already provided evidence of that discrimination – it is now time to look at the software and how it was used.

Plaintiffs have discharged the burden of the first step by pleading and proving a *prima facie* case showing in their Complaint that (1) Dominion vote-collection-aggregation-tabulation software was employed on November 3 in Georgia; and (2) the specific software so employed included at relevant times a capability of collecting, aggregating, and/or tabulating votes in discriminatory fashion. *See* Doc. 1-10 (Ramsland Affidavit). Competent evidence establishes unmistakably that this software was both fraud-enabled and audit-disabled. The *prima facie* showing in this case could hardly be more persuasive.

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[6] Courts have readily adapted the framework set forth in *McDonnell Douglas* in other cases where discrimination claims are "based principally on circumstantial evidence." *Reeves*, 530 U.S. at 141. Although originally decided under Title VII of the Civil Rights Act of 1964, courts have deployed *McDonnell Douglas* adaptations when analyzing other constitutional and statutory claims based on Sperino, BEYOND MCDONNELL DOUGLAS, U. Cinn. (2013) (*McDonnell Douglas* structure used in cases under the Americans with Disabilities Act ('ADA'")," "Age Discrimination in Employment Act ('ADEA')," and "discrimination cases brought pursuant to 42 U.S.C. sections 1983 and 1981," and "various state antidiscrimination statutes."). It makes sense to consider this as a useful paradigm to determine whether there is discrimination against one group of voters over another.

Further, there has been no adequate rejoinder to this compelling *prima facie* showing. Given the foundational constitutional importance of the right to vote, Defendants bear the burden of presenting, in response to a *prima facie* demonstration of electronic electoral discrimination, conclusive evidence that negates the risk that the software was used in a discriminatory fashion.

Algorithms that discriminate based on political preference or affiliation are never permissible. Vote collection-aggregation-tabulation software, especially when applied in multiple locations in a multi-precinct election, poses a new challenge in analyzing discrimination, but the same judicial analysis should apply. Further, just as discrimination in other contexts, software engineered to produce disparate treatment of different voters will also be engineered to cover its own tracks and will be deployed by politicians only where the software's role will be difficult to show after the fact, particularly in the short window for mounting electoral challenges.[7]

Although conclusive evidence of actual discrimination perpetrated through voting software may well be available in some instances, just as

[7] A further consideration concerns synchronization of electoral decisions. The timing of determinations of electoral outcomes, unlike outcomes in making multiple employment decisions, is an issue of great practical moment and independent constitutional significance. See, e.g., U.S. Const Amend XX. One cannot un-ring bells, unscramble omelets, get second chances at first impressions, or re-run the same election after an extended adjudication contesting the vote-counting algorithms employed in the first instance.

direct statements of discriminatory intentions are sometimes available, in the more usual case direct, timely, and comprehensible evidence of the precise operation and effects of fraud-enabled election software may be hard to come by, especially where time is short and political tempers run hot.

There can be no legitimate reason—none whatever—for vote-collection-aggregation-tabulation software to include the capability or potential for discriminating on a basis of political preference or affiliation, or for covering up the potential for such disparate treatment. Accordingly, in adapting *McDonnell Douglas* to electronic electoral frauds, the second and third steps of this paradigm should be combined, thus streamlining its application to these cases of alleged political discrimination. While one can argue that software algorithms may be appropriate in employment decisions, or even in cases involving political drawing of voting districts, employing fraud-enabled software that opens the door to invidious political discrimination is quite a different matter.

As with any fraud, there was ample motive, opportunity, and capability to use the software as it was designed to change the outcome of the tabulation, and scant evidence has been presented to show that it was not used in that way. Defendants have made no arguments as to why the software employed the features it contained, and no evidence that its capabilities were not used in this election. Given the foundational

constitutional importance of the right to vote, the standard for upholding the use of fraud-enabled or audit-disabled software must be demanding, and Defendants have not satisfied their burden in rebutting the allegations and the evidence presented. Mere certification of the software and Logic and Accuracy testing are inadequate, as Judge Totenberg found in *Curling v. Raffensperger*.

Judge Posner remarks that "one of the most persistent fallacies" in commentary on *Bush v. Gore* and the 2000 election is "the notion that the winner of an election can be determined without reference to election rules." Posner, *Breaking the Deadlock,* at 2. Once use of fraud-enabling and/or audit-disabling software has been established, Defendants should bear the burden of showing that such software did not affect the outcome that would be generated by the election rules but for the presence of the software. Otherwise, the only resort is invalidation of the compromised election.

3. PLAINTIFFS' CLAIMS ARE PLAUSIBLE.

Turning to the plausibility inquiry, the Defendants contend that the Plaintiffs' claims are "simply not plausible."

All Defendants contend that the hand audit necessarily precludes there having been anything amiss in the Dominion software. The premise of this argument is that the paper ballots printed by the Dominion Ballot Marking Devices are auditable in a software-independent independent manner. Not

only is this not true, the State Defendants are collaterally estopped from making this argument, for it has been decided against them by Judge Totenberg in *Curling v. Raffensperger*, 2020 WL 5994029 (N.D. Ga. 10/11/20). Reviewing the evidence, Judge Totenberg explained why the Dominion BMD ballots are not auditable in a software independent way:

> A voting system is strongly software independent "if an undetected change or error in its software cannot cause an undetectable change or error in an election outcome, and moreover, a detected change or error in an election outcome (due to change or error in the software) can be corrected without re-running the election." (Stark Suppl. Decl., Doc. 640-1 at 42 ¶ 10.) "Systems based on optically scanning hand-marked paper ballots (with reliable chain of custody of the ballots) are strongly software independent, because inspecting the hand-marked ballots allows an auditor to determine whether malfunctions altered the outcome, and a full manual tabulation from the paper ballots can determine who really won, without having to re-run the election." (*Id.*) Therefore, a risk-limiting audit of an election conducted using hand-marked paper ballots "can guarantee a large chance of correcting the outcome if the outcome is wrong." (*Id.*)
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> **Dr. Stark's affidavits and hearing testimony address the impossibility of conducting a reliable audit of ballots and voting totals derived from QR codes for purposes of verifying the accuracy or integrity of election results or processes**. In Dr. Stark's view, the risk-limiting audit methodology **cannot be properly utilized to assess the accuracy of election results in the context of a BMD system where ballots are tabulated based on a humanly non-readable QR code that is not voter verifiable and where the computer voting system is vulnerable to data hacking or manipulation that can alter votes cast in untraceable ways – including in the votes actually shown on the ballots that are audited**.

Id. at 28 (emphasis added). *See also* Doc. 1-8, (academic article presenting

behavioral research that Dominion's BMD ballots are not actually verified by voters and showing they are not auditable independent of the software). This finding is crucially significant because the evidence is overwhelming that Dominion's systems, including BMDs, are easily hacked and can rig the votes printed in the QR codes, which are not human-readable and which contain the actual vote read by the scanners. Summing up, Judge Totenberg ruled that "Absent such an injunction [prohibiting the use of BMDs], **there is no audit remedy that can confirm the reliability and accuracy of the BMD system, as Dr. Stark has stressed**." *Id.* at 33 (emphasis added).

Plaintiffs easily meet the pleading stage plausibility analysis because their claims are copiously supported with eye-witness and expert testimony. This is more than enough to surpass the 12(b)(6) standard under *Twombly* and *Iqbal*.

4. PLAINTIFFS HAVE PLEADED A CLAIM UNDER THE ELECTIONS AND ELECTORS CLAUSE.

Plaintiffs have alleged the following violations of the Elections and Electors Clause:

1. Secretary of State Rule 183-1-14-0.9-.15, permitting absentee ballots to be opened up to three weeks before election day, is directly and irreconcilably contrary to O.C.G.A. § 21-2-386(a)(2).
2. The Settlement Agreement is facially unconstitutional because it varies from the specified statutory procedures for handling and adjudicating absentee ballots.

3. The de facto abolition of the signature match requirement in violation of O.C.G.A. § 21-2-386.

Defendants contend none of this matters and cannot be remedied in any event so the Complaint should be dismissed. To the contrary, "A significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." *Bush v. Gore*, 531 U.S. 98, 112, (2000). The Elections and Electors clause effectively federalizes and constitutionalizes state election codes for the selection of presidential electors. When those procedures are substantially altered by means other than a duly enacted statute as they have been in Georgia, the Constitution is violated. This is the teaching of *McPherson v. Blacker*, 146 U.S. 1 (1892) and *Bush v. Gore*.

In Georgia, changes to the absentee balloting procedures have opened an 8-lane superhighway for fraudulent ballots, which the supporters of Biden have fully exploited. Plaintiffs have stated a claim for violation of the Elections and Electors Clause.

5. PLAINTIFFS HAVE PLEADED AN EQUAL PROTECTION VIOLATION

Defendants also absurdly contend that plaintiffs have failed to state a claim that the Equal Protection clause was violated. There is an Equal Protection violation in the dilution of votes for Trump by the injection of tens of thousands of illegal ballots for Biden. There is an Equal Protection

violation in the use of Dominion equipment that confers a politically discriminatory 5% advantage to Biden as compared to other election systems. There is an Equal Protection violation in the de facto abolition of the signature match requirement for absentee ballots as compared to in person voting in which voters have to provide proof of their identity. The receipt and counting of more than one million absentee ballots for which there was no effective signature match violates the Georgia Election Code and the Electors and Elections Clause and subjects absentee voters and in person voters to disparate treatment. Counting 20,188 votes from non-residents unconstitutionally dilutes the votes of legal residents. The Equal Protection violations in this case are plain and obvious under a large body of "one person one vote" case law from *Baker v. Carr*, 369 U.S. 186 (1962), *Reynolds v. Sims*, 377 U.S. 533 (1964) and *Bush v. Gore*.

> In Equal Protection cases, it has been made clear that
>
> > [o]ur treatment of anecdotal evidence in *Cone Corp.* and *Ensley Branch* is consistent with the formulation in Justice O'Connor's *Croson* plurality opinion that 'evidence of a pattern of individual discriminatory acts can, *if supported by appropriate statistical proof,* lend support to a local government's determination that broader remedial relief is justified,' 488 U.S. at 509, (citation omitted) (emphasis added). In light of *Croson* 's guidance on the point, and our decisions in *Cone Corp.* and *Ensley Branch,* we believe that anecdotal evidence can play an important role in bolstering statistical evidence, but that only in the rare case will anecdotal evidence suffice standing alone.

Engineering Contrs. Ass'n v. Metropolitan Dade County, 122 F.3d 895, 925

(11th Cir. 1997) (*citing Richmond v. J. A. Croson Co.*, 488 U.S. 469, 509, (1989). "Moreover, evidence of a pattern of individual discriminatory acts can, if supported by appropriate **statistical** proof, lend support to a local government's determination that broader remedial relief is justified." *Id*. Plaintiffs have offered such statitistical evidence.

6. PLAINTIFFS HAVE PLEADED A DUE PROCESS VIOLATION

Similarly, the Complaint states a claim for violation of the Due Process clause. The Settlement Agreement and Rule 183-1-14-0.9-.15 were adopted in violation of the Georgia Election Code and the Elections and Electors clause, depriving Plaintiffs of their rights thereunder without Due Process. The fundamental right to vote protected by the Fourteenth Amendment is cherished in our nation because it "is preservative of other basic civil and political rights." *Reynolds*, 377 U.S. at 562. Voters have a "right to cast a ballot in an election free from the taint of intimidation and fraud," *Burson v. Freeman*, 504 U.S. 191, 211 (1992), and "[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

"Obviously included within the right to [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted" if they are validly cast. *United States v. Classic*, 313

U.S. 299, 315 (1941). "[T]he right to have the vote counted" means counted "at full value without dilution or discount." *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters,* 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

"Every voter in a federal . . . election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes." *Anderson v. United States*, 417 U.S. 211, 227 (1974); see also *Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes "debase[]" and "dilute" the weight of each validly cast vote. *See Anderson*, 417 U.S. at 227.

The right to an honest [count] is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and Constitution of the United States." *Anderson*, 417 U.S. at 226 (quoting *Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff'd due to absence of quorum*, 339 U.S. 974 (1950)).

Practices that promote the casting of illegal or unreliable ballots or that fail to contain basic minimum guarantees against such conduct can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots. *See Reynolds*, 377 U.S. at 555 ("[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.").

The argument that Plaintiffs have not stated a Due Process claim is without merit and should be rejected.

V. THE PLAINTIFFS' CLAIMS ARE RIPE AND NOT MOOT.

The State Defendants' mootness argument is based on the false premise that this Court cannot order any of the relief requested in the Complaint or the TRO Motion. As this Court held in a recent decision granting a TRO enjoining Defendant Secretary Kemp, "Defendant's claim that the Secretary cannot redress Plaintiff's injury fails because the Secretary of State is the state official in charge of enforcing Georgia's election laws." *Common Cause Ga. v. Kemp,* 347 F.Supp.3d 1270, 1291 (N.D. Ga. 2018) (*citing Grizzle v. Kemp*, 634 F.3d 1314, 131 (11th Cir. 2011)). Accordingly, "Defendant's role as the chief election official of the state, a ruling by the Court directed at Defendant can redress Plaintiff's injuries." *Id.*

Without an immediate temporary injunction, electoral votes will be cast, electors will be appointed and this Court will lose any authority to provide relief to Plaintiffs. There is no harm to Respondents by the potential relief fashioned by this Court. As recently held by a court considering claims similar to those asserted here.

> 3 U.S.C. §5 makes clear that the Safe Harbor does not expire until December 8, 2020, and the Electoral College does not vote for president and vice president until December 14, 2020. According to an October 22, 2020 white paper from the Congressional Research Service titled "The Electoral College: A 2020 Presidential Election Timeline," the electors will meet and vote on December 14, 2020. https://crsreports.congress.gov/product/pdf/IF/ IF11641. December 8, 2020—six days prior to the date the College of Electors is scheduled to meet—is the "safe harbor" deadline under 3 U.S.C. §5. That statute provides that if a state has provided, "by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State," and that final determination has been made "at least six days before the time fixed for the meeting of the electors," that determination—if it is made *under the state's law* at least six days prior to the day the electors meet— "shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution . . . ." It appears, therefore, that December 8 is a critical date for resolution of any state court litigation involving an aggrieved candidate who is contesting the outcome of an election.

Feehan v. Wisconsin Board of Elections, Case No. 20-cv-1771(E.D. Wis. 12/4/20) (Attached as Exh. A).

This Court can grant the primary relief requested by Plaintiffs, i.e., de-certification of Georgia's election results and an injunction prohibiting State Defendants from transmitting the results. There is also no question that this Court can order other types of declaratory and injunctive relief requested by Plaintiffs, in particular, impounding Dominion voting machines and software for inspection, nor have State Defendants claimed otherwise.

In *Siegel v. Lepore*, 234 F.3d 1163 (11th Cir. 2000), a case arising from the 2000 General Election, the Eleventh Circuit held that certification did not moot the claim:

> This Court has held that "[a] claim for injunctive relief may become moot if: (1) it can be said with assurance that there is no reasonable expectation that the alleged violation will recur and (2) interim relief or events have completely and irrevocably eradicated the effects of the alleged violation." *Reich v. Occupational Safety & Health Review Comm'n,* 102 F.3d 1200, 1201 (11th Cir.1997).
>
> We conclude that neither of these elements is satisfied in this case. The Democratic candidate, Vice President Gore, and others are currently contesting the election results in various lawsuits in numerous Florida state courts. There are still manual recount votes from at least Volusia and Broward Counties in the November 26th official election results of the Florida Secretary of State. **In view of the complex and ever-shifting circumstances of the case, we cannot say with any confidence that no live controversy is before us.**

Id. at 1172-73 (emphasis added).). *See also Common Cause*, 347 F.Supp.3d at 1291 (holding that certification of election results did not moot post-election claim for emergency injunctive relief). The State Defendants cannot be allowed to certify the results after this case has been filed and then claim the lawsuit is moot because they have certified.

The case of *Wood v. Raffensberger*, No. 20-14418, 2020 WL 7094866 (11th Cir. Dec. 5, 2020) also does not support Defendants' mootness or standing arguments. The key difference between this case and *Wood* is that the plaintiff in *Wood* requested delay of certification, rather than de-

certification, so in the Court's view certification rendered his request moot. Plaintiffs here also request several additional types of injunctive relief (as well as declarative relief) to preserve evidence and maintain the status quo that are not moot, e.g., access to voting machines and records as well as declaratory relief.

VI. THE ELEVENTH AMENDMENT DOES NOT BAR CLAIMS FOR INJUNCTIVE RELIEF.

State Defendants assert that Plaintiffs' claims are barred by the Eleventh Amendment. While the contours of the Eleventh Amendment's jurisdictional bar are ambiguous in many cases, this is not one of them. As the Court held in *Fair Fight Action, Inc. v. Raffensperger*, 413 F. Supp. 3d 1251 (N.D. Ga. 2019):

> Under the doctrine enunciated in *Ex parte* Young, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908), ... a suit alleging a violation of the federal constitution against a state official in his official capacity for injunctive relief on a prospective basis is not a suit against the state, and, accordingly, does not violate the Eleventh Amendment." *Grizzle v. Kemp*, 634 F.3d 1314, 1319 (11th Cir. 2011) (citations omitted); *see also Alden v. Maine*, 527 U.S. 706, 756–57, 119 S.Ct. 2240, 144 L.Ed.2d 636 (1999) ("The rule [of sovereign immunity], however, does not bar certain actions against state officers for injunctive or declaratory relief.") and *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 71 n.10, 109 S.Ct. 2304 ("Of course a state official in his or her official capacity, when sued for injunctive relief, would be a person under § 1983 because 'official-capacity actions for prospective relief are not treated as actions against the State.'").

Id. at 1278. The Court further held:

> In addition, the remedy of prospective injunctive relief is "not the 'functional equivalent' of a form of relief barred by the Eleventh Amendment." Id. The proposed remedy also will not resolve "for all time," Georgia's election system.

Id. at 1280.

This is precisely what the Plaintiffs request in the Complaint, namely, equitable and injunctive relief to prospectively enjoin the Defendants from taking actions that are within the scope of their statutory authority, in particular, the Secretary of State as the State's chief election officer, including but not limited to seeking a permanent injunction to de-certify the election results and against transmitting the currently certified election results to the Electoral College." The Eleventh Amendment is no bar to this Court granting the requested relief.

VII. PLAINTIFFS' CLAIMS ARE NOT SUBJECT TO DISMISSAL UNDER ABSTENTION DOCTRINES.

The State Defendants next argue that the Court should dismiss the Complaint to permit State court resolution under the abstention doctrines announced in *Comm'n of Texas v. Pullman Co.*, 312 U.S. 496 (1941) and *Colorado River Water Conservation District v. United States,* 424 U.S. 800(1976); State Defendants' Brief at pp. 30–33. As to *Pullman* abstention, a federal court may stay or dismiss proceedings for "a state court resolution of underlying issues of state law" when (1) the case presents an unsettled question of state law, and (2) the question of state law is dispositive of the

case or would materially alter the constitutional question presented. *Harman v. Forssenius*, 380 U.S. 528, 534, 85 S.Ct. 1177 (1965). As a preliminary matter, Defendants have not identified any "unsettled question of state law" that must be resolved to address Plaintiffs' constitutional claims, nor have they identified any specific state proceeding in which such an unsettled question is before a state court. *See* Doc. 63-1 at 30-33. The state law "questions" raised in the Complaint are relatively straightforward – and involve bright-line factual determinations – *e.g.,* did Georgia election officials *de facto* eliminate the absentee ballot signature matching requirement, were absentee ballots sent to voters who did not request them, were Republican ballots destroyed, lost or disqualified at a higher rate than comparable ballots for Democratic candidates, etc.

While it is true that "abstention is discretionary" *Siegel v. LePore*, 234 F.3d 1163, 1174 (11th Cir. 2000), the Supreme Court has made clear that "the power to dismiss under the *Burford* doctrine, *as with other abstention doctrines*, ... derives from the *discretion* historically enjoyed by courts of equity." *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 727–28, 116 S.Ct. 1712, 135 L.Ed.2d 1 (1996) (emphases added). In exercising its discretion, a federal court must consider whether "certain classes of cases, and certain federal rights" are more appropriately "adjudicated in federal court." *Id.* at 728, 116 S.Ct. 1712; *Edwards v. Sammons*, 437 F.2d 1240, 1243 (5th Cir.

1971) (federal courts "must also take into consideration the nature of the controversy and the particular right sought to be enforced.").

The Supreme Court has repeatedly held abstention is inappropriate when First Amendment rights, rights related to school desegregation, *and voting rights are alleged at issue*. *Id., citing Harman v. Forssenius*, 380 U.S. 528, 537 (1965) (abstention improper when voting rights violation being alleged), *Baggett v. Bullitt*, 377 U.S. 360, 375–80 (1964) (abstention improper when First Amendment violation being alleged), *and Griffin v. County Sch. Bd. of Prince Edward Cty.*, 377 U.S. 218, (1964) (abstention improper when school desegregation violations being alleged)); *see also Siegel*, 234 F.3d at 1174 (collecting cases holding abstention improper).

The Eleventh Circuit has rejected the argument that a federal court should abstain under *Pullman* in voting rights cases in no uncertain terms. Drawing from decades of precedent, the Eleventh Circuit in *Siegel* concluded that "[o]ur cases have held that voting rights cases are particularly inappropriate for abstention." *Id.* This conclusion was "strengthened by the fact that Plaintiffs allege a constitutional violation of their voting rights." *Id.*

The law is crystal clear in the Eleventh Circuit. Federal courts do not abstain when voting rights are alleged to be violated. The unambiguous holdings from binding precedent, mentioned nowhere in the State's Defendants' Brief, sharply confine the Court's discretion to abstain from

exercise of its Article III jurisdiction over this case. *See* e.g. *Harman*, 380 U.S. at 537 ("Given the importance and immediacy of the problem [of voting rights], and the delay inherent in referring questions of state law to state tribunals, [ ] it is evident that the District Court did not abuse its discretion in refusing to abstain.") (citations omitted).

The very nature of this controversy and the inapplicability of discretionary abstention is dispositive on this issue. Abstention would result in substantial delay as the various state court challenges work their way through the state court system. Abstention, were it applied, would by its nature last well beyond the current certification and electoral college process and moot the Plaintiffs' claims. "The delay which follows from abstention is not to be countenanced in cases involving such a strong national interest as the right to vote." *Edwards*, *supra*, 437 F.2d at 1244.

The State Defendants also argue that the Court should decline to reach the merits of this dispute under the doctrine of constitutional avoidance—a doctrine that is part and parcel of the *Pullman* analysis — because it "might be mooted or presented in a different posture by a state court determination of pertinent state law." State Defendants" Brief, pg. 31 (citing cases); *See Duke v. James*, 713 F.2d 1506, 1510 (11th Cir. 1983) (explaining how *Pullman* applies when there is an unsettled question of state law and "that the question be dispositive of the case and would avoid, or substantially

modify, the constitutional question."). However, constitutional avoidance does not permit federal courts to avoid federal questions under the federal constitution. *See Pittman v. Cole*, 267 F.3d 1269, 1285–87 (11th Cir. 2001); ("federal courts should not abstain in order to avoid the task of deciding the federal constitutional issues in a case."); *Duke,* 713 F.2d at 1510 ("It is improper ... to view abstention as a tool merely to extract from the state courts an alternative state law ground for the judgment.

Abstention is not intended to serve in this manner when state law is clear. Similarly, if the state court will merely apply federal constitutional law, then the state construction will *not* moot or modify the constitutional question.").

> It is not for the courts to withdraw that jurisdiction which Congress has expressly granted under section 1983 where such a withdrawal is contrary to the purpose of Congress in extending that alternative forum. In this regard, the *Pullman* doctrine is narrow and is tightly circumscribed. A federal court must grapple with difficult constitutional questions that confront it squarely. The abstention doctrine is an exception to this rule, to be exercised only in *special* or "*exceptional* " circumstances."

Id. (emphasis in original).

As to *Colorado River* abstention, the State Defendants fail to provide any basis for its application in this case. The *Colorado River* analysis is applicable when federal and state proceedings involve substantially the same parties and substantially the same issues. *Ambrosia Coal and Const. Co. v.*

Pages Morales, 368 F.3rd. 1320, 1329-1330 (11th Cir. 2004). While the State Defendants generally allege that the existence of "numerous pending challenges to the November election that have properly been filed in Georgia's courts," other than a vague reference to supposed "statements by Mr. Wood's counsel in the no-longer-pending *Wood* litigation," there is no sufficient showing that any ongoing parallel state court action involves "substantially the same parties and substantially the same issues" that would properly invoke application of the *Colorado River* abstention doctrine to permit this Court to avoid its "virtually unflagging obligation" to exercise its jurisdiction over these claims. *Moses v. Cone Mem'l Hosp. v. Mercury Const. Corp.,* 460 U.S. 1 (1983) (primary purpose of *Colorado River* abstention is avoidance of piecemeal litigation between same parties).

There is no reason for this Court to abstain from deciding this case.

VIII. REPLY IN SUPPORT OF MOTION FOR EMERGENCY INJUNCTIVE RELIEF.

The Intervenor Defendants' response to the motion for emergency injunctive relief is largely a rehash of the arguments made in their motion to dismiss – standing, mootness, laches, failure to state a claim dressed up as not likely to succeed on the merits, no irreparable harm and balancing of the equities. All of these contentions are addressed in the earlier arguments in

this brief in response to the motions to dismiss. Two bites at the dismissal apple ought to be enough for the vast swarms of lawyers defending this case.

Plaintiffs reiterate that they have demonstrated that they have satisfied the requirements for the grant of a TRO, in particular, substantial likelihood of success, and highlight this Court's decision to grant a TRO where plaintiffs brought a post-election challenge regarding Defendant Secretary Kemp's implementation of Georgia election laws supported by substantial statistical evidence and witness declarations showing that the "infringement of the rights of the voters to cast their votes and have their votes counted." *Common Cause*, 347 F.Supp.3d at 1295.

1. EXPERT TESTIMONY

Intervenor Defendants move to exclude all of Plaintiffs' expert testimony and offer reports of their own experts.

The objections to Plaintiffs' experts all go to weight, not admissibility. Defendants' own experts are subject to many of the same criticisms, with the additional criticism that several of them are paid mouthpieces, while all of Plaintiffs' experts are working for free and with great courage, as they have undertaken a great career risk due to the incredibly toxic nature of our current political environment.

The most important point to make is that this is not a jury trial. The Court is well-able to discern the wheat from the chaff and determine what

weight and credibility should be afforded to competing experts. Because there is no jury, this not a case in which the cause of justice needs to be protected from unsophisticated jurors' having excess credulity for expert testimony – the whole animating purpose of *D'aubert* and its progeny. Each side has its experts. The Court should exercise its discretion over evidentiary questions and weigh them all for what they are worth.

Responses from Plaintiffs' experts are submitted contemporaneously herewith.

Russell Ramsland has also offered a reply to the reports critiquing his work.

Eric Quinnell, Ph.D. and S. Stanley Young offer a very brief rebuttal which demonstrates that the Rodden-Marble report, which purports to critique their analysis, actually confirms it. Quinnell and Young find that the statistical properties of the data set of Fulton County absentee ballots are mathematically and statistically *impossible* absent some external intervention. This is compelling prima facie evidence to support Plaintiffs' allegations of wrongdoing and complements the State Farm Arena video tape. The after-hours counting out of public view, in which batches of ballots were scanned over and over again, concluded just before 1:00 AM on November 4, 2020. The first upload of Fulton County's absentee ballot results, consisting of 73,523 ballots, is time-stamped at 12:59 AM, December 4, 2020.

CONCLUSION

For the foregoing reasons, the motions to dismiss should be denied, and the motion for emergency injunctive relief should be granted.

Respectfully submitted, this 6th day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing document with the Clerk of Court using the CM/ECF system, which will cause electronic service to be made upon all counsel of record.

This 6th day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WILLIAM FEEHAN,

Plaintiff,

Case No. 20-cv-1771-pp

v.

WISCONSIN ELECTIONS COMMISSION, *et al.*,

Defendants.

ORDER GRANTING IN PART AND DEFERRING RULING IN PART ON AMENDED MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION TO BE HEARD IN AN EXPEDITED MANNER (DKT. NO. 10)

At 10:30 a.m. on December 3, 2020, the plaintiff filed an "Amended Motion For Temporary Restraining Order And Preliminary Injunction To Be Considered In An Expedited Manner." Dkt. No. 10. The amended motion seeks a temporary restraining order or, in the alternative, a preliminary injunction, "to be considered in an expedited manner." Id. at 1. It states that the motion is being submitted pursuant to Fed. R. Civ. P. 65 "and Civil L.R. 7." Id.

The motion asserts that the plaintiff will suffer irreparable harm if the court does not grant a temporary restraining order. Id. at 2. The plaintiff states that he will suffer irreparable harm if various actions he describes "are not immediately enjoined across the state of Wisconsin pursuant to 52 U.S.C. § 20701 (preservation of voting records)" to prevent destruction or alteration of evidence. Id. at ¶5. He asserts that the amended complaint (Dkt. No. 9, filed

the same day as this motion) and the motion present "material dispositive issues which are questions of law that may be resolved without factual investigation or determination." Id. at ¶6.

The plaintiff attached to the motion a proposed briefing schedule. Dkt. No. 10-1. The schedule indicates that the plaintiff's counsel had conferred with defense counsel (and planned to speak with them again later that day) and anticipated proposing that the defendants file their response to the motion for injunctive relief by 8:00 p.m. on Friday, December 4, 2020, that the plaintiff file his reply by 8:00 p.m. on Saturday, December 5, 2020 and that the schedule conclude with a "[h]earing as directed by the Court. Plaintiff proposes to submit the matter on briefs without argument." Id. at 1. Neither the amended motion nor the briefing schedule indicated whether the plaintiff needed a decision from the court by a date certain.

At 5:13 p.m. on December 3, the plaintiff filed a brief in opposition to defendant Tony Evers's motion to reassign Trump v. Wisconsin Elections Commission, *et al.*, Case No. 20-cv-1785, from U.S. District Court Judge Brett H. Ludwig to this court. Dkt. No. 18. The brief stated that "[w]ith the College of Electors scheduled to meet December 8, there could never be a clearer case of 'justice delayed is justice denied.'" Id. at 1. The plaintiff stated that the court should deny the motion to reassign and "immediately order briefing and issue its decision no later than 5 p.m. Sunday evening, December 6 so that Plaintiff may have even a few hours to prepare for and seek whatever further relief may

be then available in the one day left before the December 8 meeting of electors." Id. at 2.

The plaintiff reported that the parties had met and conferred regarding a briefing schedule for the motion for injunctive relief, but that the defendants had "refused to agree to the schedule proposed by Plaintiffs, and in fact, refused to offer a proposed schedule of their own," indicating that they would be seeking reassignment of Case No. 20-cv-1785. Id. at 3. The plaintiff said the defendants also indicated that they could not stipulate to a TRO "to preserve electronic and physical data, materials, and equipment (voting machines in particular) for inspection by Plaintiff's experts" because the defendants said they had "no control or influence whatsoever over preservation of evidence by local jurisdictions and elections clerks." Id. The plaintiff concluded the brief by reiterating his request that the court immediately order briefing and that the court issue its decision no later than 5:00 p.m. Sunday evening, December 6.

First thing on December 4, 2020, defendant Tony Evers responded to the request for an expedited briefing schedule. Dkt. No. 25. The defendant noted that although the plaintiff had asserted that the court needed to decide the motion before the electors meet, that meeting was not scheduled until December 14. Id. at 2 n.2. The defendant proposed an alternative schedule by which the defendants would file their briefs in opposition to the motion for injunctive relief by 5:00 p.m. on Monday, December 7; the plaintiff would file his reply brief by 5:00 p.m. on Tuesday, December 8; and the court could

exercise its discretion regarding whether to hold an evidentiary hearing or hear argument. Id. at 1-2.

Minutes later, defendants the Wisconsin Elections Commission and its members filed their brief in opposition to the request for an expedited briefing schedule. Dkt. No. 26. They, too, stated that the meeting of electors will not take place until December 14, 2020. Id. at 26. They propose a schedule whereby the defendants will file their opposition briefs to the motion for injunctive relief by 11:59 p.m. on Tuesday, December 8, 2020 and the plaintiff will file his reply brief by 11:59 p.m. on Wednesday, December 9, 2020. Id. at 2,

In seeking an expedited briefing schedule, the plaintiff's December 3, 2020 amended motion for injunctive relief cites Civil Local Rule 7 (E.D. Wis.), but identifies no subsection of that rule. Rule 7(b) gives a non-moving party twenty-one days to respond to a motion and Rule 7(c) gives the moving party fourteen days to reply. Given the plaintiff's repeated use of the word "expedited" and the briefing schedule he proposes, the court concludes that he is asking the court for shorter turnaround time than that provided in Rules 7(b) and (c).

There *is* a provision of Civil L.R. 7 that allows a party to seek expedited briefing. Civil L.R. 7(h), which allows a party to seek non-dispositive relief by expedited motion if the party designates the motion as a "Civil L.R. 7(h) Expedited Non-Dispositive Motion." When the court receives a motion with that designation, it may schedule the motion for a hearing or decide the motion on the papers and may order an expedited motion schedule. Civil L.R. 7(h)(1). The

rule limits such motions to three pages in length, requires the respondent to file its three-page opposition memorandum within seven days unless the court orders otherwise and allows the respondent to attach an affidavit or declaration of no more than two pages. Civil L.R. 7(h)(2).

Although the plaintiff did not designate it as such, the court construes the plaintiff's request for the motion for injunctive relief to be heard in an "expedited manner"—Dkt. No. 10—as a Civil L.R. 7(h) Expedited Non-Dispositive Motion for an Expedited Briefing Schedule. The court will grant that motion (although it will not order the briefing schedule the plaintiff suggests).

The other part of the plaintiff's motion seeks immediate temporary injunctive relief—a temporary restraining order or a preliminary injunction. The motion states that the amended complaint and the motion "present material dispositive issues which are questions of law that may be resolved without factual investigation or determination." Dkt. No. 10 at 3. The plaintiff never has requested a hearing, either in writing or by contacting chambers by phone with the adverse parties on the line. The anticipated briefing schedule the plaintiff attached to the amended motion for injunctive relief, while mentioning a hearing "as directed by the Court," states that the plaintiff proposes to "submit the matter on briefs without argument." Dkt. No. 10-1 at 1. In his brief in opposition to a motion to reassign another case, the plaintiff proposes briefing through the weekend and a ruling from this court on Sunday evening; because court generally is not in session on weekends, the court deduces that the plaintiff does not anticipate a hearing on the motion.

The United States Supreme Court has held that injunctive relief is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." Winter v. Nat. Res. Defense Counsel, Inc., 555 U.S. 7, 22 (2008) (citing Mazurek v. Armstrong, 520 U.S. 968, 972 (1997)). Because it is an extraordinary remedy, injunctive relief never is awarded as of right. Id. (citing Munaf v. Geren, 553 U.S. 674, 689-90 (2008)). Courts considering requests for such extraordinary relief must, in every case, "balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief." Id. (quoting Amoco Prod. Co. v. Gambell, 480 U.S. 531, 542 (1987)).

In this court's experience it is unusual for a party seeking the extraordinary remedy of preliminary injunctive relief to ask the court to issue a decision on the pleadings, without presentation of evidence or argument. But because that is what the plaintiff—the movant—has asked, the court will rule on the pleadings.

As for the expedited briefing schedule, the schedule the plaintiff has proposed severely limits the time available to the defendants to respond to his pleadings and to the court to rule. The plaintiff created this limitation by waiting two days to confer with defense counsel and by waiting until late yesterday afternoon to mention a date by which it appears he seeks a ruling from the court. The court disagrees that the plaintiff will be denied his right to redress if the court does not rule by Sunday evening, December 6.

The plaintiff stated in his opposition brief to the motion to reassign that time was of the essence because the College of Electors was scheduled to meet December 8. Dkt. No. 18 at 1. That is not correct. According to an October 22, 2020 white paper from the Congressional Research Service titled "The Electoral College: A 2020 Presidential Election Timeline," the electors will meet and vote on December 14, 2020. https://crsreports.congress.gov/product/pdf/IF/IF11641.

December 8, 2020—six days prior to the date the College of Electors is scheduled to meet—is the "safe harbor" deadline under 3 U.S.C. §5. That statute provides that if a state has provided, "by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State," and that final determination has been made "at least six days before the time fixed for the meeting of the electors," that determination—if it is made under the state's law at least six days prior to the day the electors meet—"shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution . . . ." Wisconsin has enacted such a law. It is Wis. Stat. §9.01. That statute provides for an aggrieved candidate to petition for a recount. It provides specific procedures for the recount, as well as appeal to the circuit court and the court of appeals. Wis. Stat. §9.01(11) states that it is "the exclusive judicial remedy for testing the right to hold an elective office as the result of an alleged irregularity, defect or mistake committed during the voting or canvassing process."

It appears, therefore, that December 8 is a critical date for resolution of any *state court* litigation involving an aggrieved candidate who is contesting the outcome of an election. The state courts[1] either will or will not resolve allegations of violations of Wis. Stat. §9.01 by the December 8, 2020 "safe harbor" deadline. The plaintiff has not explained why it is necessary for this federal court to grant or deny the injunctive relief he seeks—orders requiring the defendants to de-certify the election results; enjoining defendant Evers from transmitting certified election results to the Electoral College; requiring defendant Evers to transmit certified election results stating that President Donald Trump is the winner of the election; seizing and impounding voting machines, ballots and other election materials; requiring production of security camera recordings for voting facilities—before the safe harbor deadline for *state* courts to resolve alleged violations of Wis. Stat. §9.01.

Because the electors do not meet and vote until December 14, 2020, the court will impose a less truncated briefing schedule than the one the plaintiff proposes, to give the defendants slightly more time to respond. The court will require the defendants to file their opposition brief to the Plaintiff's Amended Motion for Temporary Restraining Order and Preliminary Injunction to be Considered in an Expedited Manner (Dkt. No. 10) by 5:00 p.m. on **Monday, December 7, 2020.** The court will require the plaintiff to file his reply brief in support of the Plaintiff's Amended Motion for Temporary Restraining Order and

[1] The plaintiff has alleged in this federal suit that the defendants violated the "Wisconsin Election Code." Dkt. No. 9 at 11. This court has made no determination regarding whether it has jurisdiction to resolve that claim.

Preliminary Injunction to be Considered in an Expedited Manner (Dkt. No. 10) by 5:00 p.m. on **Tuesday, December 8, 2020.**

The court directs the parties' attention to Civil L.R. 7(f), which provides that memoranda in opposition to motions are limited to **thirty pages** and reply briefs in support of motions are limited to **fifteen pages**.

Finally, an administrative note: On December 2, 2020 a document was docketed as a notice of appearance for lead counsel Sidney Powell. Dkt. No. 8. The document is blank (except for the designation of the court); the court does not have a completed notice of appearance on file for Attorney Powell.

The court **GRANTS** the plaintiff's amended motion to the extent that it is a Civil L.R. 7(h) Expedited Non-Dispositive Motion for an Expedited Briefing Schedule. Dkt. No. 10.

The court **ORDERS** that the defendants' opposition brief to the Plaintiff's Amended Motion for Temporary Restraining Order and Preliminary Injunction to be Considered in an Expedited Manner (Dkt. No. 10) by must be filed by 5:00 p.m. on **Monday, December 7, 2020**.

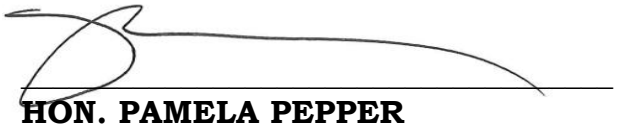
The court **ORDERS** that the plaintiff's reply brief in support of the Plaintiff's Amended Motion for Temporary Restraining Order and Preliminary Injunction to be Considered in an Expedited Manner (Dkt. No. 10) must be filed by 5:00 p.m. on **Tuesday, December 8, 2020**.

The court **DEFERS RULING** on the amended motion to the extent that it

asks the court to issue a temporary restraining order or a preliminary injunction.

Dated in Milwaukee, Wisconsin this 4th day of December, 2020.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge

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

CORECO JA'QAN PEARSON, et al, **Plaintiffs,** **v.** **BRIAN KEMP, et al,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF FILING

Come Now the Plaintiffs and submit this Notice of Filing of the following:

1. The Supplemental Declaration of Garland Favorito as Exhibit "A";

2. The Supplemental Declaration of Scott Hall, as Exhibit "B"; and

3. The Supplemental Declaration of Affiant A, as Exhibit "C."

Respectfully submitted, this 6th day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Notice of Filing Electronic Media with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

This 6th day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 4630s76

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

AFFIDAVIT OF GARLAND FAVORITO

I, Garland Favorito, of Roswell Ga., do solemnly declare the following statements to be true and correct based on my 40+ year career as an IT professional and my experience as the co-founder of Voters Organized for Trusted Elections Results in Georgia (VoterGA). I am over the age of 18 years and declare under penalty of perjury the following:

1. I have prepared this affidavit to explain why it is imperative to immediately preserve the elections system components in Antrim County, Michigan and Ware County, Georgia so that a forensic examination can be immediately undertaken to determine why these counties flipped votes from President Trump to Former Vice President Biden in the 2020 Presidential Election and to help identify whether or not other counties may have experienced similar, yet undetected, vote flipping.

2. I have no vested interest in the outcome of this particular race since I did not vote for either of the two Presidential candidates whose votes are in question nor am I a member of either political party of the two candidates.

3. I am a career Information Technology professional with over 40 years of experience including internet systems design, business systems analysis, database administration, application development, systems development methodology, systems integration, systems development life cycles, computer programming, project management, and multi-factor security implementations for financial transactions. My experience includes medium- and large-scale mission-critical applications in banking, financial systems,

health care, accounting, manufacturing, inventory, purchasing, retailing, utilities, telecommunications, insurance, software development and services.

4. In 2006, I co-founded Voters Organized for Trusted Elections Results in Georgia (VoterGA) which continues to be a leading advocate for Election Integrity in the state. I have spent roughly 18 years in part-time research, analysis, production of studies and conducting of presentations throughout Georgia regarding the states current and previous voting systems.

5. On November 3rd, Georgia conducted its 2020 General Election which included a race for President of the United States.

6. On November 11th, the Secretary of State (SOS) announced that the state of Georgia would conduct an audit of the Presidential race. He ordered all counties to perform a full hand count of votes cast.

7. On November 16th, the State Elections Director instructed counties in a memo to certify the Dominion electronic results if all ballots were processed.

8. Upon completion of the full hand count audit on or about November 19th, the SOS certified and published election results on the SOS web site.

9. I served as a monitor for the full hand count audit in Fulton and DeKalb counties prior to state certification and a subsequent recount conducted on or about November 25th at the request of the President after election results certification.

10. As a monitor, I noticed the counties employed slightly different practices for the audits and recounts within the general guidelines provided by the state and using the equipment owned by the state.

11. During the audit on November 14th and 15th, I noticed monitors were not allowed to monitor the data entry point in DeKalb and Fulton counties to determine if audit results were being entered correctly. I also observed a single, unmonitored individual who entered results in Fulton County. I further noticed that some Fulton County officials told monitors to stay away from the data entry point on several occasions.

12. During the audit, I noticed that counties entered their data into a central Secretary of State system; they possessed no total results of their own audit, and they relied on the SOS office to tell them what their audit results were.

13. Because the audit reporting procedure adopted by the SOS broke the chain of custody and violated the basic principles of bottom up election reporting, VoterGA volunteers engaged in a project to attempt to confirm audit results directly with the counties.

14. During our project, we found a few counties that performed extra due diligence in maintaining their own hand count audit results to verify the total results reported to them from the SOS office. We used these hand count audit numbers gathered from the counties to compare to election results published by the SOS for the counties.

15. During our audit result gathering project, Dr. Earl Martin, a former Waycross City Commission candidate, reported that the Ware County hand

count audit identified an electronic vote flip of 37 votes from President Trump to former Vice President Biden for the same number of ballots cast in the Presidential race.

16. I was already aware that about 5,500 votes had been flipped from President Trump to Vice President Biden in Antrim County, Michigan and that the county uses a nearly identical version of the Dominion Democracy Suite 5.5 software used throughout Georgia.

17. I had previously assembled information about the Antrim County vote flip from local Detroit news sources and two national Election Integrity advocate groups that include one or more advocates in Michigan.

18. I requested Dr. Martin to confirm the vote total difference in writing with the Elections Director, and he forwarded me the confirmation from Ware County Elections Director, Carlos Nelson.

19. I reviewed the original published election results for Ware County and then called Director Nelson to personally confirm the 37 vote flip between the electronic results and the hand count audit as the Director explained to Dr. Martin in his Email reply.

20. Director Nelson confirmed to me the 74 vote difference and indicated he believed the hand count audit to be correct. He also stated that all precinct scanners were configured identically and not changed prior to the election.

21. I am aware the county experienced some problems that may have warranted on site Dominion technical support during the election to help process the

ballots. These types of technical problems would not have caused votes to flip from one candidate to another on a given ballot.

22. I then evaluated the known facts about both occurrences of vote flipping in Michigan and Georgia based on my IT experience, voting system knowledge and information received from the national Election Integrity groups.

23. I determined the two general possibilities that could explain the vote flipping incidents are:

    A. Vote flipping malware that was resident on the county Election Management System (EMS) or possibly one or more precinct scanners.
    B. A ballot definition or a configuration mismatch between the county EMS sand the precinct scanners.

24. I considered that a ballot definition or configuration mismatch would more likely result in a mis-alignment of results among all three Presidential candidates rather than a swapping of results between two candidates. (For example, Trump results moving to Biden and Biden results moving to Libertarian candidate Jorgenson or vice versa). Vote swapping would be more indicative of intentional programming.

25. I also considered that the exact same type of vote swapping occurred in both states even though no other types of mismatches are known to have occurred in any other county in the country.

26. I furthered considered that Director Nelson told me all of his precinct scanners were configured identically thus further reducing the possibility of ballot definition or configuration mismatches in his county.

27. Given these considerations, I concluded it is more likely that vote swapping malware existed on both the Michigan and Georgia county election management servers.

28. The closeness of the Presidential election and the impact of the results in Michigan and Georgia on that election, demand an immediate forensic examination of the Dominion system in both states.

29. In light of the evidence above, I believe it is imperative to immediately preserve the elections system components in both counties including the election management servers, scanned ballot images and associated memory devices containing those images so that a forensic examination can be immediately undertaken.

30. I was prepared to offer this testimony and more as the 6th witness of the President's legal team during the December 3rd State Senate hearing but the chairman moved my name to the bottom of the list and closed the hearing without calling me.

31. I have prepared this affidavit in the interest of non-partisan Election Integrity for which I have advocated strongly throughout the last 18 years

32. As I said above, I did not vote for either of the two Presidential candidates mentioned nor am I a member of either political party of the candidates.

DATED this the 6th day of December, 2020

Signature of Affiant

SWORN to subscribed before me, this 6th day December, 2020

NOTARY PUBLIC

My Commission Expires: _____

SUSAN F. VOYLES NOTARY PUBLIC MY COMMISSION EXPIRES FEBRUARY 04, 2024 FULTON COUNTY, GEORGIA

Name: SCOTT G. HALL
County: FULTON
Phone: (404) 661-4102
Address: 270 17th St NW
Atlanta, GA 30363

AFFIDAVIT

COMES NOW, SCOTT G. HALL, after being duly sworn makes the following statement under Oath.

My name is SCOTT GRAHAM HALL.

I am over the age of 18 years and I AM under no LEGAL disability which would prevent me from giving this declaration. If called to testify in a court of law with proper jurisdiction, I would testify under oath to the following facts.

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I was an Election recount monitor at the Georgia World Congress Center on Saturday, November 14, 2020 and Sunday, November 15, 2020. Saturday morning during the manual recount of the mail-in ballots, I observed large quantities of ballots being cast for Joseph Biden on ballots that did not appear to have been mailed.

3. The ballots appeared to be lightly folded and not as if they were never inserted into an envelope. Most importantly, the bubbles that one would select to choose their candidate appeared to have been marked by a printer and not a writing instrument. They were the exact same markings, with no different color inks, and no markings outside of the bubble as if they were all done perfectly.

4. Additionally, on Sunday, November 15, 2020 around Noon, almost all of the monitors and counters left, a table was set up in the far right-hand corner of the lunch area, outside of the secure area that was roped off for counting where it was not visible from security cameras. I noticed on the bag it was labeled "Welcome". I have attached a photograph of the table and area.

The secure area to count ballots is attached (See Exhibit 1).
The lunch area outside video surveillance is attached (See Exhibit 2)

5. On Tuesday, November, 24, 2020 I was a monitor at the English Street Warehouse where every single vote in Fulton County arrives via a thumb drive to be uploaded to the RTR (Real-Time Readers). I was surprised to see pallets of absentee ballots, Election Day ballots (including early vote ballots) of every possible precinct style. (See Exhibits 3, 4, 5 and 6)

6. The Fulton County employees were fantastic, I even bought everybody lunch. (See Exhibit 7). **I cannot say the same for the contractors who absolutely, under no circumstances, would not allow me to enter the lunch room?** I was subsequently told there were several contractors, Dominion, "Happy Face" (temp service?), Corporate Temp Service, Vote at Home and The Elections Group. I made several verbal requests to identify these contractors and whom they work for. They were very uncooperative and evasive.

7. On Friday, November 25 I was a monitor at the Georgia World Congress Center and I observed several ballot bags that were missing their red security tags. I asked the GWCC Security and Fulton County Deputy Sheriff (Kenneth McKinnon) and explained that I needed to memorialize this defect and I was in an area where photographs were allowed. I took out my phone, took the image (Exhibit 8) and a Fulton County employee insisted that I be removed for taking this photograph. This event was memorialized by at TV interview by NTD.com. The video can be found HERE.

8. On Wednesday, December 2, 2020 I went to the English Street Warehouse and observed that all of the pallets of blank ballots had been removed.

9. I asked an IT specialist to read all of the available Dominion training materials to determine if one had access to the batches on the thumb drives, could they be easily modified and manipulated? His answer was as simple as dragging files to a trash folder and dragging new ballots onto the thumb drive before they were uploaded to the RTR. His declaration and power point are attached. (Exhibit 9)

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 3rd day of DECEMBER, 2020.

_____(Seal)

Sworn to and subscribed before me this the 3rd day of December, 2020.

_____
Notary Public
My Commission Expires _____ (Notary Seal)

SUSAN F VOYLES
NOTARY PUBLIC
MY COMMISSION EXPIRES FEBRUARY 04, 2024
FULTON COUNTY, GEORGIA

Exhibit 1



Exhibit 2



Exhibit 3



Exhibit 4

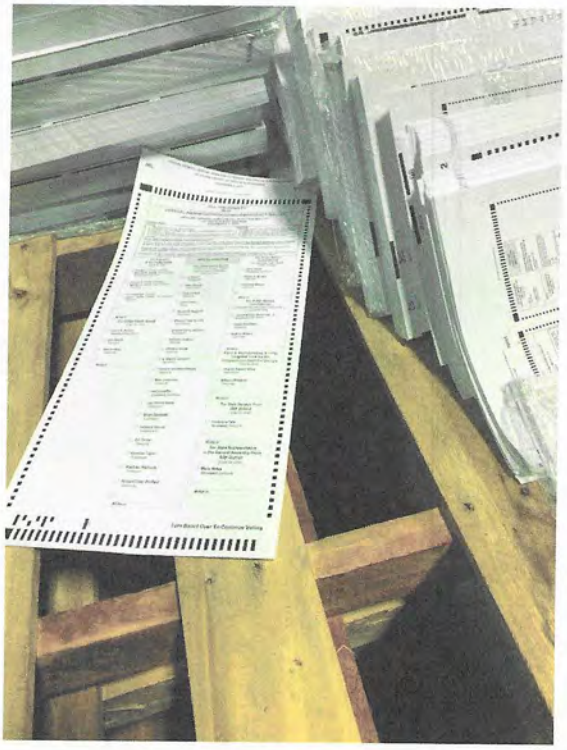


Exhibit 5



Exhibit 6

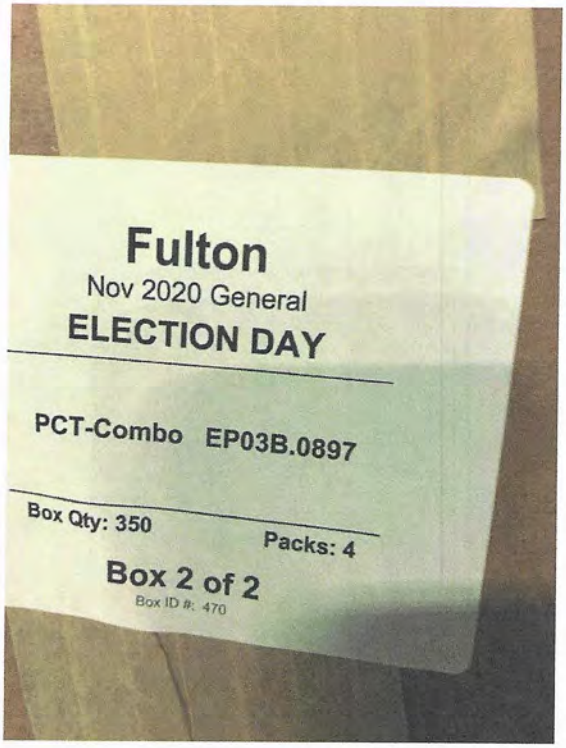


Exhibit 7



Exhibit 8



DECLARATION OF DAVID CROSS HERE IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

I, David A. Cross, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

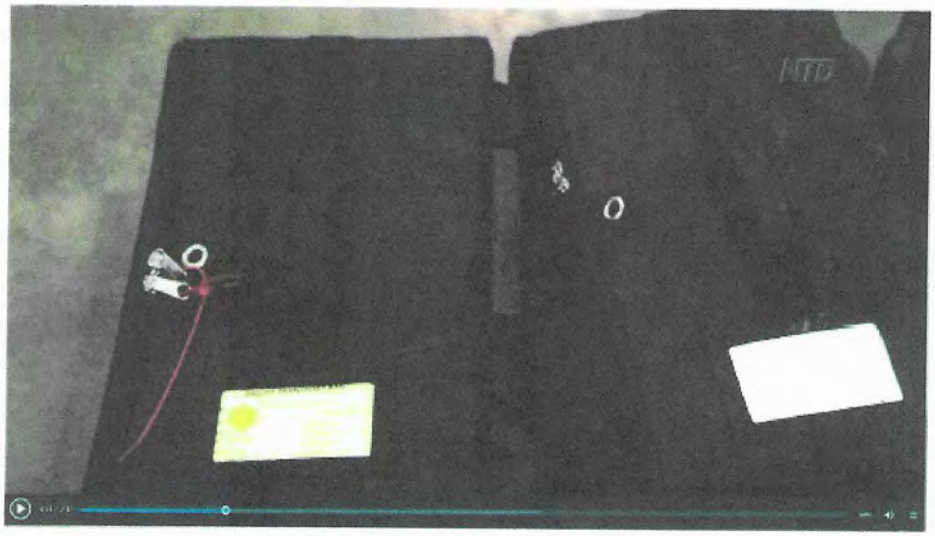
2. I attended the 2nd Georgia election recount at The Georgia World Congress Center on Wednesday, November 24th, 2020.

3. I identified 9 ballot transport bags that were not secure and were missing their security zip tabs.

4. The ballot transport bags without security tags are as follows:

12J	08 B/C	07 C
08 D	12 KIN or 12 K/N	07 A
AP 05 (zero 5)	12 F	10K 11H

5. Ballot transport bag 10K 11H is shown below with no security tags and a close-up is shown below the first picture.





6. I notified 3 other official recount witnesses about the unsecure ballot transport bags and walked them over to the area where they are stored. When I approached the ballot transport bags, I used my foot to point to one of the bags that

had no security tag. I was immediately accused of touching the bag and told that I must leave.

7. Before I left, I notified a member of the press, Melina Wisecup, and her photographer about the unsecured ballot transport bag, told them I was being asked to leave, and them asked them to document the unsecured bag.

8. Officers Keith McKinnon and Lt. James Swofford were summoned to escort me out. Before we left, I showed both officers the unsecured ballot transport bag.

9. Photographs were taken (the photo above) and I made a statement to the reporter.

10. A new story was made and is accessible here https://www.ntd.com/security-concerns-during-georgia-recount_532930.html

I declare under penalty of perjury that the foregoing statements are true and correct.

David A Cross
DAVID A. CROSS

STATE OF Georgia

COUNTY OF Gwinnett

11/27/2020

Declaration

My Background:

I have been working in IT Support since 1997. I have provided all Levels of support starting with call center for major computer vendors to Sr Network Engineer for a CLEC/ISP. I have multiple industry certifications from various hardware manufactures, and a Computer Networking Degree from Front Range Community College.

Purpose of Review:

I was asked to review everything I could find about Dominion Voting systems and see if there was anything that in the system that would allow votes to be changed from one candidate to another. This process was started after it was noticed that there were anomalous numbers in the reported voting results. And poll workers performing the first hand recount in Georgia filing affidavits concerning large batches in the thousands of Absentee ballots came in pre-printed on different paper with no creases, appearing to have never been mailed, all with Democrat selections.

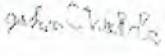
Findings:

After digging around some online (YouTube) training videos where found hosted by Dominion Voting in a manner that you could only get to by direct link backup and some Dominion Voting System User Manuals. After examining the manuals and videos I found that it is 100% possible to reject, replace, or delete multiple batches of ballots at a time. I have included a PDF file detailing the way the system could easily be used to perform such acts. As well also learned if performed correctly it would be possible to not only make the counts match in the event of an audit, or recount. The manipulation could be done by any individual with direct access to one of the computers, which every county had at least one, either directly or remotely, by any person with access credentials. This could be a county employee, a contractor, or a Dominion employee. Depending upon the backup plan used it might be possible to detect some of the manipulations, but only if there where frequent backups, and each set of backups where saved in a separate time stamped location. The default backup option of the system overwrites the previous backup so unless the extra steps where put in place to keep each file separate no older version would be available to recover. Once a batch of ballots have been deleted the associated files would be deleted from the system including ballot images and associated log files from scanners themselves. I can not verify that any of this occurred however I can confirm it is possible.

Additional Notes of Interest:

I also found the system does support the ability to perform Ranked (or Weighted) contests, this is a requirement of Minneapolis Minnesota. Without access to the original election configuration file, and the software to open it I can not tell if it was used or not, but it is supported. This type of system would be used to give different candidates votes a different value or ratio which is something that has been talked about in some states.

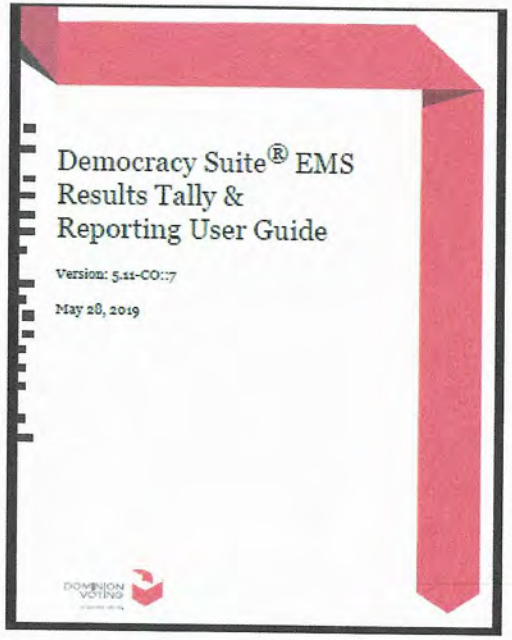
John Wable

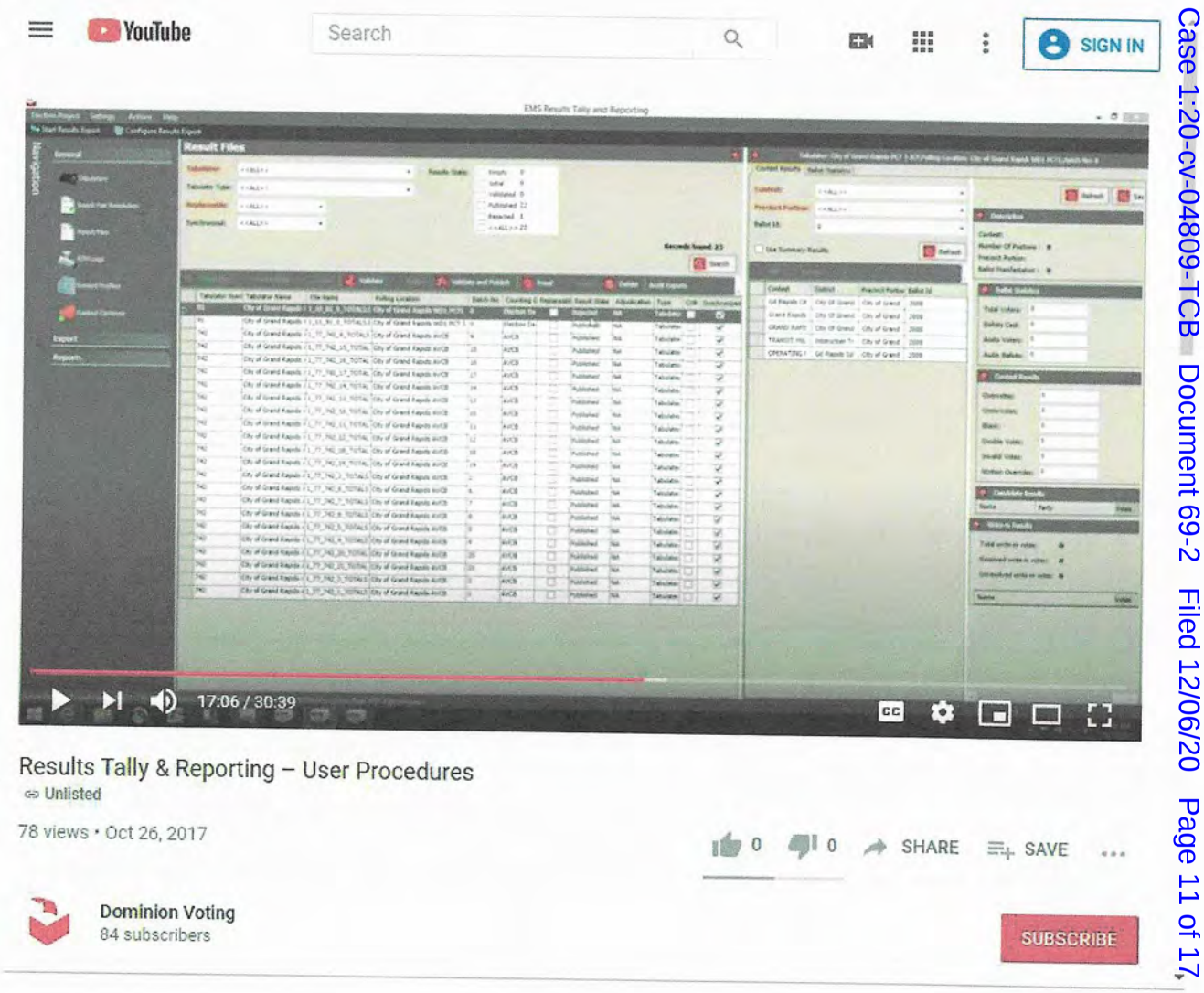


How To Steal an Election

On Dominion Voting System

Sources





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What I Learned Reading the Manual

- The software interface allows the users the ability to decide on their own if they want to validate a batch of ballots and publish them, or if they want to reject them, delete them or replace them. All on the fly.
- The Software allows multiple selections to made at time either by holding ctrl, shift while clicking, or by clicking a select all button on the screen
- It is possible to only import parts of data as well ignoring logs and Ballot Images
- The system has all the tools needed built in, it's up to the user to decide how they use those tools

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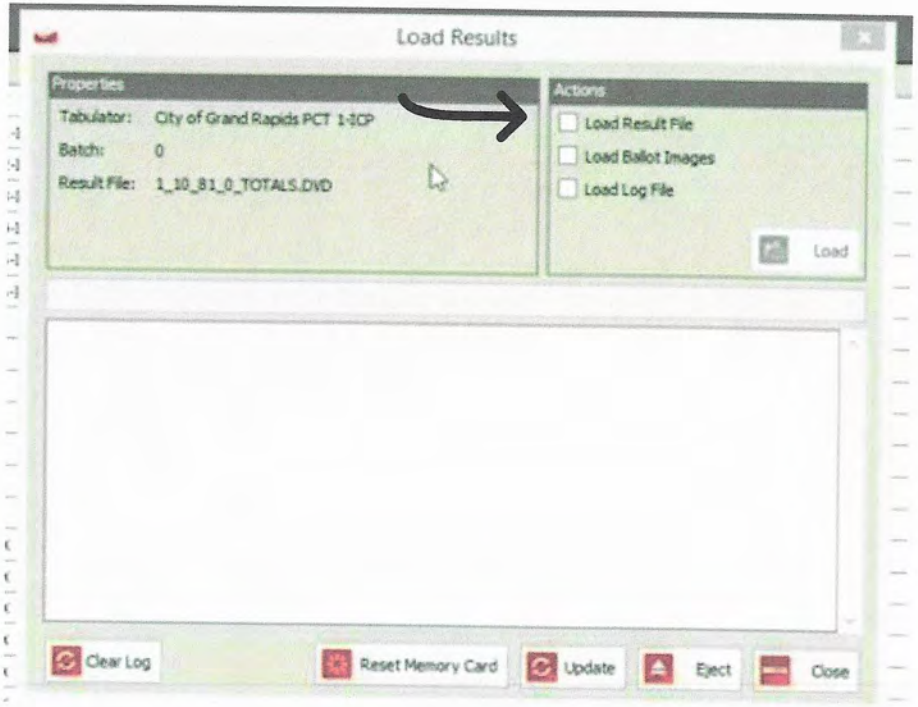
Import Data Tool

System only imports the parts of the file the User selects.



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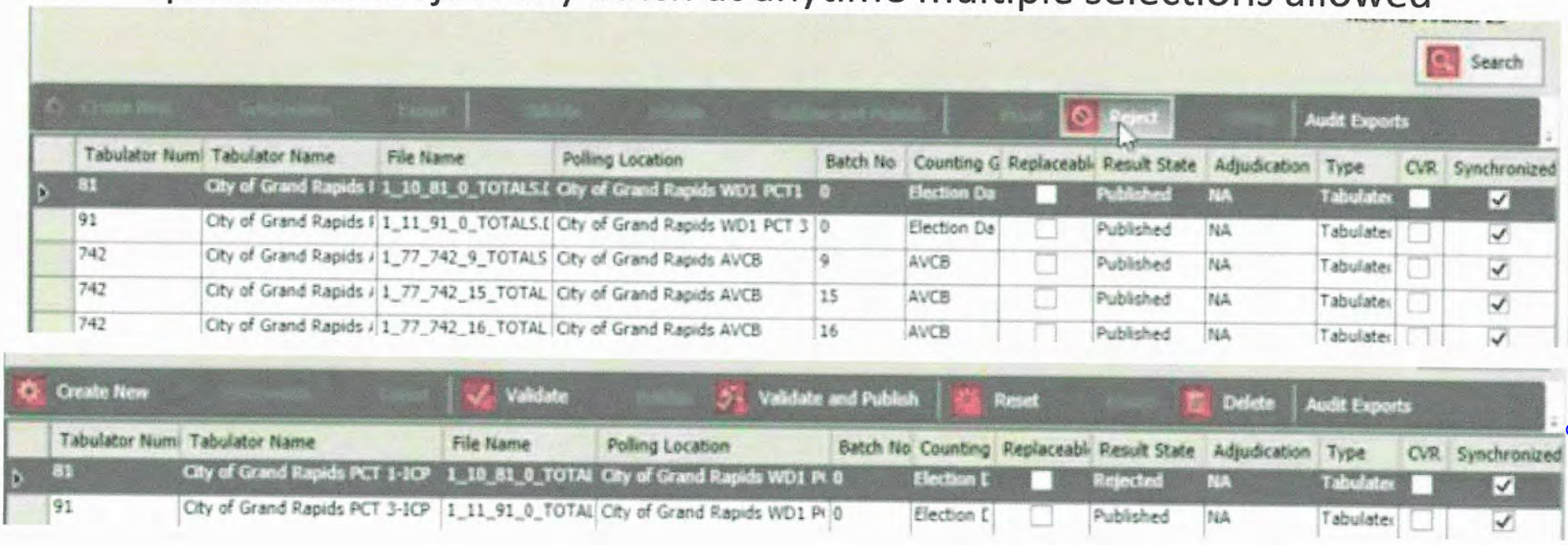
Reject Batches of Ballots

- As batches of ballots are scanned into the system the computer operator can reject any batch at anytime multiple selections allowed



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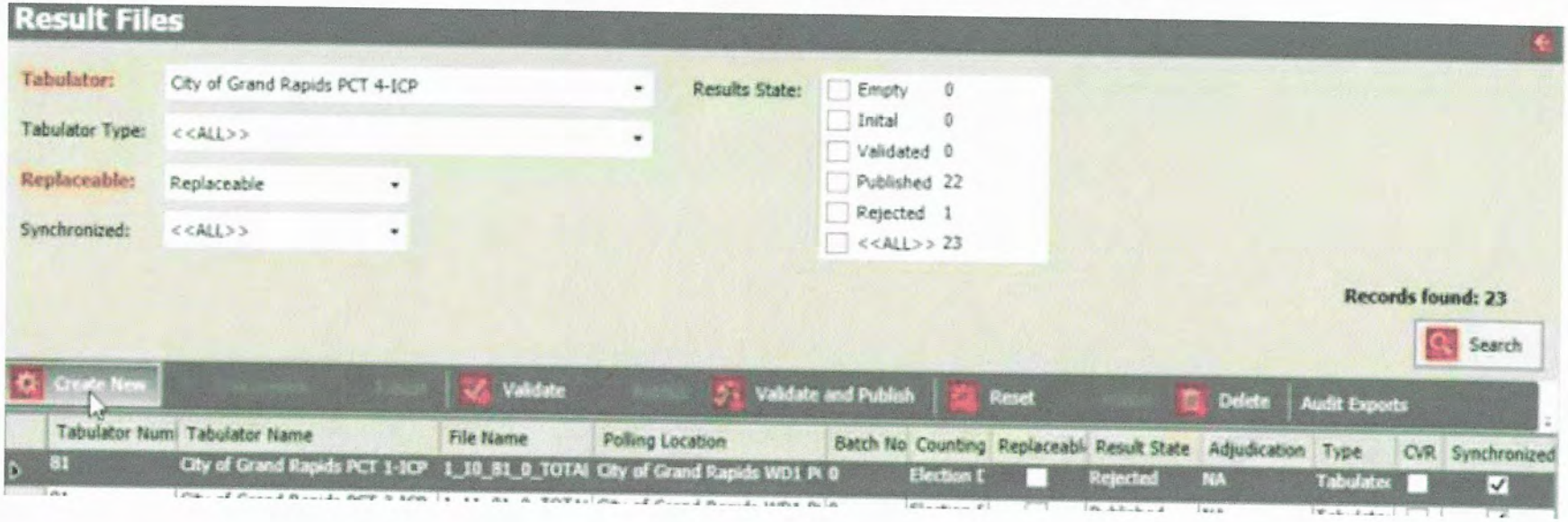
Post Rejection Options

- Delete the Batch
- Create a New Temporary Replaceable Manual Batch



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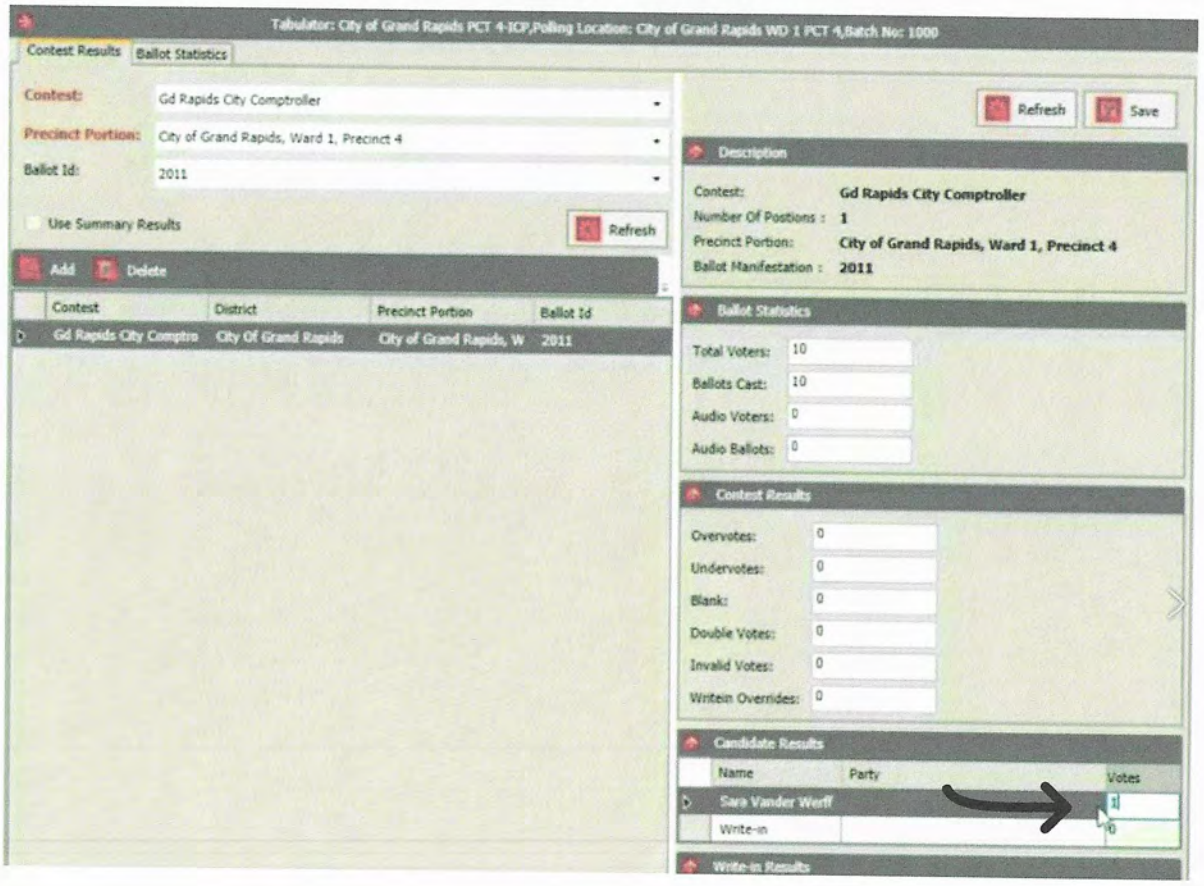
Manual Batch

- When creating a manual batch you can enter desired results



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But the Hand Count Won't Match Up

- You can scan a batch of fake pre-printed, un-creased, Absentee ballots when no one is watching and replace the Temporary Manual Batch
- This removes the manual entry from the system

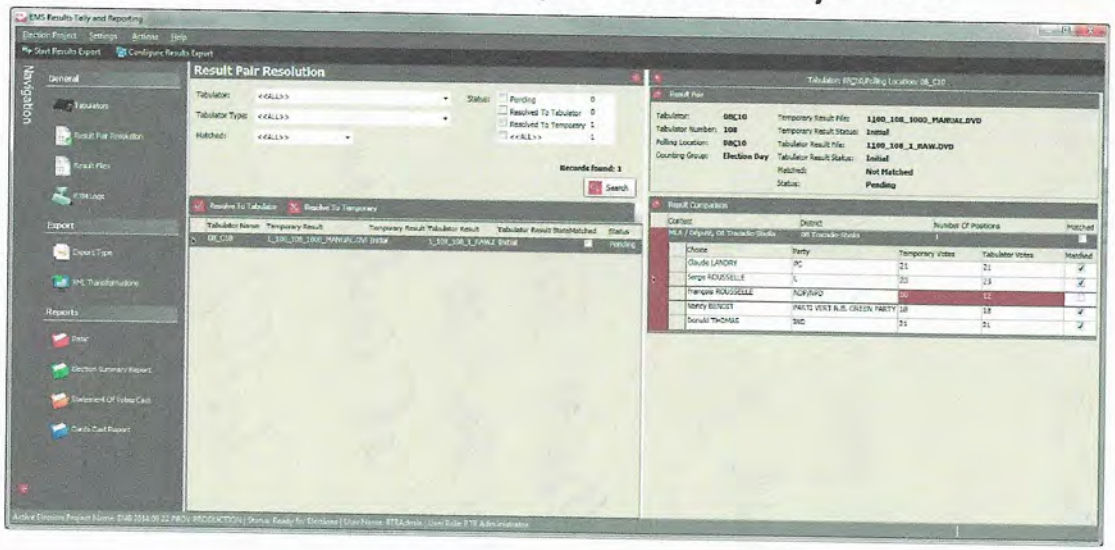

Figure 12-1: Result Pair Resolution screen

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Name: [redacted]

County: COBB

[redacted]

AFFIDAVIT

COMES NOW, [redacted], after being duly sworn makes the following statement under Oath.

1. My name is [redacted]

2. I am over the age of 18 years and I AM under no LEGAL disability which would prevent me from giving this declaration. If called to testify in a court of law with proper jurisdiction, I would testify under oath to the following facts.

I was a recount monitor for Cobb County on November 15 from 3:00pm to end of counting for that day.

It was not possible to actually audit the votes being counted, all we could do was observe the re-count process and if the teams followed the guidelines as described in the "Audit/Recount Monitor and Vote Review Handout". I had no way of determining if the counting/sorting was correct nor if the tally sheet was correctly filled out, let alone if the ballots were legitimate. This was due to only having 4 monitors on the floor and 40 tables of audit teams and having to keep a distance so as not to "interfere" with the counters. Additionally the machine ballots were in too small of a print for me to see anything other than they were machine ballots.

Many of the team tables did not follow the process as described in the Audit/Recount Monitor and Vote Review Panel Handout. I pointed them all out to the floor supervisors who made an attempt at correcting, but ultimately, none of the procedural errors I discovered were corrected. For example:

Team 19, the individual sorting, calling the vote and counting was the same. The second person was distracted and not paying attention. He was elderly and not engaged at all. (In this case, the team was ultimately removed from the floor, about 2 hours after I pointed them out to a floor supervisor).

Team 14: very sloppy. Trying to sort and count the ballots at the same time. They were not using sorting trays and had various stacks all over their table. This team appeared untrained in the process. Another case with an elderly team member who had a very hard time keeping up with the sloppy methods of the counter/sorter. I have no confidence in the accuracy of their counting. They both got confused, couldn't reconcile their tally with the original tally sheet and needed a supervisor to step in. The eventually began using the sorting trays, but it didn't last and they went back to their sloppy methods.

counting floor though. An exterior door was left open for the duration of my time there. I assumed it was for smokers to come and go from the counting room. I felt it was a security concern.

I declare under penalty of perjury that the foregoing is true and correct. Executed this the 3 day of DECEMBER, 2020.

[redacted] (Seal)

Sworn to and subscribed before me this the 3 day of Dec, 2020.

John J Martin III
Notary Public
My Commission Expires 5/31/2020 (Notary Seal)

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

CORECO JA'QAN PEARSON, et al., **Plaintiffs,** **v.** **BRIAN KEMP, et al.,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF FILING

Come Now the Plaintiffs and submit this Notice of Filing of the following:

1. The Supplemental Report of Russell Ramsland, as Exhibit "A."

Respectfully submitted, this 6th day of December 2020.

/s Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing Notice of Filing with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

This 6th day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 4630s76

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

Exh. A

Supplemental Report of Russell Ramsland

December 6, 2020

Pearson v. Kemp, **Case No. 1:20-cv-4809-TCB**

United States District Court for Northern District of Georgia

Expert Report of Russell J. Ramsland, Jr.



Russell J. Ramsland, Jr.

RESPONSES TO DR. REDDON:

1) I have read the Dr. Reddon's rebuttal to my affidavit dated December 5, 2020 and find it unconvincing in a real world scenario for several reasons. The first of these reasons is the broadly recognized importance of contextual factors in inferring various analytical results from research data whether the considerations involve ecological fallacies, corporate fallacies or individualistic fallacies. Simply put, an over-reliance on inferred results without taking into consideration the events and their time- sequencing, the parties of input and influence (corporate or individual) *and the historical and contemporary backdrop in which they exist* ("spiraling contextuality" in political science jargon) yields false assurances in the outcomes. Dr. Reddon makes this very mistake in his arguments for his counter analysis that essentially boils down to the notion that Dominion machines cannot be held responsible for what our team found as highly anomalous reporting in favor of Biden using 3 different metrics because they are placed in historically democratic heavy areas to begin with. Therefore we should expect this self-fulfilling outcome. There are several problems with Dr. Reddon's argument.

2) The first example of failing to recognize contextual matters is Dr. Reddon's apparent assumption that any such selection of Dominion Systems by a heavily democratic area is divorced from Dominion's history and alliances. It is absurd to make such an assumption as the previous 4 affidavits of Spider and my own affidavit make clear. Further, the new affidavit of Spider adds to the enormity of the importance of viewing any anomaly in the context of Dominion's history and relationships. [1] Clearly Dominion's history and alliances are of tremendous importance to the decision makers who select these systems, and part of that history includes its vulnerability to being tampered with by inside or outside actors. For instance, in the real world of power politics it cannot be easily dismissed as a potentially attractive feature in certain cases, and in this sense the relationship between Dominion's selection and the heavy bias of Dominion outcomes may certainly be related. Hence no amount of correlation between Dominion selection by more heavily democrat counties has anything useful to add to the question of whether Dominion systems are innocent of fraud or tampering. That question is still wide open and our three perspectives on anomalous behavior in our analysis of this question is at least as valid as Dr. Reddons.

3) The second example of failing to recognize contextual matters is illustrated by one of the very sources Dr. Reddon uses in his analysis, Verified Voting. This organization has historically been a champion of actual paper ballots and scanners (as opposed to ballot marking devices, etc. as used by Dominion) for the very reason they are so vulnerable to manipulation within the system and audit trails can be erased, changed or even bypassed since many aspects of them are now voluntary as selected by the user. However, as of late Verified Voting has come under intense criticism by some of it's own experts. Important excerpts from Fast Company's article about it in 2019 include:

[1] andy_huang_affidavit, Spider, 12.5.2020

"Amid heightened concerns about the integrity of the voting process in the run-up to the 2020 presidential election, two election security experts recently quit Verified Voting, a respected election accountability group, in protest. They claim that it has been downplaying security risks in popular voting machines.

Richard DeMillo, a Georgia Tech professor who sat on Verified Voter's advisory board, just left the group, soon after the departure of UC Berkeley statistics professor Philip Stark, a board member who sent a fiery letter of resignation on November 21st. Stark and DeMillo believe that Verified Voting has been giving election officials false confidence in their voting machines and providing cover for the companies that make and sell the machines." It further says "Amid heightened concerns about the integrity of the voting process in the run-up to the 2020 presidential election, two election security experts recently quit Verified Voting, a respected election accountability group, in protest. They claim that it has been downplaying security risks in popular voting machines.

Richard DeMillo, a Georgia Tech professor who sat on Verified Voter's advisory board, just left the group, soon after the departure of UC Berkeley statistics professor Philip Stark, a board member who sent a fiery letter of resignation on November 21st. Stark and DeMillo believe that Verified Voting has been giving election officials false confidence in their voting machines and providing cover for the companies that make and sell the machines.

In his resignation letter, Stark accused the group of being on the "wrong side" by approving pricey new voting systems that replace hand-marked ballots with computer-printed ballot summary cards [BMD], the accuracy of which he questions since they depend on potentially insecure software. . .

Since the election interference in 2016, many states and localities have been moving to voting machines called ballot marking devices that record the voter's choices digitally and also print them on a paper ballot as a backup. And there's the disconnect. The findings of the RLA depend totally on the assumption that the paper ballots accurately reflect the choices of the voter. Stark and DeMillo warn against making that assumption.

"Because there is software between the voter and the paper, what the paper shows might not be what the voter did or saw . . . on the device," Stark told me. That's because the software could be hacked and caused to create a false paper ballot. In close elections, it might take only a small number of these to change the result."

And then finally, lest anyone think the so-called audit in Georgia of it's Dominion machines (the same machines as in Maricopa, Co.) answered any questions about Dominion, Stark says "In Georgia and particular, the kind of audit that was done is called a ballot polling audit, and a ballot polling and *it doesn't even check the tabulation at all*," Stark told me. "It just checks whether there is a sufficiently large majority to report a winner and a sufficiently

large sample that it's implausible that somebody else won." (italics and underline is added)[2].

4) These are but two examples of why no one should rely on merely a standalone analysis without taking into account the real world background and facts. Yet this is precisely the argument Dr. Reddon posits. Without context, it becomes merely an analytical argument of whose facts, which data, what approach is the superior one. While we are comfortable with our approach, which I will more thoroughly outline later, we would not argue it alone is sufficient to eliminate all other context and would say the same for Dr. Reddon's thesis.

5) This leads me to the second problem which is that there are the many documented vulnerabilities in Dominion's voting system wherein the votes are demonstrably switched, and many experts have testified and written about the many ways this can be accomplished. These proven problems go more directly to the real question at hand and have been extensively examined by experts include Harri Hursti, Matt Blaze of Georgetown University and John Halderman of Michigan, and there are many others.[3] The State of Texas has refused to certify Dominion for use in Texas due to it's deficiencies, saying "Specifically, the examiner reports raise concerns about whether the Democracy Suite 5.5-A system is suitable for its intended purpose; operates efficiently and accurately; and it safe from fraudulent or unauthorized manipulation".[4] .

6) Further, spot field testing of results in Antrim Co., MI. that uses the same Dominion equipment as most of Georgia., have now shown in Antrim Co. that as a result of a hand recount, 6,000 votes were switched by the machines. Additionally, a re-tabulation on November 6th of the November 3rd tabulated results in Central Lake Township yielded dramatically different results as well (see attached Antrim Report V1.7). Then on December 3rd, from Ware Co., Georgia (that also uses the same Dominion equipment as Maricopa Co.) comes the report and sworn affidavit of Garland Favorito that a hand recount, as reported in Voter/GA "confirmed the Dominion Democracy Suite 5.5 system used throughout Georgia flipped dozens of votes cast in at least one county for President Donald Trump to former Vice President Joe Biden during the November 3, 2020 election. Dominion vote flipping from Trump to Biden was previously believed to have occurred only in Antrim County, Michigan where the system swapped 6,000 votes from Trump to Biden.

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[2] https://www.fastcompany.com/90441559/two-experts-quit-election-accountability-group-over-claims-it-has-been-endorsing-untrustworthy-machines

[3] 2006 Hacking Democracy video
2020 Kill Chain video
Everest Report
C-Span Panel: ICIT - Cybersecurity and U.S. Voting Systems (2016)
Matt Blaze Testimony before before US Hse. Comm. On Administration (1/9/20)
Red Team Testing Report Dominion Democracy Suite 4.14-A and Dominion Democracy Suite 4.14.A.1 w/ Adjudication 2.4 - 11 -18 -14 - Freeman, Craft, McGregor Group

[4] https://www.sos.texas.gov/elections/forms/sysexam/dominion-d-suite-5.5-a.pdf

In Georgia, Ware County Elections Director confirmed that the recently completed hand count audit totals showed the total electronic vote count shorted Donald Trump 37 votes and added those 37 votes to totals for Joe Biden. The 74 affected votes represents .52% of the 14,192 county votes cast, exactly double Biden's total statewide margin of .26%". [5]

And from Maricopa Co. AZ where Dominion is also the vote counting system comes further proof that the same sort of machine vote switching behavior is happening there. The sworn affidavit of GOP chairwoman Linda Brickman as reported in the Epoch Times saying "Maricopa County GOP chairwoman Linda Brickman on Nov. 30 testified before members of the Arizona State Legislature that she personally observed votes for President Donald Trump being tallied as votes for Democratic presidential nominee Joe Biden when input into Dominion machines.

Brickman, the GOP head of one of the country's largest counties and a veteran county elections worker, submitted her testimony in a sworn affidavit under penalty of perjury. She testified that she and her Democratic partner witnessed "more than once" Trump votes default and shift to Biden when they were entering votes into Dominion machines from ballots that couldn't be read by machines.

7) This brings me to Dr. Reddon's totally incorrect assertions about the use of algorithms being used in the Dominion voting machines. The use of an algorithm being used in the vote counting is evident from a number of perspectives. First, there are decimal places being incorporated into the supposed vote totals instead of whole number votes. This can be viewed from the NYT times Edison data. In the time series shown below, note the percentages in Time Series 2020-11-04T01:10:54Z that shows 3 decimal places (.471) displayed in the percentage distribution for Biden of the 579,645 votes. But note Trump percentage is only 2 decimal places (.52). One might wish to argue that the issue of decimal places appearing in the vote number is simply due to the fact only 3 decimal places are displayed, and that if 20 or 30 decimal places were displayed, multiplying the percentage decimal by the total votes would yield whole numbers appearing as votes, instead of points with decimal places. And therefore there is no evidence in this illustration that an allocative algorithm was utilized. The problem with this is two-fold. The first is the percentages do not come close to 100% regardless of rounding. But the much bigger problem is that by displaying only 2 decimal places for Trump when 3 could clearly be displayed, makes it clear that Trump's share of the 579,645 votes is EXACTLY .52 at that time. Therefore, multiplying .52 X the 579,645 vote total yields 301415.4 votes for Trump, a vote that clearly displays decimals. This is totally contrary to Dr. Rodden assertion that Dominion RCV voting is incapable of producing non-integer vote totals, and if he were to read Dominion's own manual he would find it too doesn't agree with him. See "Fixed Precision Decimals" in the manual page below:

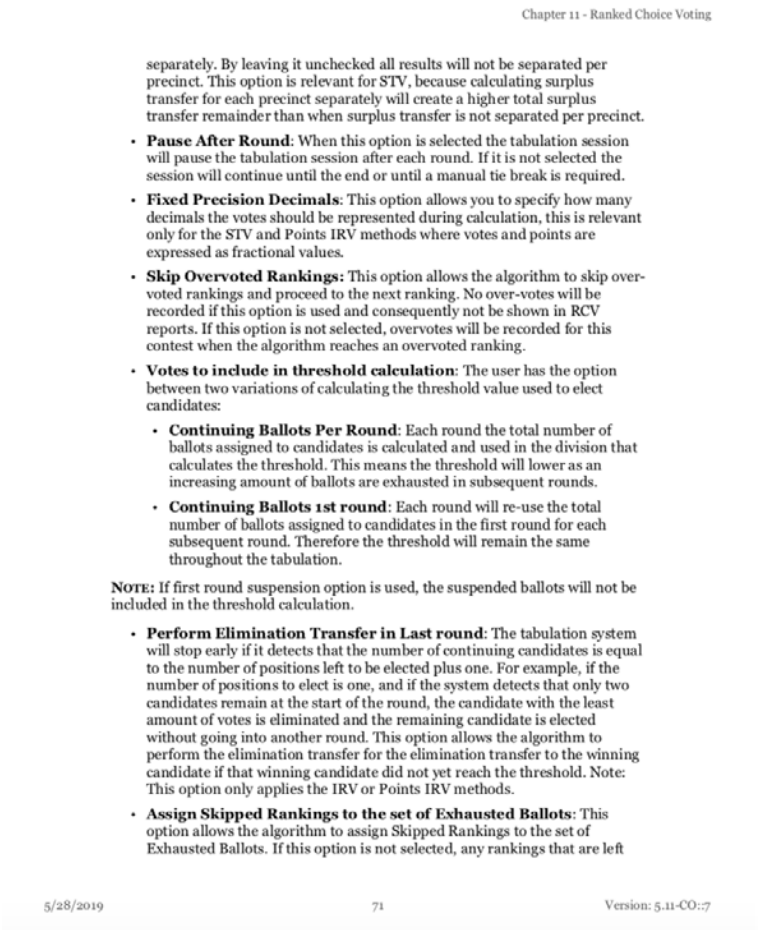
[5] https://voterga.files.wordpress.com/2020/12/press-release-dominion-flips-trump-votes-to-biden-in-ga-county.pdf

Source: https://static01.nyt.com/elections-assets/2020/data/api/2020-11-03/race-page/georgia/president.json

state	timestamp	eevp	trump %	biden %	TV	BV
georgia	2020-11-04T01:04:54Z	10	0.495	0.495	257210.415	257210.415
georgia	2020-11-04T01:05:56Z	10	0.502	0.488	268269.302	260787.688
georgia	2020-11-04T01:06:57Z	11	0.516	0.474	293312.46	269438.19
georgia	2020-11-04T01:10:54Z	11	0.52	0.471	301415.4	273012.795
georgia	2020-11-04T01:11:58Z	12	0.512	0.478	332111.36	310057.09
georgia	2020-11-04T01:12:16Z	12	0.517	0.474	339754.822	311496.684

Illustration calculating the "points" for each candidate from the NYT Edison time series by multiplying the votes by the percentage to show the calculated votes/ (TV = Trump Votes) (BV = Biden Votes)

Source: Democracy Suite EMS Results Tally & Reporting User Guide Version: 5.11-CO::7 May 28, 2019



Chapter 11 - Ranked Choice Voting

separately. By leaving it unchecked all results will not be separated per precinct. This option is relevant for STV, because calculating surplus transfer for each precinct separately will create a higher total surplus transfer remainder than when surplus transfer is not separated per precinct.

- **Pause After Round**: When this option is selected the tabulation session will pause the tabulation session after each round. If it is not selected the session will continue until the end or until a manual tie break is required.
- **Fixed Precision Decimals**: This option allows you to specify how many decimals the votes should be represented during calculation, this is relevant only for the STV and Points IRV methods where votes and points are expressed as fractional values.
- **Skip Overvoted Rankings:** This option allows the algorithm to skip over-voted rankings and proceed to the next ranking. No over-votes will be recorded if this option is used and consequently not be shown in RCV reports. If this option is not selected, overvotes will be recorded for this contest when the algorithm reaches an overvoted ranking.
- **Votes to include in threshold calculation**: The user has the option between two variations of calculating the threshold value used to elect candidates:
  - **Continuing Ballots Per Round**: Each round the total number of ballots assigned to candidates is calculated and used in the division that calculates the threshold. This means the threshold will lower as an increasing amount of ballots are exhausted in subsequent rounds.
  - **Continuing Ballots 1st round**: Each round will re-use the total number of ballots assigned to candidates in the first round for each subsequent round. Therefore the threshold will remain the same throughout the tabulation.

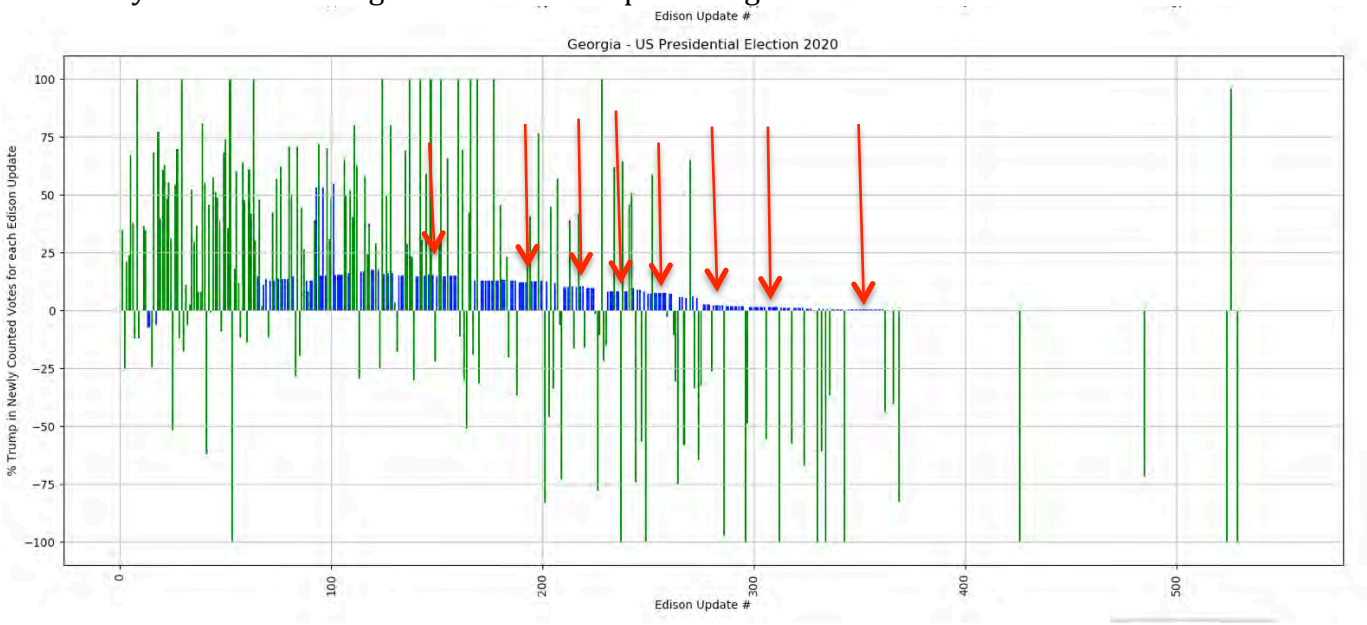
NOTE: If first round suspension option is used, the suspended ballots will not be included in the threshold calculation.

- **Perform Elimination Transfer in Last round**: The tabulation system will stop early if it detects that the number of continuing candidates is equal to the number of positions left to be elected plus one. For example, if the number of positions to elect is one, and if the system detects that only two candidates remain at the start of the round, the candidate with the least amount of votes is eliminated and the remaining candidate is elected without going into another round. This option allows the algorithm to perform the elimination transfer for the elimination transfer to the winning candidate if that winning candidate did not yet reach the threshold. Note: This option only applies the IRV or Points IRV methods.
- **Assign Skipped Rankings to the set of Exhausted Ballots**: This option allows the algorithm to assign Skipped Rankings to the set of Exhausted Ballots. If this option is not selected, any rankings that are left

5/28/2019 71 Version: 5.11-CO::7

8) The second piece of evidence that an algorithm is being utilized comes from our observation that the percentage of the votes submitted in each batch that went

towards a candidate remain unchanged for a long series of time and for a number of *consecutive* batches is extremely concerning. Further, the percentage for Trump decreases in a mathematically extremely consistent pattern. The red arrows indicate the impossible consistencies. The statistical impossibility of the consistent percentage reported to Biden approaches zero. This makes clear an algorithm in the election system is allocating votes based on a percentage.



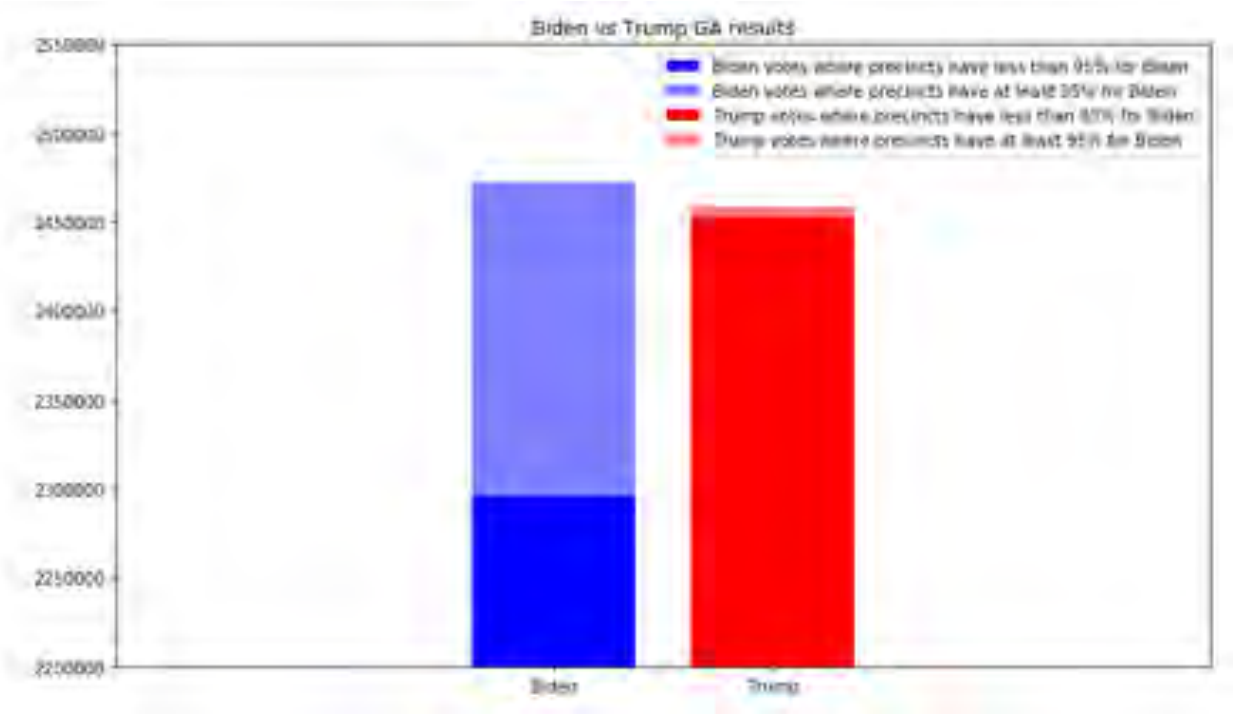
9) These sorts of problems, ranging from clear cyber vulnerabilities from inside or outside actors to an algorithm actually "awarding" or "distributing" points instead of whole votes, simply should never occur in a secure voting system and all of these are proof Dominion EMS system is not secure.

10) This leads me to the third problem in Dr. Reddon's analysis that concerns actual proof of illegal activities with respect to the actions of individuals operating the election, be they Dominion personnel or county personnel. The ease and possibility of this type of activity is most graphically laid out in video footage first presented at the Subcommittee of Georgia Oversight Committee on December 3, 2020 wherein it was made clear that observers of the Georgia count were mis-led into thinking that counting had stopped and immediately after clearing the room boxes of ballots were pulled from under tables and a mad dash for counting them ensued, including excerpts where stacks of ballots were scanned multiple times.[6] Unfortunately, Dominion equipment doesn't preclude multiple scans and repetitive counting of the same ballots.

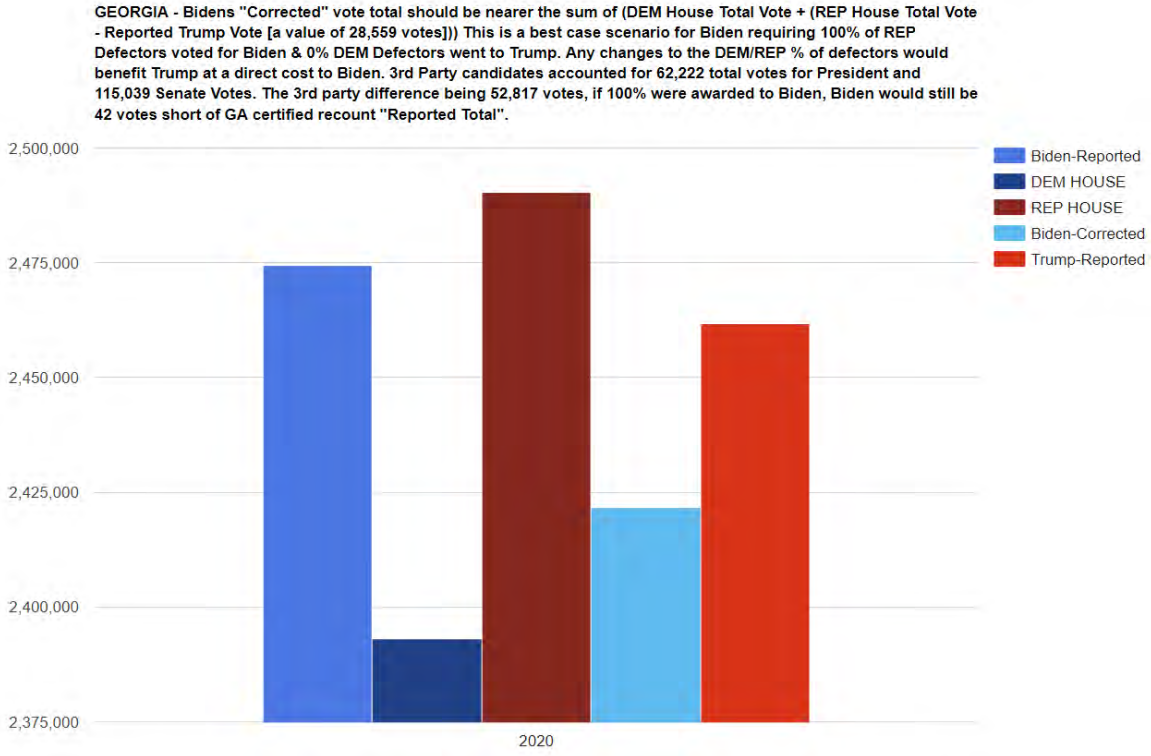
11) With regards to most of the questions raised by Dr. Reddon as to ASOG's analysis of Voting irregularities in Georgia, and it's sources, I list the following full report:

[6] https://twitter.com/KanekoaTheGreat/status/1335027487357616128

Georgia Report:



Georgia Corrected Votes

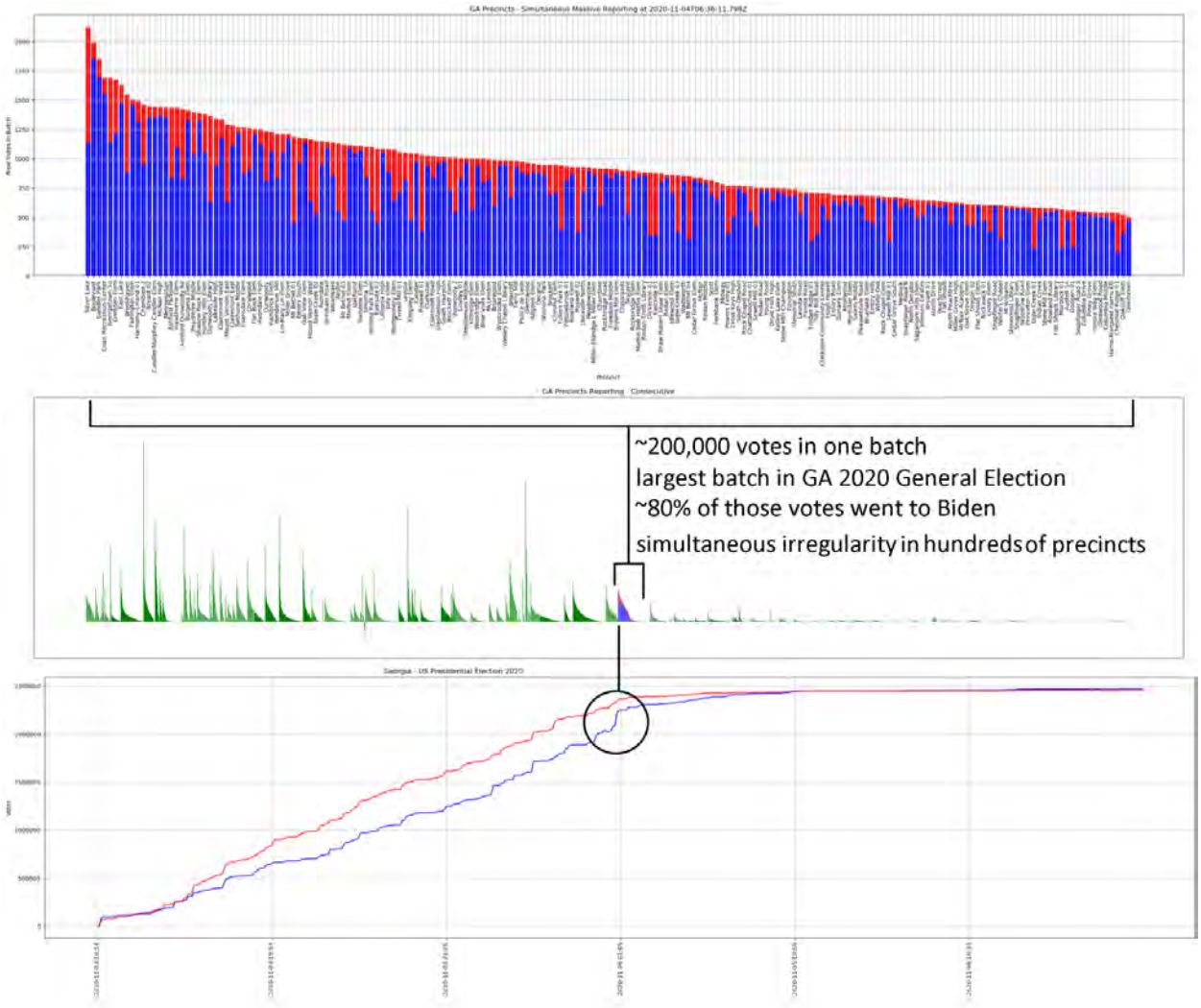


Biden Reported Vote Total far Left (medium blue), Democrat House Vote total (dark blue), center Republican House Vote total (burgundy), (4th column light blue) Biden Corrected Vote total if (DEM HOUSE + (REP HOUSE - Trump Reported Vote)) BIDEN STILL COMES UP SHORT, 40,000 votes. ELECTION FRAUD is all but certain.

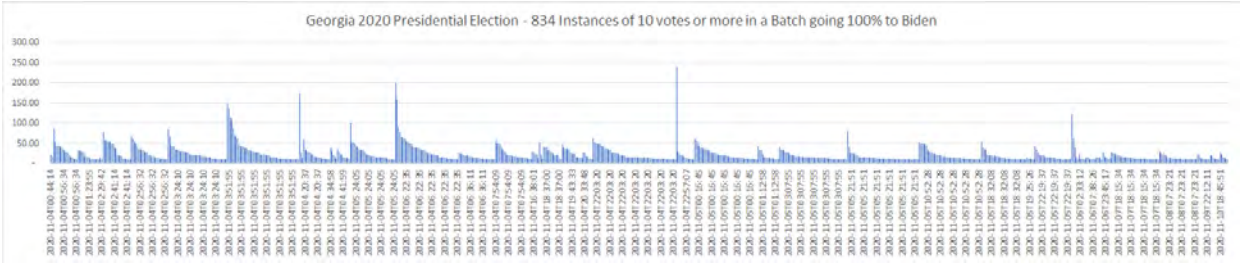
Georgia Precinct Level By: ASOG

GA Precincts - Simultaneous Massive Reporting at 2020-11-04T06:36:11.798Z

The largest batch of released votes in GA was around 200k at once. This is way larger than any other batch of votes released in Georgia in the 2020 USA General Election and it came at a convenient time. Hundreds of precincts reported abnormally high numbers of counted votes simultaneously.

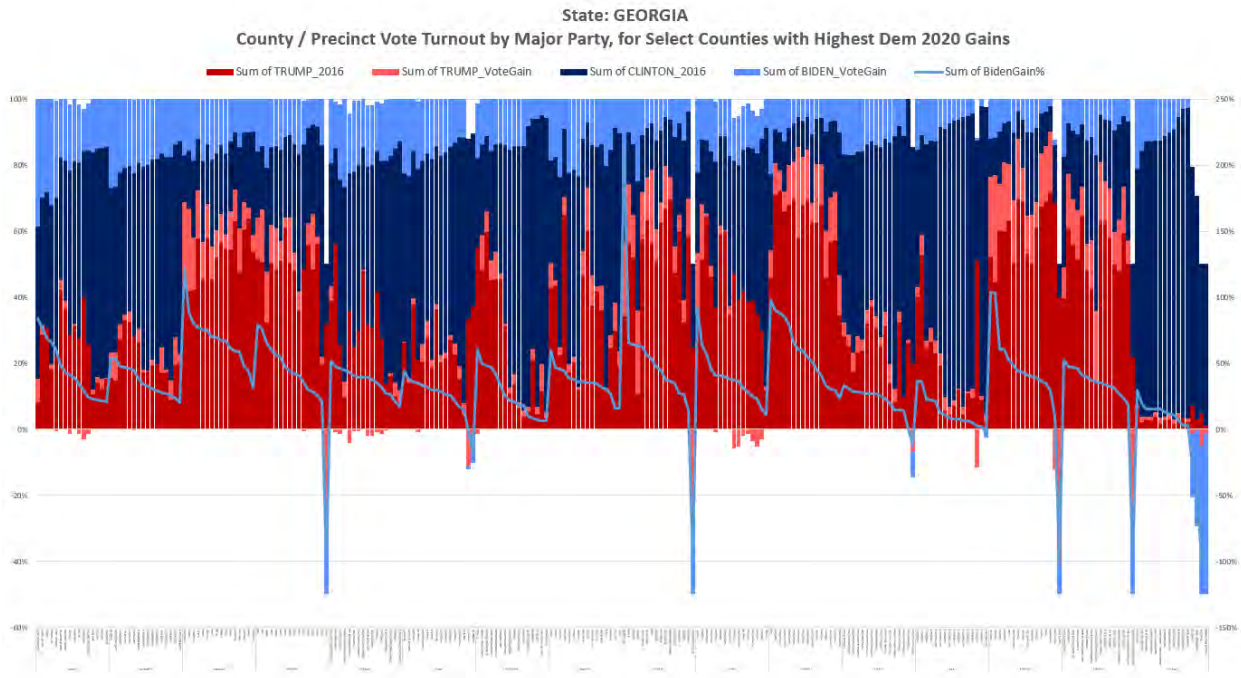


For batches that contain 1-200 votes, Biden consistently gets a higher percentage for that group of votes. For example, there are 298 instances of 10 votes in a batch. Biden won 78.5% of those votes.

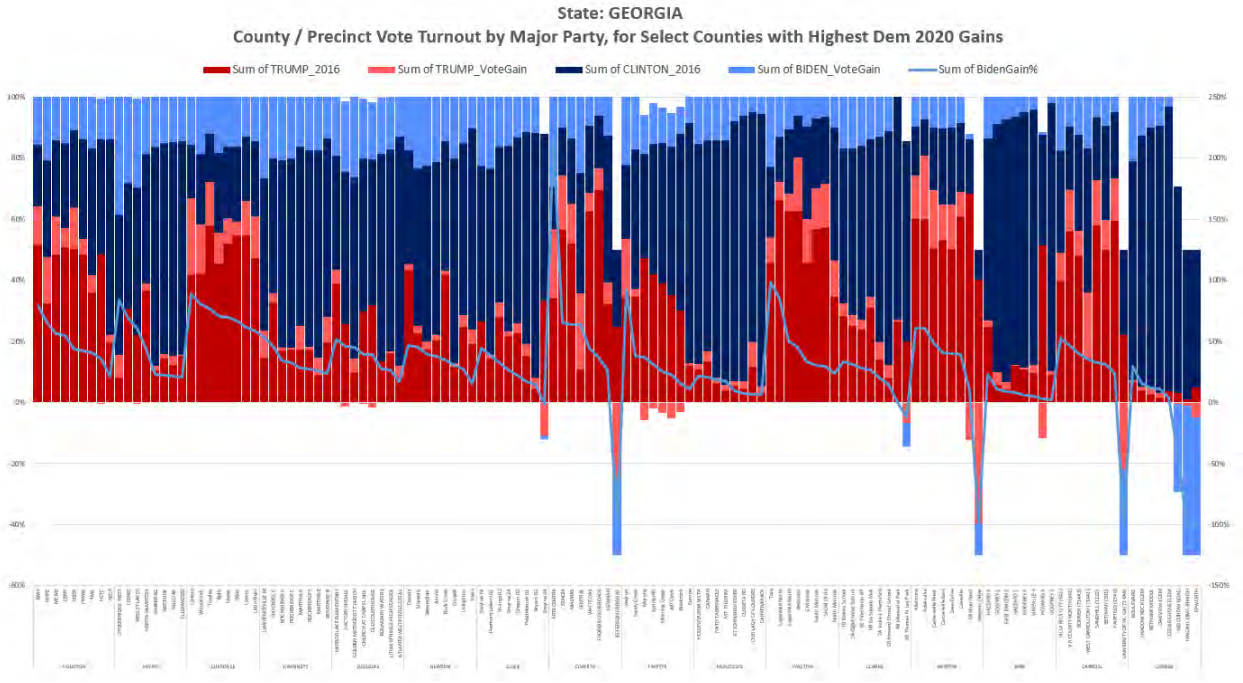


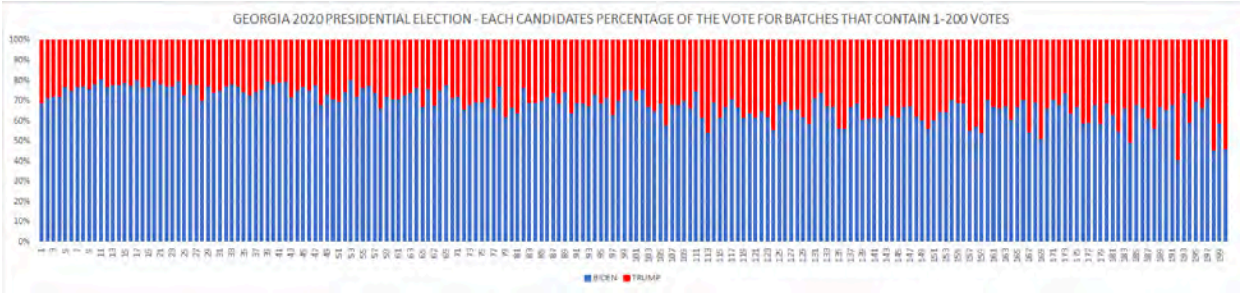
Data derived from [Source: Clarity / State of GA website] are presented comparing the total votes by Presidential candidate in the state of Georgia. 27 Counties were analyzed, and these 16 counties were selected to include in the graph where there was the highest increase in Democrat votes between 2016 and 2020. Within each county, only the top-8 precincts are shown based upon the total DNC vote in 2016. The "dark red" stacked bar represents votes received by President Trump in 2016 with the gain in 2020 represented by the "light red" stacked bar. The "dark blue" stacked bar represents votes received by candidate Clinton in 2016 with the gain in 2020 by candidate Biden represented by the "light blue" stacked bar. Counties are in descending order from left to right by the # of votes gained by Biden in 2020 vs Clinton in 2016. The blue line is plotted against the right axis and represents the % gain for Biden over Clinton in 2016, or the ratio between the light blue and dark blue stacked bars. Further analysis is recommended for any precinct where the Biden gain is >40%, especially in precincts where there is not a corresponding %'age gain for Trump. In a closely contested election gains over 20% are exceptional and statistically uncommon and usually only explainable through redistricting and other structural factors. There are 44 precincts depicted among these 16 counties and 128 total precincts where Biden gain is >40%, representing 37% of total depicted precincts.

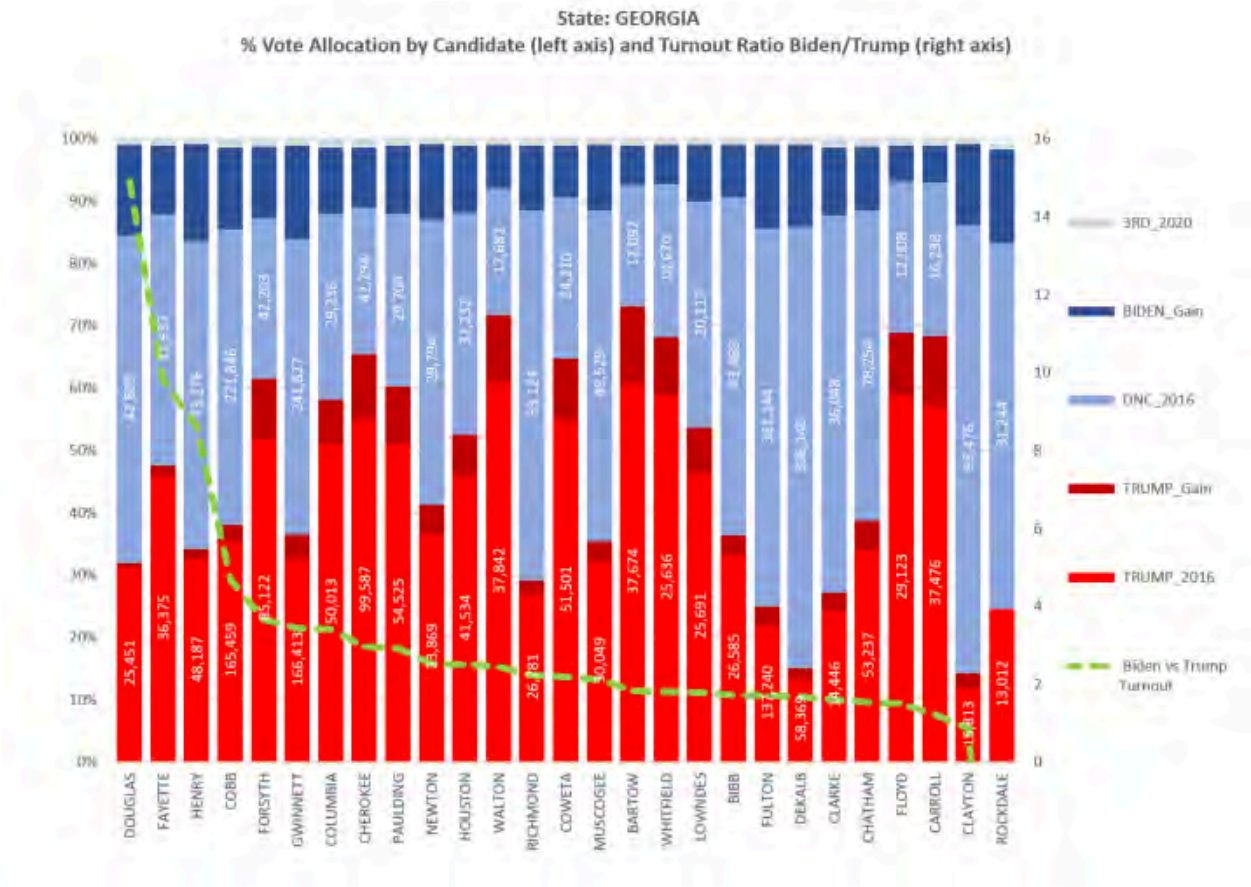
Top 16 precincts by county

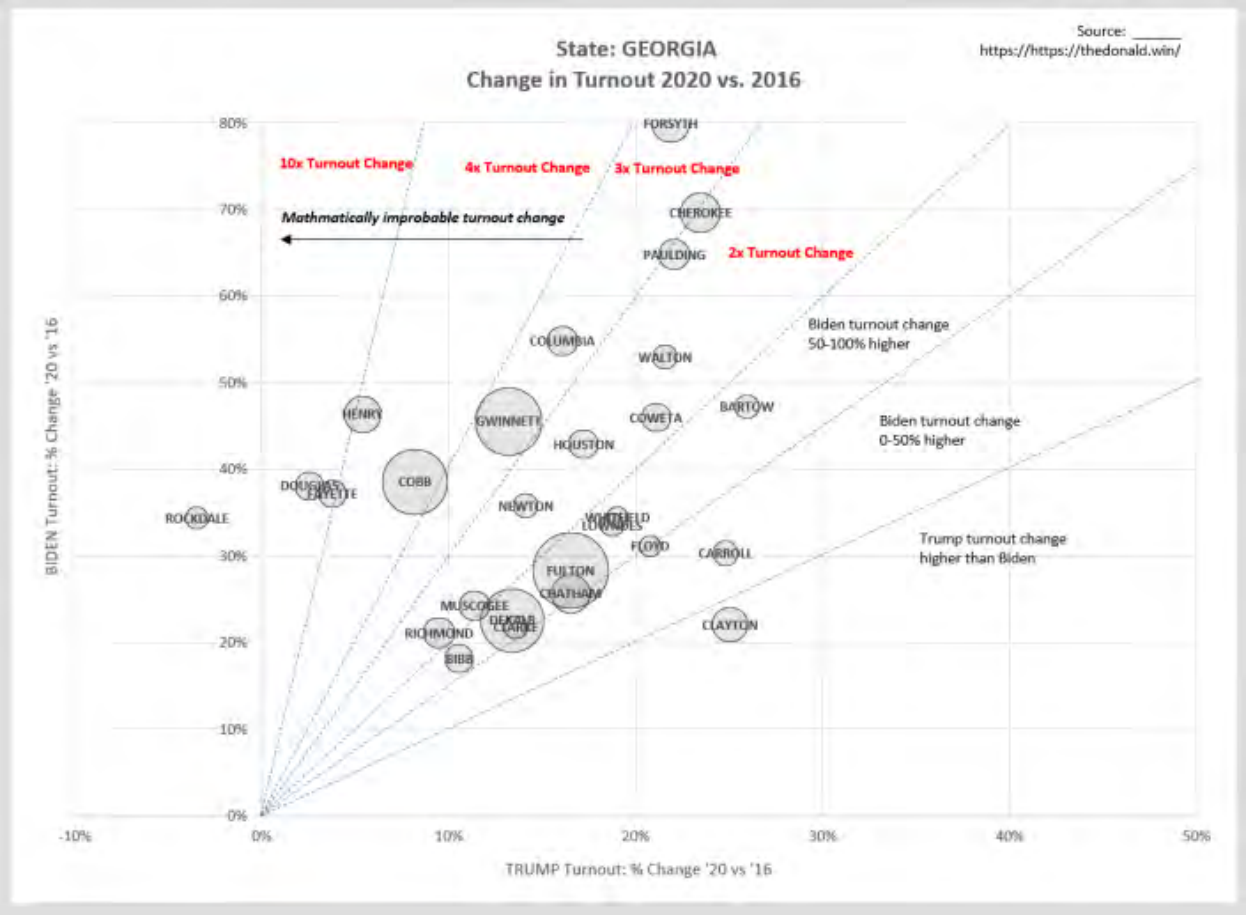


Top 8 precincts by county




GEORGIA 2020 PRESIDENTIAL ELECTION - EACH CANDIDATES PERCENTAGE OF THE VOTE FOR BATCHES THAT CONTAIN 1-200 VOTES
BIDEN
TRUMP


State: GEORGIA
% Vote Allocation by Candidate (left axis) and Turnout Ratio Biden/Trump (right axis)
3RD_2020
BIDEN_Gain
DNC_2016
TRUMP_Gain
TRUMP_2016
Biden vs Trump Turnout
DOUGLAS
FAYETTE
HENRY
COBB
FORSYTH
GWINNETT
COLUMBIA
CHEROKEE
PAULDING
NEWTON
HOUSTON
WALTON
RICHMOND
COWETA
MUSCOGEE
BARTOW
WHITFIELD
LOWNDES
BIBB
FULTON
DEKALB
CLARKE
CHATHAM
FLOYD
CARROLL
CLAYTON
ROCKDALE



Evidence of Fraud in Conjunction with Use of Dominion BMD Machines By: ASOG

Evidence of Fraud in Conjunction with Use of Dominion BMD Machines

Data Used: 2020 Votes by County, 2017 US Census demographics by county, 2018 U.S. Election Assistance Committee voting machine information. All data is available.

Overview
We used multiple statistical tools and techniques to examine if the use of voting machines manufactured by different companies affected 2020 US election results. We found the use of the Dominion X/ICX BMD (Ballot Marking Device) machine, manufactured by Dominion Voting Systems, and machines from HART Intercivic, appear to have abnormally influenced election results

Key Findings:

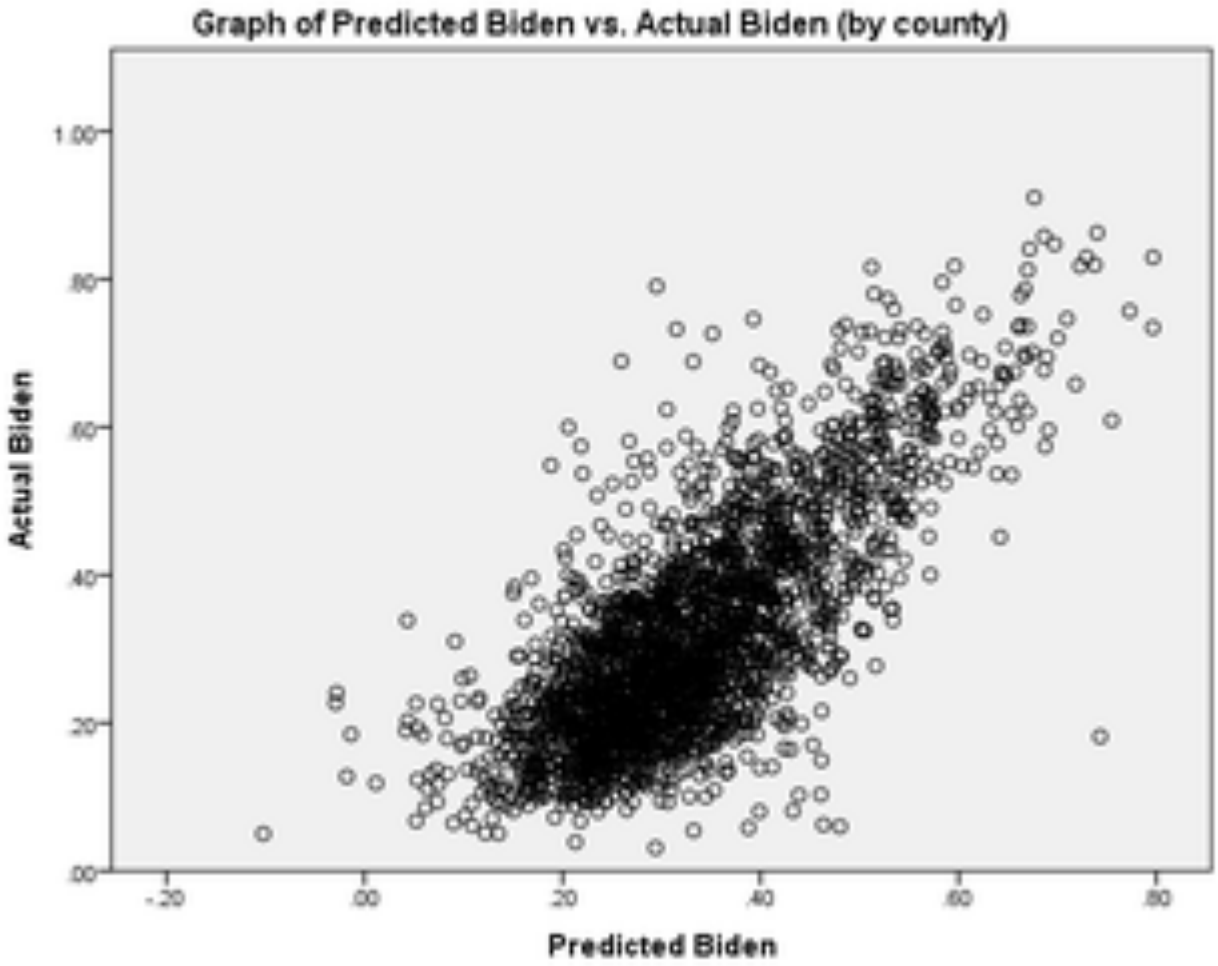
- In counties using Dominion BMD voting machines, candidate Biden appears to have consistently received 5% more votes than he should have received
- Biden over-performed predicted/expected values in 78 % of the counties that used Dominion or Hart machines. In counties with other machines, Biden over-performed only 46% of the time (anything close to 50% is normal/expected)

Methodology

The research used a two-phased approach. Phase One developed a predictive model which accurately predicted Biden results for every U.S. county. Phase Two used the results from Phase One to investigate if results from counties using machines from Dominion Voting Systems, or any other type of machine, were significantly different from results from other counties.

Phase One

Our data included votes for each county in the United States and U.S. Census variables from 2017. We conducted multiple regression analysis using U.S. Census data to develop a model/equation to predict in any county what percentage of the vote could reasonably be expected to go to candidate Biden. While naturally the percentage Biden actually achieved in each county fluctuates from the predicted value, we found for most counties the model does a good job in predicting what should be Biden's percentage of votes won. (A few counties in some States are outliers. See our analysis paper "Identification of Counties with Potential Fraudulent Vote Counts")
The graph below shows, for each county, our predicted values for Biden plotted against the actual/final tally attributed to Biden. (Note the values go from .00 (0% for Biden) to 1 (100% for Biden)). As evidence in the graph, the predictive model does a good job of predicting actual values for Biden – with the actual values for Biden being scattered seemingly "randomly" above and below an unseen centerline. There are some data points that are too "extreme" – which could indicate fraudulent data in those counties. However, overall, the model does a good job of predicting actual Biden vote percentages.



Phase Two

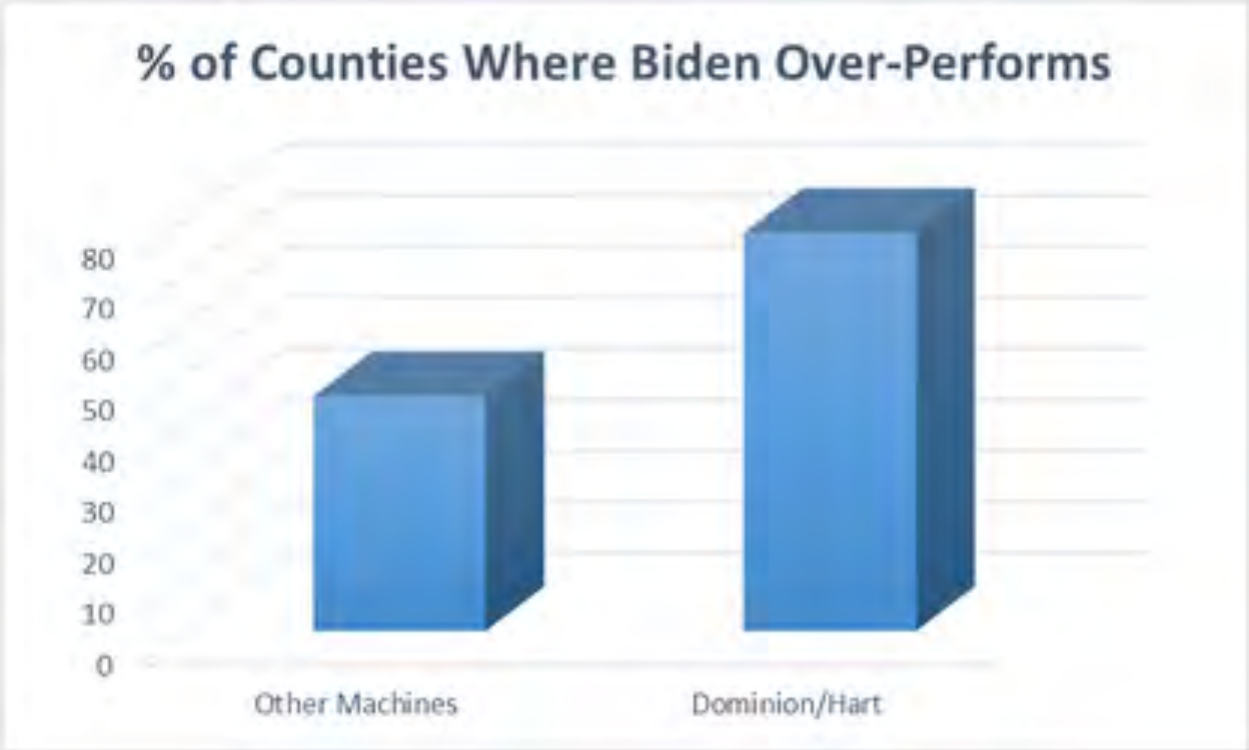
After we developed our predictive model, we obtained a data file from the U.S. Election Assistance Commission showing the voting machines used by each county in the United States. Recent media reports called into question the machines from Dominion Voting Systems, so we decided to look at our data to determine if the election results were the same in counties that used Dominion machines compared to the rest of the counties.

Basic Analysis 1: Biden Performance by Machine Type

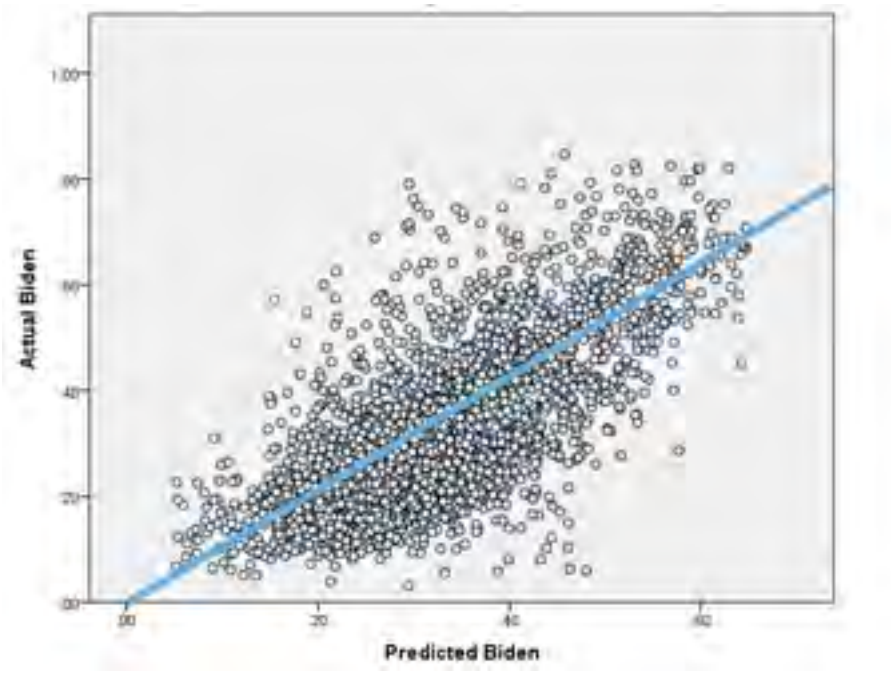
To aid in this research we calculated the number of percentage points Biden was over or under our predicted value in each county. Our initial analysis then examined Bidens's over/under performance against voting machine type. The results for any machine type should average around zero. The results for most machine types are as we would expect; Biden's over/under performance averages near zero for most counties/machines. However, the election results from counties using Hart machines and the Imagecast X/ICX BMD from Dominion Voting Systems have abnormally high average over-achievement by candidate Biden.
The following graph shows that **in counties that used the Dominion BMD device, Biden's performance was approximately five percentage points higher (Dominion BMD) or six percentage points higher (Hart) than it should have been.**

Basic Analysis 2: Biden Over-Achievement by County by Machine Type

Next, we simply counted, for each machine type, the number of counties in which Biden over-performs expectations and the number of counties in which he under-performs. In normal circumstances any candidate should perform above expectations roughly 50% of the time and under-perform roughly 50% of the time.
We see this normal result in the "Other" machine counties, with candidate Biden performing "above" expected values 46% of the time. However, in the Dominion machine counties, Biden performs above expectations 78% of the time. **This is highly indicative (and 99.9% statistically significant) that something strange is occurring with the Dominion/Hart machines**.

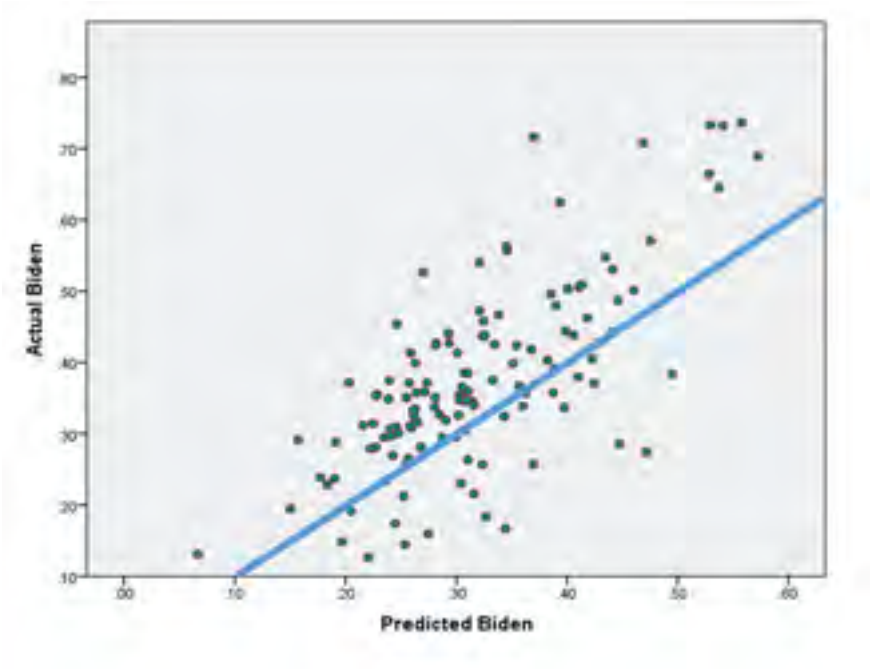


This unusual over/under performance appears in another set of graphs. In the first graph below, we see Biden's actual percentage result plotted against our predicted percentage for every county in the United States. The blue line is our center "prediction" line. For normal circumstances half the counties should be above the blue line and half below. A visual check shows this to be true – and the actual percentages are an acceptable 45% of counties with Biden over-performing and 55% with him underperforming.



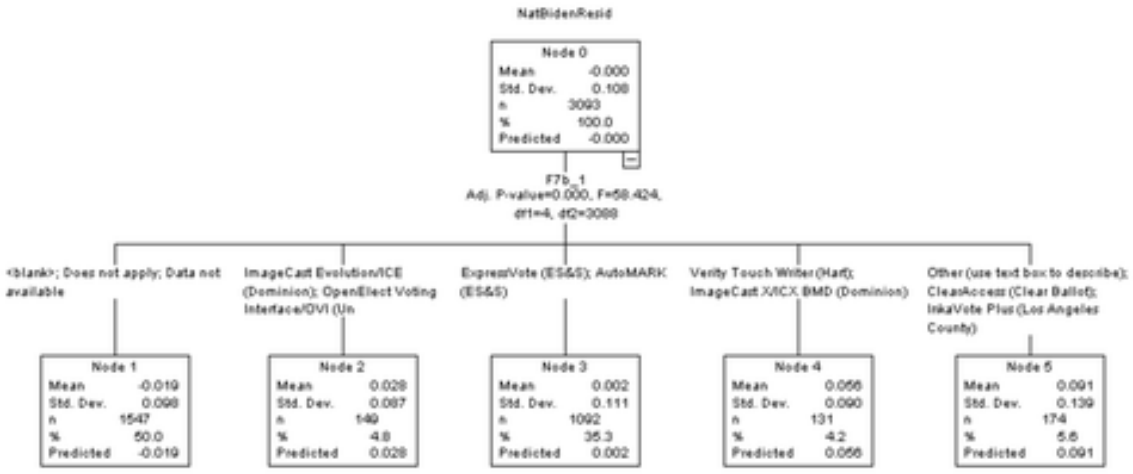
Compare that "normal" graph against the following graph that shows the same data, except this time limited

to counties with Dominion's X/ICX machines. This time the majority of counties (78%) are ABOVE the prediction line. This means Biden performed better than expected too often for this to be considered "normal" election results. Only 22% of the counties that used Dominion X/ICX machines underperformed for Biden. This abnormality is significant at the 99.9% statistics level. We are very certain something unusual is occurring.



CHAID Analysis

Our first advanced analysis was a CHAID analysis (Chi-Squared Automatic Interaction Detection) which is designed to search through variables and variable values and segregate them into groups with similar results. In terms of our data, this means the CHAID algorithm searched through the different types of voting machines used – and grouped the machines together that show similar results. If the machines are not having an impact on the results, the resulting CHAID "tree" will not have any groups.
In our case, the CHAID analysis of voting machines showed five separate groups of machines



When looking at all the data (node 0) the mean Biden over/under performance is 0.0. This is what you

expect to see for a decent predictive model. The CHAID algorithm then identifies 5 separate groups of machines, each which seem to impact the results by certain amounts. The first three groups vary by just 0.01 or 0.02 from overall Biden over/under performance of 0.0. These machines are operating close together in terms of results and do not show a major bias for or against either candidate. These machines include several brands of machines, including one older Dominion machine (Evolution/ICE). The fourth and the fifth groups exhibit very different behavior.

The fourth group consists of counties that use Dominion's Imagecast BMD device or Hart's Verity Touch Writer machine. The CHAID algorithm singled out the counties using these machines. They have results that **average 5.5 percentage points above** the overall Node 0 mean on -0.012. This means **in counties using the Dominion or Hart machines, Biden received 5.5 percentage points higher than he was expected to achieve** – or likely **would have achieved if the counties used any other type of machine.**

[The firth group consists of machines specifically delineated in the U.S. Election Assistance Commission data as "other", InkaVote (LA County), or ClearBallot. While these machines/counties may warrant additional investigation, they were used in relatively few counties (InkaVote one county (LA county, CA), ClearBallot only eleven counties) so they were dropped from further investigation.] The above findings are statistically significant at the 99.9% level or higher

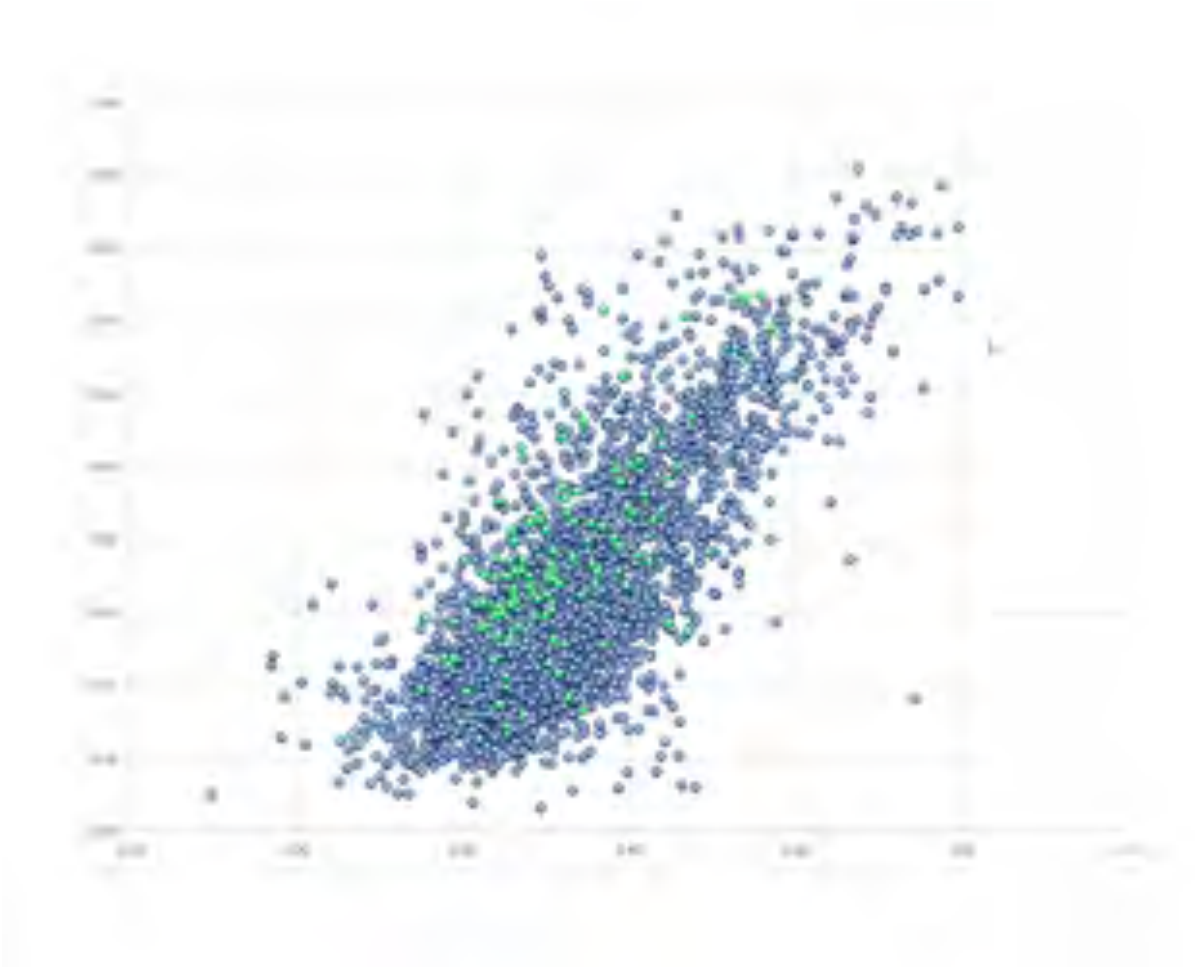
Graphical Analysis

The CHAID analysis indicated the Dominion and Hart machines produced results on average 5.5% higher than they should have been compared to counties with other machines. The next question to answer was whether this average of 5.5% was from relatively few counties having extraordinarily high results for Biden, or if several of the "Dominion" counties were showing unusually high results.

A graph (shown next page) clearly shows that the votes from counties using Dominion machine follows a distinct and unusual pattern, which is in fact a very predictable mathematical pattern. If the Dominion counties were acting as they should – like all the other counties – then the green dots (representing Biden's results in counties with Dominion/Hart machines) in the graph below would overlay the blue dots (Biden results in all other counties) in a similar, "mixed up"/random fashion.

We do not see this. Instead, we see the green dots centered higher than the center of the blue dots, meaning the Dominion counties were, on average, performing continuously above the predicted values for Biden had the counties using any other machines. **This indicates the potential fraud was widespread** and impacted vote counts in a systematic method **across many machines and counties.**

Graph: Dominion/Hart BMD Machines vs. Other Machines
(Green = Dominion/Hart, Blue = All Others)



To aid in this graphical analysis above we added center lines for the Dominion/Hart counties and the "other machine" counties. (see graph next page). The green centerline for the Dominion/Hart counties stays above the centerline for the blue "other machine" counties – clearly indicating the pattern of counties with Dominion machines continuously "outperforming" the other counties with other machines, to the benefit of candidate Biden.



The equation of the blue center line for "Other machines" counties is:
Biden Actual = 0.00 + 1xPredicted Biden
The equation of the green line of "Dominion/Hart" counties is:
Biden Actual = 0.05 + 1.02x(Predicted Biden)
The slopes of these two lines are "nearly" identical (1.00 vs 1.02). Otherwise, the values are the same except for the difference between the intercept/starting values of 0.0 and 0.05. The difference between these two values is five percentage points. This indicates that **the Dominion/Hart machines may have been programmed or manipulated to systematically add five percentage points to Biden's actual vote count.** Again, the statistical significance level of these results is above 99%.

Conclusion

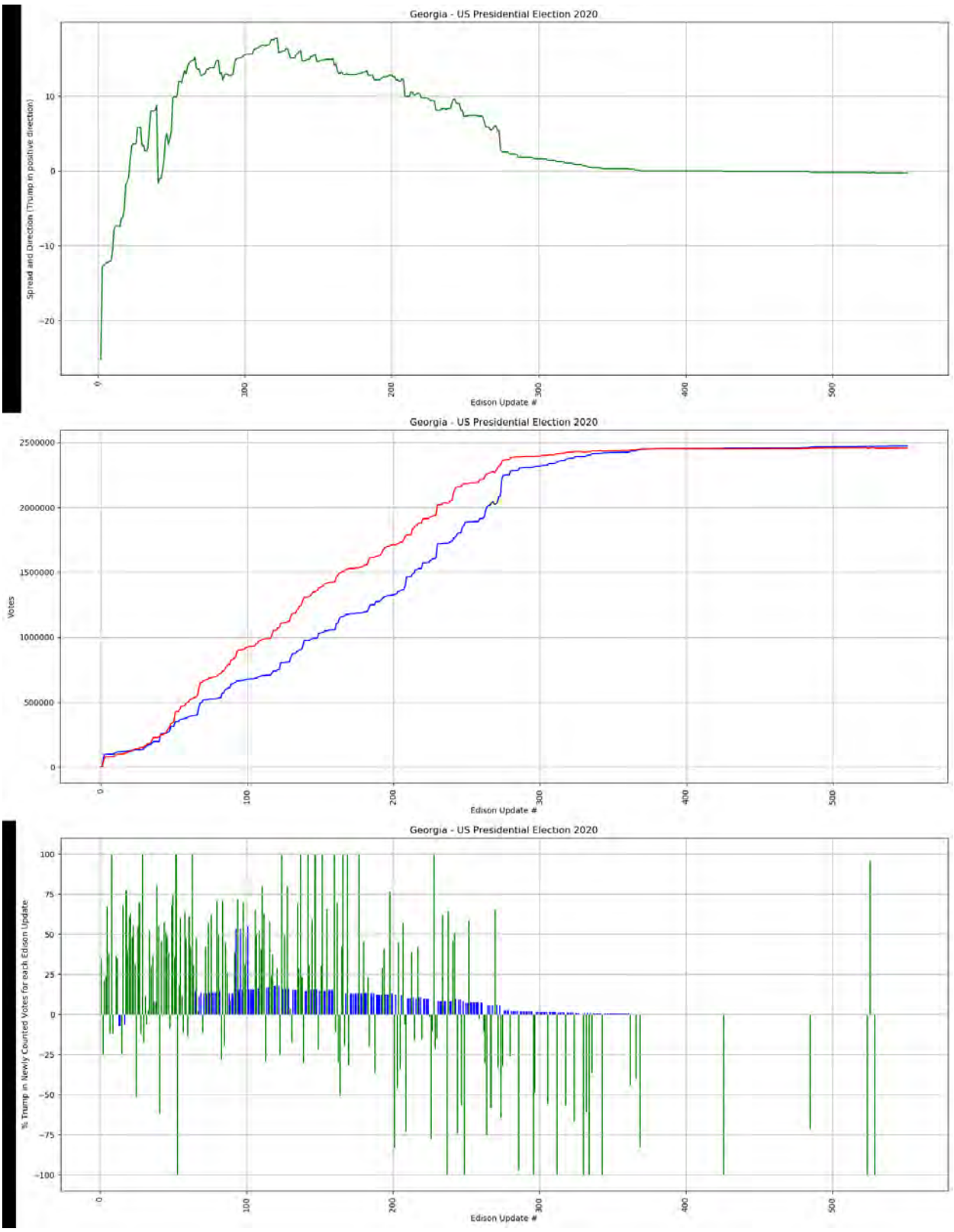
Our analysis of publicly available data shows evidence of possible fraud involving Dominion Voting System's BMD machines and Hart Verity Touch machines. The analysis shows Dominion machines may have been used fraudulently in multipole counties across the country. It appears the fraud may have been some type of systematic programming resulting in the "over-performance" of candidate Biden by approximately 5% in many of the counties in which the machines were used. The increases in votes occurred in hundreds of counties in the U.S.
The election results from any county in the U.S. that used Dominion BMD machines or Hart Intercivics machines are, in our opinion, not reliable. Federal, State and local officials should take every possible action to investigate and correct the calculated tallies of their elections if they used any of these machines in the vote counting.
In cases where this is not one hundred percent possible, authorities should nullify the vote from their election due to lack of certainty in the results.

Georgia Time Series Analysis By: ASOG

Summary:

Overall, based on the data examined, there is evidence of vote count manipulation, strong statistical suggestion of fraud, and very strong statistical evidence that algorithms were involved in the released vote counts.

Data source: Edison Research via the New York Times website



The top graph:

The cumulative spread in percentage between Trump and Biden at any point in time during the vote counting is shown in this graph, where Trump is positive percentage.

In other words, a point on the line in this graph represents which candidate is in the lead at any point in time, and by how much. Movement of the line in this graph indicates change in the magnitude a candidate is winning by. If the line slopes up, the votes are moving in a direction that favors Trump. If the line slopes down, the votes are moving in a direction that favors Biden.

The middle graph:

The total accumulated votes counted at any point in time for each candidate is represented in this graph. Red is Trump. Blue is Biden.

The lower graph:

Each bar on this graph represents what percentage of the votes submitted in each batch went towards a candidate, where Trump is positive, and Biden is negative.

Analysis:

There are multiple highly anomalous features in this visualization of this state in the USA 2020 General Election vote count data.

Firstly, I will explain the context of the lower graph and analyze. Every batch of vote counts released represents various groups of people and their votes. These groups of peoples votes are expected to have variance, even if multiple batches were produced out of the same geographic area. Large numbers of votes between multiple candidates are unlikely to have the same percentage of going towards a candidate multiple times in different batches. What we see in the lower graph instead of the expected variance in percentage of votes going to Trump or Biden in each batch are easily distinguishable trends, which are realistically improbable. The statistical probability of that pattern occurring throughout the graph approaches zero. The observation of these trends not only strongly suggests fraud, but also suggests automated and algorithmic tampering of vote counts.

There is a mechanical correlation between the suspected algorithmically generated vote count releases (labeled in blue on the bottom graph) and the relative difference between the line in the upper graph and zero (an intersection with the line at y=0 in the upper graph indicates a change in which candidate is leading). Furthermore, as soon as the line in the upper graph intersects with y=0, the algorithmically generated vote count releases switch to the opposing side - possibly to either maintain or eek in a Biden victory.

Once the majority of apparent real and organic votes ceased to be counted, we are left with large swaths of released vote counts that repeatedly have the same exact percentage of votes in each release going to Biden. By exact, I mean exact. That is until stray batches of apparent organic votes are released, and then the percentage of votes in each release from the apparent algorithmically generated vote counts going to Biden seem to adjust slightly to account for the change, which then continue to repeat in each release, until the next stray organic batch, and the cycle repeats. It is difficult to come up with a realistic scenario where this described phenomenon is not the result of an algorithm behind the scenes.

The hypothesis involving algorithms can be further supported by attempting to reproduce that algorithm and running a simulation of the election where the reproduced algorithm is tasked with re-generating the original apparent algorithmically produced vote count releases.

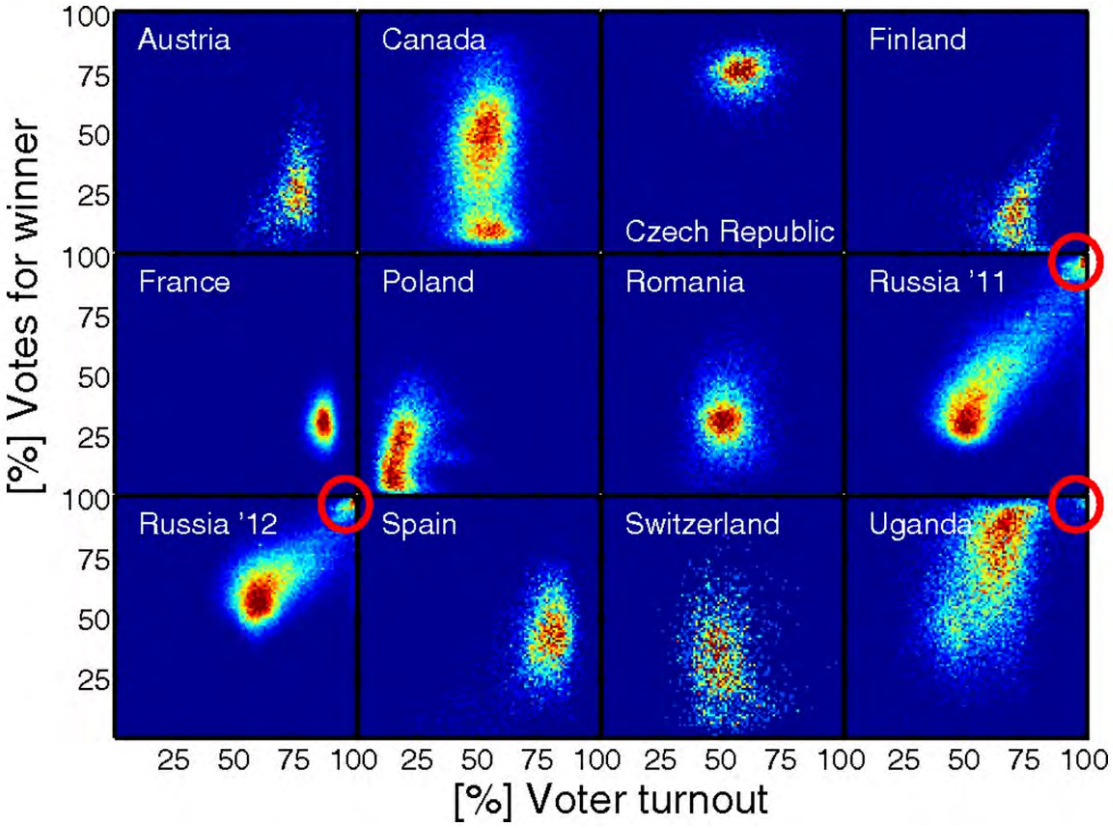
It is noted that this irregularity may be a result of how the New York Times releases this data.

Beta Distribution Fit:

Attached are plots showing the election anomaly seen at the precinct level for GA. The top plot shows the percentage difference between Trump and Biden. The middle plot shows the distribution of the two candidates. The bottom plot shows the null hypothesis (what the Biden distribution would be without election fraud) obtained by a beta distribution fit.

The pattern observed is indicative of election Fraud [1]. A reference figure ("reference.png") is attached, where it shows a similar pattern to those observed in GA - a characteristic peak at high vote % for the winner (circled).

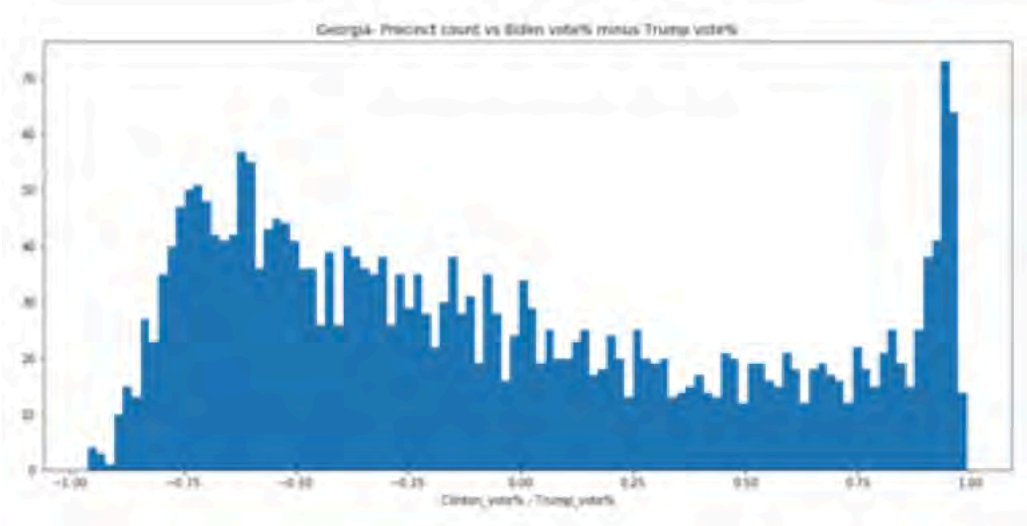
The most up-to-date dataset was used. For GA, the state vote count matches that appearing on Fox News. However, for PA and MI, the dataset is incomplete. Nevertheless, the pattern that is characteristic of election fraud already appears for these states. Note that in the 2016 Election the same pattern can also be observed (see attached).



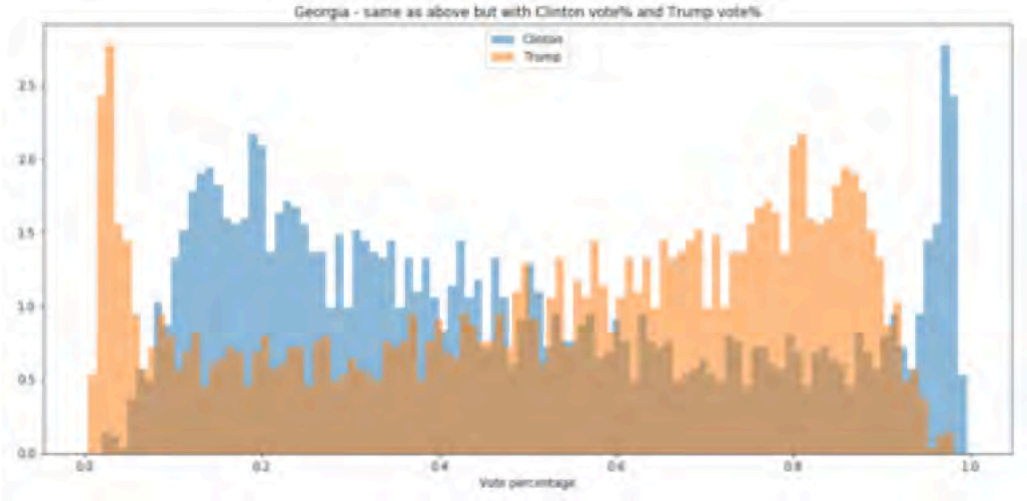
Reference:

[1] Statistical detection of systematic election irregularities. Peter Klimek, Yuri Yegorov, Rudolf Hanel, and Stefan Thurner. PNAS October 9, 2012 109 (41) 16469-16473; https://doi.org/10.1073/pnas.1210722109

2020 Beta Distribution



2016 Beta Distribution



Further additions to the time-series NYT precinct level data: Link

Archive containing the precinct level time-series data files from the links in the above mentioned text file: Link https://datascience-work-product.nyc3.digitaloceanspaces.com/Georgia-Analysis-Documents-Yuripew%239110/new_nyt_precinct_urls.txt

Archive containing a full flat data file containing all of the parsed data from the currently existing repository of precinct level time-series data. This was created by treating each record in each consecutive precinct time-series data file as a record that needs to be inserted or updated into a data structure: Link https://datascience-work-product.nyc3.digitaloceanspaces.com/Georgia-Analysis-Documents-Yuripew%239110/data_precincts_timeseries.zip

Data file created from the first pages of the below two listed data sources, detailing registered voters and turnout per county for the 2016 and 2020 USA General Elections: Link https://datascience-work-product.nyc3.digitaloceanspaces.com/Georgia-Analysis-Documents-Yuripew%239110/2016_2020_antrim_michigan_registed_vote_rs_and_turnout_per_precinct.csv

Data source for 2016 registered voters and turnout data in Antrim, MI:
2016_unofficial_results_general_election_1182016_1.pdf: Link
http://www.antrimcounty.org/downloads/unofficial_results_general_election_1182016_1.pdf

Data source for 2020 registered voters and turnout data in Antrim, MI:
2020_statement_of_votes_cast_1.pdf: Link
http://www.antrimcounty.org/downloads/statement_of_votes_cast_1.pdf

GA Precincts - Simultaneous Massive Reporting at 2020-11-04T06:36:11.798Z
The largest batch of released votes in GA was around 200k at once. This is way larger than any other batch of votes released in Georgia in the 2020 USA General Election and it came at a convenient time. Hundreds of precincts reported abnormally high numbers of counted votes simultaneously.

This graph was generated using the data file contained within precincts_timeseries.zip.

Mechanisms For Fraud

Georgia Vote Switching and Mathematical Inconsistencies By: ASOG

Fraud Report

Georgia

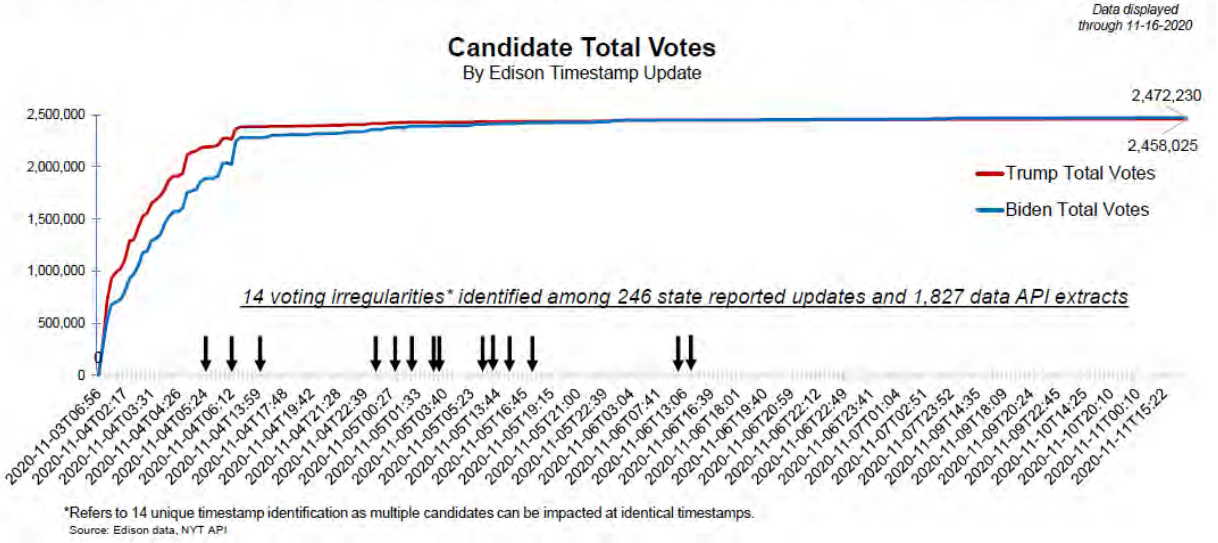
This report details data anomalies identified in state reported voter counts for the November 2020 General Election for the state of Georgia. Explicit cases of vote switching from Donald Trump to Joseph Biden were identified in Bibb and Dougherty counties for 12,173 and 11,119 votes, respectively.

Separately, additional fraud mechanisms were identified in Fulton and Chatham counties, where mathematical impossibilities were identified as election day votes incremented and decremented in subsequent timesteps, as total votes remained elevated. This pattern is inconsistent with national standards and requires explanation as it can be linked to artificial absentee ballot inflation.

A timeseries based algorithm that was trained nationally on 2020 election voter data at the state, county, and precinct levels was used to identify potential fraud datapoints and/or suspicious voting activities. Subsequent analysis provided context for inconsistencies reported at precinct, county, and state levels, impacting overall election results. This is first of two reports on these cases.

Georgia Presidential Election

Algorithmic fraud analysis of voting data for Georgia identified 14 distinct mathematical inconsistencies out of 256 unique time stamps across multiple candidates that significantly impact election results.



Georgia Presidential Election

Multiple fraud mechanisms were identified based on the vote database structure and internal vote calculation processes that are achieved through obscure vote aggregation reporting.

Outcome

Scenario 1

Donald Trump Votes ⟲ Joseph Biden Votes

Direct 1:1 Vote Count Switching

Scenario 2

<u>Legitimate</u> Election Day, Absentee Vote Increases + Decrement Second Variable = Reduced -or- No Incremental Total Vote Gains

Negate Vote Increases for Candidate

Scenario 3

<u>Illegitimate</u> Absentee Vote Increases + Decrement Election Day Count = No Incremental Total Vote Gains

Artificially Inflate Absentee Ballot Count

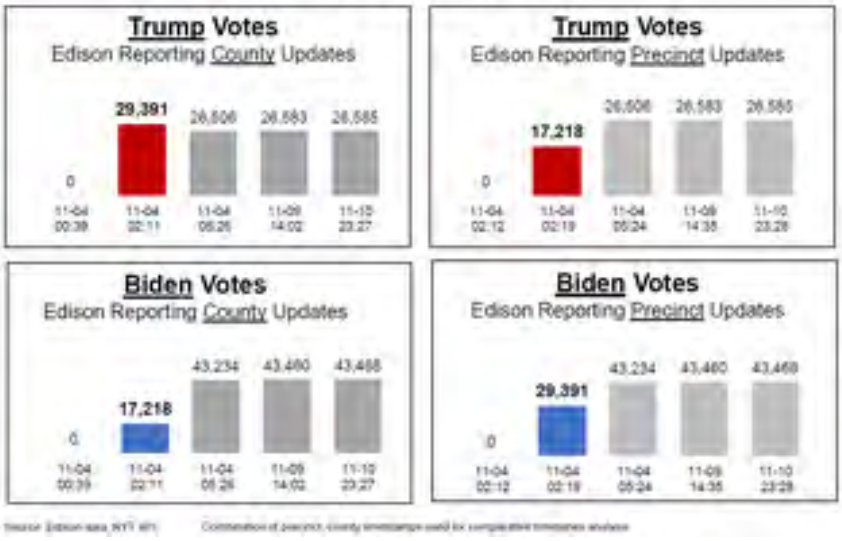
⟲ Goes <u>undetected</u> when reported as cumulative state vote totals

Georgia Presidential Election

System identified vote switching between Trump and Biden Absentee counts within **Bibb** County occurred at timestamp 2020-11-04T02:11:17Z

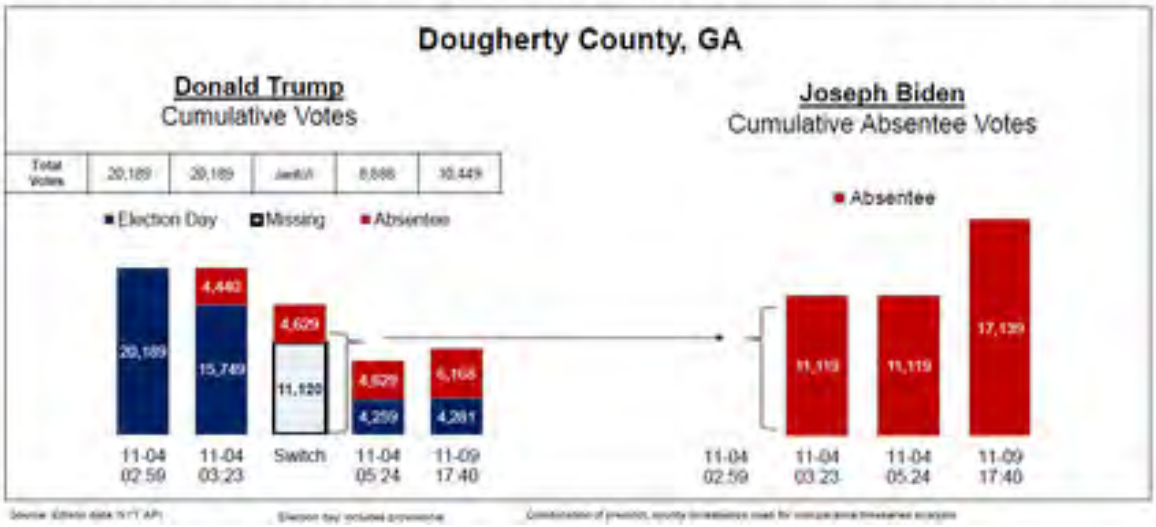
This mathematical irregularity resulted in a -2,885 decrease for Donald Trump, where absentee vote totals were reported as switched between the two candidates, as Biden received 12,173 of Trump's Absentee votes.

Bibb County, GA



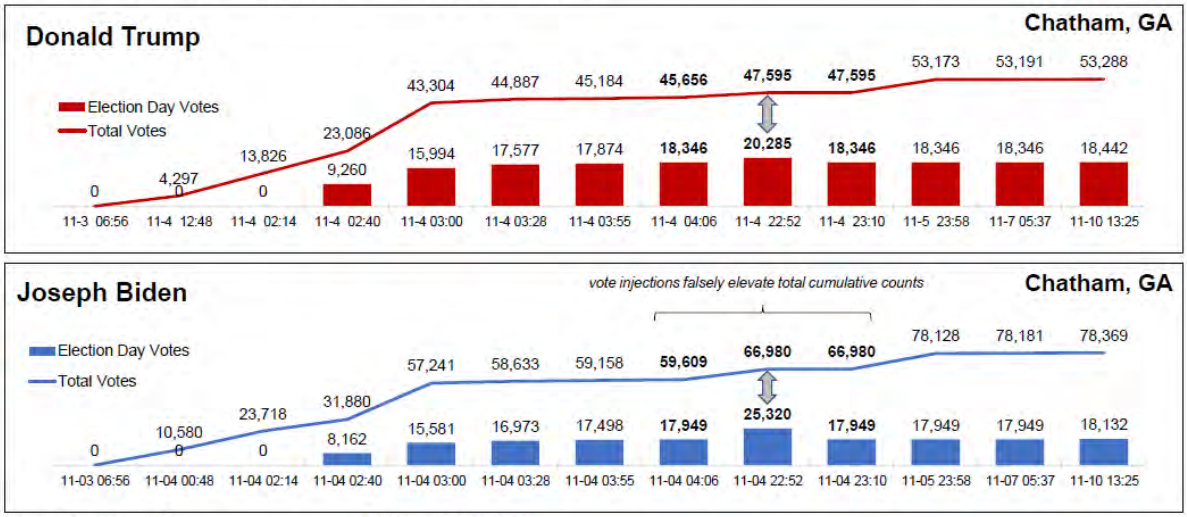
Georgia Presidential Election

In Dougherty County at 3:23 11/4 a net deduction of -11,120 state and county reported votes for Donald Trump was removed from his total vote count while simultaneously Joseph Biden incremented 11,119 Absentee votes.



Georgia Presidential Election

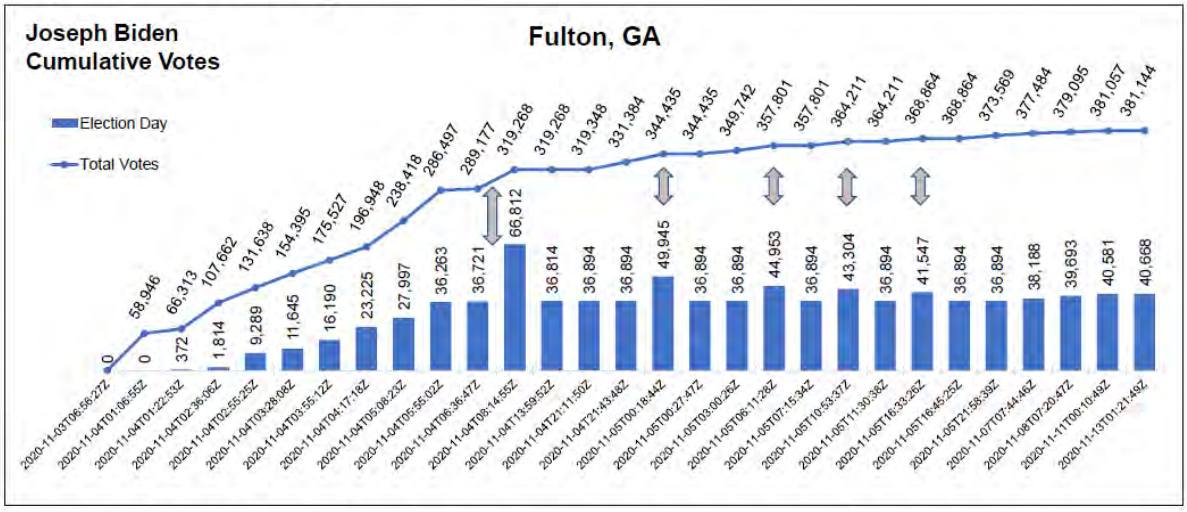
Algorithmic pattern detection identified a net vote injection of +5,432 for Biden in Chatham county on 11/4 22:52, where Election Day votes increased for a single timestep before returning to previously reported levels and in the process incorrectly elevating total vote aggregate counts.



Source: Edison data, NYT API Election day includes provisional

Georgia Presidential Election

Large injections of Election Day votes captured in county and state reporting increment total counts and disappear in subsequent timesteps, leaving total counts elevated with a net cumulative Biden gain vs Trump of +38,547 votes in Fulton County, GA.

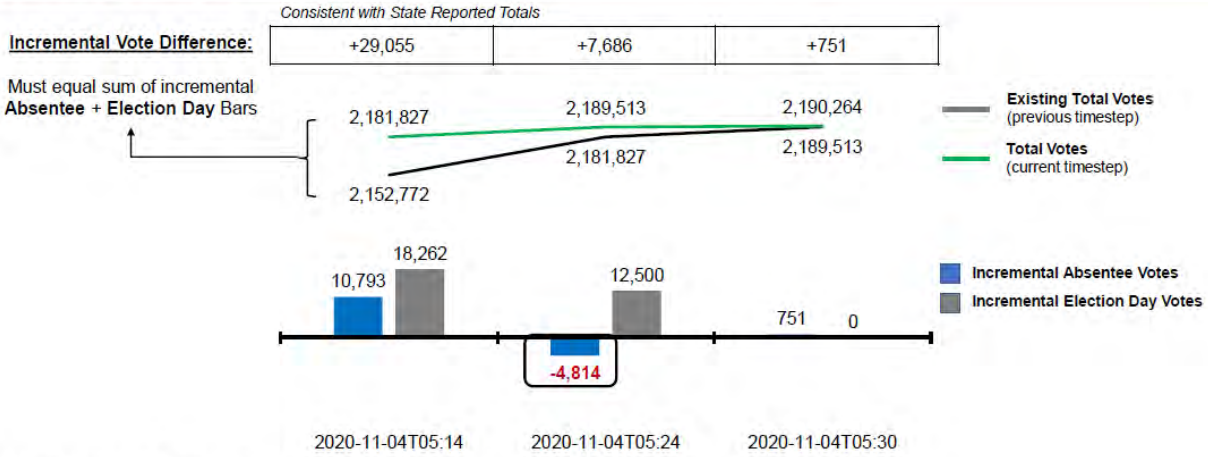


Source: Edison data, NYT API Election day includes provisional

Georgia Presidential Election

Accounting for Election Day state counts not reported publicly in Edison data, Donald Trump absentee vote counts necessarily incremented **negatively** as the increase in Election Day votes *exceeded* the total vote count increase registered in his overall vote count.

Donald Trump Vote Sequence Impossibilities

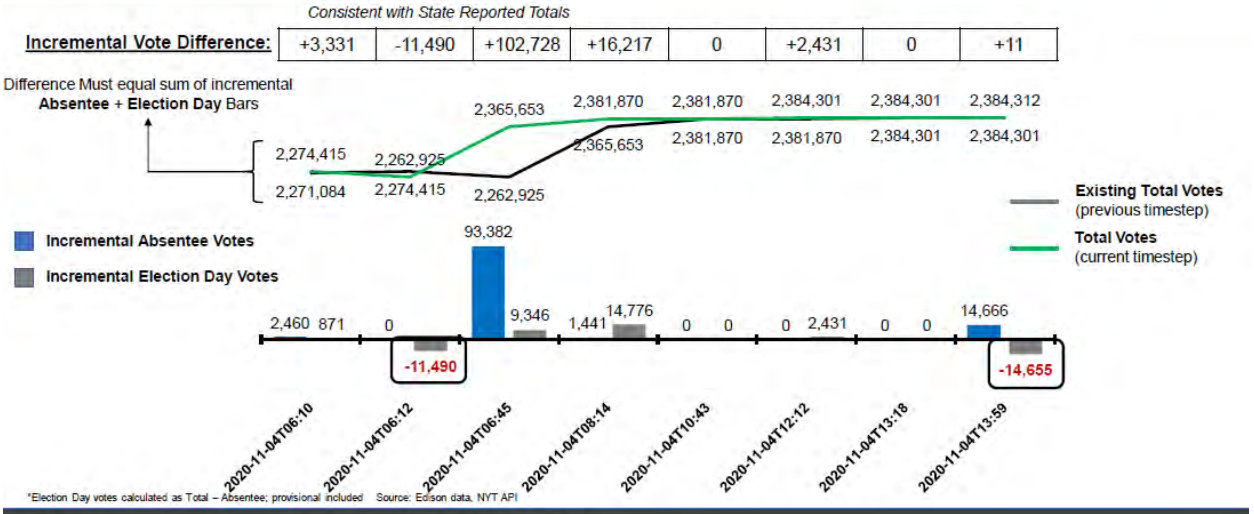


*Election Day votes calculated as Total – Absentee; provisional included Source: Edison data, NYT API

Georgia Presidential Election

Between 11/4 06:12 and 11/4 13:59 Donald Trump Election Day vote counts necessarily incremented **negatively** as the increase in absentee votes *exceeded* the total vote count increase registered in his overall vote count.

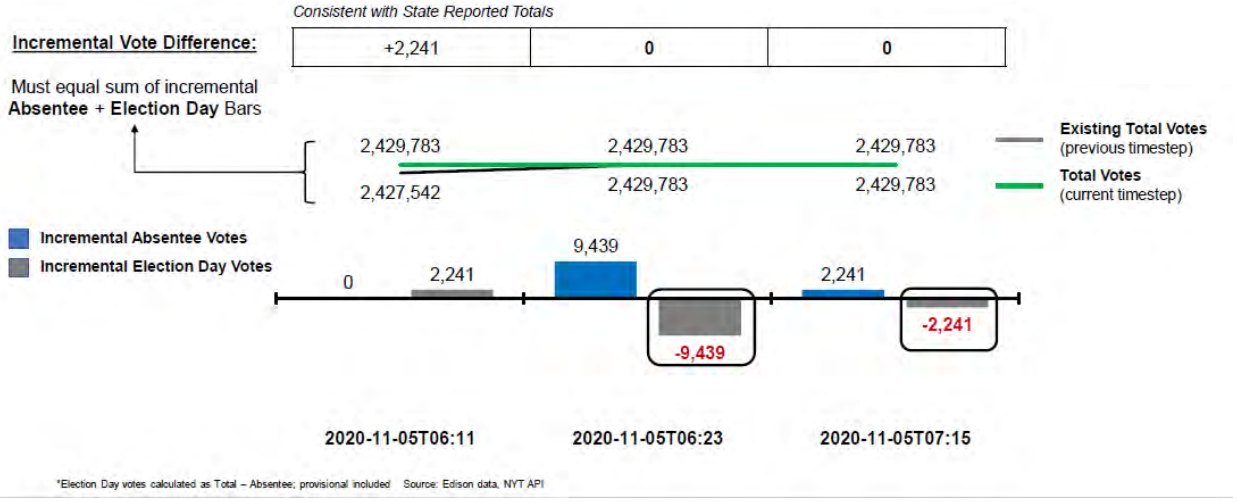
Donald Trump Vote Sequence Impossibilities



Georgia Presidential Election

Between 11/5 06:23 and 11/5 07:15 Donald Trump Election Day vote counts necessarily incremented **negatively** as increases in Absentee votes were offset by Election vote counts resulting in net 0 total incremental change.

Donald Trump Vote Sequence Impossibilities



County Updates

County	County Update Timestamp	Trump Total	Trump Absentee	Trump Election Day	Biden Total	Biden Absentee	Biden Election Day
Bibb	2020-11-04T00:39:35Z	0	0	0	0	0	0
Bibb	**2020-11-04T02:11:17Z**	**29,391**	**29,391**	**0**	**17,218**	**17,218**	**0**
Bibb	2020-11-04T05:26:59Z	26,506	18,585	7,921	43,234	34,532	8,702

Precinct Updates

locality_name	Timestamp	Trump Early	Trump Absentee	Trump Election Day	Trump Provisional	Trump Absentee & Early	Trump Total	Biden Early	Biden Absentee	Biden Election Day	Biden Provisional	Biden Absentee & Early	Biden Total
Bibb	2020-11-04T02:12:37	0	0	0	0	0	0	0	0	0	0	0	0
Bibb	**2020-11-04T02:19:26**	**13,234**	**3,984**	**0**	**0**	**17,218**	**17,218**	**20,380**	**9,011**	**0**	**0**	**29,391**	**29,391**
Bibb	2020-11-04T05:24:05	13,234	5,351	7,921	0	18,585	26,506	20,380	14,152	8,702	0	34,532	43,234
Bibb	2020-11-09T14:35:24	13,234	5,374	7,921	54	18,608	26,583	20,380	14,262	8,702	116	34,642	43,460
Bibb	2020-11-10T23:28:22	13,234	5,375	7,922	54	18,609	26,585	20,384	14,264	8,704	116	34,648	43,468

County Updates

County	County_last_updated	Trump Total	Trump Absentee	Trump Election Day	Biden Total	Biden Absentee	Biden Election Day
Dougherty	**2020-11-04T02:59:39Z**	**20,189**	**0**	**20,189**	**35,602**	**0**	**35,602**
Dougherty	**2020-11-04T03:23:45Z**	**20,189**	**4,440**	**15,749**	**35,602**	**11,119**	**24,483**
Dougherty	**2020-11-09T17:40:40Z**	**10,449**	**6,168**	**4,281**	**24,579**	**17,178**	**7,401**

Precinct Updates

locality_name	Timestamp	Trump Early	Trump Absentee	Trump Election Day	Trump Provisional	Trump Absentee & Early	Trump Total	Biden Early	Biden Absentee	Biden Election Day	Biden Provisional	Biden Absentee & Early	Biden Total
Dougherty	2020-11-04T03:13:51	0	0	0	0	0	0	0	0	0	0	0	0
Dougherty	2020-11-04T03:17:19	3,818	622	4,259	0	4,440	8,699	9,123	1,996	7,313	0	11,119	18,432
Dougherty	2020-11-04T04:38:29	3,818	730	4,259	0	4,548	8,807	9,123	2,306	7,313	0	11,429	18,742
Dougherty	**2020-11-04T05:24:05**	**3,818**	**811**	**4,259**	**0**	**4,629**	**8,888**	**9,123**	**2,452**	**7,313**	**0**	**11,575**	**18,888**
Dougherty	2020-11-04T22:03:20	3,818	1,570	4,259	0	5,388	9,647	9,123	5,647	7,313	0	14,770	22,083
Dougherty	2020-11-07T02:53:44	3,818	2,347	4,259	22	6,165	10,446	9,124	8,015	7,317	84	17,139	24,540

Source: Edison data, NYT API Election day includes provisional; Absentee includes Early for county reporting

County	County_last_updated	Trump Total	Trump Absentee	Trump Election Day	Trump Total Delta	Trump Absentee Delta	Trump Election Day Delta	Biden Total	Biden Absentee	Biden Election Day	Biden Total Delta	Biden Absentee Delta	Biden Election Day Delta	Jorgensen Total	Jorgensen Absentee	Jorgensen Election Day	Total Votes	Total Absentee	Total Election Day
Chatham	2020-11-04T00:48:53Z	4,297	4,297	0				10,580	10,580	0				113	113	0	14,990	14,990	0
Chatham	2020-11-04T02:14:55Z	13,826	13,826	0	9,529	9,529	0	23,718	23,718	0	13,138	13,138	0	348	348	0	37,892	37,892	0
Chatham	2020-11-04T02:40:29Z	23,086	13,826	9,260	9,260	0	9,260	31,880	23,718	8,162	8,162	0	8,162	743	348	395	55,709	37,892	17,817
Chatham	2020-11-04T03:00:05Z	43,304	27,310	15,994	20,218	13,484	6,734	57,241	41,660	15,581	25,361	17,942	7,419	1,386	632	754	101,931	69,602	32,329
Chatham	2020-11-04T03:28:08Z	44,887	27,310	17,577	1,583	0	1,583	58,633	41,660	16,973	1,392	0	1,392	1,461	632	829	104,981	69,602	35,379
Chatham	2020-11-04T03:55:12Z	45,184	27,310	17,874	297	0	297	59,158	41,660	17,498	525	0	525	1,487	632	855	105,829	69,602	36,227
Chatham	2020-11-04T04:06:38Z	45,656	27,310	18,346	472	0	472	59,609	41,660	17,949	451	0	451	1,521	632	889	106,786	69,602	37,184
Chatham	2020-11-04T22:52:12Z	47,595	27,310	20,285	1,939	0	1,939	66,980	41,660	25,320	7,371	0	7,371	1,584	632	952	116,159	69,602	46,557
Chatham	2020-11-04T23:10:50Z	47,595	29,249	18,346	0	1,939	-1,939	66,980	49,031	17,949	0	7,371	-7,371	1,584	695	889	116,159	78,975	37,184
Chatham	2020-11-05T23:58:38Z	53,173	34,827	18,346	5,578	5,578	0	78,128	60,179	17,949	11,148	11,148	0	1,914	1,025	889	133,215	96,031	37,184
Chatham	2020-11-07T05:37:38Z	53,191	34,845	18,346	18	18	0	78,181	60,232	17,949	53	53	0	1,917	1,028	889	133,289	96,105	37,184
Chatham	2020-11-10T13:25:56Z	53,288	34,846	18,442	97	1	96	78,369	60,237	18,132	188	5	183	1,932	1,028	904	133,589	96,111	37,478

Source: Edison data, NYT API Election day includes provisional; Absentee includes Early for county reporting

County	County_last_updated	Trump Total	Trump Absentee	Trump Election Day	Trump Total Delta	Trump Absentee Delta	Trump Election Day Delta	Biden Total	Biden Absentee	Biden Election Day	Biden Total Delta	Biden Absentee Delta	Biden Election Day Delta	Jorgensen Total	Jorgensen Absentee	Jorgensen Election Day	Total Votes	Total Absentee	Total Election Day
Fulton	2020-11-03T06:56:27Z	0	0	0				0	0	0				0	0	0	0	0	0
Fulton	2020-11-04T01:06:55Z	13,913	13,913	0	13,913	13,913	0	58,946	58,946	0	58,946	58,946	0	664	664	0	73,523	73,523	0
Fulton	2020-11-04T01:22:53Z	17,813	17,410	403	3,900	3,497	403	66,313	65,941	372	7,367	6,995	372	811	797	14	84,937	84,148	789
Fulton	2020-11-04T02:36:06Z	31,230	30,476	754	13,417	13,066	351	107,662	105,848	1,814	41,349	39,907	1,442	1,484	1,440	44	140,376	137,764	2,612
Fulton	2020-11-04T02:55:25Z	41,042	38,983	2,059	9,812	8,507	1,305	131,638	122,349	9,289	23,976	16,501	7,475	2,047	1,797	250	174,727	163,129	11,598
Fulton	2020-11-04T03:28:08Z	49,347	43,911	5,436	8,305	4,928	3,377	154,395	142,750	11,645	22,757	20,401	2,356	2,464	2,040	424	206,206	188,701	17,505
Fulton	2020-11-04T03:55:12Z	60,251	51,468	8,783	10,904	7,557	3,347	175,527	159,337	16,190	21,132	16,587	4,545	2,934	2,281	653	238,712	213,086	25,626
Fulton	2020-11-04T04:17:18Z	69,898	58,729	11,169	9,647	7,261	2,386	196,948	173,723	23,225	21,421	14,386	7,035	3,305	2,424	881	270,151	234,876	35,275
Fulton	2020-11-04T05:08:23Z	80,271	68,508	11,763	10,373	9,779	594	238,418	210,421	27,997	41,470	36,698	4,772	3,668	2,681	987	322,357	281,610	40,747
Fulton	2020-11-04T05:55:02Z	104,888	86,146	18,742	24,617	17,638	6,979	286,497	250,234	36,263	48,079	39,813	8,266	4,495	3,109	1,386	395,880	339,489	56,391
Fulton	2020-11-04T06:36:47Z	105,379	86,327	19,052	491	181	310	289,177	252,456	36,721	2,680	2,222	458	4,536	3,125	1,411	399,092	341,908	57,184
Fulton	2020-11-04T08:14:55Z	120,083	86,327	33,756	14,704	0	14,704	319,268	252,456	66,812	30,091	0	30,091	5,073	3,125	1,948	444,424	341,908	102,516
Fulton	2020-11-04T13:59:52Z	120,083	100,982	19,101	0	14,655	-14,655	319,268	282,454	36,814	0	29,998	-29,998	5,073	3,658	1,415	444,424	387,094	57,330
Fulton	2020-11-04T21:11:50Z	120,183	100,982	19,201	100	0	100	319,348	282,454	36,894	80	0	80	5,074	3,658	1,416	444,605	387,094	57,511
Fulton	2020-11-04T21:43:48Z	123,332	104,131	19,201	3,149	3,149	0	331,384	294,490	36,894	12,036	12,036	0	5,244	3,828	1,416	459,960	402,449	57,511
Fulton	2020-11-05T00:18:44Z	126,755	104,131	22,624	3,423	0	3,423	344,435	294,490	49,945	13,051	0	13,051	5,460	3,828	1,632	476,650	402,449	74,201
Fulton	2020-11-05T00:27:47Z	126,755	107,554	19,201	0	3,423	-3,423	344,435	307,541	36,894	0	13,051	-13,051	5,460	4,044	1,416	476,650	419,139	57,511
Fulton	2020-11-05T03:00:26Z	128,040	108,839	19,201	1,285	1,285	0	349,742	312,848	36,894	5,307	5,307	0	5,548	4,132	1,416	483,330	425,819	57,511
Fulton	2020-11-05T06:11:28Z	130,281	108,839	21,442	2,241	0	2,241	357,801	312,848	44,953	8,059	0	8,059	5,709	4,132	1,577	493,791	425,819	67,972
Fulton	2020-11-05T07:15:34Z	130,281	111,080	19,201	0	2,241	-2,241	357,801	320,907	36,894	0	8,059	-8,059	5,709	4,293	1,416	493,791	436,280	57,511
Fulton	2020-11-05T10:53:37Z	132,222	111,080	21,142	1,941	0	1,941	364,211	320,907	43,304	6,410	0	6,410	5,826	4,293	1,533	502,259	436,280	65,979
Fulton	2020-11-05T11:30:38Z	132,222	113,021	19,201	0	1,941	-1,941	364,211	327,317	36,894	0	6,410	-6,410	5,826	4,410	1,416	502,259	444,748	57,511
Fulton	2020-11-05T16:33:26Z	133,586	113,021	20,565	1,364	0	1,364	368,864	327,317	41,547	4,653	0	4,653	5,939	4,410	1,529	508,389	444,748	63,641
Fulton	2020-11-05T16:33:26Z	133,586	113,021	20,565	0	0	0	368,864	327,317	41,547	0	0	0	5,939	4,410	1,529	508,389	444,748	63,641
Fulton	2020-11-05T16:45:25Z	133,586	114,385	19,201	0	1,364	-1,364	368,864	331,970	36,894	0	4,653	-4,653	5,939	4,523	1,416	508,389	450,878	57,511
Fulton	2020-11-05T21:58:39Z	135,043	115,842	19,201	1,457	1,457	0	373,569	336,675	36,894	4,705	4,705	0	6,082	4,666	1,416	514,694	457,183	57,511
Fulton	2020-11-07T07:44:46Z	136,140	116,548	19,592	1,097	706	391	377,484	339,296	38,188	3,915	2,621	1,294	6,180	4,721	1,459	519,804	460,565	59,239
Fulton	2020-11-08T07:20:47Z	136,716	116,550	20,166	576	2	574	379,095	339,402	39,693	1,611	106	1,505	6,239	4,721	1,518	522,050	460,673	61,377
Fulton	2020-11-11T00:10:49Z	137,200	116,772	20,428	484	222	262	381,057	340,476	40,581	1,962	1,074	888	6,275	4,731	1,544	524,532	461,979	62,553
Fulton	2020-11-13T01:21:49Z	137,240	116,772	20,468	40	0	40	381,144	340,476	40,668	87	0	87	6,275	4,731	1,544	524,659	461,979	62,680

Source: Edison data, NYT API Election day includes provisional; Absentee includes Early for county reporting

RESPONSES TO DR. MAYER:

SOURCE: https://elections.sos.ga.gov/Elections/voterabsenteefile.do

In reading Dr. Mayer's response, it appears he doesn't know or failed to isolate or otherwise identify ballot records with no return date that were mailed and not cancelled. These ballots are, at the very least, "live" ballots and within the Dominion system are available for misappropriation and assignment to people who otherwise

didn't vote. That is exactly why ballots need to be tracked and affirmatively marked cancelled. This misappropriation is technically possible, in fact it's technically easy as one can see if they read the Dominion manual.

Our source data was from https://elections.sos.ga.gov/Elections/voterabsenteefile.do. and was downloaded November 16th.

Apparently Dr. Mayer chose a different source of data that had already excluded those ballots with no return date.

Our dataset has about total is 4.3M lines of absentee and early ballots. Those lines include roughly 230,000 lines with no return date. Parsing those lines to eliminate the C (cancelled), R (rejected) and S (spoiled) ballots still leaves approximately 134,588 ballots that have no received back date *and* the ballot was not marked cancelled. Therefore, these ballots are available for electronic assignment and manipulation and should be considered as likely candidates for malfeasance. We can probably agree that there were roughly 100,000 ballots cancelled, but I was highlighting the number of ballots not cancelled that were mailed out. We do not take issue with the number of cancelled ballots, it just wasn't my point.

Finally, these ballots are spread across a number of counties, and in the huge number they represent constitute either gross and widespread negligence, or something worse.

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

CORECO JA'QAN PEARSON, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	1:20-cv-4809-TCB
	)	
BRIAN KEMP, *et al.*,	)	
	)	
Defendants.	)	

DECLARATION OF FRANCES WATSON

Pursuant to 28 U.S.C. § 1746, I, FRANCES WATSON, make the following declaration in support of the Defendants' Response In Opposition To Plaintiffs' Emergency Motion For Declaratory, Emergency, And Preliminary Injunctive Relief in the above-captioned matter.

1. I am over the age of 21 years, and I am under no legal disability which would prevent me from giving this declaration. If called to testify, I would testify under oath to these facts.

2. I am the Chief Investigator in the Office of the Georgia Secretary of State. In this position, I conduct and supervise investigations of potential violations of state election law.

3. Investigators in the Secretary of State Office's are certified by the Georgia Peace Officer Standards and Training Counsel, and they conduct investigations into the administration of elections and potential frauds and irregularities in elections in Georgia, among other things. Upon concluding an investigation into violations of Georgia election law, the findings of such investigations are reported to the State Election Board for further action.

4. On November 3, 2020, the Secretary of State's Office received complaints that staff of the Fulton County Board of Registrations and Elections directed clerks, public observers, and media personnel to leave the State Farm Arena location where ballots were being tabulated due to a water leak at the State Farm Arena, but Fulton County staff continued to scan ballots in the tabulation center at the State Farm Arena.

5. The Secretary of State's Office opened an investigation into the incident at State Farm Arena. Our investigation revealed that the incident initially reported as a water leak late in the evening on November 3rd was actually a urinal that had overflowed early in the morning of November 3rd, and did not affect the counting of votes by Fulton County later that evening.

6. My investigators have interviewed witnesses and security footage of State Farm Arena between November 3 and 4, 2020. Our investigation

discovered that observers and media were not asked to leave. They simply left on their own when they saw one group of workers, whose job was only to open envelopes and who had completed that task, also leave.

7. Our investigation and review of the entire security footage revealed that there were no mystery ballots that were brought in from an unknown location and hidden under tables as has been reported by some. Video taken hours before shows the table being brought into the room into the room at 8:22 a.m. Nothing was underneath the table them. Around 10 p.m., with the room full of people, including official monitors and the media, video shows ballots that had already been opened but not counted placed in the boxes, sealed up, stored under the table. This was done because employees thought that they were done for the night and were closing up and ready to leave. When the counting continued into later in the night, those boxes were opened so that the ballots inside could then be counted.

8. The investigation remains open and is being investigated by the investigators in the Secretary of State's Office.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of December, 2020.

Frances Watson

FRANCES WATSON

Declaration of Juan Gilbert

Originally filed in *Curling v. Raffensperger*, 1:17-cv-2989, Doc No. 821-7

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EXHIBIT A

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

DONNA CURLING, ET AL., Plaintiffs, v. BRAD RAFFENSPERGER, ET AL, Defendants.	CIVIL ACTION FILE NO. 1:17-cv-2989-AT

DECLARATION OF JUAN E. GILBERT, PH.D.

Pursuant to 28 U.S.C. § 1746, I, Juan E. Gilbert, make the following declaration:

I. BACKGROUND

1. My name is Juan E. Gilbert

2. I have been retained by Robbins Ross Alloy Belinfante Littlefield LLC and Taylor English Duma LLP on behalf of the Georgia Secretary of State and the State Election Board members. I have been asked to offer opinions regarding the declarations and exhibits attached to Plaintiffs' recent Motions for Preliminary Injunction.

3. Specifically, I have reviewed the October 2, 2019 Declaration of J. Alex Halderman, the Def Con 27 Voting Machine Hacking Village August 2019 Report, "Ballot-marking devices (BMDs) cannot assure the will of the voters" authored by Andrew Appel, Richard DeMillo, and Philip Stark (the "Appel White Paper"), the October 22, 2019 Declaration of Philip B. Stark, and the October 22, 2019 Declaration of Kevin K. Skoglund.

4. My background, experience and qualifications are set forth in my curriculum vitae, which is attached as **Exhibit A**. As demonstrated by my curriculum vitae, I have over 20 years of post-graduate experience in the field of computers generally, and since 2002 I have focused on technology in voting systems, including the development of accessible voting systems.

5. I currently hold the title of Andrew Banks Family Preeminence Endowed Professor and Chair of the Computer & Information Science & Engineering Department at the University of Florida where I also lead the Human Experience Research (HXR) Lab. I have held the title of Department Chair at the University of Florida since 2015 and joined the faculty there as Professor and Associate Chair in 2014.

6. I have earned a Bachelor of Science in Applied Science from Miami University in Oxford, Ohio (1991); a Master of Science in Computer Science from the University of Cincinnati (1995); and a Doctor of Philosophy in Computer Science from the University of Cincinnati (2000).

7. Prior to joining the University of Florida, I held the title of Presidential Endowed Professor and Chair of the Division of Human-Centered Computing at Clemson University in Clemson, South Carolina (2009-2014) and also held the position of Graduate Program Director in the Division of Human-Centered Computing (2010-2012). Additionally, I held the title of Professor (2009), Associate Professor (2005-2009), and Assistant Professor (2000-2005) at Auburn University in Auburn, Alabama. I was also a Visiting Instructor in the Miami University (OH) Systems Analysis Department.

8. I was a member of the National Academies of Science, Engineering and Medicine ("NASEM" or "National Academies") Committee on the Future of

Voting: Accessible, Reliable, Verifiable Technology which produced the report "Securing the Vote: Protecting American Democracy." Additionally, I participated on NASEM Committees regarding developing interest in and mentoring in Science, Technology, Engineering, Medicine, and Mathematics ("STEMM").

9. In 2018, I was named a Fellow of the Association for Computing Machinery, the highest honor awarded by the Association reserved for, at most, 1% of ACM members in recognition of outstanding accomplishments in computing and information technology.

10. At various times, I have also served as a reviewer for various academic journals, including: *Journal of Women and Minorities in Science and Engineering*, *Computers & Security Journal*, *Journal of STEM Education*, and the *International Journal of Artificial Intelligence in Education*. I have also served on multiple panels and committees for the National Science Foundation.

11. In 2012, I received the Presidential Award for Excellence in Science, Mathematics, and Engineering from President Barack Obama. I have also received awards from the American Association for the Advancement of Science (AAAS) (2014) and the Computer Research Association (2018)

12. In my career, I have published more than 180 articles, delivered over 250 presentations and obtained more than $27 million in grants and funding in the field of computer science, generally. Specifically, I also was selected to direct a

three-year, $4.5 million project funded by the U.S. Election Assistance Commission to increase the accessibility of new, existing, and emerging technological solutions in the design of voting systems.

13. I have provided expert testimony to the Presidential Commission on Election Administration and Technology (September 19, 2013), the U.S. Congressional Committee on Rules and Administration, Bipartisan Electronic Voting Reform Act of 2008 (July 30, 2008), and in the case *National Federation of the Blind v. Lamone*, No. RBD-14-1631, 2014 WL 4388342 (D. Md. Sep. 4, 2014).

14. My research and work is currently focused in Human-Centered Computing, Natural Interactive Systems, Artificial Intelligence, Machine Learning, and Advanced Learning Technologies. Generally, my research focuses seek to integrate people, technology, information, and policy to address real world problems. Relatedly, I focus on creating user interfaces where a user can interact with computer systems using speech and multimodality, and employing intelligent strategies to personalize instruction to users.

15. In 2003, at the Auburn University Human Centered Computing Lab, I conceived the Prime III Voting System. Prime III is an open-source paper-based Ballot-Marking Device ("BMD") Voting System which offers a secure, multimodal electronic voting system that delivers system security, integrity, and user satisfaction while accommodating all users with the same voting method, regardless

of ability. I have continued refining and developing new advancements of this voting system during my time at Clemson University and the University of Florida.

16. I created Prime III to advance the state of voting in the wake of the 2000 Presidential Election. Prime III was designed to be software independent by using a paper ballot. The Prime III Voting System has been used in federal, state, and local elections. The State of New Hampshire adopted the Prime III voting system as their statewide accessible voting system and renamed it One4All.

II. Georgia's BMD System and Plaintiffs' Requested Relief

A. Georgia's BMD Voting System

17. I have reviewed documentation regarding the Dominion BMD Voting System Georgia is implementing, I understand it to generally consist of the following:

A. Dominion Election Event Designer Election Management System ("Dominion EMS").

B. Dominion Image Cast Prime X Ballot Marking Device and a separately attached printer ("Dominion BMD").

C. Dominion ImageCast Precinct Scanner and Tabulator ("Dominion ICP").

D. Paper for printing of paper ballots by the Dominion BMD (the

"Paper Ballot").

E. Dominion ImageCast Central which includes a Dell PC and a separately attached high-speed scanner for use in elections offices to process absentee ballots ("Dominion ICC").

F. KNOWink Poll Pad Electronic Poll Book for voter check in and creation of Voter Access Cards which store only ballot combination information for voting on the Georgia BMD ("Poll Pad").

18. Precinct Voting. I understand Georgia's BMD Voting System to generally work as follows on election day: Voters will arrive and check-in with poll-workers using the Poll Pad. The Voter will then be given a Voter Access Card to take to the Dominion BMD. A Voter will then insert the Voter Access Card and be presented with their ballot on the BMD screen. Voters will then select their candidates on the BMD screen and the BMD will print a paper ballot reflecting their selections from the attached printer. The paper ballot contains a human-readable listing of voter selections and a QR Code encompassing the selections. Voters then have the opportunity to review their ballot and will be instructed to do so by posted signage. After reviewing their ballot, voters then insert the ballot into the Dominion ICP to scan and record their vote. Importantly, there is no recording of a voter's selection on the Dominion BMD and the only device tabulating and

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"counting" votes is the Dominion ICP.

19. Pre-certification Audits. I understand that Georgia law requires local election superintendents to conduct precertification tabulation audits conducted by manual inspection of random samples of the official paper ballots. Importantly, under Georgia law, the paper ballot is the ballot of record and controls in such an audit.

20. Risk-Limiting Audits ("RLAs"). I understand that Georgia law also requires the Secretary of State to conduct a risk-limiting audit pilot program with a risk limit of not greater than ten percent. Upon successful completion of the Risk-Limiting Audit pilot program, Georgia law requires state-wide implementation of Pre-certification Risk-Limiting Audits. Again, the paper ballot is the ballot of record and controls in the audit.

21. As an expert in the field, I believe that the process described herein is consistent with best practices for conduct of elections and is consistent with the recommendations produced by the National Academies Committee on the Future of Voting: Accessible, Reliable, Verifiable Technology of which I was a member. Accordingly, it is also consistent with that Committee's report: "Securing the Vote: Protecting American Democracy."

22. Specifically, the Georgia BMD Voting System does not store a ballot or ballot information on the Dominion BMD, the ballot only contains a human-

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readable summary and QR Code, the paper ballot is the official ballot of record, and the ballot does not pass through a printer-head when scanning.

23. Moreover, the use of RLAs was strongly recommended by the NASEM Committee on the Future of Voting. I think the pilot of an RLA system is necessary before state-wide implementation to ensure its fidelity and integrity. I understand that Georgia election officials have visited other jurisdictions to learn from those election officials about the process of, and best practices for, conducting an RLA.

24. Finally, the Dominion BMD System has been certified by the EAC pursuant to the Voluntary Voting System Guidelines ("VVSG") 1.0. I understand that Plaintiffs complain the system has not been certified pursuant to the more recent VVSG Standards (i.e. VVSG 1.1 or VVSG 2.0), but no election system in the country has been certified under those standards.

B. Plaintiffs' Requested Relief

25. I understand that there are two different sets of Plaintiffs in this case seeking similar relief that is different in some respects. I will refer to the sets of Plaintiffs as Curling Plaintiffs and Coalition Plaintiffs.

26. Curling Plaintiffs. I understand that Curling Plaintiffs ask this Court to prohibit the State of Georgia from "using any system or devices for voting . . . that does not use hand-marked paper ballots as the primary method of recording the

elector's votes" and require the State to provide a plan to the Court to comply with that relief which includes pre-certification, post-election, manual tabulation audits." [Doc. 619-1].

27. Coalition Plaintiffs. I understand that Coalition Plaintiffs seek to similarly require the State to conduct all elections using hand-marked paper ballots as the primary method of recording electors' votes. Coalition Plaintiffs further seek to permit continued use of Georgia's old optical scanners, provide expanded paper back-ups of poll books and develop an auditing plan to be submitted to the Court and Plaintiffs, among other requests.

III. THE DIFFERENCES AND SIMILARITIES OF BALLOT-MARKING DEVICES AND HAND-MARKED PAPER BALLOTS

28. I will begin by defining the specific implementation of a BMD for this Declaration. Herein, when I refer to a BMD, I am specifically referring to an implementation that has the following properties:

A. The BMD does not record any voter information;

B. The BMD does not record any of the voter's choices;

C. The BMD prints a paper ballot that contains a QR Code containing the voter's selections (unless specifically noted otherwise in this section of my Declaration) and a ballot summary reflecting the voter's selections that is human-readable; and

D. The paper ballot is fed into a separate machine or optical scanner, that is separate and apart from the BMD, for tabulation.

29. As noted previously, I understand Georgia's BMD Voting System to comply with Paragraph 28 (A–D).

30. Similarly, when I refer to hand-marked paper ballots, I am referring to a system consisting of the following properties:

A. A voter marks his or her selections with a pen or pencil on a paper ballot; and

B. The ballot is then fed into a machine or optical scanner which tabulates the votes (unless otherwise specifically noted herein).

31. There are many similarities between a BMD Voting System and a hand-marked paper ballot voting system.

32. And, in my opinion, the similarities of both systems provide a baseline confidence of security, but the advantages of a BMD system with respect to undervotes, overvotes, auditability, and accessibility weigh in favor of a BMD system.

A. The Similarities

33. Both BMD and hand-marked systems are paper based. This is very different from the Direct Recording Equipment (DRE) that I understand Georgia previously used. It is difficult, if not impossible, to effectively secure a voting system that is only electronic; therefore, the National Academies report and I agree, all elections should be paper based until the state of technology advances and undergoes a rigorous review. Both BMD Voting Systems and hand-marked paper ballot voting systems are appropriately recorded and secured by physical paper, consistent with this recommendation.

34. Both are read by optical scanners. The scanners used by both BMD and hand-marked paper ballot voting systems are the machines that actually record votes (I understand that some jurisdictions hand-count paper ballots but I do not understand Curling or Coalition Plaintiffs to seek that in this case. Accordingly, though there are obvious issues with human error or malfeasance in hand-counting election results, I will not discuss that herein).

A. Optical scanners are computers and they therefore may be

susceptible to manipulation. However, this applies with equal force to both BMD and hand-marked paper ballot voting systems. This susceptibility is why audits are recommended for both hand-marked paper ballot and BMD voting systems.

B. Additionally, optical scanners read both ballots in a similar manner. In a BMD Voting System, the scanner reads a QR Code. In a hand-marked paper ballot voting system, the scanner does not read ballot text like a human would. Instead, the scanner is translating coordinates of an oval or other mark into coordinates that are coded to mark a vote for a candidate—assuming the mark is within the specified coordinate space. As such, in both systems, a scanner is translating information in a similar manner under either system, using either coordinates or a QR Code to translate into a recorded vote.

35. Both are auditable. Both BMD and hand-marked paper ballot voting systems can be audited by an RLA or a recount to confirm the tallies of the optical scanners. Since the human-readable record controls under either system, an audit or recount can reveal any issues with the tally, whether due to a misread or malfeasance. I understand Plaintiffs' Experts dispute this, which I will address in the rebuttal portions of this Declaration.

B. The Differences

36. While there are many similarities between hand-marked paper ballot and BMD voting systems, there are also some significant differences. Again, I will continue to refer to both systems as defined above.

37. Undervotes. Generally, an undervote occurs whenever a voter (consciously or inadvertently) does not vote in a race on their ballot.

A. Hand-marked paper ballot systems provide no limitation on undervotes absent a poll-worker reviewing a voter's ballot and informing the voter of an undervote or the scanner being programmed to reject a ballot due to detecting an undervote. However, either of these remedies for hand-marked paper ballot systems are problematic because (1) Georgia protects the secrecy of the ballot and poll-worker review of individual ballots could lead to intimidation; and (2) refusing to vote in a particular race may be a conscious choice of a voter that he or she is entitled to make.

B. BMD systems on the other hand often provide a notification, by way of either an on-screen summary or the printed summary on the ballot of no selection or something similar. This provides voters a way to be privately informed of their undervote and

remedy it if they so choose. I have not personally observed this notification on the Dominion BMD but I understand Georgia's implementation of that BMD does confirm this via both an on-screen summary and human-readable text on the ballot.

C. Undervote Hack. Hand-marked paper ballot systems are subject to undervote attacks with only a pen or pencil that no scanner or audit would catch. This is a significant vulnerability from an election security perspective that is rarely discussed. In the case of a hand-marked paper ballot undervote, no mark is made on a ballot and the "oval" is left blank. In a matter of seconds an insider could fill in any undervotes with their preferred candidate and the only way to detect this attack would be to catch them in the act. It is not possible on a printed BMD ballot to interfere with an election in this simple manner.

D. Disparate Impact on Minority Voters. I have reviewed the Report of the 21st Century Voting Commission submitted to Governor Roy Barnes in December 2001.[1] Concerningly, that

[1]Report of the 21st Century Voting Commission, 18-19 (December 2001) (*available at* https://www.sos.state.co.us/pubs/elections/VotingSystems/files/2015/21stCenturyReport.pdf) (hereinafter 21st Century Report).

Commission's review of data from the 2000 Presidential Election in Georgia found that undervote rates[2] were higher in predominantly black precincts than in predominantly white precincts, both of which used systems that permit undervotes. While I have not personally conducted research on this finding or reviewed the underlying data, I have no reason to doubt the Commission's work—the finding is disturbing and should be addressed before any switch to a system that permits undervotes.

38. Overvotes. An overvote occurs when a voter selects more candidates than is permitted in an election.

A. A hand-marked paper ballot system, just as in undervoting, provides no limitation to prohibit overvoting. In theory, a scanner could be programmed to reject an overvoted ballot, but in practice this could result in long lines and delayed voting at precincts when the voter has to re-mark a new ballot. This could

[2] Due to lack of data available at the time, the Commission indicates the undervote rate it found also includes overvotes. In other words, an overvote (marking to candidates for the same race) led to a non-vote in that race and due to the way that data was collected at the time non-votes were all counted as overvotes. Accordingly, this finding may apply with equal force to overvotes, but more research would need to be conducted.

lead to voter frustration and voters choosing not to vote. Further, I am not aware of any research or data showing this is an effective method of eliminating overvotes. Poll-worker review of ballots presents the same problems discussed in Paragraph 36(A).

B. BMD voting systems, on the other hand, eliminate this problem. Again, I have not personally used a Dominion BMD as configured for Georgia, but I understand that if a voter attempts to overvote in a particular race on a Dominion BMD it will prohibit that voter from doing so. The voter must de-select their other choice before being permitted to select a new choice.

C. Overvote Hack. This is another vulnerability that is rarely discussed but is a real threat that requires only a pen or pencil and no specific training or sophistication. For example, if a voter selects Bugs Bunny for Governor of Georgia but an insider wants Daffy Duck to win, an insider can simply overvote the ballot for Daffy Duck. In such a scenario the ballot then may be either an uncounted vote that was intended to be cast for Bugs Bunny or worse, a decision regarding voter intent is later made to count the ballot for Daffy Duck. It is not

possible on a printed BMD ballot to interfere with an election in this simple manner.

39. Auditability, Recounts, and Voter Intent. While, as mentioned in the Similarities section above, both hand-marked paper and BMD voting systems can be audited, BMD voting systems provide significant advantages in this context.

A. A hand-marked paper ballot can be marked in any way a voter chooses. This results in marks that may be read by the scanner differently from the way the voter intended (e.g. a stray mark in a different bubble) or may not be read at all. This would not require criminal conduct but the effect of not recording a voter's intent accurately is the same. Moerover, this results in a situation where officials conducting an audit must interpret the voter's intent—the worst-case scenario for an audit or recount.

B. The primary goal of having a paper ballot is to enable an audit to ensure the integrity of the election; therefore, the audit or manual recount is the final say in the election outcome. If the auditability of the ballots is compromised, then the audit/recount fails. This has been seen in many elections starting with Florida's 2000 Presidential Election and later in elections that used HMPB like the 2008 Minnesota Senate Race

or the 2010 Alaska Senate Race. Some will argue that these ballots are a minority and that is true, but they exist and still could have an impact on a close election.

C. Ambiguous marks cannot occur on a BMD: the voter's intent is clear in the ballot summary and an auditor will not be asked to interpret voter intent.

D. Some will argue that the QR Code is not human-readable; therefore, this is a problem. This is only an issue if the QR Code is the ballot of record and there is no RLA and/or pre-election testing. If QR Codes are inconsistent with the human-readable portion of the ballot, this will be detected during the RLA and may signal a full manual recount.

E. A QR Code can also be examined during pre-election testing or post-election audits or recounts to confirm its validity.

F. Finally, in the future, a QR Code may provide a stronger audit trail to detect errors or malfeasance. A QR code could be programmed to contain information to trace a ballot back to a particular precinct or machine. While I understand this particular feature has not yet been approved by the Election Assistance Commission, so long as this can be done in the

future without compromising ballot secrecy, this is a significant advantage to uncovering issues by way of audits.

G. Even without this additional advancement in technology, in my opinion, a QR Code provides a significant advantage in auditing because it can unambiguously reveal malfeasance or errors. And because the ballots contain the voter's selection in human-readable format which controls in any recount or audit, an error could be remedied by a manual recount.

40. Accessibility. As mentioned elsewhere in this Declaration, a significant portion of my research and the motivation behind the Prime III voting system is the accessibility of elections systems. Simply put, a hand-marked paper ballot system is not accessible to voters with disabilities while a BMD system is. While this presents policy and legal problems, it also exacerbates security vulnerabilities in elections.

A. First, voters with certain disabilities cannot use hand-marked paper ballots without human assistance which violates their privacy. For example, a blind voter cannot use a paper ballot at all without assistance and a voter with limited motor function and coordination may also have difficulty properly marking a ballot on his or her own. The same may be true for certain

elderly voters whose motor skills are declining.

B. BMD systems however are more accessible to these voters. BMDs are easier to touch for voters with weak motor skills and/or have adaptations for use with the same device. Similarly, BMD systems can audibly dictate to a voter their choices on the same machine that the general populace uses. Again, while I have not personally used the Dominion BMD system as procured for Georgia, I understand that it has this capability. It has adaptations for a control, audible instructions and feedback, and even an adaptation for a sip-and-puff device for severely disabled voters. Even for those without a severe disability, BMDs have the capability to increase text size and change text color to enhance readability.

C. When hand-marked paper ballot systems have been recommended in other contexts, it is often due to the alleged vulnerabilities of a particular voting system. However, in many instances proponents of hand-marked paper ballots while arguing that BMDs are insecure suggest that it is OK for people

with disabilities to vote on. This is unacceptable[3] in my opinion and threatens the security of an election.

D. If individuals with disabilities vote one way and everyone else votes a different way, this provides fertile ground for an attack. When an attacker knows the specific limitation of the population using a certain system, it is easier for that attacker to tailor an attack without being detected.

E. Further, the number of disabled voters may be larger than the margin of victory in many critical jurisdictions. For example, it is estimated that disabled eligible Georgia voters numbered approximately 1.136 million, 16.1% of all eligible voters, in the 2016 elections[4] and nationwide turnout of disabled voters was estimated at 55.9%.[5] Using this rough estimate, approximately

[3] While I understand certain federal or state laws may be implicated by the scenario described here, I am not a lawyer and am not offering any opinion on the **legal** sufficiency of any system.

[4] Projecting the Number of Eligible Voters with Disabilities in the November 2016 Elections, L. Schur and D. Kruse, Rutgers University (2016) (*available at* https://smlr.rutgers.edu/sites/default/files/documents/faculty_staff_docs/Kruse%20and%20Schur_Disability%20electorate%20projections%202016_9-8-16.pdf).

[5] L. Schur, Disability, Voter Turnout, and Polling Place Accessibility, Presentation to National Academies of Sciences, Engineering, and Medicine's Committee on the Future of Voting (Jun. 2017) (*available at* https://sites.nationalacademies.org/cs/groups/pgasite/documents/webpage/pga_180931.pdf).

635,000 disabled voters cast votes in Georgia in 2016, far greater than the 211,411-vote difference between Donald Trump and Hillary Clinton in Georgia.[6]

F. Setting aside my concerns regarding voter accessibility, from a security perspective, it is better to have a diversity of voters using the same equipment rather than isolating a certain demographic of voters by type of equipment or voting process.

IV. REBUTTAL OF PLAINTIFFS' DECLARATIONS AND EXHIBITS

A. October 2, 2019 Declaration of Dr. J. Alex Halderman

41. I have reviewed the Declaration of Dr. J. Alex Halderman, dated October 2, 2019, and filed with this Court, all Paragraph references herein refer to that document, [Doc. 619-2], unless explicitly stated otherwise. I offer the following opinions in rebuttal.

42. In Paragraph 3, Dr. Halderman states "important databases, files, computers, and personnel will carry forward from the current election system (the "GEMS/DRE System"). This means that vulnerabilities in these aspects of the GEMS/DRE System will also affect the security of the [Georgia BMD Voting System]."

[6] Georgia Secretary of State, November 8, 2016 Election Results (*available at* https://results.enr.clarityelections.com/GA/63991/184321/en/summary.html).

43. As a preliminary matter, it is unclear to me what, exactly, Dr. Halderman means to say will "carry forward," but it appears contrary to the facts of Georgia's BMD Voting System. In any event, the Georgia BMD System includes a new EMS which replaces the old GEMS in its entirety and there is simply no software continuity between the two systems to transmit viruses or malware. If he is referring to the general framework of building ballot combinations and ballot data then that is a separate matter entirely for two reasons. First, I understand that Georgia law requires export files from any Voter Registration System to be scanned with anti-virus and anti-malware software before use in any other elections system along with endpoint protection and a host of other requirements regarding security of any existing voter database files.[7] Second, this assertion is irrelevant to the security of the new BMD Voting System itself since there is no software or hardware connection to infect the new equipment. I assume that some personnel will remain in the Secretary of State's Office, but I also assume Dr. Halderman is not suggesting that all personnel be removed or that the Secretary's Office has been infiltrated by attackers employed there. Simply put, the Georgia BMD system is an entirely new and separate Voting System.

44. In Paragraph 4 Dr. Halderman states that "BMDs are computers, meaning they are susceptible to hacking." I agree that generally any computer can

[7] O.C.G.A. § 45-13-20; Ga. Comp. r. & Reg. 590-8-3-.01.

be hacked, but I understand Plaintiffs' proposed systems to also utilize computers for voter registration and computerized scanners for tabulation. These can also, in theory, be hacked. Additionally, as described above, hand-marked paper ballots themselves can be "hacked" by far less sophisticated means. In sum, the general statement that computers can be hacked is no justification to remove all computers from any type of interaction with voting and elections systems.

45. In Paragraph 5, Dr. Halderman states that use of barcodes generally increases the "attack surface." I do not generally dispute this is the case. And in Paragraph 6, Dr. Halderman goes on to explain a "plausible attack scenario" where a barcode is altered to encode a vote for one candidate but the summary remains for the other.[8] As Dr. Halderman acknowledges though, an effective RLA would catch this "plausible scenario."

46. But, Dr. Halderman's "plausible attack scenario" could occur with a hand-marked paper ballot system. As previously discussed, an insider could simply mark ballots (resulting in a ballot not counting or counting differently than the view of the ballot when the voter completed it) or an attack could be made on optical scanners to re-code how the ballot reads a legitimate mark. And, again, a scanner is not reading the text of a ballot in either system, it is translating either coordinates

[8] As an aside, I do not understand "barcodes," as commonly known, to be at issue in this case. Instead, the Dominion BMD System uses QR codes. For the sake of argument and clarity, I will not correct Dr. Halderman's terminology.

(hand-marked ballot) or a QR code (BMD ballot) into a vote.

47. In Paragraphs 9-11 Dr. Halderman discusses a contemplated update to the Dominion BMD System available after certification by the United States Election Assistance Commission. First, EAC certification is a significant point, in and of itself: Certification means that a system complies with the security and fidelity requirements of the federal agency charged with this task and is necessary to provide assurance of a voting system's integrity. Importantly, the Dominion System that Georgia is deploying has been certified by the EAC. Second, I would be surprised if Dr. Halderman believes that Georgia should use a non-certified system, in which case I am unsure what his assertion is other than he prefers BMD systems which use Optical Character Recognition ("OCR") even though it has not yet been certified.

48. In Paragraphs 12–17, Dr. Halderman generally asserts that BMD systems cannot be voter-verified and therefore cannot be audited. For reasons stated previously, I believe this broad assertion is incorrect (in fact, in my opinion, BMD ballots with two forms of vote recordation may be a more reliable record for auditing). I provide the following specific points rebutting this assertion.

49. First, Dr. Halderman cites his own research at the University of Michigan which is apparently undergoing peer review now. I cannot specifically rebut the underlying data since he did not provide it.

50. Second, footnote 4 of Dr. Halderman's declaration summarily states that certain reminders improved this percentage, but Dr. Halderman chose not to include those numbers in his declaration. He further did not document the numbers regarding the interventions he says "had no effect." Surely Dr. Halderman is aware that H.B. 316 requires signage in each polling booth reminding voters to check their ballots, it is surprising to me he would not include this number. In the same footnote, he concludes further research and testing are necessary to establish whether interventions are effective. However, he certainly would also agree that further research must be done to establish the 6.5% rate of participants noticing a ballot change must be conducted to conclusively establish that assertion.[9]

51. Conversely, I am aware that Dr. Michale Byrne, Professor of Psychology at Rice University, has conducted research that shows significant gains in voters reviewing their ballots when a poll worker prompts them to do so.

52. In Paragraph 16 Dr. Halderman states "It is true that voters using hand-marked paper ballots also make errors. However, for the most part, human errors in hand-marked paper ballots tend to be random. Errors that favor a candidate

[9] Again, I cannot conclusively comment on this without any of the data backing up Dr. Halderman's assertions, but logically one would need to also control for the real impact of a *real* election in such a study. In other words, a voter's knowledge and thought about voting for a candidate leading up to an election is far different than a mock election voting for people who may not be real, or just an election which we *know* is not real.

tend to be largely canceled out by errors that disfavor that candidate. This has a tendency to equalize the effect of errors across parties or ideologies." Dr. Halderman provides no evidence or data to support either claim: that hand-marked paper ballot "errors are random;" and that they equalize or cancel each other out.

53. As to Dr. Halderman's assertion that the marks are random, there is no indication on a hand-marked paper ballot that a mark is indeed "random." Instead, the mark may be evidence of the intention of a voter to cross-out or circle a candidate, disregarding the instructions. In any event, the conclusory statement here does not establish marks as a general rule are "random" without any evidence or support.

54. Additionally, the 21st Century Report I referenced earlier tends to negate his assertion that the errors cancel each other out. There, overvotes and undervotes on hand-marked paper ballots were far more prevalent in majority-minority precincts.[10] Regardless, this conclusory statement is not supported by any peer-reviewed evidence cited by Dr. Halderman or that I am generally aware of.

55. In Paragraph 15, Dr. Halderman states that if a problem were discovered that altered *both* the ballot summary and the QR Code then the only remedy would be to rerun the election. But the same is true with hand-marked paper ballots. If a bad actor altered hand-marked paper ballots by marking them

[10] 21st Century Report, *supra* n. 1, pp. 18-20.

(completing undervotes, purposely adding overvotes, or simply attempting to spoil ballots with ambiguous marks) to influence an election (or maybe even just poor ballot design and confusion), there would be no evidence indicating which mark is the "correct" mark. Accordingly, the only corrective action that could be taken is the same: a rerun of the election.

56. Moreover, under Dr. Halderman's "plausible attack scenario," of an attacker altering the QR Code but not the summary, a hand-marked paper ballot would be worse. With a BMD system, a properly conducted RLA would detect an attack and the human readable portion is again the official ballot of record.[11] Under a hand-marked paper ballot system, if a bad actor marks ballots, an RLA could not conclusively determine malfeasance had occurred.

B. October 22, 2019 Declaration of Philip B. Stark

57. I have reviewed the Declaration of Philip B. Stark, dated October 22, 2019, and filed with this Court, all Paragraph references herein refer to that document, [Doc. 640-1, pp. 40–45], unless explicitly stated otherwise. I offer the following opinions in rebuttal.

[11] I note here that Plaintiffs' experts will presumably assert that a BMD cannot be verifiable because the QR code cannot be read by the naked eye. However, Dr. Halderman has already stated interventions which he believes increase verifiability, I have additionally pointed to Dr. Byrne's research, and Dr. Halderman has provided no evidence as to the review voters conduct on a hand-marked paper ballot.

58. Dr. Stark[12] states in Paragraph 2 that "BMDs are essentially as vulnerable as the DRE machines they would replace, despite the fact that BMDs generate a 'voter-verifiable' paper trail." I fundamentally disagree with this statement and it, in my opinion, is misleading. As an expert in the field of elections and developer of a voting system myself, paper-ballot based BMDs are more secure than DREs. Moreover, the National Academies Securing the Vote Report agrees BMDs are more secure as well. I am familiar with Dr. Stark and can only assume that the term "essentially" is being used to carry that statement.

59. In Paragraph 5, Dr. Stark states "Bugs, misconfiguration, or malicious hacking can cause the BMD to print something other than the selections the voter made on the touchscreen or accessible interface. Hand-marked paper ballots do not have that vulnerability." This is simply not true. To my knowledge, every jurisdiction using hand-marked paper ballots has processes in place to determine voter intent, because marks on a hand-marked paper ballots can be ambiguous, as previously discussed. Additionally, poor ballot design can cause voter intent to be unclear with hand-marked paper ballots, even where there is no ambiguous mark—for example, a voter may think an "oval" corresponds to a different candidate. This is the same vulnerability Dr. Stark is describing, a ballot that does not clearly reflect

[12] I understand Dr. Stark to be a statistician, but he appears to offer opinions regarding computer and elections security and not statistics. Nonetheless, I will address his contentions.

a voter's intent whether due to malfeasance or human error.

60. In Paragraph 7, Dr. Stark goes on to state: "If an audit or inspection of a BMD happens to discover a malfunction, there is in general no way to tell whether the malfunction altered electoral outcomes, nor any way to determine the correct electoral outcomes." The BMDs, however, are not recording or tallying votes, they are producing paper ballots which can be reviewed and confirmed by a voter. In essence, a BMD is nothing more than an ink pen—but one that can avoid ambiguous marks that belie voter intent.

61. In Paragraph 8, Dr. Stark states that BMDs are not "strongly software independent" and that only hand-marked paper ballots can detect whether a malfunction altered the outcome. First, I disagree with Dr. Stark that hand-marked paper ballots are "strongly software independent." For example, if undervote and overvote hacks occur with paper ballots, there's no way to recover the election other than a do over. As such, hand-marked paper ballots are not "strongly software independent" Instead, I believe that both BMDs and hand-marked paper ballots have the same property of being software independent but not *strongly* software independent.

62. Regardless of semantics, this statement simply misses the point. Take, for example, the 2018 Election to United States Senate in Florida. In that race, there was a severe undervote in the Senate race—more than 24,000 voters who voted in

the race for Governor failed to vote in the U.S. Senate race with a margin of victory of about 11,000—and a consensus has developed that this was due to poor ballot design.[13] In this instance, there is still no remedial action other than simply counting the ballot that likely contained an error, regardless of software independence.

63. In Paragraph 13, Dr. Stark references a paper titled "What Voters Are Asked to Verify Affects Ballot Verification: A Quantitative Analysis of Voters' Memories of Their Ballots" to support his claim that voters are not good at verifying their ballot summaries.[14] This is a flawed study and this paper was not subject to peer review. In that study, they asked voters to recall ballot information after they had voted and they did not conduct any comparison with hand-marked paper ballot voters. Additionally, the study was conducted by asking voters to review a ballot *outside the polling place*. Accordingly, the study did not reflect whether voters with a hand-marked paper ballot could recall their votes and further it apparently tested short-term memory—not verification in the precinct of a freshly printed ballot.

[13] *See, e.g.*, Florida Recounts Senate Votes Yet Again, and Nelson's Chances Dwindle, *New York Times*, Nov. 16, 2018 (*available at* https://www.nytimes.com/2018/11/16/us/rick-scott-bill-nelson-recount.html).

[14] Notably, Marilyn Marks, who I understand to be affiliated with the Coalition for Good Governance, a Plaintiff in this case, is listed as a contributor to this paper.

C. October 22, 2019 Declaration of Kevin K. Skoglund

64. I have reviewed the Declaration of Kevin K. Skoglund, dated October 22, 2019, and filed with this Court, all Paragraph references herein refer to that document, [Doc. 640-1, pp. 47–66], unless explicitly stated otherwise. I offer the following opinions in rebuttal.

65. In Paragraphs 23–24, Mr. Skoglund seems to offer the opinion that voting by hand-marked paper ballot is faster than voting by BMD paper ballot. He does so without any evidence or support for this proposition. However, in an internal study I conducted with others while at Clemson University we found the opposite—that voting by BMD is faster than hand-marked paper ballot.

66. In Paragraph 25, Mr. Skoglund references touchscreen miscalibration errors. However, these are exceedingly rare in modern touchscreen BMDs unlike older DRE touchscreen machines.

67. In Paragraph 30, Mr. Skoglund cites to a paper titled "How To Build an Undervoting Machine: Lessons from an Alternative Ballot Design," in support of his assertion that "[s]everal studies have shown that a significant number of voters do not verify machine-generated ballots carefully and do not detect errors." However, this cited paper doesn't discuss machine-generated paper ballots at all and instead concerns user interface design of BMDs and DREs. Mr. Skoglund also cites to the same unreliable study conducted by Richard DeMillo, Robert Kadel,

and Marilyn Marks that Dr. Stark used. For the reasons stated in Paragraph 13, I find this unpersuasive.

68. Mr. Skoglund makes several conclusory statements regarding the appearance of ballot summaries and abbreviations contained therein. However, he notably cites to no authority for his conclusions regarding the ability of voters to comprehend summaries and makes no allegations pertaining to a Georgia BMD-conducted election.

69. In Paragraph 37, Mr. Skoglund generally states that ballot summaries cannot be a reliable source for an audit because you cannot be sure it was properly verified. For the same reasons stated elsewhere in my Declaration, I find this unpersuasive.

D. Curling Plaintiffs' Exhibit 3: Def Con 27 Voting Machine Hacking Village Report

70. I have reviewed the Def Con 27 Voting Machine Hacking Village Report filed with this Court, [Doc. 619-9]. I offer the following opinions in rebuttal.

71. I am familiar with the Def Con Voting Machine Hacking Village, generally. This Report appears to assert several conclusory statements regarding hackability of voting machines with unlimited access. I do not see much to comment on in the Report largely because the Dominion Precinct Hybrid Scanner appears to be different than the system procured for Georgia. As such, I am not sure of the report's relevance.

E. Curling Plaintiffs' Exhibit 4: Paper authored by Appel, DeMillo, and Stark.

72. I have reviewed the Paper attached as Exhibit 4 to Curling Plaintiffs' Brief, filed with this Court at [Doc. 619-10], I offer the following opinions in rebuttal.

73. I find this Paper to be largely repetitive of previous assertions and will not waste the time of the Court by repeating them herein.

74. I agree with several points contained in this paper though. For example, I agree that that all-in-one devices should not generally be used in elections—but Georgia's BMD System is not an all-in-one system. Also, a BMD that separately prints a ballot with a readable ballot summary and scanned at a separate precinct based optical scanner with no printer head is not so insecure as to never be used.

75. I differ, however, with their conclusion that BMDs with separate scanners should only be used by disabled voters who cannot use a hand-marked paper ballot. As previously discussed, such a statement is inherently flawed in that it is permissible for a subset of voters to use a BMD Voting System but not the general populace, and further that segregating such voters only exacerbates concerns of manipulation.

[signature on next page]

I declare under penalty of perjury that the foregoing is true and correct. Executed this _13__ day of November, 2019.

Juan E. Gilbert, Ph. D.

EXHIBIT A

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/*Ā Ā <iXn]fi[(Ā<*L*Ā"Ā@`cY\ik(ĀC*>*Ā dS[`,eĀS`VĀ:^aU]e6ĀA`fdaVgU[`YĀFah[UWĀ
HdaYdS__WdeĀfaĀ:dS[`);a_bgfWdĀA`fWdXSUWĀ9bb^[USf[a`Ā<WhW^ab_W`f
MiXejXZk`fejĀfeĀ<fdglk`e^Ā>[lZXk`fe(Ā-5(Ā0(Ā=HB6Ā_kkgj6,*--01+f//14-1Ā
Ā Ā
0*Ā Ā Lk\^dXe(ĀI*(Ā<iXn]fi[(Ā<*L*(ĀĀ:e[laXi(ĀF*(ĀG`a_fck(Ā:*ĀĀĀ@`cY\ik(ĀC*>*Ā$.,:dS[`p
;a_bgfWdĀA`fWdXSUWĀKaXfiSdW6Ā9ĀJWh[WiĀS`VĀ<[eUgeeĀ MiXejXZk`fejĀfeĀ
AldXe)FXZ_`e\ĀLpjk\dj*Ā=HB6Ā-,*--,5+MAFL*.,.,*.5240--Ā
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1*Ā Ā =leYXi(ĀC*(Ā@`cY\ik(ĀC*Ā>*(Ā"ĀE\n`j(Ā=jbĀad[`YĀV[XXWdW`UWeĀTWfiWW`ĀeW^X)
dWbadfĀS`VĀW^WUfdabZke[a^aY[US^Ā[`V[UWeĀaXĀVdaiekĀfkdĀ[jY6ĀSfĀgeĀ
aXĀSĀbWdea`S^ĀTdS[`)Ua_bgfWdĀ[`fWdXSUWĀXcWhĀ[UX]\kpĀK\j\XiZ_(Ā=HB6Ā
_kkgj6++[f`*fi^+-,*-,-2+a*aji*.,.,*,0*,,2Ā
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2*Ā Ā ;i`ebc\p(ĀC*(ĀIfjX[Xj(Ā;*(ĀL_\idXe(ĀB*(Ā=X`cp(ĀL*;*Ā*Ā@`cY\ik(ĀC*>*Ā$.,-5%ĀGbW`Ā
JaSVĀ=hS^gSf[a`ĀaXĀSĀKW^X)<d[h[`YĀNWZ[U^WĀ@g_S`pESUZ[<WeĀ`fWdXS
XadĀN[egS^^kĀA_bS[dWYĀMeWXk`feXcĀCflieXcĀf]ĀAldXeu<fdglk\iĀBek\iXZk`fe(Ā
=HB6Ā-,*-,4,+-,003/-4*.,-4*-12-343Ā

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3*ĀĀ ;i`ebc\p(ĀC*(Ā=X`cp(ĀL*Ā;*Ā"Ā@`cY\ik(ĀC*>*(Ā"ĀIle(ĀL*A*ĀAb*ĀW$_W%f[*ĀAeĀ`afĀS`ĀGbfĀ[a`
<d[h[`YĀNWZ[U^WĀNa[UWĀMeWdĀCĀieWdĀXeĀM\Z_efcf^pĀXe[ĀI\ijfejĀn`k_Ā
=`jXY`c`k`\jĀ3(Āgg*Ā-//)-0,*Ā

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4*ĀĀ ;i`ebc\p(ĀC*(Ā=X`cp(ĀL*Ā;*Ā"Ā@`cY\ik(ĀC*>*(Ā"ĀIle(ĀL*A*Ā9ĀHaĀ$U,5ĀdHdabaeS^ĀfaĀKgbbadfĀKW^X)
<d[h[`YĀNWZ[U^WĀ9UUWeCTl[eXkĀfeĀM\Z_efcf^pĀXe[ĀI\ijfejĀn`k_Ā=`jXY`c`k`\jĀ3(Ā
gg*Ā/1)0/*Ā

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5*ĀĀ =Xim`cc\(Ā@*(Ā:e[\ijfe)ĀE\n`j(Ā<*(ĀLk\cc\]jfe(ĀF*(ĀE\\(ĀBeCj(ĀXZ*(ĀI`^^(ĀK*F*(Ā
@`cY\ik(ĀC*>*(ĀXe[ĀM_fdXj(ĀL*;geSa_4lSf[ĀaXĀ9hSfSdeĀ[`ĀSĀ@HNĀ<[Y[fS^Ā
?S_[`YĀA`fWdhW`f[a`ĀXadĀ;a^^WYW)9YWĀES^We6Ā9`Ā=jbWd[W_gSSf[aKĀgV
#Ā?S_[`Y (ĀL`dlcXk`feĀ"Ā@Xd`e^(Ā05$1%(Ā1-1)Ā1/3*Ā[f`6Ā-,*--33+-,0253Ā-Ā

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-,* ĀĀ <_XkkXiXdXe(ĀO*(ĀDnfe(ĀP*(Ā@`cY\ik(ĀC*>*(Ā"ĀKfjK[Zag*Ā$,9Ā)*SeWV(Ā
;a`hWdeSf[a`S^Ā<[Y[fS^Ā9ee[efS`feĀ=_b^akĀKaU[S^)ĀadĀLSe)Ga[WdSUf[a`Ā
Kfk^W8Ā9ĀLSe]);a_bWfW`UkĀS`VĀJWU|bdaU|fkĀHWdebWU[gWeĀXadĀG^VWdĀ
<fdglk\ijĀ`eĀAldXeĀ;\_Xm`fi(Āgg*Ā-)-2(Ā_kkgj6++[f`*fi^+-,*a*,Z+Y*.,-4*,4*,04Ā

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--* ĀĀ ;i`ebc\p(ĀC*(Ā=X`cp(ĀL*Ā;*Ā"Ā@`cY\ik(ĀC*>*(Ā"ĀIle(ĀL*A*Ā9ĀKgdh+kĀGXĀN[egS^^kĀA_bS[dWVĀ
;a`eg_WdeĀ9TagfĀKW^X)<d[h[`YĀNWZ[U^WeĀfeĀM\Z_efcf^pĀXe[ĀI\ijfejĀn`k_Ā
=`jXY`c`k`\j*ĀOfcld\Ā2(Āgg*Ā.3/).4.*Ā

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-.* ĀĀ CXZbjfe(ĀC*?*E*(Ā<_Xic\jkfe(ĀE*C*(ĀE\n`j(Ā<*P*(Ā@`cY\ik(ĀC*>*(Ā"Ā$Ā-3%*Ā
9d[la`S$eĀJ[e[`YĀKL=EĀGUUgbSf[a`S^Ā<W_S`VeĀS`VĀ<WU^[`[bSf[aSd[fZWĀ
KU[W`f[X[UĀOad]XadUW6Ā9`Ā=jS_[`Sf[a`ĀaXĀ9ff[fgVWeĀS_a`9`VWd[S`Ā
faiSdVĀKL=EĀ;a^^WYWĀES\adeĀS`VĀ;SdWeWdeĀ>[lZXk`feĀK\m`\n(Ā1(Ā.(Āgg*Ā5-)
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-/* ĀĀ <fd\[p(ĀR*E*(Ā@`cY\ik(ĀC*>*(Ā"ĀIle(ĀL*A*ĀbW3f[a*ĀAeĀ`afĀS`ĀGbfĀ[a`
M\Z_efcf^pĀXe[ĀBeefmXk`fe(ĀCflieXcĀf]Āk_\ĀGXk`feXcĀ:ZX[\dpf(]ĀĀB(Ā0(Āgg*Ā
.23).30*Ā

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-0*ĀĀ M_fdXj(ĀL*ĀO*Ā"Ā@`cY\ik(ĀC*ĀA*ĀW-dSf[ĀLWUZ`a^aYkĀfaĀ=`ZS`UWĀ9fZ^WfWĀ
<WhW^ab_W`f6ĀĀ9ĀD[fWdSfgdWĀCJWeWf]ĀA`^_iĀ>[lZXk`feĀ:k_c\k`ZjĀXe[Ā
BeefmXk`fe(Ā-(Ā-(Āgg*Ā3/)40*Ā

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-1*ĀĀ @fj_X(ĀD*(Ā@`cY\ik(ĀC*>*(Ā"ĀF`[[c\Yiffb(ĀD*Ā$-2*Sf[hWĀ9`S^ke[eĀaXĀMe[`YĀ
SĀN[dfgS^ĀEW`fad[`YĀHdaYdS_Āa`Ā:^SU]Ā;a_bgfWdĀKU[W`[WeĀkdgXeXeĀ
CflieXcĀf]Ā>[lZXk`feĀXe[ĀAldXeĀ=\m\cfgd\ekj(Ā.(Ā-(Āgg*Ā//)0-*Ā

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-2*ĀĀ @fj_X(ĀD*(Ā@`cY\ik(ĀC*>*(Ā"ĀF`[[c\Yiffb(ĀD*Ā$-2*Sf[hWĀ9`S^ke[eĀaXĀMe[`YĀ
EW`fad[`YĀMe[`YĀ=_TaV[WVĀ;a`hWdeSf[a`S^ĀĀ9`VWeĀ[cĀf]Ā<fdglk\iĀLZ`\eZ\Ā
Xe[ĀBe]fidXk`feĀM\Z_efcf^p(Ā/(Ā.(Āgg*Ā-1)/4(Ā=HB6Ā-,*-k2n/eaXj*Ā

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-3*ĀĀ :e[laXi(ĀF*(Ā<iXn]fi[(Ā<*ĀL*(ĀG`a_fck(Ā:*(ĀCXZbjfe(Ā?*(ĀCA@`cY\$.9df[efĀ
TdS[`)Ua_bgfWdĀ[`fWdXSUWe6ĀfZWĀWjbdWee[a`ĀS`VĀeW_ggSWaUĀXXZVUf[hWĀ
efSfWĀ;iX`e)<fdglk\iĀBek\i]XZ\j(Ā.$.)/%(Āgg*Ā2,u25(Ā
_kkg6++[o*[f`*fi^+-,*-,4,+./.2.2/Q*.,-1*--,02-/*Ā

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-4*ĀĀ =`ccfe(Ā>*<*(Ā@`cY\ik(ĀC*>*(ĀCXZbjfe(ĀC*?*E*(Ā"Ā(ĀXie\jkefĀSV[YĀfZWĀ
H[bW^[`W(ĀLZWĀKfSfWĀaXĀ9Xd[US`)9_Wd[US`eĀ[`Ā;a_bgfZWdĀKU[W`UWĀ>SUg^fk+JWeWSdUZĀL
**A`UdWSeWĀJWbdWeWĀfSfgk**`e^ĀK\j\XiZ_ĀG\nj(ĀL\gk\dY\iĀ.,-1(Ā.3(4(Āgg*Ā.)2*Ā

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-5*ĀĀ :cmXi\q(ĀB*(Ā:ce`qXd`(ĀA*(Ā=leYXi(ĀC*(ĀCXZbjfe(Ā?*(Ā"Ā(Ā8,e[Ā%Ā[bĀa`ĀfZWĀ
daSV6Ā=XXWUfeĀaXĀhWZ[U^WĀ_S`gS^ĀUa`eg^fSf[a`Ā[`Ā;a_bgfZWdĀKU[W`UWĀ>SUg^fk+JWeWSdUZĀXad_
_aVS^[f[WĀBek\ieXk`feXcĀCflieXcĀf]ĀAldXe)<fdglk\iĀLkl[`\j(Ā3/(Āgg*Ā5)5LGĀ
-,3-)14-5(Ā_kkg6++[o*[f`*fi^+-,*-,-2+a*`a_Zj*.,-0*,3*,,-Ā

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.,* ĀĀ FXik`e)AXddfe[(Ā:*F*(Ā:Y\^Xq(ĀM*(Ā"Ā@`cY\ik(ĀC*>*(Ā[Ve[Y%`YĀS`ĀGhWd)fZW)
;ag`fWdĀ;a`eg_WdĀ<WU[e[a`)ES][`YĀLaa^ĀXadĀG^VWĀ[`Ā;a_bgfZWdĀKU[W`UWĀ>SUg^fk+JWeWSdUZĀ
Be]fidXk`Zj(Ā13(Āgg*Ā--/ĀuĀ-./*Ā=HB6Ā-,*-,-2+a*aY`*.,-Ā*,3*,,2

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.-* ĀĀ @`cY\ik(ĀC*>*(ĀCXZbjfe(ĀC*?*E*(Ā=`ccfe(Ā>*<*Ā"Ā(ĀXie\jkefĀSV[W*[`YĀ
HSdf[U[bSf[a`6Ā9Xd[US`)9_Wd[US`eĀ[`ĀfZWĀM*K*Ā;a_bgf[`ĀGhWd[XadĀ[`Ve
<fddle`ZXk`fejĀf]Āk_\Ā:<F(Ā14(Ā3(Āgg*Ā/1)/4*Ā

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..* ĀĀ <_Xic\jkfe(ĀE*C*(ĀCXZbjfe(ĀC*?*E*(Ā"Ā@`cY\ik(ĀC*>*(Ā[Ve[Y%`YĀSV[W*[`YĀ
?W`WdSf[a`ĀaXĀ9Xd[US`Ā9_Wd[US`Ā;a_bgf[`YĀKU[W`UWĀ>SUg^fk+JWeWSdUZĀXad_aVS^[f[WĀ
GTS_SĀ9V_[`[efdSf[a`teĀKU[W`f[X[UĀOad]XadUWĀ(Ād[ad[`eĀ*GHSHTP$6HRRHOLWĀ*
*!LK%"ĀCOLĀ>IHSHĀ0KSPTPXYWHYPUTĀHTKĀ4KZĀ5[mXeZ]aeĀ[lZX*k`feĀ`eĀ
=`m\ij\Ā<fddle`k`\j6ĀK\j\XiZ_(ĀIfc`ZpĀXe[ĀIiXo`j(ĀOfcld\Ā-,%ĀXcĀ@iflgĀ
IlYc`j_`e^ĀE`d`k\[(Āgg*Ā.,1ĀuĀ...*Ā=HB6Ā-,*--,4+L-035)/14Q.,-,,,-,,-,Ā

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./* ĀĀ <_XkkXiXdXe(ĀO*(ĀDnfe(ĀP*L*(Ā@`cY\ik(ĀC*Ā>*(Ā"ĀEdfgS`*ĀSZ-0bb[ĀYĀ
9YW`fe6ĀHWdea`SĀ=XXWUfeĀXadĀGĀ[`Ā;a_bgf[`ĀGhWd[XadĀ[`Ve
FXib\k`e^(Ā4(.(Āgg*Ā-00)-2.*Ā

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.0*ĀĀ CXZbjfe(ĀC*?*E*(Ā<_Xic\jkfe(ĀE*C*(Ā"Ā@`cY\ik(Ā1ZWĀ[Ve[Y%`YĀJWY[a`S^Ā<SfSĀ
;a^^WUf[a`ĀfaĀA`Xad_ĀM`[hWde[fkĀDWVĀA`[f[Sf[hWe6ĀKLZ[VA;gUSfaXĀSĀ
**KOGLĀ9`S^ke[e**ĀCflieXcĀf]ĀLM>FĀ>[lZXk`fe(Ā-1(Ā-(Āgg*Ā--)-5*Ā

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.1*ĀĀ <_Xic\jkfe(ĀE*C*(Ā@`cY\ik(ĀC*>*(Ā>jZfYXi(Ā;*(Ā"ĀĀ[Ve[Y%`YĀSV[EY*ĀSĀ
H[bW^[`WĀXadĀ9Xd[US`Ā9_Wd[US`Ā;a_bgf[`YĀKU[W`UWĀ>SUg^fk+JWeWSdUZĀ9`ĀA``
>SUg^fk+JWeWSdUZĀEW`fad[`YĀHdaYd$ĀME`aVWeXcĀf]Ā?XZlckpĀ=\m\cfgd\ek(Ā
.4(Ā-(Āgg*Ā41)5.*Ā

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.2*ĀĀ @`cY\ik(ĀC*>*(Ā=leYXi(ĀC*(ĀHkkc\p(Ā:*(Ā"ĀLdfk_\idXe(Ā9Ā*S*ĀkĀ,VWfWUf[a`Ā
**[`ĀW^WUfda`[UĀhaf[`YĀeWĀ**fidXk`feĀ=\j`^eĀCflieXc(Ā.,(Ā/(Āgg*Ā-50).,2*ĀĀ

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.3*Ā >^cXj_(ĀK*(Ā@`cY\ik(ĀC*>*(Ā"Ā?fjk\i(Ā**Ā;a_bgf[`YĀ=VgUSf[a`(Ā<fddle`ZXk`fejĀf]Āk_\Ā:<F(Ā12(Ā3(Āgg*Ā//)/2*Ā

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.4*Ā @`cY\ik(ĀC*>*Ā"ĀCf_ejfe(Ā:*>*(Ā**Ā<[hWde[fkĀIjpZ_efcf^pĀCflieXc(Ā--(Ā-(Āgg*Ā23)5,*Ā

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.5*Ā CXZbjfe(ĀC*?*E*(Ā<_Xic\jkfe(ĀE*ĀC*(Ā@`cY\ik(ĀC*Ā**Ā9TagfĀ;a_bgf[`YĀKU[W`UWĀSfĀ@[efad[US^^kĀ:^SU]Ā;a^^Ā**aXĀS`ĀA`fWdhW`f[a`ĀHdaYdS_Ā<We[Y`WVĀXadĀM**:d\i`ZXeĀLkl[`\j(Ā-3(Ā.(Āgg*Ā-2.)-3/*Ā

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/,* Ā >bXe[\d(ĀC*B*(Ā=Xm`j(ĀM*:*(Ā:cmXi\q(ĀB*(ĀCXd\j(ĀF**fZWĀ=dYa`a_[UeĀaXĀ:;AĀ<Wh[UWeĀXadĀJWeWSdUZĀS`VĀ**11(Ā1(Ā15.)154*Ā

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/-* Ā <_XkkXiXdXe(ĀO*(ĀDnfe(ĀP*L*(Ā"Ā@`cY\ik(ĀC**[_bSUfĀa`ĀcgS^[fkĀaXĀ^[XWĀS_a`YĀa^VWdĀSVg^fe6Ā9ĀbZWa_eV[aSf[ĀM_\ĀBek\ieXk`feXcĀCflieXcĀf]ĀA\Xck_(ĀP\cce\jj(ĀXe[Ā**$

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/.* Ā @`cY\ik(ĀC*>*(ĀFXik`e(Ā:*F*(ĀKf^\ij(Ā@*(ĀFZ<c\e[fe(Ā**LZSfteĀFafĀOZaĀAĀNafWVĀ>adÀĀ9ĀKfgVkĀa`ĀLagUZeUdW**8TYLWHJYPĀ-5(Ā2(Āgg*Ā/0)/5*Ā

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//* Ā L_`d(ĀL*(ĀDnfe(ĀP*)L*(Ā<_XkkXiXdXe(ĀO*(Ā"Ā@`cY\ik**SeeaU[SfWeĀXadĀ_SfgdWĀUa`eg_Wde6ĀLWUZ`[US^ĀS`VĀ**[`fWdSUf[a`eĀ<cfk_`e^ĀXe[ĀM\ok`c\jĀK\j\XiZ_ĀCflieXc(Ā/,$/%(Ā./.).04(Ā=f`6Ā-,*--33+,443/,.Q-.0125,/Ā

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/0*Ā <fcc`ej(ĀL*G*(Ā=\\i(Ā<*C*(Ā"Ā@`cY\ik(ĀC**=XXadfeĀfaĀ9ffdSUfĀE[`ad[fkĀKfgVW`feĀfaĀfZWĀ;ZW_[**>[lZXkfi(ĀBLLG6Ā-0/,)0-3-(Ā-3(Ā-.(Ā-31)-Ā4*

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/1*Ā <_XkkXiXdXe(ĀO*(ĀDnfe(ĀP*L*(Ā"Ā@`cY\ik(ĀC**iWTe[fWe6Ā:W`WX[feĀaXĀe[_g^SfWVĀeaU[S^Ā[`fWdSUf[a`eĀ**AldXeĀ;_Xm`fi(Ā=f`6Ā-,*-,-2+a*Z_Y*.,-.*,2*,,5*Ā

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/2*Ā @f^^`e(ĀL*(Ā;pie\(ĀF*(Ā"Ā@`cY\ik(ĀC*>***=^WUf[a`ĀHdaUWVgdWĀS`VĀ:S^^afĀLkbWĀa`ĀES`gS^Ā;ag`f[**S`VĀ9gV[fadĀKSf[eXSUf[a`ĀS`VĀ;a`X[W**Ifc`Zp(Ā--(Ā-(Ā$FXiZ_Ā.,-.%(Āgg*Ā/2)1-*Ā

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/3*Ā <_XkkXiXdXe(ĀO*(ĀDnfe(ĀP*)L*(Ā@`cY\ik(ĀC*Ā>*(Ā"**W)Ua__WdUW6ĀJWbdWeW`fSf[a`S^ĀUZSdSUfWd[ef[eĀKadW**Bek\iXZk`m\ĀFXib\k`e^(Ā1(0(Ā.32).53*Ā

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/4*Ā L`e^_(Ā:*(ĀCf_ejfe(Ā:*(Ā:ce`qXd`(ĀA*Ā"Ā@`cY\ik(ĀC*>*(ĀFZF`cc`Xe(ĀR*(ĀKflj\(ĀD*(ĀP`cc`Xdj(Ā:*(Ā:ce`qXd`(ĀA*Ā"Ā@`cY\ik(ĀC*>*(ĀFXik`e(Ā:*F*(Ā>l^\e\(ĀP*(Ā:ce`qXd`(ĀA*Ā"Ā@`cY\ik(ĀC*>*(Ā>l^\e\(ĀP*(Ā:iYlk_efk(ĀD*(ĀAff[(ĀL*(Ā@\fi^\(ĀF*L*(ĀLfXi\j(Ā<*O*(Ā"Ā@`cY\ik(ĀC*>*(ĀFZF`cc`Xe(ĀR

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05*ĀĀ @`cY\ik(ĀC*>*(ĀFXZ=feXc[(ĀC*(ĀA`cc(ĀK*(ĀLXe[\ij(Ā=]*eĀĀBgfeĀ>kj](Ā>*O*(Ā
Kflj\(ĀD*(ĀFZ<c\e[fe(ĀC*(Ā"ĀKf^\ij(Ā@*ĀĀ**H,d%ĀĀAAA6Ā<WXW`eW)[`)<WbfZĀ
9bbdaSUZĀfaĀ=^WUfda`[UĀ^Ā[*ZWTHRĀUMĀ8TMUWSHYPUTĀBLJZW(ĀX(ĀĀgg*Ā-ĀWP[HJ^
-2ĀuĀ/1*Ā

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1,*ĀĀ @`cY\ik(ĀC*>*Ā"ĀLnXe`\i(Ā<*ĀĀ**DĀWSd%ĀĀKfk^We6Ā@aiĀVaĀfZWkĀĀXgĀĀgSfW8**
MUWĀ;LHWTPTNĀBY^RLXĀALXLĀ(ĀC(Ā"ĀZ(ĀTXĀc.,,4(Āgg*Ā.5ĀuĀ0,*Ā

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1-*ĀĀ Ef[i\\(Ā:*P*(ĀFffi\(ĀC*E*Ā"Ā@`cY\ik(ĀC*>*ĀĀ**Me[`Ā9`[_SfWVĀ9YW`feĀXadĀ**
HaefeWUa`VSdkĀESfZW_SĀĀ*ZWTHRĀUMĀ4KZJHYPUTHRĀ(ĀL(ĀTgg*ĀN-ĀuĀ/3*Ā

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1.*ĀĀ @`cY\ik(ĀC*>*Ā"ĀE\n`j(Ā<*ĀĀ**9ĀĀ^hĀWef[YSf[a`ĀaXĀ;a_bgfSf[a`S^Ā@a^[ef[UĀ**
=hS^gSf[a`ĀaXĀ9V_[ee[a`eĀ9bb^[USf[a`eĀXadĀSĀE[`ad[fkĀ>aUgeWWeWkSdUZĀ
HdaYdS_*ĀUZWTHRĀUMĀBC4<Ā4KZJHYPUT/Ā8TTU[HYPUTĀ(ĀX(ĀTgg*ĀN-ĀuĀ/4*ĀJO

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1/*ĀĀ @`cY\ik(ĀC*>*Ā$**9bb^ĀUSf[a`eĀIgWef6Ā9Ā;SeWĀKfgVkĀa`Ā@a^[ef[UĀ*9Ā_[ee[a`e**
*9UZWTHRĀUMĀ2URRLNLĀ(ĀKSPXXRUT(ĀX(ĀTgg*Ā-.ĀuĀ-4*Ā

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10*ĀĀ @`cY\ik(ĀC*>*(Ā:iYlk_efk(ĀD*(ĀAff[(ĀL*(Ā@iXek(ĀF*F(ĀĀ**ZĀ^Ā[`YĀ9^YWTdSĀMe[`YĀ;g^fgdS^^kĀ**
JW^WhS`fĀN[dfgS^ĀA`efdgĀĀ*8TYLWTHYPUTHRĀ9UZWTHRĀUMĀ(ĀBP(ĀTgg*ĀĀALHRPY^**
.-)/,*Ā

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11*ĀĀ @`cY\ik(ĀC*>*(ĀP`cc`Xdj(Ā:*Ā"ĀL\Xcj(Ā<*;^ĀĀ**gĀSWd%ĀĀXadĀMeST[^[fkĀHSdf[U[bS`fĀ**
KW^WUfĀĀUZWTHRĀUMĀDXHIPRPĀ(ĀX(ĀTgg*ĀA0-ĀuĀ1/*Ā

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12*ĀĀ @`cY\ik(ĀC*>*Ā"Ā@fjj(ĀD*(**9ĀSEg^fb^WĀ9bbdaSUZĀĀ*ĀĀ:WeĀ**
-.(2(Ā8TMUWSHYPUTĀ(ĀX(ĀTgg*ĀA0,Ā)Ā0-*Ā

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13*ĀĀ AliX(ĀL*E*(ĀIfcbfjbp(ĀF*=*(Ā"Ā@`cY\ik(ĀC*H**aĀ$(Ā2%gĀfWdba[`f6ĀOZSfĀLZdWWĀ**
=jbWdfeĀKSkĀ9TagfĀKbWWUZĀĀĀ*LWP(ĀVU(ĀNjXY`c`kpĀIif]\jj`feXcjyĀ
:jjfZ`Xk`fe(Āgg*Ā-2ĀuĀ-4*Ā

Ā Ā

14*ĀĀ @`cY\ik(ĀC*>*Ā$**E,3**ĀSĀ;SeWĀXadĀĀ**H;**ĀVZYL(Ā5(/(ĀB>>>Ā<fdglk\iĀ
LfZ`\kp(Āgg*Ā4/ĀuĀ42*Ā

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15*ĀĀ @`cY\ik(ĀC*>*Ā$**9bb^ĀUSf[a`eĀIgWef6Ā;a_bgf[`YĀ<[hWdf[fS**ĀZTPJHYPUTXĀUMĀ
*YOLĀ02(Ā05(/(Ā:<F(Āgg*Ā55ĀuĀ-,0*Ā

Ā Ā

2,*ĀĀ S_fe^(ĀR*Ā"Ā@`cY\ik(ĀC*>*Ā**9Ā;a`fWXjf)9iSdWĀDS`YgSYWĀEaVW^ĀXadĀKba]W`Ā**
IgWdkĀJWfd[WĀSĀĀ*EWTHYPUTHRĀ9UZWTHRĀUMĀBVL(ĀX(ĀC(ĀTgg*Ā-./)**
.-5*Ā

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2-*Ā @`cY\ik(ĀC*>*(Ā<_XgdXe(ĀK*Ā"Ā@Xi_pXe(Ā[ŪĀ$D,=ĪĀĀ:SU]eĀMbĀ>[defĀ
**JWeba`VWdf(**Ā*44Ā?LW[HXP[LĀ2USVZ0PTĀ*Ā>>>Ā<fdglk\iĀLfZ`\kp(Āgg*Ā5.Ā)Ā52*Ā
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2.*Ā @`cY\ik(ĀC*>*(ĀP`cjfe(Ā=*Ā"Ā@lgkX(ĀDĀWSd[%YĀ;ĀO[fZĀ9VĀS_*ĀLWTHYPUTHRĀ
9UZWTHRĀUTĀ4$;LĀ0(RĀYjjfZ`Xk`feĀ]fiĀk_\Ā:[mXeZ\d\ekĀf]Ā<fdglk`e^Ā`eĀ
>[lZXk`fe*Āgg*Ā//3)/1,*Ā
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2/*Ā @`cY\ik(ĀC*Ā>*Ā$=,,1%*ĀWdUWĀ#ĀOWTĀ:dS`V[`Y6Ā9ĀMeWĀ>adĀHWdegSe[hWĀ
LWUZ`a^aY[ĀĀ*30Ā9UZWTHRĀ>TĀPT5(#Ā*.(5(Āgg*Ā-2ĀuĀ-3*Ā
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20*Ā E`e(ĀR*Ā"Ā@`cY\ik(ĀC*>*Ā$=,,1%*ĀXWUf[hW`WeeĀKfgVkĀaXĀG`^[`WĀ9VhWdf[e[`YĀEaVW
*4TYWLVWLTLZWXOPVĀ?URPJ*ĀUZWTHR(Āmfcld\Ā.(Āgg*Ā-.,ĀuĀ-.3*Ā
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21*Ā @`cY\ik(ĀC*>*Ā"ĀAXe(Ā<*Ā9ĀfZgd6Ā9ĀHWdea`S^[lWVĀA`efdgUf[a`SĀĀKkefW_*
*9UZWTHRĀUMĀ2USVZYPTNĀ8TĀ7PNOLĀ-0(ĀZ*ĀĀ0(ĀjĀllYc`j_\ij(Ā:d_\ijk(ĀF:(Ā
gg*Ā--/)-.5*Ā
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22*Ā @`cY\ik(ĀC*Ā>*Ā"ĀAXe(Ā<*Ā9ĀfZgd6Ā9ĀHWdea`S^[lWVĀA`efdgUf[a`Ā[`ĀKWSdUZĀaXĀ 9ĀK[Y`[X[US`fĀ
<[XXWdW`ĀĀWZWTHRĀUMĀ=LY\UWQĀHTKĀ2USVZYPTNĀ(Ā0(ĀgĀ*Ā-05)-2,*Ā
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4EJTFEĀ=RPDFFEJOHSĀ0QQFBRJOHĀJOĀ>FGFRFFEĀ9PUROBMSĀ

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23*Ā @`cY\ik(ĀC*Ā>*Ā=Ā.,,-ĀPfibj_fgĀfeĀ:jj\jjd\ekĀF\k_f[jĀ`eĀP\Y);Xj\[ĀE\Xie`e^ Ā
>em`ifed\ekjĀ"Ā:[Xgk`m\ĀApg\id\[`X*Ā*Ā.&-+#.),+#*Ā",/-+#*Ā,'ĀĀ-.)')$)#*Ā
*!+.&**)(&+$&Ā!+Ā %/$#(,*Ā$.,,-%ĀĀgg*Ā-,.,)-,.5*Ā
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24*Ā @`cY\ik(ĀClXeĀ>*Ā$Ā,,%dĀh[`YĀ=^WUf[a`ĀA`fWĀWd[Ā*ĀXĀPTĀBJPLTJLĀHTKĀ
*CLJOTURU(Ā?\YilXipĀ2(Ā.,,(ĀTHec`e\U(Ā_kkgj6++`jjl\j*fi^+`dgifm`e^fe)Zk\^i`kp+ĀĀ
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25*Ā @`cY\ik(ĀC*>*(Ā$,,%dĀ**Kg0UĀWWV[`YĀ[`ĀfZWĀ9USVW_[UĀBaĀ1ĀWSdUZĀUMĀ
*7PXVHTPJĀ?WUMLXXPUTHRĀ4TĀ(Ā0(ĀgĀ*Ā00)01*Ā
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3,*Ā E\e\Xi(ĀI*Ā>*(Ā<_Xe[c\i(ĀK*(Ā@`cY\ik(ĀC*(Ā@`c\j(ĀĀ*ĀĀXcfe\fi(ĀO*Ā"ĀRfib(Ā
;*(Ā$.,,.%ĀĀ**ĀZWĀĀA`ef[fgfWĀXadĀ9Xd[US`Ā9_Wd[US`ĀĀ)ĀĀ*ĀĀ*ĀĀ*

3.*Ā @`cY\ik(ĀC*(Ā`[hWdeS^ĀVWe[Y`ĀUS`ĀZW^bĀWhWdkĀhaĀ`dĀUSefĀSĀTS^^af
*2UT[LWXHY(Ā*XpĀ.(Ā.,-2Ā*Hec`e\U(Ā_kkgj6++k_\Zfem\ijXk`fe*Zfd+_fn)le`m\ijXc)
[\j`^e)ZXe)_\cg)\m\ip)mfk\i)ZXjk)X)YXccfk)10/3/*Ā

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>FGFRFFEĀ2POGFRFODFĀ=R?PDFFEJOHS

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3/*Ā Fffe)K\dY\ik(Ā=*@*Ā"Ā@`cY\ik(ĀC*>*ĀS,-5%*Ā**Ue6Ā9ĀOWT)TSeWVĀESfZĀOadVĀ**
HdaT^W_Ā?W`WdSfadĀXadĀKfgVW`fetĀ<[efS^ĀS`VĀHdaj]_BeĀA*ĀWXdWefeĀ
$>[*%(ĀIifZ\\[`e^jĀf]Ā:jjfZ`Xk`feĀ]fiĀk_\Ā:[mXeZ\d\ekĀf]Ā<fdglk`eĀ>[lZXk`feĀ
$::<>%Ā>)E\Xie6ĀPfic[Ā<fe]\i\eZ\ĀfeĀ>)E\Xie`e^Ā`eĀ<figfiXk\(Ā@fd\ek(Ā
A\Xck_ZXi\(ĀXe[ĀA`^_\iĀ>[lZXk`fe(ĀG\nĀHic\Xej(ĀE:(ĀNL:(Ā3g*Ā3/3

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30*Ā L_\idXe(ĀB*(Ā;fn\ij(ĀC*(ĀFZGXdXiX(ĀD*(Ā@`cY\ik(ĀC*Ā"ĀĀXdXeq(ĀC*(Ā$.,,%Ā
9dWĀQagĀ?a[`YĀfaĀ9`eiWdĀLZSf8ĀEWSegd[`YĀMeWdĀJWeba`aWUSfaĀ9`f])
9bb^[USf[a`ĀA`V[USfaĀ BeĀIifZ\\[`e^jĀf]Āk_\ĀBLH<ĀG\knfibĀ"Ā=`jki`Ylk\[ĀLpjk\djĀ
L\Zli`kpĀLpdgfj`ldĀ$G=LL%*Ā

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31*Ā $Ll\Ā;f^e\iĀA\Xck_ZXi\ĀM\Z_e`ZXcĀ@iflgĀ;\jkĀLkl[\ekĀIXg\iĀ%ĀXi[
P`cc`Xdj(ĀK*F*(Ā:c`b_X[\d`(ĀD*(Ā=ifY`eX(Ā>*(Ā@`cY\ikĀ(ĀC*Ā**Ā$.,5%*Ā
9gY_W`fWVĀJWS^[fkĀXadĀJWZST[^[fSf[hWĀLZWdSbk6ĀWeĀVS`WĀWjbWd[W`U
**HdSUf[f[a`WdĀHWdebWĀB**BeĀIifZ\\[`e^jĀf]Āk_\ĀAldXeĀ?XZkfijĀXe[Ā>i^fefd`ZjĀ
LfZ`\kpĀ$A?>L%Ā.,-5Ā:eelXcĀF\\k`e^*ĀL\Xkkc\(ĀP:(ĀNL:(Āgg*Ā0-/)0-2ĀHZkfY\iĀ.4ĀuĀ
Gfm\dY\iĀ-(Ā.,-5*Ā

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32*Ā :c`b_X[\d`(ĀD*(ĀK`Z_Xi[jfe(Ā;*(ĀFXik`ej(ĀC*(Ā<_XkkXiXdX(ĀC*Ā**Ā@`cY\ik(Ā
C*>*Ā$.,-5%*Ā**K`fW_Sf[UĀ=hS^gSf[a`ĀaXĀSĀ;a`hWdeSf[a`S^ĀNa[UWĀMeWdĀA`fWdXSUWĀ**
<WU[e[a`)ES][`Y BeĀIifZ\\[`e^jĀf]Āk_\ĀAldXeĀ?XZkfijĀXe[Ā>i^fefd`ZjĀLfZ`\kpĀ
$A?>L%Ā.,-5Ā:eelXcĀF\\k`e^*ĀL\Xkkc\(ĀP:(ĀNL:(Āgg*Ā0-/)0-2ĀHZkfY\iĀ.4ĀuĀ
Gfm\dY\iĀ-(Ā.,-5*Ā

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33*Ā IfjX[Xj(Ā;*I*(ĀAXeldXggX(ĀF*Ā"Ā@`Y\ik(ĀC*>*Ā**Gb]_a`eĀ;a`UWd`[`YĀ**
**;daiVeagdU[`YĀ9bb^[USf[a`eĀ[`Ā9Yd[Ug^fgdWĀ[**BeĀIifZ\\[`e^jĀf]Āk_\ĀAldXeĀ?XZkfijĀXe[Ā>i^fefd`ZjĀLfZ`\kpĀ
<fe]\i\eZ\ĀfeĀAldXeĀ<fdglk\iĀBek\iXZk`feĀ$<EBA<Āy-5%(ĀIXekpdĀXeXdX*Ā
:<F(ĀG\nĀRfib(ĀGR(ĀNL:(Ā_kkgj6++[f`*fi^+-,*--01+//1452-*//1453Ā

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34*Ā FXZb(ĀG*Ā:*(Ā<ldd`e^j(ĀK*(ĀAl]](Ā>*ĀP*(Ā@fj_X(ĀD*(Ā*Ā@`cY\ik(Ā*Ā
=jb^ad[`YĀfZWĀFWWVeĀS`VĀHdWXWdW`UWeĀaXĀM`VWdĀWfgdWeWĀWdĀE[`ad[f
**S`ĀA`fW^^[YW`fĀN[dfgS^ĀEW`fad[`Y**BeĀBek\ieXk`feXcĀ<fe]\i\eZ\ĀfeĀAldXe)
<fdglk\iĀBek\iXZk`feĀ$gg*Ā.-/)..-%*ĀLgi`e^\i(Ā<_Xd*Ā

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35*Ā Al]](Ā>*P*(ĀFXZb(ĀG*:*(Ā<ldd`e^j(ĀK*(ĀPfdXZb(ĀD*(Ā@fj_X(Ā*Ā@`cY\ik(Ā*Ā>*Ā
$.,-5%*Ā**hS^gSf[`YĀfZWĀMeST[^[fkĀaXĀHWdhSe[hWĀ;a`hWdeSf[a`S^ĀNa[UWĀMeWdĀA`fWd**
N[dfgS^ĀEW`fad[*Ā**BeĀBek\ieXk`feXcĀ<fe]\i\eZ\ĀfeĀAldXe)<fdglk\iĀBek\iXZk`feĀ$gg
4,)54%*ĀLgi`e^\i(Ā<_Xd*Ā

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4,*ĀĀ:c`b_X[\d`(ĀD*(ĀK`Z_Xi[jfe(Ā;*(ĀKfjj(ĀD*(ĀLle^(ĀC*(Ā<@(ĀYnkeĀC**L*Ā"Ā
<_XkkXiXdXe(ĀO*(Ā$.,-5%*ĀWVĀLWUZ`[US^Ā9bbdaSUZĀXadĀ<We[Y`[`YĀEaT[^WĀ
**<WU[e[a`Ā9[^**ĀBeĀBek\ieXk`feXcĀ<fe]\i\eZ\ĀfeĀAldXe)<fdglk\iĀBek\iXZk*Ā2Ā$gg
-25%*ĀLgi`e^\i(Ā<_Xd*Ā

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4-*ĀĀLd`k_(ĀM*ĀK*(Ā"Ā@`cY\ik(ĀC*Ā<>**[VĀ$,-5%(Ā[S]WĀEWĀEahW8ĀLZWĀ<We[Y`ĀS`VĀ
A`[f[S^Ā=hS^gSf[a`ĀaXĀSĀ;g^fgdS^^kĀ9bbdabd[SfWĀ?We[g8S^Ā=WgZSa[^Yk
$K\j\XiZ_%ĀIXg\iĀgi\j\ek\[ĀXkĀ.,-5Ā:L>>Ā:eelXcĀ<fe]\i\eZ\Ā"Ā>ogfe(ĀMXdgX(Ā
?cfi`[X*Ā_kkgj6++g\\i*Xj*fi^+/.-32Ā

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4.*ĀĀLdXii(ĀL*Ā:*(ĀLd`k_(ĀM*ĀK*(Ā"Ā@`cY\ik(Ā<C*Ā$,-5%(Ā[ĀĀHdSUf[UW6Ā;aVWALĀ
<SkĀ)Ā;dWSf[`YĀSĀG`WĀ<SkĀ=jbWd[W`UWĀfaĀA`UdWSeWĀ[gZ[gZe[fkĀ9_a`Y
A`fWdWefWVĀ[`ĀĀIXg\iĀgi\j\ek\[ĀXkĀ.,-5Ā:L>>Ā:eelXcĀ<fe]\i\eZ\Ā"Ā>ogfj`k`fe(Ā
MXdgX(Ā?cfi`[X*Ā_kkgj6++g\\i*Xj*fi^+/.3-3Ā

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4/*ĀĀPX`jfd\(ĀC*Ā:*ĀF*(ĀFZFlcc\e(ĀD*(ĀLd`k_(ĀM*ĀK*(ĀLdXii(ĀC*Ā@Ā$.,-5%(Ā
<WhW^ab[`YĀ;SdWWdĀKW^X)=XX[USUkĀaXĀJWeWSdUZWWe;a[`bgf[gYS`);W`fWdW
fZdagYZĀKUZa^SdeZ[bĀKgbbadfi`\eZ\%ĀIXg\iĀgi\j\ek\[ĀXkĀ.,-5Ā:L>>Ā:eelXcĀ
<fe]\i\eZ\Ā"Ā>ogfj`k`fe(ĀMXdgX(Ā?cfi`[X*Ā_kkgj6++g\\i*Xj*fiĀ+

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40*ĀĀK\dY\ik(Ā=*F*(Ā<ldd`e^j(ĀK*Ā"Ā@`cY\ik(ĀC*>*Ā$.,-5%(ĀYĀfZWĀFWWVeĀS`VĀ
A`fWdWefeĀaXĀ>[XfZĀ?dSVWdeĀXadĀHWdea`S^[lWVĀESfZOWdSfaHaBEĀW_Ā?W
IifZ\\[`e^jĀf]Āk_\Ā-4k_Ā:<FĀBek\ieXk`feXcĀ<fe]\i\eZ\ĀfeĀBek\ieXZ=\j`^eĀXe[Ā
<_`c[i\eĀ$B=<Ā#-5%*Ā:<F(ĀG\nĀRfib(ĀGR(ĀNL:(Āgg*Ā15.)153*Ā

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41*ĀĀFXZb(ĀG*:*(ĀFffeĀK\dY\ik(Ā=*@*(Ā<ldd`e^j(ĀK*Ā"Ā@`cY\ik(ĀC*Ā**a)<W$e[Y`[`YĀ
**S`ĀA`fW^^[YW`fĀ;a`hWdeSf[a`S^Ā@[efadkĀLgfadĀi[fZĀ$Z[^WdW**[`e^jĀf]Āk_\Ā
-4k_Ā:<FĀBek\ieXk`feXcĀ<fe]\i\eZ\ĀfeĀBek\iXZk`feĀ=\j`^eĀXe[ĀĀ$B=<Ā#-5%*Ā
:<F(ĀG\nĀRfib(ĀGR(ĀNL:(Āgg*Ā04.)043*Ā

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42*ĀĀP`cc`Xdj(ĀK*F*Ā"Ā@`cY\ik(ĀC*>*Ā$,-5%(ĀHWdebWUf[hWeĀa`Ā;a_bgf[`YĀJWeWSdUZĀ
JWXad*ĀBeĀ>ok\e[\[Ā:YjkiXZkjĀf]Āk_\Ā.,-5Ā<ABĀ<fe]\i\eZ\ĀfeĀAldXe)<W$Z
<fdglk`e^ĀLpjk\djĀuĀ<ABĀy-5(Ā@cXj^fn(ĀND(Āgg*Ā-u--*Ā

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43*ĀĀ$=`jk`e^l`j_\[ĀIXg\iĀ:nXi[%Ā
<ldd`e^j(ĀK*(ĀAl]](Ā>*(ĀFXZb(ĀG*(ĀPfdXZb(ĀD*(ĀK\`[(Ā:*Ā@Ā@Ā$.,-5%(Ā
@fj_X(ĀD*(Ā$.,-5%(ĀYĀ;a__W`fSdkĀQagLgTWĀA`X^gW`UWdeĀSeĀ=XXWUf[hWĀ9Vh[ead
[`Ā;a^^WYWĀS`VĀ;SdWWdĀJWSV[`WeeĀXadĀE[`ad[f[WeĀ[Ā=jb_bgf[`YĀ`
KfgVkĀBeĀIifZ\\[`e^jĀf]Āk_\ĀB>>>Ā.,-5ĀK\j\XiZ_ĀfeĀ>hl`kpĀXe[ĀLjkX`
IXik`Z`gXk`feĀ`eĀ>e^`e\\i`e^(Ā<fdglk`e^(ĀXe[ĀM\Z_efcf^pĀ$K\j\XiZ_ĀF`ee\Xgfc`j(Ā
FG(Āgg*Ā0/)1,*Ā

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44*ĀĀ =leYXi(ĀC*(ĀIi`fc\Xl(Ā=*(Ā"Ā@`cY\ik(ĀC*>**ĀĀ**Ā**Ā**Ā

52*ĀLd`k_(ĀM*K*Ā"Ā@`cY\ik(ĀC*><*ĀSU[-4%*ĀĀVWe[Y`6ĀSĀYWefgdWĀW^[UĀSe[a`ĀefgVk
IifZ\\[`e^jĀf]Āk_\Ā-3&'Ā:<FĀ<fe]\i\eZ\ĀfeĀBek\iXZk`feĀ=\j`^eĀXe[Ā<_`c[i\eĀ$B=<Ā
#-4%*Ā:<F(ĀG\nĀRfib(ĀGR(ĀNL:(Āgg*Ā2/4)20/*Ā=HB6Ā
_kkgj6++[f`*fi^+-,*--01+/.,.-41*/.-,35,Ā

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53*ĀLiXn]fi[(Ā<*L*(Ā@Xi[e\i)FZ<le\(Ā<*(Ā"Ā@`cY\ik(ĀC*>*ĀS[-4%*bgfWdĀ
A`fWdXSUWĀXadĀFah[UWĀHdaYdS__[`YĀ9bbdaSUZĀfaĀFWgdaXWWVTSU]Ā9bb^[USf[a`Ā<WĀBVĀbZW`e^jĀf]Āk_\Ā05k_Ā:<FĀ
M\Z_e`ZXcĀLpdgfj`ldĀfeĀ<fdglk\iĀLZ`\eZ\Ā>[lZXk`fe*Ā:<F(Ā;Xck`dfi\(ĀF=(ĀNL:(Ā
gg*Ā/.)/3(Ā?\YilXipĀ.-).0(Ā.,-4*Ā$/1!ĀXZZ\gkXeZ\ĀiXk\%Ā

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54*ĀLfcfdfe(Ā:*(ĀFffe(Ā=*(ĀKfY\ikj(Ā:*E*(Ā@`cY\ik(ĀC*>*ĀfaĀBgefĀ:^SU]ĀS`VĀFafĀ
**BgefĀSĀOa_S`6Ā:^SU]ĀOa_W`Ā:W^a`Y[`YĀ[`Ā;a_bgfBeĀ**IifZ\\[`e^jĀK\j\XiZ_ĀfeĀ
>hl`kpĀXe[ĀLljkX`e\[ĀIXik`Z`gXk`feĀ`eĀ>e^`e\\i`e^(Ā<fdglk[e\ĀX_efcf^pĀ
$K>LI><M%(ĀB>>>Ā.,-4*Ā

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55*ĀLiXn]fi[(Ā<*L*(Ā:e[laXi(ĀF*(ĀXe[Ā@`cY\ik(ĀC*>*ĀWSgdaZke[a^aY[US^Ā@WSfĀ
**ESbeĀXadĀ@g_S`)JaTafĀA`fWdSUf[a`Ā=hS^gSBeĀ**IifZ\\[`e^jĀf]Ā.,-3Ā:::BĀ?XccĀ
Lpdgfj`ldĀL\i`\j6Ā:ik`]`Z`XcĀBek\cc`^\eZ\Ā]fiĀAldXe)KfYfkĀZek\feĀ:::BĀ
M\Z_e`ZXcĀK\gfikĀ?L)-3),-(ĀGfm\dY\iĀ5)--(Ā.,-3(Ā:ic`e^kfe(ĀXL(ĀĀgg*Ā5,)5/*Ā

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**XadĀSĀEadWĀ9UUWee[T^WĀe`fgdW**[`e^jĀf]Āk_\Ā-5k_ĀBek\ieXk`feXcĀ:<FĀ
LB@:<<>LLĀ<fe]\i\eZ\ĀfeĀ<fdglk\ijĀXe[Ā:ZZ\jj`Y`c`kpĀ$:LL>ML#-Ā:<F(Ā
;Xck`dfi\(ĀF=(ĀNL:(Āgg*Ā//1)//2(ĀHZkfY\iĀ/,ĀuĀGfm\dY\iĀ-(Ā,-3B6Ā
_kkgj6++[f`*fi^+-,*--01+/-/.1.1*/-/033-Ā$.2*.!ĀXZZ\gkXeZ\ĀiXk\%

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Iae)Gd[W`fWVĀJagf[`YĀ[`Ā;aY`[f[hWĀE9F-Ā IifZ\\[`e^jĀG\knfibĀ<fdglk`e^Ā
Xe[Ā:ggc`ZXk`fejĀ$G<:%(Ā.,-3ĀB>>>Ā-2k_ĀBek\ieXk`feXcĀLpdgfjdi`[^\(ĀF:(Ā
NL:(Āgg*Ā01)1.(ĀHZkfY\iĀ/,ĀuĀGfm\dY\iĀ-(Ā.,-3*Ā

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HdWXWdW`UWeĀaXĀ:^[`VĀS`VĀDaiĀN[e[a`Ā;a`eg_WdeĀJWY[bdYĀ[`dYĀ[NWZW^XY<dĀ
JWeg^feĀaXĀ>aUgeĀ?dagbĀ<[eUgeeĀaĀ:LL>MLĀ#-3ĀIifZ\\[`e^jĀf]Āk_\Ā-5k_Ā
Bek\ieXk`feXcĀ:<FĀLB@:<<>LLĀ<fe]\i\eZ\ĀfeĀ<fdglk\ijĀXe[Ā:ZZ\jj`c`kp(Ā
;Xck`dfi\(ĀF=(ĀNL:(Āgg*Ā.5,).55(ĀHZkfY\iĀ/,Ā)ĀGfm\dY\iĀ,-(Ā-3

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9bbdaSUZĀfaĀFWgdaXWWVTSU]Ā9bb^[USf[a`Ā<WĀBVĀbZW`e^jĀf]Āk_\Ā.,-3Ā
B>>>ĀLpdgfj`ldĀfeĀO`jlXcĀEXe^lX^\jĀXe[ĀAldXe)<\eki`ZĀ<fdglk\OfĀA<<%(Ā
KXc\`^_(ĀG<(ĀNL:(Āgg*Ā/,/)/,3(ĀHZkfY\iĀ--)-0(Ā.,-3*Ā$.5!ĀXZZ\gkXeZ\ĀiXk\%Ā

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aXĀfZWĀ:EOĀ9Uf[hWĀ;dg[eWĀ;a`fda^ĀKkefW_ĀO[fZĀqKfabĀ$[aVĀ?Ā>g`U
IifZ\\[`e^jĀf]Āk_\ĀAldXeĀ?XZkfijĀXe[Ā>i^fefd`ZjĀLfZ`\kpĀ$A?>L%Ā.,-3Ā:eelXcĀF\\k`e^*Ā:ljk`e(ĀMQ(ĀNL:(Āgg*Ā-1/2)-10,(ĀHZkfY\iĀ5)-/(Ā.,-3*Ā

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-,1* Ā:IfjX[Xj(Ā;*(ĀL_\idXe(ĀB*(ĀFX_\e[iXe(Ā=*(Ā;li^Xc`X(Ā@*ĀkXe[Ā@`cY\ik(ĀC*Ā>*Ā
>aUgeĀ?dagbĀKfgVkĀaXĀ:^[`VĀNafWdeĀ[`Ā9^SUZĀSĀ;gfZ\[`e^jĀf]Āk_\Ā
AldXeĀ?XZkfijĀXe[Ā>i^fefd`ZjĀLfZ`\kpĀ$A?>L%Ā.,-3Ā:eelXcĀF\\k`e^*Ā:ljk`e(ĀMQ(Ā
NL:(Āgg*Ā----)---/(ĀHZkfY\iĀ5)-/(Ā.,-3*Ā

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NS^[VSf[`YĀ9ĀFSfgdS^[ef[UĀ<WU[e[a`ĀEaVW^ĀXadĀA`fWW]VSWVĀ[S<WgS[e[a`Ā
9[Ve*ĀBeĀIifZ\\[`e^jĀf]Āk_\ĀAldXeĀ?XZkfijĀXe[Ā>i^fefd`ZjĀLfZ`\kpĀ$A?>L%Ā.,-3Ā
:eelXcĀF\\k`e^*Ā:ljk`e(ĀMQ(ĀNL:(Āgg*Ā-32)-33(ĀHZkfY\iĀ5)-/(Ā.,-

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<aUg_W`f[`YĀfZWĀ<WhW^ab_W`fĀaXĀBaTĀ9ee[ef6Ā9ĀKbWWSdZ[ZSeWVĀBaTĀK
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HZkfY\iĀ5)-/(Ā.,-3*Ā

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9Vg^fe*ĀĀBeĀgifZ\\[`e^jĀf]Āk_\Ā3k_ĀBek\ieXk`feXcĀ<fe]\i\eZ\ĀfeĀ:lkfdfk`m\ĀGXkliXcĀ
M\Z_efcf^`\jĀ]fiĀA\Xck_ZXi\(ĀO\e`Z\(ĀBkXcp(ĀFXpĀ.,-/*Ā$ZZZkkkXĀ8Ā/,!%Ā

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-1.* Ā:e[laXi(ĀF*ĀXe[Ā@`cY\ik(ĀC*>*Ā"Ā=`ZS`U[`YĀMeWd$eĀ=`YSYW_W`fĀ
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[`fWdSUf[a`eĀiZ[^WĀVdĀBeĀIifZ\\[`e^jĀf]Ā.e[ĀPfibj_fgĀf]Ā:lkfdfk`m\ĀGXkliXcĀ
Bek\i]XZ\jĀkf^\k_\iĀn`k_Ā0k_ĀBek\ieXk`feXcĀ<fe]\i\eZ\ĀfeĀ:lkfdfk`m\ĀNj\iĀBek\i]XZ\j(Ā
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-13*Ā Fbgfe^)Kl]]`e(ĀB*(Ā@`cY\ik(ĀC*(ĀAXd`ckfeĀC*(Ā"ĀNdg_i%Ā0Ad[a`S(Ā$
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-3.* Ā@fj_X(ĀD*(ĀFfj\j(ĀP*(ĀPXZ_j(Ā:*Ā"Ā@`cY\ik(ĀC*>*Ā;a%fgUf[a`ĀaXĀSĀNa[UWĀMeWdĀ
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-3/* ĀLfXi\j(Ā<*(ĀP`cc`Xdj(ĀI*(Ā@`cY\ik(ĀC*>*Ā"Ā=fq`\i(ĀĀ;a%fgUf[a`ĀaXĀSĀNa[UWĀMeWdĀ
>WSfgdWĀKW^WUf[a`Ā9bbdaSUZĀXadĀ;^See[X[UŠĀ<ĀĀdaK^Xj_Ā
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-30*Ā P`cjfe(Ā=*F*(ĀFXik`e(Ā:*Ā"Ā@`cY\ik(ĀC*>*Ā;a%fgUf[a`ĀaXĀSĀNa[UWĀMeWdĀ
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-31*Ā P`cc`Xdj(ĀI*(ĀLfXi\j(Ā<*(Ā"Ā@`cY\ik(ĀC*>*Ā9ĀĀ;a%fgUf[a`ĀaXĀSĀNa[UWĀIgWdĀ
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-32*Ā Ffii`jfe(Ā=*(Ā:ce`qXd`(ĀA*(Ā=Xnb`ej(ĀL*(Ā>l^\e\(ĀP*(ĀFXik`e(Ā:*Ā"Ā
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-33*Ā@fj_X(ĀD*(ĀFfj\j(ĀP*(Ā"Ā@`cY\ik(ĀC*>*Ā;a%fgUf[a`ĀaXĀSĀKWdh[UWĀIgWgWĀ
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-34*ĀDnfe(ĀP*(Ā<_XkkXiXdXe(ĀO*(Ā"Ā@`cY\ik(ĀC*=XWU-f%ĀXĀ;a`hWdeSf[a`S^Ā
9YW`feĀ[`ĀJWfS[^ĀOWTĀK[fWeĀa`Ā9Y[`YĀ;a`eg_WdetĀA`YWdSU[[WĀSWVĀ
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>dS_Wiad]ĀXadĀLWSUZWdĀHdaXWee[a`S^Ā<WhW^ab_W`fĀ]Se[ĀVĀGiad[eĀKaU
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-40*Ā<_XdgX`^e(ĀM*(ĀA\jj(ĀK*(ĀCl(Ā<*(ĀF\kfp\i(ĀK*(Ā"Ā@`cY\ik(ĀC*Ā"ĀKXdj\p(Ā=WĀW,^ab[ĀSĀ
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Mi`\ee`XcĀGXk`feXcĀK\kX`c`e^Ā<fe]\i\eZ*ĀG\nĀHic\Xej(ĀEZ6ĀMpĀ]Ā
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-43*ĀLfXi\j(Ā<*Ā"Ā@`cY\ik(ĀC*>*Ā$d,W%*[Āf[`YĀUdaee)Uag`fdkĀdWeg^feĀge[`YĀXWSfgdWĀ
eW^WUf[a`ĀS`VĀWha^gf[a`SdkĀUa_bgSf[a`
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-44*Ā=Xnb`ej(ĀL*(ĀLlcc`mXe(ĀM*(ĀKf^\ij(Ā@*(Ā<ifjj(Ā>*O*(Ā
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-45*ĀLfXi\j(Ā<*(ĀFfek^fd\ip(ĀE*(ĀAXd`ckfe(Ā<*(ĀXe[Ā@`cY\ik(Ā
9UUgdSUkĀ[`ĀfZWĀEa`fYa_WdkĀ;ag`fkĀ;addWUf[a`eĀHdaYdS_WĀ
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?WUJLLKPTNXĀUMĀYOLĀ)"-ĀBL[LTYOĀ8TYLWTHYPUTHRĀ2UTMLWLTJLĀUTĀ8TYLRRPNĀ
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%NNH9L&ĀS`VĀN[VWaĀ%NNN9L&Ā:S^*Ā
>c\Zkife`ZĀOfk`e^ĀM\Z_efcf^pĀPfibj_fgĀ$>OMĀ#,4%(ĀLXeĀCfjpĀ<fe]\i\eZ\Ā.,,4*Ā

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9bbdaSUZĀfaĀ9gfa_Sf[UĀKbWWUZĀJWUa
E`e^l`jk`ZjĀ$:<E%6ĀAldXeĀEXe^lX^\ĀM\Z_efcf^pĀ<fe]\i\eZ\Ā$=fdl%(Ā
Cle\Ā-1).,(Ā.,,4(Āgg*Ā-3/ĀuĀ-32*Ā

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-51*Ā>l^\e\(ĀP*Ā"Ā@`cY\ik(ĀC*>*Ā$.,,4*Ā **;)H9D6Ā;g^fgdS^):SeWVĀHdaYdS__[`YĀXadĀ9Vg^fĀ DWSd`Wde**:<FĀLflk_\XjkĀ<fe]\i\eZ\(Ā:lYlie(Ā:E(ĀFXiZ_Ā.4).5(Ā.,,4*Ā
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-52*Ā<ifjj(Ā>*O*Ā"Ā@`cY\ik(ĀC*>*Ā$.,,4*Ā **=XXW%Āf[hWĀKgbWdh[e[a`ĀaXĀSĀJaTafĀLWS_ĀfZdagYZĀ MeWdĀA`fWdXSUWĀ<WĀL**:<FĀLflk_\XjkĀ<fe]\i\eZ\(Ā:lYlie(Ā:E(ĀFXiZ_Ā.4).5(Ā.,,4Ā
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-53*Ā<ifjj(Ā>*O*(ĀKf^\ij(Ā@*(ĀFZ<c\e[fe(ĀC*(ĀF`kZ_\cc(ĀP*(ĀKfj\(ĀD*(ĀI*(ĀP`cc`Xdj(Ā I*(ĀFbgfe^)Kl]]`e(ĀB*(ĀFZF`cc`Xe(ĀR*(ĀG\\cp(Ā>*(ĀEXe\(ĀC*Ā$.,,3%Ā **Hd[_WĀAAA6ĀG`WĀESUZ[`W(ĀG`WĀNafWĀXadĀ=hW,3kĀ**HK(ĀClcpĀ-2(Ā.,,3*Ā
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-54*ĀFZF`cc`Xe(ĀR*(ĀP`cc`Xdj(ĀI*(Ā<ifjj(Ā>*O*(ĀFbgfe^)Kl]]`e(ĀB*(ĀD*(Ā@lgkX(ĀI*Ā"Ā @`cY\ik(ĀC*>*Ā$.,,3%Ā **Hd[_WĀAAA6ĀOZWdWĀMeST^WĀKWUgd[fkĀ#Ā=^WUfda`[UĀNaf[`YĀ**NjXYc\ĀL\Zli`kpĀ$NL><Āy,3%(ĀEfncXe[j(ĀLZXiYfifl^_(ĀMi`eX[X[ĀMYlXipĀ-1) -2(Ā.,,3*Ā
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-55*Ā<ifjj(Ā>*O*(ĀFZF`cc`Xe(ĀR*(Ā@lgkX(ĀI*(ĀP`cc`Xdj(ĀI*(Ā@lgkX(ĀI*(ĀC*>*(Ā$.,,3%Ā **Hd[_WĀAAA6Ā9ĀMeWdĀ;W`fWdWVĀNaf[FĀAKkefW_Ā**>ok\e[\[Ā:YjkiXZkjĀ PfibjĀBeĀIif^i\jjĀL\jj`fe(ĀLXeĀCfj\(Ā<:(ĀFXpĀ.(Ā.,,3*Ā
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BUZYOLHXYĀ2UTMLWLTJLĀUTĀ4$;LHWTPTNĀPTĀ2UWV%#Ā6U[LWTĀ#Ā%Ā#Ā(Ā#Ā)Ā7PNO
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<ZRYPSLKPH#Ā7^VLWSLKPHĀĀCLRLJUSSZĀTĀ2UTMLWLTJLĀUTĀ4KZJHYPUTH
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.,-5ĀuĀIi\j\ekĀ	**K^aS`)999K)=VgUSf[a`Ā;ag`eW^Ā9Vh[eadkĀ;a__[ffWWĀ**
Ā	Ā
.,-5ĀuĀIi\j\ekĀ	**9;EĀ<[hWde[fkĀ#ĀA`U^ge[a`Ā;ag`U[^ĀEW_TWdĀ**
Ā	Ā
.,-2Ā)ĀIi\j\ekĀ	**M`[hWde[fkĀaXĀ;W`fdS^Ā>^ad[VSĀA`Vgefd[S^Ā9Vh[eadkĀ:aSdVĀEW_TWdĀ**
Ā	Ā
.,-3ĀuĀIi\j\ekĀ	**M`[hWde[fkĀaXĀ>^ad[VSĀ9Xd[US`)9_Wd[US`ĀKfgV[WeĀ9Vh[eadkĀ:aSdVĀ**
Ā	Ā
.,-3ĀuĀIi\j\ekĀ	**:<H9ĀFSf[a`S^Ā:aSdVĀEW_TWdĀ**
Ā	Ā
.,-4ĀuĀ.,.-Ā	**FK>Ā;a__[ffWWĀa`Ā=cgS^ĀGbbadfg`[f[WeĀ[`ĀKU[W`UWĀS`VĀ=`Y[`WWd[`Y %;=GK=&Ā9Vh[eadkĀ;a__[ffWWĀ**
Ā	Ā
.,-3ĀuĀIi\j\ekĀ	**9HDMĀFK>Ā=`Y[`WWd[`YĀ<SfSTaa]eĀ9Vh[eadkĀ;a__[ffWWĀ**
Ā	Ā
.,-4Ā)Ā.,-5Ā	**M`[hWde[fkĀaXĀ>^ad[VSĀ9Xd[US`)9_Wd[US`ĀKfgV[WeĀHdaYdS_Ā<[dWUfad KWSdUZĀ;a__[ffWWĀĀ**
Ā	Ā
.,-3).,-5Ā	**@g_S`Ā>SUfadeĀS`VĀ=dYa`a_[UeĀKaU[WfkĀ%@>=K&Ā;a`XWdW`UWĀ A`fWd`WfĀLWUZ`[US^Ā?dagbĀ%AL?&ĀHdaYdS_Ā;ZS[dĀ**
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.,-5Ā)Ā.,.,Ā	**FSf[a`S^Ā9USVW_[WeĀaXĀKU[W`UWe(Ā=`Y[`WWd[`YĀS`VĀEWV[U[`WĀ %F9K=E&Ā;a__[ffWWĀa`ĀLZWĀJa^WĀaXĀ9gfZW`f[UĀKL=EĀDWSd`[`YĀ =jbWd[W`UWeĀ[`Ā<WhW^ab[`YĀA`fWdWefĀS`VĀ;a_bWfW`U[WeĀXadĀ LWUZ`a^aYkĀS`VĀ;a_bgf[`YĀ**
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.,-3Ā)Ā.,-5Ā	**FSf[a`S^Ā9USVW_[WeĀaXĀKU[W`UWe(Ā=`Y[`WWd[`YĀS`VĀEWV[U[`WĀ %F9K=E&Ā;a__[ffWWĀa`ĀLZWĀKU[W`UWĀaXĀ=XXWUf[hWĀEW`fad[`YĀ[`Ā KU[W`UW(ĀLWUZ`a^aYk(Ā=`Y[`WWd[`Y(ĀEWV[U[`W(ĀS`VĀESfZW_Sf[UeĀ %KL=EE&Ā**
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.,-5Ā	**9;EĀKA?;@AĀ;a`XWdW`UWĀJWh[WiWdĀ**
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.,-5Ā	**KWdhWVĀSeĀSĀJWh[WiWdĀXadĀO[^^[S_ĀL*Ā?dS`fĀ>ag`VSf[a`ĀĀ**
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.,-5Ā)Ā.,..Ā	**9;EĀ@W[VW^TWdYĀDSgdWSfWĀ>adg_ĀKW^WUf[a`Ā;a__[ffWWĀEW_TWdĀ**
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.,-3ĀuĀ.,-5Ā	**FSf[a`S^Ā9USVW_[WeĀaXĀKU[W`UWe(Ā=`Y[`WWd[`YĀS`VĀEWV[U[`WĀ %F9K=E&Ā;a__[ffWWĀa`ĀLZWĀ>gfgdWĀaXĀNaf[`Y6Ā9UUWee[T^W(Ā JW^[ST^W(ĀNWd[X[ST^WĀLWUZ`a^aYkĀ**
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.,-4Ā	**KWdhWVĀSeĀSĀdWh[WiWdĀXadĀfZWĀBagd`S^ĀaXĀOa_Ā`ĀS`VĀE[`ad[f[WeĀ KU[W`UWĀS`VĀ=`Y[`WWd[`YĀ**
Ā	Ā
.,-4Ā	**KWdhWVĀSeĀSĀdWh[WiWdĀXadĀ9gfa_Sf[a`Ā[`Ā;a`efdgUf[a`ĀBagd`S^Ā**
Ā	Ā
.,-3Ā)Ā.,-4Ā	**A`fW^Ā;adbadSf[a`Ā@:;MĀ<[hWde[fkĀA`[f[Sf[hWĀ=jfWd`S^Ā9Vh[eadkĀ :aSdVĀEW_TWdĀ**
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.,-3Ā	**9bb^[WVĀ@g_S`Ā>SUfadeĀS`VĀ=dYa`a_[UeĀ%9@>=&Ā.,-3Ā A`fWd`Sf[a`S^Ā;a`XWdW`UWĀXadĀfZWĀ<We[Y`ĀXadĀAUĀ^ge[a`ĀKU[W`f[X[9Vh[eadkĀ:aSdVĀEW_TWdĀ**
Ā	Ā
.,-3Ā	**KWdhWVĀSeĀSĀdWh[WiWdĀXadĀ;a__g`[USf[a`eĀaXĀfZWĀ9;EĀ**
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.,-3Ā	**KWdhWVĀSeĀSĀdWh[WiWdĀXadĀ;a_bgfWdeĀ#ĀKWUgd[fkĀBagd`S^Ā**
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.,-3Ā	**@g_S`Ā>SUfadeĀS`VĀ=dYa`a_[UeĀKaU[WfkĀ%@>=K&Ā;a`XWdW`UWĀMeWdĀ =jbWd[W`UWĀ%MP&Ā<SkĀHdaYdS_Ā;a__[ffWWĀ**
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.,-3Ā	**KWdhWVĀSeĀFK>ĀHS`W^ĀJWh[WiWdĀ**
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.,-2Ā	**@g_S`Ā>SUfadeĀS`VĀ=dYa`a_[UeĀKaU[WfkĀ%@>=K&Ā;a`XWdW`UWĀMeWdĀ =jbWd[W`UWĀ%MP&Ā<SkĀESdUĀJWe`[U]Ā:WefĀHSbWdĀ9iSdVĀBgVYWĀ**
Ā	Ā
.,-2Ā	**@g_S`Ā>SUfadeĀS`VĀ=dYa`a_[UeĀKaU[WfkĀ%@>=K&Ā;a`XWdW`UWĀMeWdĀ =jbWd[W`UWĀ%MP&Ā<SkĀDWSVWdeZ[bĀ<WhW^ab_W`fĀOad]eZabĀ;ZS[dĀ**
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.,-2Ā	**KWdhWVĀSeĀSĀdWh[WiWdĀXadĀ;a_bgfWdeĀ#ĀKWUgd[fkĀBagd`S^Ā**
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.,-1Ā	**@g_S`Ā>SUfadeĀS`VĀ=dYa`a_[UeĀKaU[WfkĀ%@>=K&Ā;a`XWdW`UWĀMeWdĀ =jbWd[W`UWĀ%MP&Ā<SkĀ;a`fWefĀBgVYWĀS`VĀEW`fadĀ**
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.,-1).,-3Ā	**9bb^[WVĀ@g_S`Ā>SUfadeĀS`VĀ=dYa`a_[UeĀ%9@>=&ĀĀ <We[Y`ĀXadĀA`U^ge[a`Ā.,-2ĀKU[W`f[X[UĀ9Vh[eadkĀ:aSdVĀ**
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.,-1).,-3Ā	**MK9;EĀ=jWUgf[hWĀ;ag`U[^ĀEW_TWdĀ**
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.,-1).,-3Ā	**KWdhWVĀa`Ā9Vh[eadkĀ:aSdVĀXadĀfZWĀ;S^[Xad`[SĀ9eeàUĀSf[a`ĀaXĀNaf[GXX[U[S^eĀ%;9NG&Ā**
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.,-1)Ii\j\ekĀ	**9Vh[ead(ĀM`[hWde[fkĀaXĀ>^ad[VSĀFSf[a`S^ĀKaU[WfkĀaWdeĀSU]Ā=`Y[`W %FK:=&Ā**
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.,-1).,-4Ā	**KWdhWVĀa`Ā9Vh[eadkĀ:aSdVĀXadĀfZWĀ;a`eadf[g_Ā=`ST^[`YĀ ;kTWdeWUgd[fkĀGbbadfg`[f[WeĀS`VĀJWeWSdUZĀ%;=;GJ&Ā**
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.,-1Ā KWdhWVĀSeĀS`ĀA`fWd`S^ĀJWh[WiWdĀXadĀfZWĀM>ĀHWiĀKUZa^SdeĀHda
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.,-1Ā KWdhWVĀa`ĀHdaYdS_Ā;a__[ffWWĀXadĀJ=KH=;LĀ.,-1Ā%JWeWSdUZĀ[`Ā
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EW`fadĀ9iSdVĀ;a__[ffWWĀEW_TWdĀ
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.,-.Ā)Ā.,-0Ā	**;^W_ea`ĀM`[hWde[fkĀKUZaa^ĀaXĀ;a_bgf[`YĀ?dSVgSfWĀKfgVW`fĀ 9eeaU[Sf[a`(Ā;a)9Vh[eadĀ**
Ā	**Ā**
.,-.Ā)Ā.,-0Ā	**9`VWdea`Ā<[efd[UfĀ1Ā;SdWWdĀ;S_bge(Ā;SdWWdĀS`VĀLWUZ`a^aYkĀ 9Vh[eadkĀ;ag`U[^ĀEW_TWdĀ**
Ā	**Ā**
.,-.Ā)Ā.,-0Ā	**9eeaU[SfWĀHSdf`WdĀa`Ā9Vh[e[`YĀ;a__[ffWWĀXadĀ9VW^WJaTafe*Ua_Ā**
Ā	**Ā**
.,--ĀuĀIi\j\ekĀ	**9Vh[eadkĀ:aSdVĀEW_TWdĀXadĀ999K)FK>Ā=_WdY[`YĀJWeWSdUZWdeĀ FSf[a`S^Ā%=JF&Ā;a`XWdW`UWĀ[`ĀKU[W`UW(ĀLWUZ`a^aYk(Ā=`Y[`WWd[`YĀ S`VĀESfZW_Sf[UeĀ%KL=E&Ā**
Ā	**Ā**
.,-,ĀuĀ.,-0Ā	**FK>Ā;a_bgfWdĀ#ĀA`Xad_Sf[a`ĀKU[W`UWĀ#Ā=`Y[`WWd[`YĀ%;AK=&Ā 9Vh[eadkĀ;a__[ffWWĀEW_TWdĀ**
Ā	**Ā**
.,-,ĀuĀ.,-/Ā	**EW_TWdĀaXĀfZWĀ9_Wd[US`Ā9eeaU[Sf[a`ĀXadĀfZWĀ9VhS`UW_W`fĀaXĀ KU[W`UWĀ%999K&Ā:aSdVĀSbba[`fWVĀ;a__[ffWWĀa`ĀGbbadfg`[f[WeĀ[`Ā KU[W`UWĀ%;GGK&Ā**
Ā	**Ā**
.,-,ĀuĀ.,-/Ā	**9_Wd[US`Ā9eeaU[Sf[a`ĀXadĀfZWĀ9VhS`UW_W`fĀaXĀKU[W`UWĀ%999K&Ā =Sd^kĀ;SdWWdĀ9iSdVĀXadĀHgT^[UĀ=`YSYW_W`fĀKW^WUf[a`Ā;a__[ffWWĀ EW_TWdĀ**
Ā	**Ā**
.,--ĀuĀ.,-0Ā	**KWdhWVĀa`Ā;^W_ea`ĀM`[hWde[fkĀHdWe[VW`fteĀ;a__[ee[a`Āa`ĀfZWĀ KfSfgeĀaXĀ:^SU]Ā>SUg^fkĀS`VĀKfSXXĀ**
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.,-.Ā)Ā.,-0Ā	**:EOĀKfWWd[`YĀ;[dU^WĀ;a__[ffWW(ĀEW_TWdĀ**
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.,-.Ā	**?gWefĀ:^aYYWdĀXadĀ;a__g`[USf[a`eĀaXĀfZWĀ9;EĀ**
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.,-.Ā)Ā.,-/Ā	**;ZS[d(Ā;aS^[f[a`ĀfaĀ<[hWde[fkĀ;a_bgf[`YĀ%;<;&(Ā\a[`fĀadaYĀS`[lSf[aXĀfZWĀ9;E(Ā;J9ĀS`VĀA===);KĀ**
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.,--Ā)Ā.,-0Ā	**;^W_ea`ĀM`[hWde[fkĀ;kTWdA`ef[fgfWĀKfWWd[`YĀ;a__[ffWWĀ;ZS[dĀ**
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.,--Ā	**=V[fad[S^Ā:aSdVĀEW_TWdĀXadĀKbWU[S^Ā[eegWĀa`ĀKaU[S^ĀEWV[SĀS`VĀ EaT[^WĀESd]Wf[`YĀ[`ĀBagd`S^ĀaXĀJWeWSdUZĀ[`ĀA`fWdSĀf[hWĀESd]Wf[`**
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.,--Ā	**9eeaU[SfWĀ=V[fadĀXadĀfZWĀA`fWd`Sf[a`S^ĀBagd`S^ĀaXĀWeĀWS^fZ(ĀOW^^` S`VĀKaU[WfkĀ**
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.,--Ā	**KWdhWVĀSeĀSĀdWh[WiWdĀXadĀfZWĀBagd`S^ĀaXĀKL=EĀ=VgUSf[a`6Ā A``ahSf[a`eĀS`VĀJWeWSdUZĀ**
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.,--Ā	**>adVĀ>ag`VSf[a`Ā>W^^aieZ[bĀHS`W^[efĀ**
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XadĀfZWĀ<WhW^ab[`YĀOad^VĀ%DL0<&ĀOad]eZabĀXadĀfZWĀLZWĀ--
A`fWd`Sf[a`S^Ā;a`XWdW`UWĀa`Ā9VhS`UWVĀDWSd`[`YĀLWUZ`a^aY[WeĀ
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Bagd`S^ĀKbWU[S^ĀLZW_WĀAeegWĀa`Ā9gfa_af[hWĀMeWdĀA`fWdXSUWeĀS`V
A`fWdSUf[hWĀ9bb^[USf[a`eĀ
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.,--Ā KWdhWVĀSeĀSĀdWh[WiWdĀXadĀ.,-.ĀA===ĀA`fWd`Sf[a`S^WĀ^WUfd[UĀNWZ[
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.,-,Ā ;^W_ea`ĀM`[hWde[fkĀ;a_bgf[`YĀS`VĀA`Xad_Sf[a`ĀLWUZ`a^aYkĀ
=HK;aJĀ<We]fabĀfaĀLWdSYd[VĀKWSdUZĀ;a__[ffWWĀ_W_TWd*Ā
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KU[W`UWĀKk_bae[g_ĀGdYS`[l[`YĀ;a__[ffWWĀEW_TWdĀ
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A`fWdV[eU[b^[`SdkĀJag`VfST^WĀa`ĀNa^g`fSdkĀNaf[`YĀKkefW_eĀ
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<[dWUfadĀKWSdUZĀ;a__[ffWWĀ;ZS[dĀ
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1.Ā	ÄRua M. WilliamsĀ	June 2, 2020	:jj`jkXekĀIif]\jjfi(ĀIli[l\Ā Ne`m\ij`kpĀ
2.Ā	Ä Brianna PosadasĀ	April 9, 2020	F\[`XĀ=\dfZiXZpĀ?le[ĀIfc`ZpĀ ?\ccfnĀ
3.Ā	Ä Tiffanie SmithĀ	October 28, 2019	:jj`jkXekĀIif]\jjfi(ĀE`eZfceĀ Ne`m\ij`kpĀ
4.Ā	ÄElizabeth A. MatthewsĀ	June 25, 2019	:jj`jkXekĀIif]\jjfi(ĀPXj_`e^kfeĀ "ĀE\\ĀNe`m\ij`kpĀ
5.Ā	Ä Sanethia V. ThomasĀ	March 13, 2019	E\Zkli\i(ĀNe`m\ij`kpĀf]Ā?cfi`[XĀ
6.Ā	Jerone DunbarĀ	August 3, 2018	Afe[XĀK\j\XiZ_Ā"Ā=\m\cfgd\ekĀ
7.Ā	Ä Jessica N. JonesĀ	March 16, 2018	AldXeĀLpjk\djĀK\j\XiZ_Ā LZ`\ek`jk(Ā?lkli\Ā<fdYXkĀ Lpjk\djĀ;iXeZ_ĀXkĀGLP<Ā =X_c^i\eĀ=`m`j`feĀ
8.Ā	' Julian BrinkleyĀ	March 16, 2018	:jj`jkXekĀIif]\jjfi(Ā<c\djfeĀ Ne`m\ij`kpĀ
9.Ā	Ä France JacksonĀ	March 15, 2018	Bek\cĀ
10.Ā	Marvin AndujarĀ	July 24, 2017	:jj`jkXekĀIif]\jjfi(ĀNe`m\ij`kpĀ f]ĀLflk_Ā?cfi`[XĀ
11.Ā	Chris Crawford Ā	July 17, 2017	:jj`jkXekĀIif]\jjfi(ĀNe`m\ij`kpĀ f]Ā:cXYXdXĀ
12.Ā	Ä Andrea JohnsonĀ	June 30, 2015	:jj`jkXekĀIif]\jjfi(ĀLg\cdXeĀ <fcc\^\Ā
13.Ā	ÄHanan AlnizamiĀ	December 17, 2014	CX^lXiĀEXe[ĀKfm\iĀK\j\XiZ_Ā
14.Ā	Tamirat AbegazĀ	November 17, 2014	:jj`jkXekĀIif]\jjfi(ĀNe`m\ij`kpĀ f]ĀGfik_Ā@\fi^`XĀ
15.Ā	Ä Aqueasha Martin-HammondĀ	July 18, 2014	:jj`jkXekĀIif]\jjfiĀBNINBĀ
16.Ā	Joshua EkandemĀ	July 18, 2014	Bek\cĀ
17.Ā	Kinnis GoshaĀ	April 3, 2013Ā	Afik\e`ljĀB*Ā<_\eXlckĀ>e[fn\[Ā :jjfZ`Xk\ĀIif]\jjfi(ĀFfi_flj\Ā <fcc\^\Ā
18.Ā	' Ignacio Javier Álvarez MartínezĀ	=\Z\dY\iĀ-4(Ā.,-.Ā	Bek\cĀ
19.Ā	Ä Christin D. SheltonĀ	FXpĀ-0(Ā.,-.Ā	<fejlckXekĀ
20.Ā	Ä Shanee DawkinsĀ	:l^ljkĀ.1(Ā.,--Ā	K\j\XiZ_ĀLZ`\ek`jkĀXkĀGBLMĀ

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21.Ā	Ä Wanda Eugene	FXiZ_Ā./(Ā.,--Ā	K\j\XiZ_ĀLZ`\ek`jkĀXkĀNe`m\ij`kpĀ f]Ā?cfi`[XĀ
22.Ā	Caio V. Soares	ClcpĀ.4(Ā.,-,Ā	Bekl`kĀ
23.Ā	Ä Yolanda McMillian	Cle\Ā-1(Ā.,-,Ā	M\XZ_`e^ĀLg\Z`Xc`jk(ĀF`Z_`^XeĀ LkXk\ĀNe`m\ij`kpĀ
24.Ā	Ä Philicity K. Williams	FXpĀ.-(Ā.,-,Ā	N*L*Ā=\gXikd\ekĀf]Ā=\]\ej\Ā
25.Ā	Kenneth Rouse	ClcpĀ.-(Ā.,,5Ā	:jjfZ`Xk\ĀIif]\jjfi(Ā<fdglk\iĀ LZ`\eZ\ĀXkĀE\Mflie\XlĀ Ne`m\ij`kpĀ
26.Ā	E. Vincent Cross, II	:gi`cĀ.0(Ā.,,5Ā	L\e`fiĀK\j\XiZ_ĀLZ`\ek`jk(Ā MK:<EXYjĀ
27.Ā	David Thornton	ClcpĀ-0(Ā.,,4Ā	:jjfZ`Xk\ĀIif]\jjfi(ĀCXZbjfem`cc\Ā LkXk\ĀNe`m\ij`kpĀ
28.Ā	Ä Dale-Marie Wilson	ClcpĀ-.(Ā.,,2Ā	:jjfZ`Xk\ĀIif]\jjfi(ĀNG<) <_Xicfkk\Ā
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1.Ā	Ä Isabel LaurenceauĀ	=\Z\dY\iĀ.,-5Ā	F*L*Ā
2.Ā	ÄKiana AlikhademiĀ	:l^ljkĀ.,-5Ā	F*L*Ā
3.Ā	ÄDivyalakshmi Mahendran	=\Z\dY\iĀ.,-3Ā	F*L*Ā
4.Ā	Ä Jessica N. Jones	=\Z\dY\iĀ.,-0Ā	F*L*Ā
5.Ā	Ä Naja Mack	=\Z\dY\iĀ.,-/Ā	F*L*Ā
6.Ā	Phillip Hall	=\Z\dY\iĀ.,-/Ā	F*L*Ā
7.Ā	Jerone Dunbar	=\Z\dY\iĀ.,-/Ā	F*L*Ā
8.Ā	ÄAlison Nolan	=\Z\dY\iĀ.,-/Ā	F*L*Ā
9.Ā	Ä France Jackson	FXpĀ.,-/Ā	F*L*Ā
10.Ā	John Mark Smotherman	=\Z\dY\iĀ.,-.Ā	F*L*Ā
11.Ā	ÄLingyan Wang	HZkfY\iĀ.-(Ā.,,5Ā	F*L*Ā
12.Ā	ÄVasavi <_`cXdXeklcX	HZkfY\iĀ.-(Ā.,,5Ā	F*L*P*>*Ā
13.Ā	ÄAnjeli Singh	HZkfY\iĀ.,(Ā.,,5Ā	F*L*Ā
14.Ā	Ä Shanee Dawkins	HZkfY\iĀ.,(Ā.,,5Ā	F*L*Ā
15.Ā	ÄWanda Moses	:l^ljkĀ-,(Ā.,,5Ā	F*L*Ā
16.Ā	ÄYueqin Lin	:l^ljkĀ2(Ā.,,5Ā	F*L*P*>*Ā
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EXHIBIT B

UF UNIVERSITY of FLORIDA

Herbert Wertheim College of Engineering
Computer & Information Science & Engineering

E301 CSE Building
PO Box 116120
Gainesville, FL 32611-6120
352-392.1200 Voice
352-392-1220 Fax

Chairperson Lofgren, Ranking Member Davis, members of the Committee,

I am honored to share with you my expertise in voting systems security, accessibility and usability. Let me begin by speaking about my background as it relates to this important topic. I am the Andrew Banks Family Preeminence Endowed Professor and Chair of the Computer & Information Science & Engineering Department at the University of Florida where I lead the Human Experience Research Lab. I have worked in elections for more than 15 years conducting research, developing innovative technologies and conducting studies with various elections stakeholders. In 2003, I developed an open source voting system called Prime III in response to the 2000 Presidential Election and the Help America Vote Act, or HAVA. To my knowledge, I am the only person to create an open source voting system that has been used in federal, state and local elections. Prime III was the first universally designed voting system, to my knowledge, meaning it was designed for all voters, independent of their ability or disability. The idea was one machine that everyone could use. This has benefits for accessibility, security and usability for voters and election administrators. For example, the margin of victory of the 2016 Presidential Election was smaller than the number of voters with disabilities that voted. If voters with disabilities are the only people voting using a specific type of technology, then adversaries could simply target that single population and impact the outcome of the election, see data from Rutgers' reports below. After HAVA was passed, each voting precinct was required to have at least 1 accessible voting machine. Although this was a good idea making progress towards increasing accessibility of our elections, there was one side effect. It setup a separate but equal experience for voters with disabilities. As such, there were unexpected issues introduced. For example, in some precincts, there were reports of the accessible voting equipment not being setup because the poll workers didn't know how to set it up. Essentially, because few voters used it, it was not something the poll workers gave much attention. Prime III has been used statewide in New Hampshire. New Hampshire adopted Prime III as their accessible voting machine and renamed it, One4All. Butler county, Ohio, which is my birth county, adopted Prime III as their remote accessible, absentee voting system in 2018. ES&S is the nation's largest voting machine manufacturer. ES&S created a machine called the Universal ExpressVote. ExpressVote was designed after Prime III. Dominion has the ImageCast Prime X machine that is very similar to Prime III as well. The research and development of Prime III was supported by the National Science Foundation

and the U.S. Election Assistance Commission. The U.S. EAC supported this research and development through a 5 year accessible voting technologies grant that created the Research Alliance for Accessible Voting, RAAV. This grant helped setup Prime III research, development and studies that have resulted in improvement in the state of the art in elections technology. It also supported research and training for election administrators. Grants such as the EAC accessible voting technologies project are crucial to achieving the necessary security, accessibility and usability in our elections. Grants from the U.S. EAC have resulted in very good findings that are improving our elections.

I would like to transition now into specific recommendations. In 2018, the National Academies of Science, Engineering and Medicine released a consensus report titled, "Securing the Vote: Protecting American Democracy" The report was the result of a 2 year study conducted by experts from elections administration and policy, cybersecurity, accessibility, and law. I was a member of this committee. Over the course of the study, the committee reviewed extensive background materials. It held five meetings where invited experts spoke to the committee about a range of topics including voter registration, voting accessibility, voting technologies and market impediments to technological innovation, cybersecurity, post-election audits, and the education and training of election workers. The committee did not access classified information but instead relied on information in the public domain, including state and federal government reports, published academic literature, testimony from congressional hearings, and presentations to the committee. Issues related to voting such as voter identification laws, gerrymandering, foreign and domestic disinformation, campaign financing, and other similar topics were outside the charge of the committee and therefore, are not included in the report.

The committee was inspired by dedicated and enlightened election officials from across the nation and all levels of government. Such individuals are working tirelessly to improve accessibility, harness new technologies, and ensure the integrity of the results of elections. Unfortunately, these same officials often lack appropriate staff and resources and are routinely hampered in their work by a patchwork of laws and regulations that make it difficult to upgrade and modernize their election systems. U.S. elections are subject to aging equipment, targeting by external actors, a lack of sustained funding, and growing expectations that voting should be more accessible, convenient, and secure. The present issues and threat environment provide an extraordinary opportunity to marshal science and technology to create more resilient and adaptive election systems that are accessible, reliable, verifiable, and secure.

The Academies' study committee recognized that the federal government has an important role to play in understanding the impact of technological changes on the conduct of elections and in evaluating possible remedies to election threats. It noted that the U.S. EAC has a vital role to play in improving election administration and that NIST and NSF also have important roles to play in advancing the state of the art in US elections. The committee stated that the designation by the U.S. Department of Homeland Security of election systems as a subsector of the existing government facilities critical infrastructure sector is correct and appropriate, and that this designation reflects appropriately the need for sophisticated technical expertise and sharing of intelligence information required to protect the nation's election infrastructure.

We must foster an environment that promotes innovation in election systems technology, provides election administrators with human resource tools to increase the professionalization of the election workforce, allocates appropriate resources for the operation of elections, and better secures elections by developing auditing tools that provide assurances that ballots cast are counted and tabulated correctly and that the results of elections are accurate.

I would like to share some key recommendations from the report with you.

Elections should be conducted with human-readable paper ballots. These may be marked by hand or by machine, using a ballot-marking device; they may be counted by hand or by machine, using an optical scanner. Recounts and audits should be conducted by human inspection of the human-readable portion of the paper ballots. Voting machines that do not provide the capacity for independent auditing, for example, machines that do not produce a voter-verifiable paper audit trail, should be removed from service as soon as possible. Currently, there's no known way to secure a digital ballot. At this time, any election that is paperless is not secure. Therefore, Internet voting, specifically, the return of ballots should not be used at this time.

Vendors and election officials should be required to report any detected efforts to probe, tamper with, or interfere with any election systems, including, voter registration systems.

Each state should require a comprehensive system of post-election audits of processes and outcomes.

A detailed set of cybersecurity best practices for state and local election officials should be continuously developed and maintained.

Congress should provide funding to help state and local governments modernize their election systems and improve their cybersecurity capabilities. Congress should also authorize and provide funding for a major research initiative on voting. In the report, recommendation 7.3 says,

"Congress should authorize and fund immediately a major initiative on voting that supports basic, applied, and translational research relevant to the administration, conduct, and performance of elections. This initiative should include academic centers to foster collaboration both across disciplines and with state and local election officials and industry."

This recommendation calls for a bold initiative to foster research and development towards the mitigation of the issues outlined in the report. Such an initiative would be managed by the relevant existing government agencies. These agencies are the U.S. EAC, NIST, U.S. Department of Homeland Security, National Science Foundation, and U.S. Department of Defense (DoD). This initiative would call for a minimum of $25 million in funding over a 5-year period to establish a national center that has the primary focus of research and development as it relates to making all aspects of elections secure, accessible, usable and trustworthy. The center would work across universities, election officials, and elections technologies companies. The proposed research center is critical to protecting our elections and advancing the state of the art in elections to mitigate all domestic and foreign threats.

I would like to speak to a recent debate in the academic research community with respect to hand-marked paper ballots and ballot marking devices (BMD). As previously mentioned, in "Securing the Vote: Protecting American Democracy," the committee was clear in their recommendation that "Elections should be conducted with human-readable paper ballots. These may be marked by hand or by machine, such as a ballot marking device (BMD)." Following the release of the report, many States are moving away from paperless voting machines to hand-marked paper ballots or BMD. At the onset, it is important for voters to understand the difference in voting processes and how their votes are cast and counted.

In most BMD implementations, the voter makes selections using the BMD and a paper ballot is produced with a QR code or some other barcode and the voters' selections. The barcode(s) represent the voters' selections and are read by a separate scanner. In this case, some are concerned that the barcode may not match the human-readable portion of the ballot. To ensure a match, the national academies report recommends that all elections should undergo an audit, for example a risk-limiting audit (RLA). This recommendation

also applies to hand-marked paper ballots as well because they are fed through a scanner for tallying. The audit would ensure that the election results are accurate and would neutralize any barcode mismatches. Furthermore, if the barcodes don't match, this provides a forensic trail to investigate the mismatch.

Hand-marked paper ballots, unlike BMD voting, are susceptible to overvoting and undervoting hacks. The undervote hack occurs when a voter decides not to make a selection in a contest, in other words, they leave the contest blank. This is a natural response when a voter doesn't want to vote for any candidates in a particular contest. An insider could then make a selection on that ballot. This will take two-to-five seconds and it's impossible to detect if the insider is not caught in the act. The overvote hack occurs when the voter makes a selection, but the insider makes an additional selection causing an overvote, which would lead to a nullified ballot. Like the undervote hack, this is undetectable unless the insider is caught in the act. These hacks require very little expertise and time.

There have been claims that voters do not review their ballots that have been produced by a BMD. Therefore, it's possible to flip votes so that what is printed on the ballot isn't what the voter selected and if the voter doesn't verify the ballot, the hack is successful. Dr. Michael Byrne at Rice University has just completed a study and his findings differ. Dr. Byrne and his colleagues have recently completed two separate studies on BMD ballot verification. One was a proper experiment and one was a field study in Los Angeles, California. For the experiment, they found that giving voters explicit reminders to verify their ballots resulted in a significant increase in verification rate. They also found a higher verification rate for a shorter ballot (5 races) than a longer one (40 races). Their results suggest that it is likely possible to improve verification rates with a little bit of instruction.

For the field study, they went out to Los Angeles to observe their mock election using their new VSAP (voting solution for all people) BMD, and found that 51% of voters verified (or appeared to verify) their printed ballots, and those that did took over 2 minutes longer to vote, which is presumably the verification time. This is a much higher verification rate than has been seen in some other studies, which is particularly surprising given that it was a mock election with nothing on the line for the voters.

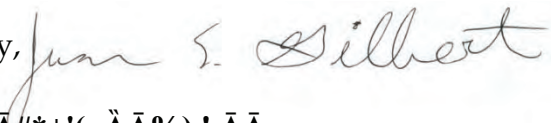
My research lab has been working on a new voting machine interface that will further advance voter verification of paper ballots produced by BMD. We will begin to run studies of this new technology in February 2020. I would be happy to report our findings to you in the spring.

In my opinion, the gold standard for securing elections should be the audit. If necessary, a full manual recount should be possible. With this in mind, the BMD has an advantage over hand-marked paper ballots. Hand-marked paper ballots will suffer from ambiguous marks that are left to the auditors to interpret. This doesn't happen with the BMD. Some may say that the number of ballots that have this issue are small, but we have seen margins of victory very small, even down to one vote. Most importantly, every vote should count and every ballot should be auditable.

Lastly, I would like to emphasize the fact that there is no current technology to secure a digital ballot. Some have suggested that ballot encryption is a safe method to secure the ballot. This is not true. An encrypted ballot protects against modification, which is a common threat model in voting system security. In other words, the common threat has been that a bad actor would change votes in favor of their preferred candidate. An additional threat that is often ignored is chaos. Instead of tipping the election in favor of a specific candidate, the goal is chaos. In this scenario, encrypted ballots are extremely vulnerable. The hack would be to simply delete all the encrypted ballots. Essentially, this would nullify the election because all ballots would be lost. Another hack would be to hold the encrypted ballots for ransom with ransomware. In either case, the result is chaos and will cause doubt in the election results. Therefore, it is important to understand that no electronic ballot, including encrypted ballots, are secure at this time.

As a nation, we have the capacity to build an elections system for the future, but doing so requires focused attention from citizens, federal, state, and local governments, election administrators, and innovators in academia and industry. It also requires a commitment of appropriate resources. Representative democracy only works if all eligible citizens can participate in elections, have their ballots accurately cast, counted, and tabulated, and be confident that their ballots have been accurately cast, counted, and tabulated.

Sincerely,



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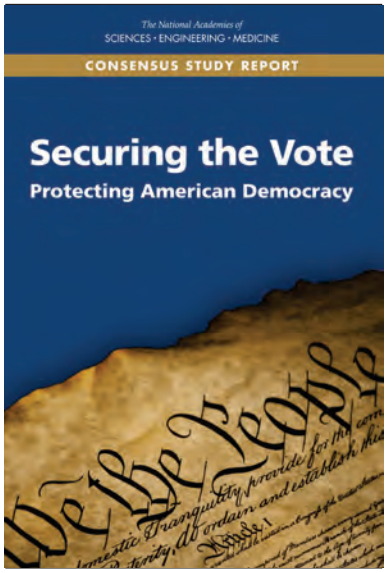
Consensus Study Report

SEPTEMBER 2018 HIGHLIGHTS FOR FEDERAL POLICY MAKERS

SECURING THE VOTE

Protecting American Democracy



The 2016 presidential election made clear the vulnerability of America's election infrastructure to foreign cyberattacks. Such attacks represent a new threat to the nation's system of representative democracy. A new report from the National Academies of Sciences, Engineering, and Medicine recommends concerted action by Congress, federal agencies, and state and local governments to protect the security and integrity of U.S. elections.

Securing the Vote: Protecting American Democracy recommends that focused attention be directed at strengthening cybersecurity for election systems. In addition, the report recommends that all U.S. elections be conducted with human-readable paper ballots by the 2020 presidential election. Risk-limiting audits should be implemented for all federal and state elections within a decade. And election systems should continue to be considered as U.S. Department of Homeland Security (DHS)-designated critical infrastructure. In addition, the report states that Internet voting should not be used for the return of marked ballots at the present time, as no known technology guarantees the secrecy, security, and verifiability of a marked ballot transmitted over the Internet.

STEPS FEDERAL POLICYMAKERS SHOULD TAKE TO SECURE U.S. ELECTIONS

The report recommends that Congress:

- provide funding for state and local governments to improve their cybersecurity capabilities on an ongoing basis;
- create incentive programs for public-private partnerships to develop modern election technology; and
- authorize and fund immediately a major initiative on voting that supports research relevant to the administration, conduct, and performance of elections. This initiative should include academic centers to foster collaboration both across disciplines and with state and local election officials and industry.

The U.S. Election Assistance Commission (EAC) has a vital role to play in improving election administration, the report says. It urges the president to nominate and Congress to confirm a full commission and to ensure that the commission has sufficient members to sustain a quorum.

The report also recommends steps Congress should take to support the EAC's work, including:

- appropriating funds for distribution by the EAC for the ongoing modernization of election systems;
- authorizing and funding the EAC to develop voluntary certification standards for voter registration databases, electronic pollbooks, chain-of-custody procedures, and auditing;
- providing the funding necessary to sustain the EAC's Voluntary Funding System Guidelines standard-setting process and certification program;
- requiring state and local election officials to provide the EAC with data on voting system failures and information on other difficulties arising during elections (for example, long lines, fraudulent voting, intrusions into voter registration databases); this information should be made publicly available; and
- fully funding the EAC to carry out its existing functions, as well as additional ones articulated in the report. For example, the report recommends that the EAC and DHS continue to develop and maintain a detailed set of cybersecurity best practices for state and local election officials. And it urges the EAC to closely monitor the expenditure of federal funds made available to states for the purposes of enhancing election security.

The report also recommends that Congress take steps to support work by the National Institutes of Standards and Technology (NIST) around election systems, including:

- authorizing and appropriating funds to NIST to establish Common Data Formats for auditing, voter registration, and other election systems;
- authorizing and providing appropriate funding to NIST to carry out its current elections-related functions and to perform the additional functions articulated in the report; and
- authorizing and funding NIST, in consultation with the EAC, to develop security standards and verification and validation protocols for electronic pollbooks, in addition to those standards and protocols developed for voting systems.

COMMITTEE ON THE FUTURE OF VOTING: ACCESSIBLE, RELIABLE, VERIFIABLE TECHNOLOGY

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For More Information . . . This Consensus Study Report Highlights was prepared by the National Academies of Sciences, Engineering, and Medicine based on the Report *Securing the Vote: Protecting American Democracy* (2018). The study was sponsored by the Carnegie Corporation of New York and the William and Flora Hewlett Foundation. Any opinions, findings, conclusions, or recommendations expressed in this publication do not necessarily reflect the views of any organization or agency that provided support for the project. Copies of the Report are available from the National Academies Press, (800) 624-6242; http://www.nap.edu or at www.nationalacademies.org/futureofvoting.

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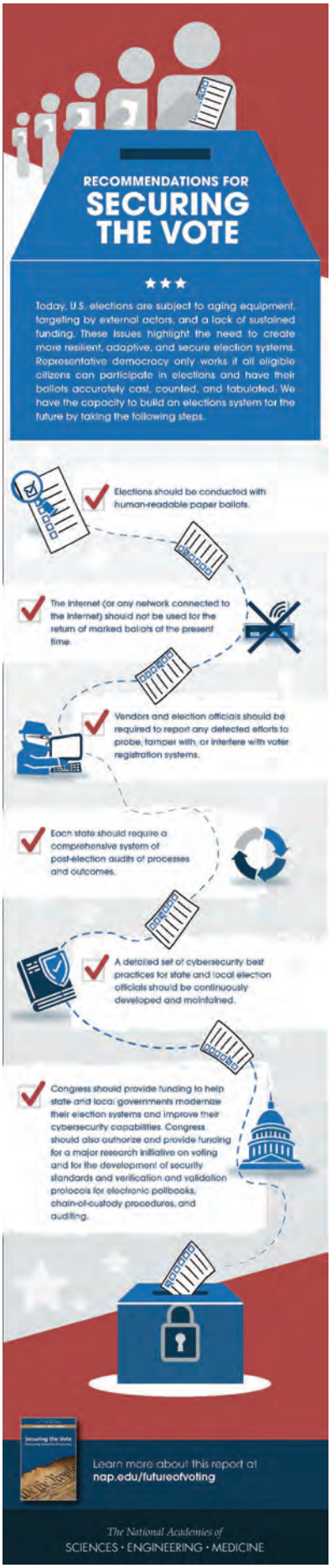
RECOMMENDATIONS FOR
SECURING THE VOTE
★★★
Today, U.S. elections are subject to aging equipment, targeting by external actors, and a lack of sustained funding. These issues highlight the need to create more resilient, adaptive, and secure election systems. Representative democracy only works if all eligible citizens can participate in elections and have their ballots accurately cast, counted, and tabulated. We have the capacity to build an elections system for the future by taking the following steps.
Elections should be conducted with human-readable paper ballots.
The Internet (or any network connected to the Internet) should not be used for the return of marked ballots at the present time.
Vendors and election officials should be required to report any detected efforts to probe, tamper with, or interfere with voter registration systems.
Each state should require a comprehensive system of post-election audits of processes and outcomes.
A detailed set of cybersecurity best practices for state and local election officials should be continuously developed and maintained.
Congress should provide funding to help state and local governments modernize their election systems and improve their cybersecurity capabilities. Congress should also authorize and provide funding for a major research initiative on voting and for the development of security standards and verification and validation protocols for electronic pollbooks, chain-of-custody procedures, and auditing.
Learn more about this report at
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RUTGERS
School of Management and Labor Relations

Fact sheet: Disability and Voter Turnout in the 2016 Elections

Lisa Schur and Douglas Kruse[1]

Key points:

- 16.0 million people with disabilities reported voting in the November 2016 elections.
- The voter turnout rate of people with disabilities was 6 percentage points lower than that of people without disabilities.
- Employed people with disabilities, however, were just as likely as employed people without disabilities to vote, suggesting that employment helps bring people with disabilities into mainstream political life.
- The voter registration rate of people with disabilities was 2 percentage points lower than that of people without disabilities. The lower voter turnout was due both to a lower registration rate among people with disabilities, and to lower turnout among those who are registered.
- If people with disabilities voted at the same rate as people without disabilities who have the same demographic characteristics, there would be about 2.2 million more voters.

These figures are based on analysis of data from the federal government's Current Population Survey Voting Supplement for November 2016. The computations were made using six disability questions introduced on the Current Population Survey in 2008.

Voter turnout among voting eligible population

		Millions who reported:	
	Percent voting	Voting	Not voting
Overall	61.4%	137.5	86.5
People without disabilities	62.2%	121.5	73.9
People with disabilities	55.9%	16.0	12.6
Hearing impairment	62.7%	5.1	3.0
Visual impairment	53.7%	2.1	1.8
Mental or cognitive impairment	43.5%	4.0	5.2
Difficulty walking or climbing stairs	55.9%	9.7	7.7
Difficulty dressing or bathing	44.6%	2.3	2.8
Difficulty going outside alone	44.7%	4.5	5.6

[1] Professors at the School of Management and Labor Relations, Rutgers University, 50 Labor Center Way, New Brunswick, NJ, 08901, Lschur@smlr.rutgers.edu and Dkruse@smlr.rutgers.edu.

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As shown above, among the voting eligible population (citizens age 18 or older), 55.9% of people with disabilities reported voting, compared to 62.2% of people without disabilities. Within the disability population, the voting rate among people with hearing impairments (62.7%) was higher than the overall voting rate for people without disabilities, and the lowest rate was among those with a mental or cognitive impairment (43.5%). For each disability group except those with hearing impairments, the difference in turnout from those without disabilities is strong enough to be outside the survey's margin of error.[2]

The total of 137.5 million people who reported voting estimated from this survey is close to the total of 138.8 million ballots counted.[3] Any misreporting is unlikely to differ between the disability and non-disability populations, so the estimate of the turnout gap should be unbiased.

Some of the gap may be due to other demographic differences between people with and without disabilities. When adjusted for gender, race, age, education, and state of residence, the estimated gap expands slightly from 6.3 points to 7.8 points. This implies that if people with disabilities voted at the same rate as otherwise-similar people without disabilities, there would be an additional 2.2 million voters.

The estimated total of 16.0 million voters with disabilities compares with an estimated 17.1 million African-Americans and 12.7 million Hispanics/Latinos who voted in November 2016, based on analysis of this voting supplement. It should be noted that the disability total may be understated because these disability measures may not capture several types of disability.[4]

Some of the lower turnout of people with disabilities can be tied to difficulties getting to or using polling places.[5] A variety of states and localities have made efforts to reduce barriers and increase turnout among people with disabilities.[6] In addition, prior research has found the lower turnout is partly explained by lower levels of income, lower levels of political recruitment, and lower feelings of political efficacy.[7]

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[2] The margins of error are based on a 95% level of confidence.

[3] http://www.electproject.org/2016g, accessed 5-22-17

[4] The disability questions measure the major sensory, mobility, and mental impairments, but may miss some learning disabilities and physical conditions that do not necessarily limit mobility, such as epilepsy and cancer.

[5] The Government Accountability Office released a report on June 10, 2009 finding that only 27% of polling places in 2008 had no potential impediments to access by people with disabilities, which was an improvement over 2000 when only 16% had no potential impediments (GAO-09-685). A 2012 household survey found that 30% of citizens with disabilities who had voted at a polling place in 2012 said they encountered difficulties in doing so, compared to only 8% of citizens without disabilities (Lisa Schur, Meera Adya, and Douglas Kruse, "Disability, Voter Turnout, and Voting Difficulties in the 2012 Elections," July 2013, http://smlr.rutgers.edu/sites/smlr.rutgers.edu/files/images/Disability%20and%20voting%20survey%20report%20for%202012%20elections.pdf).

[6] Lisa Schur, Meera Adya, and Mason Ameri. "Accessible Democracy: Reducing Voting Obstacles for People with Disabilities." Election Law Journal Vol. 14, No. 1, 2015, pp. 60-65.

[7] The prior findings are summarized in Lisa Schur, Todd Shields, and Kay Schriner, "Voting," in Gary Albrecht, ed., Encyclopedia of Disability (Thousand Oaks, CA: Sage Publications, 2005), and Lisa

RUTGERS

Disability and voter turnout in 2008, 2012, and 2016

	2008	2012	2016
People without disabilities	64.5%	62.5%	62.2%
People with disabilities	57.3%	56.8%	55.9%
Disability turnout gap	-7.2%	-5.7%	-6.3%
Hearing impairment	63.1%	63.2%	62.7%
Visual impairment	56.8%	57.3%	53.7%
Mental or cognitive impairment	46.1%	44.8%	43.5%
Difficulty walking or climbing stairs	56.8%	56.3%	55.8%
Difficulty dressing or bathing	46.4%	46.7%	44.5%
Difficulty going outside alone	45.7%	47.3%	44.7%

These results can be directly compared to the general elections in November 2008 and 2012. As can be seen above, overall turnout dropped slightly from 2008 to 2012 and 2016. The drop was slightly greater for people without disabilities from 2008 to 2012, leading to a narrowing of the disability gap from 7.2 to 5.7 points, but the disability gap widened slightly to 6.3 points in 2016. It is important to note, however, that these estimated changes in the disability gap are small enough that they are within the survey's margin of error, so we cannot be confident of a true change in the disability gap over this period.

These results cannot be directly compared to elections before 2008 because they are based on a measure of disability introduced by the Census Bureau in 2008. A national survey conducted by the Eagleton Institute of Rutgers University following the November 2000 elections is comparable because it had similar questions and estimated prevalence of disability. Based on that survey, there was a 12 percentage point gap in voter turnout between people with and without disabilities in 2000, indicating that the relative voter turnout of people with disabilities in general elections may have improved from 2000 to 2016 (perhaps due in part to increased accessibility of polling places).[8]

Schur and Meera Adya, "Sidelined or Mainstreamed? Political Participation and Attitudes of People with Disabilities in the United States, Social Science Quarterly, Vol. 94, No. 3, 2013, pp. 811-839.

[8] Based on data used in Lisa Schur, Todd Shields, and Kay Schriner, "Generational Cohorts, Group Membership, and Political Participation by People with Disabilities," Political Research Quarterly, Vol. 58, No. 3, September 2005. Surveys conducted by Louis Harris and Associates for the National Organization on Disability show disability turnout gaps of 0% to 17% over the 1992-2008 period, but the disability prevalence is not reported so it is unclear if the disability measure used in those surveys can be readily compared (*The ADA, 20 Years Later: KesslerFoundation/NOD Survey of Americans with Disabilities*, Harris Interactive, New York, NY, 2010).

RUTGERS

Breakdown by employment status and demographics

There was no gap in voter turnout between employed people with and without disabilities, indicating that employment helps provide resources and social contact that encourage voting.[9] The disability voting gap was concentrated among the non-employed, as shown in the numbers below. The disability gap was also:

- larger among women than among men, reflecting especially high voter turnout among women without disabilities;
- larger among white non-Hispanics than among other race and ethnicity groups
- larger among those age 18-34 and 35-49 than among other age groups
- largest in the Northeast and smallest in the West

Except for the comparisons among the employed and other race/ethnicity, each of these disability gaps is strong enough to be outside the survey's margin of error.

	Disability		No Disability		Disability Gap	
	2012	2016	2012	2016	2012	2016
Overall	56.8%	55.9%	62.5%	62.2%	-5.7%	-6.3%
Employed	64.6%	64.7%	64.2%	63.6%	0.4%	1.1%
Not employed	55.0%	54.0%	59.2%	59.2%	-4.2%	-5.2%
Women	56.5%	56.4%	64.8%	64.3%	-8.3%	-7.9%
Men	57.2%	55.4%	60.1%	59.9%	-2.9%	-4.5%
White non-Hispanic	57.5%	58.2%	65.2%	66.4%	-7.7%	-8.2%
African-American	62.8%	54.5%	67.2%	60.4%	-4.4%	-5.9%
Hispanic	46.8%	42.7%	48.1%	48.0%	-1.3%	-5.3%
Other race/ethnicity	47.5%	49.4%	50.2%	49.3%	-2.7%	-0.1%
Age 18-34	32.6%	33.1%	48.8%	49.7%	-16.2%	-16.5%
Age 35-49	45.4%	46.9%	63.5%	62.9%	-18.1%	-16.0%
Age 50-64	58.1%	54.5%	71.0%	69.2%	-12.9%	-14.7%
Age 65+	64.4%	63.9%	75.4%	73.8%	-11.0%	-9.9%
Northeast	54.5%	54.7%	63.3%	62.5%	-8.8%	-7.8%
Midwest	60.1%	58.7%	65.8%	65.2%	-5.7%	-6.5%
South	56.4%	54.1%	61.3%	60.9%	-4.9%	-6.8%
West	55.6%	57.3%	60.7%	61.1%	-5.1%	-3.8%

[9] This is consistent with other research on the role of employment summarized in Lisa Schur, Todd Shields, and Kay Schriner, "Voting," in Gary Albrecht, ed., Encyclopedia of Disability (Thousand Oaks, CA: Sage Publications, 2005)

RUTGERS

Whether voted by mail and on election day

Among voters with disabilities in 2016, only 53% voted at the polling place on election day, compared to 61% of voters without disabilities. They were instead more likely to vote by mail before election day (28% compared to 19%), reflecting the mobility problems faced by some people with disabilities. All of these disability gaps are strong enough to be outside the survey's margin of error.

	Disability	No Disability	Disability Gap
How voted in 2016:			
At polling place on election day	52.6%	60.9%	-8.3%
At polling place before election day	18.1%	19.2%	-1.1%
By mail before election day	28.4%	18.6%	9.8%
By mail on election day	0.9%	1.4%	0.5%

State Breakdowns in Voter Turnout

The voter turnout gap between people with and without disabilities varied by state, as shown in the breakdown below. It should be cautioned that the sample size is low in many states, which increases the margin of error and decreases the likelihood of finding a disability gap that exceeds the margin of error. The disability gap in 2016 was large enough to be outside the margin of error (indicated by an "*") in 24 states and the District of Columbia, and was within the margin of error in the remaining 26 states.

	Disability		No Disability		Disability Gap			
	2012	2016	2012	2016	2012		2016	
U.S.	56.8%	55.9%	62.5%	62.2%	-5.7%		-6.3%	
Alabama	57.8%	47.4%	62.7%	59.4%	-4.9%		-12.0%	*
Alaska	59.1%	60.1%	58.3%	61.5%	0.9%		-1.5%	
Arizona	48.1%	66.2%	56.9%	59.6%	-8.9%		6.6%	
Arkansas	46.2%	51.2%	54.7%	60.1%	-8.4%	*	-8.9%	*
California	50.4%	52.3%	58.4%	58.6%	-8.0%	*	-6.3%	*
Colorado	65.6%	69.0%	71.1%	69.5%	-5.5%		-0.6%	
Connecticut	52.7%	65.0%	63.8%	63.8%	-11.1%	*	1.3%	
Delaware	71.1%	53.0%	66.8%	63.5%	4.3%		-10.5%	*
Florida	62.0%	58.9%	60.7%	59.5%	1.3%		-0.7%	
Georgia	54.9%	57.8%	62.9%	60.6%	-8.0%	*	-2.7%	
Hawaii	51.4%	54.1%	51.7%	46.3%	-0.2%		7.7%	
Idaho	56.6%	65.1%	64.9%	61.6%	-8.3%		3.5%	
Illinois	60.4%	65.8%	61.6%	63.5%	-1.2%		2.3%	
Indiana	54.8%	49.4%	59.9%	59.7%	-5.2%		-10.3%	*

RUTGERS

Iowa	63.9%	56.1%	70.2%	64.7%	-6.3%		-8.6%	*
Kansas	63.0%	53.0%	63.3%	62.9%	-0.3%		-9.9%	*
Kentucky	48.5%	42.5%	61.4%	60.2%	-12.9%	*	-17.6%	*
Louisiana	58.7%	48.2%	67.6%	64.0%	-8.9%	*	-15.7%	*
Maine	55.9%	68.2%	71.0%	73.5%	-15.1%	*	-5.3%	
Maryland	58.3%	60.4%	66.0%	66.4%	-7.7%	*	-6.0%	
Massachusetts	59.7%	59.6%	72.3%	67.6%	-12.6%	*	-8.1%	*
Michigan	60.7%	63.7%	68.0%	64.4%	-7.3%	*	-0.7%	
Minnesota	65.7%	58.7%	74.2%	69.9%	-8.4%	*	-11.2%	*
Mississippi	67.9%	63.2%	75.9%	68.6%	-8.0%	*	-5.3%	
Missouri	53.5%	55.9%	65.8%	66.2%	-12.2%	*	-10.3%	*
Montana	64.9%	67.0%	65.8%	65.7%	-0.9%		1.3%	
Nebraska	62.2%	70.4%	61.5%	66.2%	0.7%		4.2%	
Nevada	58.5%	58.2%	57.9%	60.8%	0.7%		-2.6%	
New Hampshire	59.0%	66.0%	70.8%	69.4%	-11.9%	*	-3.4%	
New Jersey	56.8%	58.6%	62.5%	61.8%	-5.7%		-3.2%	
New Mexico	57.7%	54.4%	62.1%	54.9%	-4.5%		-0.4%	
New York	50.2%	48.8%	59.7%	58.4%	-9.5%	*	-9.6%	*
North Carolina	62.5%	64.5%	69.8%	68.0%	-7.3%	*	-3.5%	
North Dakota	57.2%	60.1%	64.7%	64.7%	-7.6%		-4.6%	
Ohio	58.3%	53.2%	63.9%	65.5%	-5.6%	*	-12.3%	*
Oklahoma	49.4%	51.7%	53.0%	57.6%	-3.6%		-5.9%	
Oregon	66.6%	53.9%	67.8%	68.8%	-1.1%		-14.9%	*
Pennsylvania	54.9%	54.1%	62.6%	64.0%	-7.7%	*	-9.9%	*
Rhode Island	61.0%	50.0%	62.7%	62.1%	-1.7%		-12.1%	*
South Carolina	59.8%	50.4%	65.5%	64.0%	-5.7%		-13.5%	*
South Dakota	64.7%	51.9%	60.4%	60.1%	4.2%		-8.1%	
Tennessee	47.9%	47.1%	57.4%	55.1%	-9.5%	*	-8.0%	*
Texas	55.8%	51.5%	53.5%	55.9%	2.3%		-4.4%	*
Utah	59.8%	63.3%	56.7%	62.6%	3.1%		0.7%	
Vermont	62.1%	57.6%	63.4%	63.2%	-1.3%		-5.6%	
Virginia	57.1%	57.4%	68.2%	69.5%	-11.1%	*	-12.0%	*
Washington	63.6%	62.5%	66.0%	66.8%	-2.4%		-4.4%	
Washington, D.C.	63.8%	60.0%	77.6%	76.1%	-13.8%	*	-16.1%	*
West Virginia	42.9%	45.9%	48.8%	52.0%	-5.8%		-6.1%	*
Wisconsin	66.5%	63.9%	74.7%	71.6%	-8.2%	*	-7.7%	*
Wyoming	59.7%	54.5%	58.7%	66.1%	1.0%		-11.6%	*

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Voter Registration

The disability voting gap is due in part to lower voter registration, but is due more to a lower likelihood of voting if registered. Among people with disabilities, 68% were registered to vote, only 2 points lower than the rate for people without disabilities. Among those who were registered, 82% voted, which was 6 points lower than for registered people without disabilities. People with disabilities were more likely than those without disabilities to have registered at a town hall or registration office, public assistance agency, or registration drive, and less likely to have registered at a department of motor vehicles or using the Internet.

Each of these disability gaps is strong enough to be outside the survey's margin of error, except for the gaps in registering by mail or at a polling place.

	Disability	No Disability	Disability Gap
Registered to vote	68.3%	70.6%	-2.3%
Voted if registered	82.0%	88.0%	-6.0%
How registered to vote:			
Went to a town hall or county/ government registration office	28.5%	20.1%	8.4%
At a department of motor vehicles	24.8%	32.5%	-7.7%
At a public assistance agency	2.2%	1.2%	1.0%
Registered by mail	15.4%	15.1%	0.3%
Registered at polling place	7.6%	7.2%	0.5%
Filled out form at a registration drive	6.0%	4.7%	1.3%
At a school, hospital, or on campus	5.2%	6.4%	-1.2%
Registered using the Internet or online	4.0%	8.3%	-4.4%
Other	6.4%	4.5%	1.8%

RUTGERS

Why people were not registered

The most common expressed reason for not registering to vote, among people both with and without disabilities, was a lack of interest in the election or politics. Almost one-fourth of people with disabilities (23%) gave "permanent illness or disability" as their reason for not being registered.

The disability gaps below are strong enough to be outside the survey's margin of error, except for the small disability gaps in "Not eligible to vote," "Did not know where or how to register," "Difficulty with English," and "Other reason."

If not registered to vote, why not:	Disability	No Disability	Disability Gap
Not interested in the election or not involved in politics	36.1%	45.3%	-9.3%
Permanent illness or disability	22.6%	1.6%	20.9%
Did not meet registration deadlines	6.7%	14.0%	-7.3%
Not eligible to vote	7.6%	7.8%	-0.3%
My vote would not make a difference	3.5%	5.4%	-1.9%
Did not know where or how to register	3.1%	3.5%	-0.4%
Did not meet residency requirements/did not live here long enough	1.3%	3.1%	-1.7%
Difficulty with English	2.4%	2.0%	0.5%
Other reason	16.8%	17.3%	-0.5%

RUTGERS

Why people did not vote if registered

Among those who were registered to vote but did not do so in November 2016, about one-third (36%) of people with disabilities gave "illness or disability" as the reason for not voting, compared to 7% of people without disabilities. People with disabilities were also more likely to cite transportation problems as a reason for not voting (7% compared to 2%), consistent with their higher rate of voting by mail. They were less likely than people without disabilities to say that they were not interested, too busy, out of town, or didn't like the candidates.

The disability gaps below are strong enough to be outside the survey's margin of error, except for the small disability gaps in "Forgot to vote," "Bad weather conditions," "Registration problems," and "Other."

Why didn't vote	Disability	No Disability	Disability Gap
Illness or disability (own or family's)	35.7%	6.6%	29.0%
Not interested, felt my vote wouldn't make a difference	9.6%	17.3%	-7.6%
Didn't like candidates or campaign issues	20.6%	26.5%	-6.0%
Too busy, conflicting work or school schedule	4.4%	17.0%	-12.6%
Forgot to vote (or send in absentee ballot)	3.2%	3.1%	0.1%
Transportation problems	6.8%	1.8%	5.0%
Out of town or away from home	4.0%	9.1%	-5.1%
Registration problems (i.e. didn't receive absentee ballot, not registered in current location)	3.6%	4.7%	-1.1%
Inconvenient hours, polling place or hours or lines too long	1.4%	2.4%	-1.0%
Bad weather conditions	0.1%	0.0%	0.0%
Other	10.8%	11.6%	-0.8%

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

CORECO JA' AN PEARSON, *et al.*,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	1:20-cv-4809-TCB
	)	
BRIAN KEMP, *et al.*,	)	
	)	
Defendants.	)	

NOTICE OF FILING

Defendants Governor Brian Kemp, Secretary of State Brad Raffensperger, and State Election Board Members Rebecca Sullivan, David Worley, Matthew Mashburn, and Anh Le submit this notice of filing of (1) the Declaration of Frances Watson and (2) the Declaration of Juan E. Gilbert, Ph.D., attached hereto.

Respectfully submitted, this 6th day of December, 2020.

/s/ *Charlene S. McGowan*
CHARLENE S. MCGOWAN 697316
Assistant Attorney General

Office of the Georgia Attorney General
40 Capitol Square SW
Atlanta, GA 30334
cmcgowan law.ga.gov
Telephone: (404) 656-3389
Facsimile: (404) 651-9325

Carey Miller
Georgia Bar No. 976240
cmiller robbinsfirm.com
Josh Belinfante
Georgia Bar No. 047399
jbelinfante robbinsfirm.com
Melanie Johnson
Georgia Bar No. 466756
mjohnson robbinsfirm.com

Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street NW
Atlanta, GA 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been formatted using Times New Roman font in 14-point type in compliance with Local Rule 7.1(D).

/s/Charlene S. McGowan
Charlene S. McGowan
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **NOTICE OF FILING** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for the parties of record via electronic notification.

Dated: December 6, 2020.

/s/ Charlene S. McGowan
Charlene S. McGowan
Assistant Attorney General

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-14480

D.C. Docket No. 1:20-cv-04809-TCB

CORECO JA'QUAN PEARSON, et al.,

Plaintiff - Appellants,

versus

BRIAN KEMP, et al.,

Defendant - Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

(December 4, 2020)

Before WILSON, ROSENBAUM, and BRASHER, Circuit Judges.

BRASHER, Circuit Judge:

This appeal arises from last-minute litigation that alleges widespread election-related misconduct and seeks sweeping relief. The issue before us, however, is a narrow question of appellate jurisdiction: has the district court entered an order that

we have jurisdiction to review? Because the answer to that question is "no," we must dismiss this appeal for lack of jurisdiction and allow the proceedings to continue in the district court.

I. BACKGROUND

The plaintiffs in this case are a group of Presidential Electors from Georgia. On the Wednesday before Thanksgiving, they sued Georgia's Governor, its Secretary of State, and other defendants. They asserted that Georgia's certified 2020 Presidential Election results were suspect because of alleged vulnerabilities in Georgia's election machines and alleged mathematical and statistical anomalies in the vote count. Two days later—the Friday after Thanksgiving—the plaintiffs filed a motion for injunctive relief, seeking (1) a temporary restraining order preventing the defendants from erasing or altering forensic data on voting machines, (2) an injunction de-certifying the Presidential election results, or alternatively a stay in the delivery of the certified results to the Electoral College, and (3) an injunction making the voting machines available to the plaintiffs for forensic analysis.

The district court took the complaint and motion seriously and, on Sunday night, held a hearing on the plaintiffs' motion via Zoom. There, the plaintiffs' counsel explained that the evidence the plaintiffs hoped to collect from Georgia's voting machines might be permanently lost if the defendants were not immediately enjoined from altering the machines, since those machines needed to be recalibrated

for upcoming state and local runoff elections. Rather than waiting for a ruling on the motion for injunctive relief that covered ten counties, the plaintiffs proposed that the district court order "very limited" relief in "two or three counties." This solution would allow the plaintiffs to quickly collect the data they sought without impeding the runoff elections. The district judge agreed with the plaintiffs, and said that he would "order and temporarily restrain the Defendants . . . from altering or destroying or erasing[,] or allowing the alteration, destruction, or erasing of any of the computer information on any of the [voting] machines" in Cobb, Gwinnett, and Cherokee Counties.

True to his word, the district judge issued a written temporary restraining order on Sunday night that gave the plaintiffs what they said they wanted. That order enjoined the defendants from erasing or altering data on voting machines in the three counties listed above. It also ordered the defendants to produce a copy of the contract between the State of Georgia and Dominion Voting Systems. Two follow-up orders set an expedited evidentiary hearing for the morning of December 4, 2020 on the broader relief requested in the plaintiffs' motion and certified that the Sunday night order contained the elements required for a permissive appeal under 28 U.S.C. § 1292(b).

A few days later, the plaintiffs filed a notice of appeal as to the district court's Sunday night order. As a result, the district court canceled the hearing on the broader

relief the plaintiffs had requested. The defendants filed a conditional cross-appeal. Later, the plaintiffs also requested permission to appeal in this Court under 28 U.S.C. § 1292(b).

II. DISCUSSION

In our judicial system, the district court is the central forum for testing, advancing, proving, or disproving a party's allegations. It is where trials take place and the parties present their evidence. As a court of appeals, "we are a court of review, not of first view." *Cutter v. Wilkinson*, 544 U.S. 709, 718, n.7 (2005). Typically, we enter the picture only after the district court has considered the parties' competing positions and a winner has emerged. Less frequently, we review preliminary injunctions or orders that ask a particularly important, purely legal question.

The district court has not issued one of those appealable orders. In this case, the district court issued an emergency temporary restraining order at the plaintiffs' request, worked at a breakneck pace to provide them an opportunity for broader relief, and was ready to enter an appealable order on the merits of their claims immediately after its expedited hearing on December 4, 2020. But the plaintiffs would not take the district court's "yes" for an answer. They appealed instead. And, because they appealed, the evidentiary hearing has been stayed and the case

considerably delayed. For our part, the law requires that we dismiss the appeal and return the case to the district court for further proceedings.

A. The Sunday night order is not appealable under 28 U.S.C. §§ 1291 or 1292(a)(1)

We begin with the obvious: we cannot exercise our customary appellate jurisdiction because the district court has not entered a final judgment. *See* 28 U.S.C. § 1291. A final judgment is a decision that "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." *Ray Haluch Gravel Co. v. Centr. Pension Fund of Operating Eng'rs and Participating Emp'rs*, 571 U.S. 177, 183 (2014). An appeal from a final judgment may be taken as a matter of right. *Gelboim v. Bank of Am. Corp.*, 574 U.S. 405, 407 (2015).

The plaintiffs concede no final judgment has been entered in this case. Instead, the plaintiffs argue that the district court's Sunday night order is immediately appealable as an order denying their request for a temporary restraining order. The plaintiffs argue that that—even though the Sunday night order granted their request for a temporary restraining order in part and did not, on its face, deny anything—the order *effectively* denied their request because of the exigent circumstances involved. This argument fails for three reasons.

First, the district court's order does not deny the plaintiffs their requested relief at all. The plaintiffs filed their motion on the Friday after Thanksgiving. The district court held an emergency hearing over the weekend and, on Sunday,

November 29th, entered a TRO granting the plaintiffs' request in part. Notably, this Sunday night order gave the plaintiffs almost exactly what their counsel proposed as a temporary solution at the hearing: it "identif[ied] a very limited . . . number of counties" and enjoined the defendants from erasing or altering data contained on Dominion voting machines in those counties, thus, preserving them for future inspection. The district court then set an expedited briefing schedule and an emergency evidentiary hearing for December 4th. The purpose of the briefing schedule was to allow the defendants an opportunity to respond to the plaintiffs' allegations. And the purpose of the evidentiary hearing was to allow the plaintiffs to support their allegations with evidence and, potentially, to win the injunctive relief that they were seeking. Nothing about that chain of events suggests an adverse ruling on the plaintiffs' motion.

Second, even if the district court's order were properly construed as the denial of the plaintiffs' request—again, ignoring the fact that it did not deny anything—we do not ordinarily have jurisdiction over TRO rulings. *McDougald v. Jenson*, 786 F.2d 1465, 1472 (11th Cir. 1986). We exercise appellate jurisdiction over TRO decisions only "when a grant or denial of a TRO might have a serious, perhaps irreparable, consequence, and can be effectually challenged only by immediate appeal[.]" *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225 (11th Cir. 2005) (quoting *Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir.1995)). This is a high hurdle for

appellants to clear, and our caselaw provides for emergency appeals from TRO decisions only in the direst of circumstances. In *Ingram*, we permitted an appeal where a prisoner was set to be executed within twenty-four hours of a TRO being denied. *Ingram*, 50 F.3d at 899-900. In *Schiavo*, we permitted an appeal where a court denied a TRO that would have put a terminally ill patient back on life support. *Schiavo*, 403 F.3d at 1225.

The plaintiffs here are not in the same position as an inmate about to be executed or a patient removed from life support. The "irreparable" harm threatened here is that voting machines will be "wiped," erasing the data they contain and preventing the plaintiffs from conducting the forensic inspection they request. But the plaintiffs have not demonstrated that the alleged harm is imminent—that the defendants would have wiped all these machines county-by-county, destroying all the data they contain, unless the district court had granted broader relief on Sunday night. In fact, the district court's order was specifically designed to avoid this consequence by enjoining the defendants from erasing or altering data on the machines in three counties. It preserved the status quo in a way that gave the plaintiffs what they said they wanted and was minimally disruptive to the State of Georgia's ability to conduct special run-off elections in other counties. Nothing compelled an immediate appeal: had the plaintiffs not appealed the district court's Sunday night order, the district court would have held the evidentiary hearing it set

for December 4th and, by now, would likely have ruled on the plaintiffs' broader request for injunctive relief. Afterwards, the plaintiffs could have appealed.

Third, and for many of the same reasons, the district court's Sunday night order was not an appealable preliminary injunction order masquerading as a ruling on a request for a TRO. To determine whether an order denominated as a TRO is actually an appealable decision on a preliminary injunction, we review certain factors including "the duration of the order" and "the extent of evidence submitted to the district court." *Cuban Am. Bar Ass'n, Inc. v. Christopher*, 43 F.3d 1412, 1422 (11th Cir. 1995). The Sunday night order lacks the hallmarks of a preliminary injunction ruling. It does not engage the traditional four-factor test for granting preliminary injunctions. Its duration is limited to ten days. And, although some evidence has been submitted to the district court, no live witnesses have testified, no discovery has been conducted, and the defendants have not even had a chance to file a response to the complaint.

B. The Sunday night order is not appealable under 28 U.S.C. § 1292(b)

Alternatively, the plaintiffs ask that we permit them to appeal under 28 U.S.C. § 1292(b). Where no other avenue of appeal is open, Section 1292(b) allows a court of appeals to exercise jurisdiction under certain specified conditions. *Digital Equip. Corp. v. Desktop Direct, Inc.*, 511 U.S. 863, 883 (1994). Review under this statute was "intended, and should be reserved, for situations in which the court of appeals

can rule on a pure, controlling question of law without having to delve beyond the surface of the record in order to determine the facts" and should not, in contrast, turn on case-specific inquiries, such as "whether the district court properly applied settled law to the facts or evidence of a particular case." *McFarlin v. Conseco Servs., LLC*, 381 F.3d 1251, 1259 (11th Cir. 2004). This Court has identified five conditions necessary for it to consider an issue in an interlocutory appeal under Section 1292(b): "(1) the issue is a pure question of law, (2) the issue is controlling of at least a substantial part of the case, (3) the issue was specified by the district court in its order, (4) there are substantial grounds for difference of opinion on the issue, and (5) resolution may well substantially reduce the amount of litigation necessary on remand." *Mamani v. Berzain*, 825 F.3d 1304, 1312 (11th Cir. 2016) (quotation marks omitted).

This avenue of appellate jurisdiction is also closed. The case does not meet our criteria for Section 1292(b) interlocutory review for at least three reasons.

First, Section 1292(b) does not countenance an interlocutory appeal at this point in the case. The district court's Sunday night order was entered after only a weekend's worth of litigation and does not conclusively answer any legal questions. *Cf. Ray v. American Nat. Red Cross*, 921 F.2d 324, 325 (D.C. Cir. 1990) (no appeal when the district court certified the question under § 1292(b) without first deciding it). Perhaps for that reason, the order certifies that the case involves a

controlling question of law but does not identify what that question is. *See McFarlin*, 381 F.3d at 1264 ("If the district court is unsure about which of the questions, if any, that are answered by its order qualify for certification under § 1292(b), it should not certify the order for review. If convinced that a particular question does qualify, the district court should tell us which question it is."). And, most problematic in our view, the parties intended to present more evidence on the issues addressed in the district court's order, and the district court scheduled briefs and a hearing to allow it. We cannot use Section 1292(b) to "offer advisory opinions rendered on hypotheses which evaporate in the light of full factual development." *Paschall v. Kansas City Star Co*., 605 F.2d 403, 406 (8th Cir. 1979) (cleaned up).

Second, we are not convinced the primary question the plaintiffs suggest we answer—whether county-level election officials are the proper defendants to redress the plaintiffs' alleged injuries—is a "pure or abstract legal question" that can be "stated at a high enough level of abstraction to lift the question out of the details of the evidence or facts of a particular case." *McFarlin*, 381 F.3d at 1259, 1262. This issue goes to the redressability element of standing. "Standing for Article III purposes requires a plaintiff to provide evidence of an injury in fact, causation and redressability." *Dermer v. Miami-Dade Cnty.*, 599 F.3d 1217, 1220 (11th Cir. 2010). A court must assess standing by making "a legal determination based on the facts established by the record." *Church of Scientology Flag Serv. Org., Inc. v. City of*

Clearwater, 777 F.2d 598, 607 n.24 (11th Cir. 1985). The facts have played a role in evaluating redressability in other election litigation,[1] and they could also play a role here. Because the plaintiffs' appeal asks us to apply "settled law to the facts or evidence of [this] particular case," it is "the antithesis of a proper § 1292(b) appeal." *McFarlin*, 381 F.3d at 1259.

Third, a decision about whether the plaintiffs need to sue county officials will not cut short the case. If the answer is that the plaintiffs do not need to add these defendants, then the case will continue as is. If the answer is that the plaintiffs must add these defendants, the case will continue with additional defendants. We have "little doubt that a question is not controlling" if the litigation "can readily be accommodated to whatever ruling is made." 16 C. Wright & A. Miller, Federal Practice & Procedure § 3930 (3d ed. 2020).

III. CONCLUSION

Because we lack jurisdiction, the appeal is **DISMISSED** and the motion for permissive appeal is **DENIED**. Because we must dismiss this appeal, the defendants' conditional cross appeal is also **DISMISSED**. Any other pending motions are **DENIED AS MOOT**.

[1] Both parties cite our recent decision in *Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236 (11th Cir. 2020), where the Florida Secretary of State argued that she could not remedy the alleged problem and we held that "no contrary evidence" established otherwise. *Id.* at 1253. *See also id*. at 1254 ("absence of any evidence"), 1255 ("not proved"), 1255 ("not established"), 1257 ("no contrary evidence").

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 04, 2020

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 20-14480-RR
Case Style: Coreco Pearson, et al v. Gov. of the State of Georgia, et al
District Court Docket No: 1:20-cv-04809-TCB

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Regina A. Veals-Gillis, RR at (404) 335-6163.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jeff R. Patch
Phone #: 404-335-6151

OPIN-1 Ntc of Issuance of Opinion

20-14480 Pearson, et al. v. Governor of Georgia, et al.

ERRATA:

Corrected spelling of “Presidential” on p. 2.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

1:20-cv-04809-TCB
Pearson et al v. Kemp et al
Honorable Timothy C. Batten, Sr.

Minute Sheet for proceedings held In Open Court on 12/07/2020.

TIME COURT COMMENCED: 10:00 A.M.
TIME COURT CONCLUDED: 11:06 A.M. COURT REPORTER: Lori Burgess
TIME IN COURT: 1:06 DEPUTY CLERK: Uzma Wiggins
OFFICE LOCATION: Atlanta

ATTORNEY(S) PRESENT:
Joshua Belinfante representing Brad Raffensperger
Joshua Belinfante representing Brian Kemp
Joshua Belinfante representing David J. Worley
Joshua Belinfante representing Matthew Mashburn
Joshua Belinfante representing Rebecca N. Sullivan
Amanda Callais representing DCCC
Amanda Callais representing DSCC
Amanda Callais representing Democratic Party of Georgia, Inc.
Julia Haller representing Brian Jay Van Gundy
Julia Haller representing Carolyn Hall Fisher
Julia Haller representing Cathleen Alston Latham
Julia Haller representing Coreco Jaqan Pearson
Julia Haller representing Gloria Kay Godwin
Julia Haller representing James Kenneth Carroll
Julia Haller representing Vikki Townsend Consiglio
Harry MacDougald representing Brian Jay Van Gundy
Harry MacDougald representing Carolyn Hall Fisher
Harry MacDougald representing Cathleen Alston Latham
Harry MacDougald representing Coreco Jaqan Pearson
Harry MacDougald representing Gloria Kay Godwin
Harry MacDougald representing James Kenneth Carroll
Harry MacDougald representing Vikki Townsend Consiglio
Charlene McGowan representing Anh Le
Charlene McGowan representing Brad Raffensperger
Charlene McGowan representing Brian Kemp
Charlene McGowan representing David J. Worley

Charlene McGowan representing Matthew Mashburn
Charlene McGowan representing Rebecca N. Sullivan
Carey Miller representing Anh Le
Carey Miller representing Brad Raffensperger
Carey Miller representing Brian Kemp
Carey Miller representing David J. Worley
Carey Miller representing Matthew Mashburn
Carey Miller representing Rebecca N. Sullivan
Sidney Powell representing Brian Jay Van Gundy
Sidney Powell representing Carolyn Hall Fisher
Sidney Powell representing Cathleen Alston Latham
Sidney Powell representing Coreco Jaqan Pearson
Sidney Powell representing Gloria Kay Godwin
Sidney Powell representing James Kenneth Carroll
Sidney Powell representing Vikki Townsend Consiglio
** Abigail Frye

PROCEEDING CATEGORY:	Motion Hearing(PI or TRO Hearing-Evidentiary);
MOTIONS RULED ON:	[43]Motion to Dismiss GRANTED [63]Motion to Dismiss GRANTED
MINUTE TEXT:	Defendants' motions are GRANTED. TRO is DISSOLVED. Case is DISMISSED. Clerk shall close the case.
HEARING STATUS:	Hearing Concluded

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

CORECO JA'QAN PEARSON, et al., **Plaintiffs,** **v.** **BRIAN KEMP, et al.,** **Defendants.**	**CASE NO.** **1:20-cv-4809-TCB**

NOTICE OF EMERGENCY APPEAL

Plaintiffs Coreco Ja'Qan Pearson, et al., pursuant to 28 U.S.C. §1291 and Fed. R. App. P. 4, hereby file an appeal to the United States Court of Appeals for the Eleventh Circuit from this Court's Order of December 7, 2020, granting Defendants' Motions to Dismiss and dissolving the Temporary Restraining Order that prohibited destruction of evidence on Dominion Voting Systems equipment in Georgia (Minute Order Doc. 74; Judgment Doc. 75).

Plaintiffs request this Court immediately transmit this notice of appeal to the Eleventh Circuit so that that court may docket the matter, thus enabling Plaintiffs to proceed as quickly as possible to have these urgent issues of national importance addressed.

Respectfully submitted,

/s Sidney Powell

Sidney Powell PC
Texas Bar No. 16209700
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775
(Admitted pro hac vice)

/s Howard Kleinhendler
NEW YORK BAR NO. 2657120
Howard Kleinhendler Esquire
369 Lexington Avenue, 12th Floor
New York, New York 10017
Office (917) 793-1188
Mobile (347) 840-2188
howard@kleinhendler.com
www.kleinhendler.com
(Admitted pro hac vice)

CALDWELL, PROPST &
DELOACH, LLP

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CALDWELL, PROPST &
DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing **NOTICE OF APPEAL** with the Clerk of Court using the CM/ECF system which will cause service to made upon counsel of record therein.

This 7th day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3361

JAMES N. HATTEN
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

December 8, 2020

Clerk of Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

U.S.D.C. No.: 1:20-cv-4809-TCB
U.S.C.A. No.: 00-00000-00
In re: Coreco Jaqan Pearson et al v. Brian Kemp et al

Enclosed are documents regarding an appeal in this matter. Please acknowledge receipt on the enclosed copy of this letter.

X **Certified Notice of Appeal, Docket Sheet, Judgment and/or Order appealed enclosed.**

X **This is not the first notice of appeal. Other notices were filed on: 12/2/20 and 12/3/20; USCA Case No. 20-14480-RR.**

____ There is no transcript.

X **The court reporter is Lori Burgess.**

____ There is sealed material as described below: .

____ Other: .

X **Fee paid electronically on 12/7/20. (Receipt# AGANDC-10458354)**

____ Appellant has been leave to appeal *in forma pauperis*.

____ This is a bankruptcy appeal. The Bankruptcy Judge is .

____ The Magistrate Judge is .

X **The District Judge is Timothy C. Batten, Sr.**

____ This is a **DEATH PENALTY** appeal.

Sincerely,

James N. Hatten
District Court Executive
and Clerk of Court

By: /s/P. McClam
Deputy Clerk

Enclosures

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3361

JAMES N. HATTEN
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

December 8, 2020

Clerk of Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

U.S.D.C. No.: 1:20-cv-4809-TCB
U.S.C.A. No.: 00-00000-00
In re: Coreco Jaqan Pearson et al v. Brian Kemp et al

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____ The Magistrate Judge is .

X **The District Judge is Timothy C. Batten, Sr.**

____ This is a **DEATH PENALTY** appeal.

Sincerely,

James N. Hatten
District Court Executive
and Clerk of Court

By: /s/P. McClam
Deputy Clerk

Enclosures

4months,APPEAL,CLOSED

U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:20−cv−04809−TCB

Pearson et al v. Kemp et al
Assigned to: Judge Timothy C. Batten, Sr.
Case in other court: USCA− 11th Circuit, 20−14480−RR
USCA− 11th Circuit, 20−14480−RR
Cause: 42:1983 Civil Rights Act

Date Filed: 11/25/2020
Date Terminated: 12/07/2020
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

Plaintiff

Coreco Jaqan Pearson

represented by **Harry W. MacDougald**
Caldwell Propst & DeLoach, LLP
Suite 1600
Two Ravina Dr.
Atlanta, GA 30346
404−843−1956
Fax: 404−843−2737
Email: hmacdougald@cpdlawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
Howard Kleinhendler Esquire
369 Lexington Avenue
12th Floor
New York, NY 10017
917−793−1188
Fax: 732−901−0832
Email: howard@kleinhendler.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
Defending the Republic
601 Pennsylvania Ave, NW
South Building
Ste 900
Washington, DC 20004
561−888−3166
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
L. Lin Wood, P.C.
P.O. Box 52584
Atlanta, GA 30355−0584

404−891−1402
Fax: 404−506−9111
Email: lwood@linwoodlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sidney Powell
Sidney Powell, PC
2911 Turtle Creek Blvd
Suite 300
Dallas, TX 75219
214−707−1775
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Vikki Townsend Consiglio represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sidney Powell
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Gloria Kay Godwin represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)

LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sidney Powell
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

James Kenneth Carroll represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sidney Powell
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Carolyn Hall Fisher represented by **Harry W. MacDougald**
(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sidney Powell
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Cathleen Alston Latham represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sidney Powell
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Brian Jay Van Gundy represented by **Harry W. MacDougald**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Howard Kleinhendler
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Julia Z. Haller
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

L. Lin Wood , Jr.
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sidney Powell
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Brian Kemp
in his official capacity as Governor of Georgia represented by **Carey Allen Miller**
Robbins Ross Alloy Belinfante Littlefield, LLC −Atl
500 Fourteenth St., N.W.
Atlanta, GA 30318
678−701−9381
Fax: 404−856−3250
Email: cmiller@robbinsfirm.com
ATTORNEY TO BE NOTICED

Charlene S McGowan
Office of the Georgia Attorney General
Assistant Attorney General
40 Capitol Square SW
Atlanta, GA 30334
404−458−3658
Email: cmcgowan@law.ga.gov
ATTORNEY TO BE NOTICED

Joshua Barrett Belinfante
Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street, N.W.
Atlanta, GA 30318
678−701−9381
Fax: 404−856−3250
Email: jbelinfante@robbinsfirm.com
ATTORNEY TO BE NOTICED

Melanie Leigh Johnson
Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street, N.W.
Atlanta, GA 30318
678−701−9381
Fax: 404−856−3250
Email: mjohnson@robbinsfirm.com
ATTORNEY TO BE NOTICED

Russell D. Willard
Attorney General's Office−Atl
Department of Law
40 Capitol Square, SW
Atlanta, GA 30334
404−656−3300
Email: rwillard@law.ga.gov
ATTORNEY TO BE NOTICED

Defendant

Brad Raffensperger
in his official capacity as Secretary of State and Chair of the Georgia State Election Board

represented by

Carey Allen Miller
(See above for address)
ATTORNEY TO BE NOTICED

Charlene S McGowan
(See above for address)
ATTORNEY TO BE NOTICED

Joshua Barrett Belinfante
(See above for address)
ATTORNEY TO BE NOTICED

Melanie Leigh Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

David J. Worley
in his official capacity as a member of the Georgia State Election Board

represented by **Carey Allen Miller**
(See above for address)
ATTORNEY TO BE NOTICED

Charlene S McGowan
(See above for address)
ATTORNEY TO BE NOTICED

Joshua Barrett Belinfante
(See above for address)
ATTORNEY TO BE NOTICED

Melanie Leigh Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Rebecca N. Sullivan
in her official capacity as a member of the Georgia State Election Board

represented by **Carey Allen Miller**
(See above for address)
ATTORNEY TO BE NOTICED

Charlene S McGowan
(See above for address)
ATTORNEY TO BE NOTICED

Joshua Barrett Belinfante
(See above for address)
ATTORNEY TO BE NOTICED

Melanie Leigh Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Matthew Mashburn
in his official capacity as a member of the Georgia State Election Board

represented by **Carey Allen Miller**
(See above for address)
ATTORNEY TO BE NOTICED

Charlene S McGowan
(See above for address)
ATTORNEY TO BE NOTICED

Joshua Barrett Belinfante

(See above for address)
ATTORNEY TO BE NOTICED

Melanie Leigh Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Anh Le
in her official capacity as a member of the Georgia State Election Board

represented by **Carey Allen Miller**
(See above for address)
ATTORNEY TO BE NOTICED

Charlene S McGowan
(See above for address)
ATTORNEY TO BE NOTICED

Melanie Leigh Johnson
(See above for address)
ATTORNEY TO BE NOTICED

Russell D. Willard
(See above for address)
ATTORNEY TO BE NOTICED

V.

Intervenor Defendant

Democratic Party of Georgia, Inc.

represented by **Amanda J. Beane**
Perkins Coie−WA
1201 Third Avenue
48th Floor
Seattle, WA 98101−3099
206−359−3965
Email: abeane@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amanda R. Callais
Perkins Coie−DC
Suite 600
700 Thirteenth St., N.W.
Washington, DC 20005−2011
202−654−6396
Email: acallais@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE

ATTORNEY TO BE NOTICED

Halsey G. Knapp , Jr
Krevolin & Horst, LLC
One Atlantic Center, Ste 3250
1201 West Peachtree St., NW
Atlanta, GA 30309
404−888−9700
Fax: 404−888−9577
Email: hknapp@khlawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joyce Gist Lewis
Krevolin & Horst, LLC
1201 W. Peachtree Street, NW
Suite 3250
Atlanta, GA 30309
404−888−9700
Email: jlewis@khlawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin J. Hamilton
Perkins Coie LLP
1201 Third Avenue
Suite 4900
Seattle, WA 98101−3099
206−359−8741
Email: khamilton@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Marc E. Elias
Perkins Coie LLP
700 13th St NW
Ste 800
Washington, DC 20005
202−654−6200
Email: melias@perkinscoie.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Matthew Joseph Mertens
Perkins Coie
1120 N.W. Couch, 10th Floor
Portland, OR 97209
503−727−2199
Fax: 503−346−2199
Email: mmertens@perkinscoie.com

LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Susan Coppedge
Office of the United States
Attorney−ATL600
Northern District of Georgia
600 United States Courthouse
75 Ted Turner Dr., S.W.
Atlanta, GA 30303
404−581−6250
Email: susan.coppedge@usdoj.gov
(Inactive)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam Martin Sparks
Krevolin & Horst, LLC
One Atlantic Center, Ste 3250
1201 West Peachtree St., NW
Atlanta, GA 30309
404−888−9700
Email: sparks@khlawfirm.com
ATTORNEY TO BE NOTICED

Intervenor Defendant

DSCC represented by **Amanda J. Beane**
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amanda R. Callais
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Halsey G. Knapp , Jr
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joyce Gist Lewis
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin J. Hamilton
(See above for address)
LEAD ATTORNEY

PRO HAC VICE
ATTORNEY TO BE NOTICED

Marc E. Elias
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Matthew Joseph Mertens
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Susan Coppedge
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam Martin Sparks
(See above for address)
ATTORNEY TO BE NOTICED

Intervenor Defendant

DCCC represented by **Amanda J. Beane**
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Amanda R. Callais
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Halsey G. Knapp , Jr
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joyce Gist Lewis
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kevin J. Hamilton
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Marc E. Elias
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Matthew Joseph Mertens
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Susan Coppedge
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam Martin Sparks
(See above for address)
ATTORNEY TO BE NOTICED

Intervenor

John Mangano represented by **Bryan P. Tyson**
Taylor English Duma LLP
Suite 200
1600 Parkwood Circle
Atlanta, GA 30339
770−434−6868
Fax: 770−434−7376
Email: btyson@taylorenglish.com
ATTORNEY TO BE NOTICED

Intervenor

Alice O'Lenick represented by **Bryan P. Tyson**
(See above for address)
ATTORNEY TO BE NOTICED

Intervenor

Ben Satterfield represented by **Bryan P. Tyson**
(See above for address)
ATTORNEY TO BE NOTICED

Intervenor

Wandy Taylor represented by **Bryan P. Tyson**
(See above for address)
ATTORNEY TO BE NOTICED

Intervenor

Stephen Day represented by

Bryan P. Tyson
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
11/25/2020	1		COMPLAINT for Declaratory, Emergency, and Permanent Injunctive Relief, filed by Gloria Kay Godwin, Vikki Townsend Consiglio, Coreco Jaqan Pearson, James Kenneth Carroll, Carolyn Hall Fisher, Cathleen Alston Latham, Brian Jay Van Gundy. (Filing fee $400, receipt number AGANDC−10418604) (Attachments: # 1 Exhibit Affidavit Exh. 1, Report of William Briggs, # 2 Exhibit Affidavit Redacted Affidavit, # 3 Exhibit Affidavit of Anna Mercedes Diaz Cardozo, # 4 Exhibit Affidavit Declaration of Harri Hursti, # 5 Exhibit Affidavit Embedded Declaration of Harri Hursti, # 6 Exhibit Exhibit SoS Certification of Dominion Voting Systems Democracy Suite 5.5−A, # 7 Exhibit Exhibit Pro V&V Test Report, # 8 Exhibit Exhibit Study "Ballot−Marking Devices (BMDs) Cannot Assure the Will of the, # 9 Exhibit Affidavit Redacted Affidavit of Cyber−Security Expert, # 10 Exhibit Affidavit Affidavit of Russell Ramsland, # 11 Exhibit Affidavit of Mayra Romera, # 12 Exhibit Affidavit of Maria Diedrich, # 13 Exhibit Affidavit of Maria Diedrich, # 14 Exhibit Affidavit of Ursula Wolf, # 15 Exhibit Affidavit of Nicholas J. Zeher, # 16 Exhibit Affidavit of Susan Voyles, # 17 Exhibit Affidavit of Ibrahim Reyes, # 18 Exhibit Affidavit of Consetta Johnson, # 19 Exhibit Affidavit of Carlos Silva, # 20 Exhibit Affidavit of Andrea O'Neal, # 21 Exhibit Affidavit of Deborah Fisher, # 22 Exhibit Affidavit of Kevin Peterford, # 23 Exhibit Report of Texas Secretary of State Rejecting Dominion Voting Systems, # 24 Exhibit Letter of Rep. Maloney to Smarmatic, # 25 Exhibit Affidavit of Juan Carlos Cobucci, # 26 Exhibit Senator Warren et al letter re: Dominion Voting Systems, # 27 Exhibit Affidavit of of Eric Quinnell, # 28 Exhibit Affidavit of Mitchell Harrison, # 29 Exhibit Affidavit of Michelle Branton, # 30 Civil Cover Sheet)(rvb) Please visit our website at http://www.gand.uscourts.gov/commonly−used−forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. Modified on 11/27/2020 to add relief text (rvb). (Entered: 11/27/2020)
11/27/2020	2		EIGHTH AMENDMENT TO GENERAL ORDER 20−01 RE: COURT OPERATIONS UNDER THE EXIGENT CIRCUMSTANCES CREATED BY COVID−19 AND RELATED CORONAVIRUS. Signed by Judge Thomas W. Thrash, Jr. on 09/28/2020. (rvb) (Entered: 11/27/2020)
11/27/2020			Submission of 1 Complaint, to District Judge Timothy C. Batten Sr. (rvb) (Entered: 11/27/2020)
11/27/2020	3		PROPOSED SUMMONS filed by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Summons Proposed Summons for Anh Le, # 2 Summons Proposed Summons for Matthew Mashburn, # 3 Summons Proposed Summons for Brad Raffensberger, # 4 Summons Proposed Summons for Rebecca N. Sullivan, # 5 Summons Proposed Summons for David J. Worley, # 6 Summons Proposed Summons for Brian Kemp)(MacDougald, Harry) (Entered: 11/27/2020)

11/27/2020	4		Certificate of Interested Persons by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) (Entered: 11/27/2020)
11/27/2020	5		MOTION for Leave to File Matters Under Seal re: 1 Complaint,,,,,,,, with Brief In Support by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (Attachments: # 1 Exhibit Redacted Exh. 2 from Complaint, # 2 Exhibit Redacted Exh.8 from the Complaint, # 3 Exhibit Exh. A, Joint Cybersecurity Advisory Iranian Advanced Persistent Threat Actor Identified Obtaining Voter Registration Data, # 4 Text of Proposed Order Proposed Order)(MacDougald, Harry) (Entered: 11/27/2020)
11/27/2020	6		MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED, MOTION for Preliminary Injunction with Brief In Support by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (Attachments: # 1 Affidavit Declaration of Dr. Shiva Ayyadurai, # 2 Exhibit Joint CyberSecurity Advisory Exhibit, # 3 Text of Proposed Order)(MacDougald, Harry) (Entered: 11/27/2020)
11/29/2020	7		NOTICE Of Filing Emergency Injunctive Relief by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy re 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED MOTION for Preliminary Injunction (Attachments: # 1 Affidavit Redacted Declaration)(MacDougald, Harry) (Entered: 11/29/2020)
11/29/2020	8		Electronic Summons Issued as to Rebecca N. Sullivan. (rsh) (Entered: 11/29/2020)
11/29/2020	9		Electronic Summons Issued as to Matthew Mashburn. (rsh) (Entered: 11/29/2020)
11/29/2020	10		Electronic Summons Issued as to David J. Worley. (rsh) (Entered: 11/29/2020)
11/29/2020	11		Electronic Summons Issued as to Brian Kemp. (rsh) (Entered: 11/29/2020)
11/29/2020	12		Electronic Summons Issued as to Brad Raffensperger. (rsh) (Entered: 11/29/2020)
11/29/2020	13		Electronic Summons Issued as to Anh Le. (rsh) (Entered: 11/29/2020)
11/29/2020	14		ORDER. Please see Order for further specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/29/2020. (usw) (Entered: 11/29/2020)
11/29/2020	18		Minute Entry for proceedings held before Judge Timothy C. Batten, Sr.: Telephone Conference via ZOOM held on 11/29/2020 re briefing, scheduling, and Plaintiff's request to forensically inspect county voting machines. (Court Reporter Lori Burgess)(dmb) (Entered: 11/30/2020)
11/30/2020	15		1292(b) ORDER − Please see order for specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (usw) (Entered: 11/30/2020)
11/30/2020	16		

			NOTICE of Appearance by Charlene S McGowan on behalf of Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (McGowan, Charlene) (Entered: 11/30/2020)
11/30/2020	17		ORDER Setting Hearing on Motion 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED and MOTION for Preliminary Injunction : Motion Hearing set for 12/4/2020 at 10:00 AM in ATLA Courtroom 2106 before Judge Timothy C. Batten Sr. The Court sets the following schedule: Defendants' brief in opposition to the claims in Plaintiffs' complaint will be due on 12/2/2020, by 5:00 p.m. EST. Any reply brief will be due 12/3/2020 by 5:00 p.m. EST. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (dmb) (Entered: 11/30/2020)
11/30/2020	19		APPLICATION for Admission of Howard Kleinhendler Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10426686).by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) Documents for this entry are not available for viewing outside the courthouse. (Entered: 11/30/2020)
11/30/2020			APPROVAL by Clerks Office re: 19 APPLICATION for Admission of Howard Kleinhendler Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10426686).. Attorney Howard Kleinhendler added appearing on behalf of James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (nmb) (Entered: 11/30/2020)
11/30/2020	20		MOTION to Intervene with Brief In Support by Democratic Party of Georgia, Inc., DSCC, DCCC. (Attachments: # 1 Exhibit A: Proposed Intervenors' Proposed Motion to Dismiss, # 2 Exhibit B: Proposed Intervenors' Brief in Support of Proposed Motion to Dismiss, # 3 Exhibit C: Proposed Intervenors' Proposed Answer to Complaint)(Sparks, Adam) (Entered: 11/30/2020)
11/30/2020	21		NOTICE of Appearance by Russell D. Willard on behalf of Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (Willard, Russell) (Entered: 11/30/2020)
11/30/2020	22		AMENDED 1292(b) ORDER − Please see order for specifics and details. Signed by Judge Timothy C. Batten, Sr. on 11/30/2020. (dmb) (Entered: 11/30/2020)
11/30/2020			MINUTE ORDER granting Howard Kleinhendler's 19 Application for Admission Pro Hac Vice. Entered by CRD at the direction of Judge Timothy C. Batten, Sr. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(usw) (Entered: 11/30/2020)
11/30/2020			Clerks Notation re 4 Certificate of Interested Persons. Reviewed and approved by Judge Timothy C. Batten, Sr. (usw) (Entered: 11/30/2020)
11/30/2020	23		TRANSCRIPT of Proceedings held on 11/29/2020, before Judge Timothy C. Batten, Sr.. Court Reporter/Transcriber Lori Burgess. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory−court−reporters. Transcript may be viewed at

			the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/21/2020. Redacted Transcript Deadline set for 12/31/2020. Release of Transcript Restriction set for 3/1/2021. (Attachments: # 1 Notice of Filing Transcript) (llb) (Entered: 11/30/2020)
11/30/2020	24		APPLICATION for Admission of Julia Z. Haller Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10429766).by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) Documents for this entry are not available for viewing outside the courthouse. (Entered: 11/30/2020)
12/01/2020	25		Certificate of Interested Persons by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) (Entered: 12/01/2020)
12/01/2020			Clerks Notation re 25 Certificate of Interested Persons. Reviewed and approved by Judge Timothy C. Batten, Sr. (usw) (Entered: 12/01/2020)
12/01/2020	26		APPLICATION for Admission of Amanda J. Beane Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432164).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	27		APPLICATION for Admission of Amanda R. Callais Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432211).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	28		APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432219).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	29		APPLICATION for Admission of Marc E. Elias Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432230).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020	30		APPLICATION for Admission of Matthew Mertens Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432239).by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/01/2020)
12/01/2020			APPROVAL by Clerks Office re: 24 APPLICATION for Admission of Julia Z. Haller Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10429766).. Attorney Julia Z. Haller added appearing on behalf of James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (nmb) (Entered: 12/01/2020)
12/01/2020	31		NOTICE Of Filing by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Affidavit Declaration of

			Ronald Watkins)(MacDougald, Harry) (Entered: 12/01/2020)
12/01/2020	32		NOTICE OF APPEAL as to 14 Order by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. Filing fee $ 505, receipt number AGANDC−10432999. Transcript Order Form due on 12/15/2020 (MacDougald, Harry) Modified on 12/2/2020 to correct filing fee amount (pjm). (Entered: 12/01/2020)
12/01/2020	33		NOTICE Of Filing NOA Transmittal Letter re: 32 Notice of Appeal. (pjm) (Entered: 12/01/2020)
12/01/2020	34		Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Order and Docket Sheet to US Court of Appeals re: 32 Notice of Appeal. (pjm) (Entered: 12/01/2020)
12/01/2020	35		AMENDED ANSWER to *Complaint (Proposed) of Proposed Intervenor−Defendants* by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) (Entered: 12/01/2020)
12/01/2020	36		USCA Acknowledgment of 32 Notice of Appeal, filed by Cathleen Alston Latham, James Kenneth Carroll, Carolyn Hall Fisher, Coreco Jaqan Pearson, Brian Jay Van Gundy, Gloria Kay Godwin and Vikki Townsend Consiglio. Case Appealed to USCA− 11th Circuit. Case Number 20−14480−RR. (pjm) (Entered: 12/01/2020)
12/01/2020	37		ORDER STAYING 17 Order Setting Hearing on Motion. Signed by Judge Timothy C. Batten, Sr. on 12/01/2020. (usw) (Entered: 12/01/2020)
12/02/2020			MINUTE ORDER granting Julia Z. Haller's 24 Application for Admission Pro Hac Vice. Entered by CRD at the direction of Judge Timothy C. Batten, Sr. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(usw) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 26 APPLICATION for Admission of Amanda J. Beane Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432164).. Attorney Amanda J. Beane added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 27 APPLICATION for Admission of Amanda R. Callais Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432211).. Attorney Amanda R. Callais added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 28 APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432219).. Attorney Kevin J. Hamilton added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 29 APPLICATION for Admission of Marc E. Elias Pro Hac Vice (Application fee $ 150, receipt number

			AGANDC−10432230).. Attorney Marc E. Elias added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020			APPROVAL by Clerks Office re: 30 APPLICATION for Admission of Matthew Mertens Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10432239).. Attorney Matthew Joseph Mertens added appearing on behalf of DCCC, DSCC, Democratic Party of Georgia, Inc. (nmb) (Entered: 12/02/2020)
12/02/2020	38		RESPONSE in Opposition re 20 MOTION to Intervene filed by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) (Entered: 12/02/2020)
12/02/2020	39		USCA Order: Appellants' "Emergency Motion for expedited briefing schedule and Review" filed by Appellants Coreco Ja'Qan Pearson, Vikki Townsend Consiglio, Gloria Kay Godwin, James Kenneth Carroll, Carolyn Hall Fisher, Cathleen Alston Latham and Brian Jay Van Gundy is GRANTED re: 32 Notice of Appeal, filed by Cathleen Alston Latham, James Kenneth Carroll, Carolyn Hall Fisher, Coreco Jaqan Pearson, Brian Jay Van Gundy, Gloria Kay Godwin and Vikki Townsend Consiglio. Case Appealed to USCA− 11th Circuit. Case Number 20−14480−RR. (pjm) (Entered: 12/02/2020)
12/02/2020	40		ORDER POSTPONING this Court's December 4th hearing, until further order of the Court. Signed by Judge Timothy C. Batten, Sr. on 12/02/2020. (usw) (Entered: 12/02/2020)
12/02/2020	41		Emergency MOTION to Intervene by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Callais, Amanda) (Entered: 12/02/2020)
12/03/2020	42		ORDER granting 20 Motion to Intervene; 41 Emergency Motion to Intervene by The Democratic Party of Georgia, the DSCC and the DCCC. The Clerk is directed to add these entities as parties and to docket their proposed motion to dismiss [20−1], brief in support of motion to dismiss [20−2], and answer [20−3]. Signed by Judge Timothy C. Batten, Sr. on 12/3/20. (rsh) (Entered: 12/03/2020)
12/03/2020	43		MOTION to Dismiss by DCCC, DSCC, Democratic Party of Georgia, Inc. (Attachments: # 1 Brief in Support)(rsh) (Entered: 12/03/2020)
12/03/2020	44		ANSWER to COMPLAINT by DCCC, DSCC, Democratic Party of Georgia, Inc. Discovery ends on 5/3/2021.(rsh) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 12/03/2020)
12/03/2020	45		NOTICE Of Filing Evidence by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson (Attachments: # 1 Exhibit Expert Report of Matthew Braynard, # 2 Affidavit Declaration of Eric Quinnell, Ph.D. and S. Stanley Young, Ph.D., # 3 Affidavit Affidavit of Benjamin O. Overholt, Ph.D.)(MacDougald, Harry) (Entered: 12/03/2020)
12/03/2020			MINUTE ORDER granting Amanda J. Beane {26], Amanda R. Callais 27 , Kevin J. Hamilton 28 , Mark E. Elias 29 , and Matthew Mertens's 30 Application for Admission Pro Hac Vice. Entered by CRD at the direction of Judge Timothy C. Batten, Sr. If the applicant does not have CM/ECF access in

			the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(usw) (Entered: 12/03/2020)
12/03/2020	46		NOTICE OF CROSS APPEAL as to 14 Order by Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley. Filing fee $ 505, receipt number AGANDC−10445305. Transcript Order Form due on 12/14/2020 (McGowan, Charlene) (Entered: 12/03/2020)
12/03/2020	47		NOTICE Of Filing NOA Transmittal Letter re: 46 Notice of Cross Appeal. (pjm) (Entered: 12/03/2020)
12/03/2020	48		Transmission of Certified Copy of Notice of Cross Appeal, USCA Appeal Fees, Order and Docket Sheet to US Court of Appeals re: 46 Notice of Cross Appeal. (pjm) (Entered: 12/03/2020)
12/03/2020	49		NOTICE of Appearance by Carey Allen Miller on behalf of Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (Miller, Carey) (Entered: 12/03/2020)
12/03/2020	50		NOTICE of Appearance by Joshua Barrett Belinfante on behalf of Brian Kemp, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (Belinfante, Joshua) (Entered: 12/03/2020)
12/03/2020	51		NOTICE of Appearance by Melanie Leigh Johnson on behalf of Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (Johnson, Melanie) (Entered: 12/03/2020)
12/03/2020	52		Emergency MOTION Defendants' Emergency Motion for Relief from TRO 14 Order with Brief In Support by Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley. (Attachments: # 1 Exhibit Barnes Declaration, # 2 Exhibit Royston Declaration, # 3 Exhibit Eveler Declaration)(Miller, Carey) (Entered: 12/03/2020)
12/03/2020	53		USCA Acknowledgment of 46 Notice of Cross Appeal, filed by Rebecca N. Sullivan, David J. Worley, Brian Kemp, Anh Le, Matthew Mashburn and Brad Raffensperger. Case Appealed to USCA− 11th Circuit. Case Number 20−14480−RR. (pjm) (Entered: 12/04/2020)
12/04/2020	54		USCA Order: Appellees Emergency Motion to Expedite Cross−Appeal and Consolidate Briefing is GRANTED re: 46 Notice of Cross Appeal, filed by Rebecca N. Sullivan, David J. Worley, Brian Kemp, Anh Le, Matthew Mashburn and Brad Raffensperger and 32 Notice of Appeal, filed by Cathleen Alston Latham, James Kenneth Carroll, Carolyn Hall Fisher, Coreco Jaqan Pearson, Brian Jay Van Gundy, Gloria Kay Godwin and Vikki Townsend Consiglio. Case Appealed to USCA− 11th Circuit. Case Number 20−14480−RR. (pjm) (Entered: 12/04/2020)
12/04/2020	55		Emergency MOTION to Intervene with Brief In Support by John Mangano, Alice O'Lenick, Ben Satterfield, Wandy Taylor, Stephen Day. (Tyson, Bryan) (Entered: 12/04/2020)
12/04/2020	56		AMENDED SCHEDULING ORDER: Plaintiffs' complaint shall come before the Court for hearing on Monday, December 7, at 10:00 a.m., EST, in the ceremonial courtroom on the 23rd floor. Defendants' brief in opposition to the claims in Plaintiffs' complaint will be due on Saturday, December 5, by 9:00

			p.m. EST. Any reply brief will be due on Sunday, December 6, by 6:00 p.m. EST. Plaintiffs are also directed to file their response brief to the pending motion 43 to dismiss by Sunday, December 6, at 6:00 p.m. EST. In light of the upcoming hearing, Defendants' emergency motion 52 to dissolve or alter the November 29 temporary restraining order is denied. This renders moot the Gwinnett County Board of Registrations and Electors members' pending emergency motion 55 to intervene. Therefore, that motion is denied. Signed by Judge Timothy C. Batten, Sr. on 12/4/20. (rsh) (Entered: 12/04/2020)
12/04/2020	57		ORDER granting 5 Plaintiff's Motion for Leave to File Matters Under Seal. Affidavits are to be filed under seal until further order of the Court, and Plaintiffs are permitted to file these affidavits with the identifying information redacted in the public docket. Signed by Judge Timothy C. Batten, Sr. on 12/4/20. (rsh) (Entered: 12/04/2020)
12/04/2020	73		USCA Opinion received DISMISSING re: 46 Notice of Cross Appeal, filed by Rebecca N. Sullivan, David J. Worley, Brian Kemp, Anh Le, Matthew Mashburn, and Brad Raffensperger and 32 Notice of Appeal, filed by Cathleen Alston Latham, James Kenneth Carroll, Carolyn Hall Fisher, Coreco Jaqan Pearson, Brian Jay Van Gundy, Gloria Kay Godwin and Vikki Townsend Consiglio. In accordance with FRAP 41(b), the USCA mandate will issue at a later date. Case Appealed to USCA− 11th Circuit. Case Number 20−14480−RR. (pjm) (Entered: 12/07/2020)
12/05/2020	58		RESPONSE in Opposition re 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED MOTION for Preliminary Injunction *Intervenor−Defendants' Response in Opposition to Plaintiffs' Emergency Motion* filed by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) (Entered: 12/05/2020)
12/05/2020	59		NOTICE Of Filing by DCCC, DSCC, Democratic Party of Georgia, Inc. re 58 Response in Opposition to Motion, *Affidavits in Support of Intervenor−Defendants' Resp. in Opp. to Pls.' Emergency Mot.* (Attachments: # 1 Ex. 1. − Aff. of S. Valies, # 2 Ex. 2 − Aff. of A. Thomas, # 3 Ex. 3 − Aff. of K. Brandon, # 4 Ex. 4 − Aff. of D. Sumner, # 5 Ex. 5 − Aff. of R. Laurie, # 6 Ex. 6 − Aff. of O. Alston, # 7 Ex. 7 − Aff. of R. Cason, # 8 Ex. 8 − Aff. of S. Young, # 9 Ex. 9 − Aff. of B. Graham, # 10 Ex. 10 − Aff. of R. Short, # 11 Ex. 11 − Aff. of S. Ghazal, # 12 Ex. 12 − Aff. of S. Zydney, # 13 Ex. 13 − Aff. of K. Patel)(Sparks, Adam) (Entered: 12/05/2020)
12/05/2020	60		MOTION to Exclude TESTIMONY OF SHIVA AYYADURAI, RUSSELL JAMES RAMSLAND, JR., MATTHEW BRAYNARD, WILLIAM M. BRIGGS, RONALD WATKINS, BENJAMIN A. OVERHOLT, ERIC QUINNELL, S. STANLEY YOUNG, AND SPYDER with Brief In Support by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Sparks, Adam) (Entered: 12/05/2020)
12/05/2020	61		RESPONSE in Opposition re 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED MOTION for Preliminary Injunction *and Consolidated Brief in Support of Motion to Dismiss* filed by Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Affidavit, # 5 Exhibit)(McGowan, Charlene) (Entered: 12/05/2020)

12/05/2020	62		AFFIDAVIT re 60 MOTION to Exclude TESTIMONY OF SHIVA AYYADURAI, RUSSELL JAMES RAMSLAND, JR., MATTHEW BRAYNARD, WILLIAM M. BRIGGS, RONALD WATKINS, BENJAMIN A. OVERHOLT, ERIC QUINNELL, S. STANLEY YOUNG, AND SPYDER, 58 Response in Opposition to Motion, *Attorney Declaration of Amanda R. Callais* by DCCC, DSCC, Democratic Party of Georgia, Inc.. (Attachments: # 1 Ex. 1 − Ansolabehere Report (Braynard), # 2 Ex. 2 − Ansolabehere Report (Briggs), # 3 Ex. 3 − Rodden Report, # 4 Ex. 4 − Mayer Report, # 5 Ex. 5 − Rodden and Marble Report)(Sparks, Adam) (Entered: 12/05/2020)
12/05/2020	63		MOTION to Dismiss with Brief In Support by Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley. (Attachments: # 1 Brief)(McGowan, Charlene) (Entered: 12/05/2020)
12/06/2020	64		ORDER ALLOWING ATTORNEY CELLPHONES and LAPTOPS IN THE COURTROOM on 12/07/2020 at 10:00 a.m. Signed by Judge Timothy C. Batten, Sr. on 12/06/2020. (usw) (Main Document 64 replaced on 12/7/2020) (rvb). (Entered: 12/06/2020)
12/06/2020	65		NOTICE Of Filing by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy *of Electronic Media* (MacDougald, Harry) Modified on 12/7/2020, One (1) flash drive received by clerk and placed in civil action file(tcc). (Entered: 12/06/2020)
12/06/2020	66		NOTICE Of Filing by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Appendix Appendix Vol. 4 from Appeal)(MacDougald, Harry) (Entered: 12/06/2020)
12/06/2020	67		NOTICE Of Filing by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Affidavit Supplemental Declaration of Quinnell and Young, # 2 Affidavit Declaration of S. Maturza, # 3 Affidavit Declaration of Wilburn J. Winter)(MacDougald, Harry) (Entered: 12/06/2020)
12/06/2020	68		RESPONSE in Opposition re 63 MOTION to Dismiss , 43 MOTION to Dismiss, 6 MOTION for Temporary Restraining Order IMMEDIATE HEARING REQUESTED MOTION for Preliminary Injunction *Plaintiffs Consolidated Response to the Motions to Dismiss and Reply in Support of Emergency Motion for Injunctive Relief* filed by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (Attachments: # 1 Exhibit Wisconsin Order from Election Case)(MacDougald, Harry) (Entered: 12/06/2020)
12/06/2020	69		NOTICE Of Filing by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Affidavit Affidavit of Garland Favorito, # 2 Affidavit ffidavit of Scott Hall, # 3 Affidavit Affidavit of Affiant A)(MacDougald, Harry) (Entered: 12/06/2020)
12/06/2020	70		NOTICE Of Filing by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco

			Jaqan Pearson, Brian Jay Van Gundy (Attachments: # 1 Exhibit Supplemental Report of Russell Ramsland)(MacDougald, Harry) (Entered: 12/06/2020)
12/06/2020	71		APPLICATION for Admission of Sidney Powell Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10452641).by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. (MacDougald, Harry) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/06/2020)
12/06/2020	72		NOTICE Of Filing by Brian Kemp, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan, David J. Worley (Attachments: # 1 Affidavit of Frances Watson, # 2 Affidavit of Juan Gilbert)(McGowan, Charlene) (Entered: 12/06/2020)
12/07/2020			APPROVAL by Clerks Office re: 71 APPLICATION for Admission of Sidney Powell Pro Hac Vice (Application fee $ 150, receipt number AGANDC−10452641).. Attorney Sidney Powell added appearing on behalf of James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy (nmb) (Entered: 12/07/2020)
12/07/2020			MINUTE ORDER granting Sidney Powell's 71 Application for Admission Pro Hac Vice. Entered by CRD at the direction of Judge Timothy C. Batten, Sr. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(usw) (Entered: 12/07/2020)
12/07/2020	74		Minute Entry for proceedings held before Judge Timothy C. Batten, Sr.: Motion Hearing held on 12/7/2020 granting 43 Motion to Dismiss and 63 Motion to Dismiss. TRO is DISSOLVED. Case is DISMISSED. Clerk shall close the case. (Court Reporter Lori Burgess)(dmb) (Entered: 12/07/2020)
12/07/2020	75		CLERK'S JUDGMENT (dmb)−−Please refer to http://www.ca11.uscourts.gov to obtain an appeals jurisdiction checklist−− (Entered: 12/07/2020)
12/07/2020			Civil Case Terminated. (dmb) (Entered: 12/07/2020)
12/07/2020	76		NOTICE OF APPEAL as to 75 Clerk's Judgment, 74 Order on Motion to Dismiss,,,, Motion Hearing, by James Kenneth Carroll, Vikki Townsend Consiglio, Carolyn Hall Fisher, Gloria Kay Godwin, Cathleen Alston Latham, Coreco Jaqan Pearson, Brian Jay Van Gundy. Filing fee $ 505, receipt number AGANDC−10458354. Transcript Order Form due on 12/21/2020 (MacDougald, Harry) (Entered: 12/07/2020)
12/08/2020	77		NOTICE Of Filing NOA Transmittal Letter re: 76 Notice of Appeal. (pjm) (Entered: 12/08/2020)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

1:20-cv-04809-TCB
Pearson et al v. Kemp et al
Honorable Timothy C. Batten, Sr.

Minute Sheet for proceedings held In Open Court on 12/07/2020.

TIME COURT COMMENCED: 10:00 A.M.
TIME COURT CONCLUDED: 11:06 A.M. COURT REPORTER: Lori Burgess
TIME IN COURT: 1:06 DEPUTY CLERK: Uzma Wiggins
OFFICE LOCATION: Atlanta

ATTORNEY(S) PRESENT:
Joshua Belinfante representing Brad Raffensperger
Joshua Belinfante representing Brian Kemp
Joshua Belinfante representing David J. Worley
Joshua Belinfante representing Matthew Mashburn
Joshua Belinfante representing Rebecca N. Sullivan
Amanda Callais representing DCCC
Amanda Callais representing DSCC
Amanda Callais representing Democratic Party of Georgia, Inc.
Julia Haller representing Brian Jay Van Gundy
Julia Haller representing Carolyn Hall Fisher
Julia Haller representing Cathleen Alston Latham
Julia Haller representing Coreco Jaqan Pearson
Julia Haller representing Gloria Kay Godwin
Julia Haller representing James Kenneth Carroll
Julia Haller representing Vikki Townsend Consiglio
Harry MacDougald representing Brian Jay Van Gundy
Harry MacDougald representing Carolyn Hall Fisher
Harry MacDougald representing Cathleen Alston Latham
Harry MacDougald representing Coreco Jaqan Pearson
Harry MacDougald representing Gloria Kay Godwin
Harry MacDougald representing James Kenneth Carroll
Harry MacDougald representing Vikki Townsend Consiglio
Charlene McGowan representing Anh Le
Charlene McGowan representing Brad Raffensperger
Charlene McGowan representing Brian Kemp
Charlene McGowan representing David J. Worley

Charlene McGowan representing Matthew Mashburn
Charlene McGowan representing Rebecca N. Sullivan
Carey Miller representing Anh Le
Carey Miller representing Brad Raffensperger
Carey Miller representing Brian Kemp
Carey Miller representing David J. Worley
Carey Miller representing Matthew Mashburn
Carey Miller representing Rebecca N. Sullivan
Sidney Powell representing Brian Jay Van Gundy
Sidney Powell representing Carolyn Hall Fisher
Sidney Powell representing Cathleen Alston Latham
Sidney Powell representing Coreco Jaqan Pearson
Sidney Powell representing Gloria Kay Godwin
Sidney Powell representing James Kenneth Carroll
Sidney Powell representing Vikki Townsend Consiglio
** Abigail Frye

PROCEEDING CATEGORY:	Motion Hearing(PI or TRO Hearing-Evidentiary);
MOTIONS RULED ON:	[43]Motion to Dismiss GRANTED [63]Motion to Dismiss GRANTED
MINUTE TEXT:	Defendants' motions are GRANTED. TRO is DISSOLVED. Case is DISMISSED. Clerk shall close the case.
HEARING STATUS:	Hearing Concluded

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CORECO JA'QAN PEARSON, VIKKI TOWNSEND CONSIGLIO, GLORIA KAY GODWIN, JAMES KENNETH CARROLL, CAROLYN HALL FISHER, CATHLEEN ALSTON LATHAM and BRIAN JAY VAN GUNDY

Plaintiffs,

vs.

BRIAN KEMP, in his official capacity as Governor of Georgia, BRAD RAFFENSPERGER, in his official capacity as Secretary of State and Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, REBECCA N. SULLIVAN, in her official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants,

DEMOCRATIC PARTY OF GEORGIA, INC., DSCC, DCCC, JOHN MANGANO, ALICE O'LENICK, BEN SATTERFIELD, WANDY TAYLOR, and STEPHEN DAY,

Intervenors.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

J U D G M E N T

This action having come before the court, Honorable Timothy C. Batten, Sr., United States District Judge, for consideration of defendant's and the intervenor defendant's motions to dismiss, and the court having granted said motions, it is

Ordered and Adjudged that the action be, and the same hereby is, dismissed.

Dated at Atlanta, Georgia, this 7th day of December, 2020.

JAMES N. HATTEN
CLERK OF COURT

By: s/ D. Barfield
Deputy Clerk

Prepared, Filed, and Entered
in the Clerk's Office
December 7, 2020
James N. Hatten
Clerk of Court

By: s/ D. Barfield
Deputy Clerk

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

Coreco Jaqan Pearson, et al., Plaintiff(s)

V.

Brian Kemp, et al, Defendant(s)

Case No. 1:20-CV-4809-TCB

NOTICE OF FILING OF OFFICIAL TRANSCRIPT

Notice is hereby given that an official transcript of a proceeding has been filed by the court reporter/transcriber in the above-captioned matter. Counsel/Parties have twenty-one (21) days from the date of delivery of the transcript to the Clerk to file with the Court a Request for Redaction of this transcript. If no Request for Redaction is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days.

Any counsel or party needing a copy of the transcript to review for redaction purposes may purchase a copy from the court reporter/transcriber or view the document at the Clerk's Office public terminal.

12/8/2020 Date

Lori Burgess Court Reporter

VERIFICATION OF FINANCIAL ARRANGEMENTS

Proceeding Type: Motions Hearing

Proceeding Date: 12/7/2020

Volume Number:

Notice is hereby given that financial arrangements for a copy of the transcript have been made with the following individual(s): Sidney Powell, Harry MacDougald, Carey Miller, Joshua Belinfante, Charlene McGowan, Melanie Johnson

as counsel/party in this case. He/She is to be provided with remote access to the transcript via CM/ECF and PACER.

12/8/2020 Date

Lori Burgess Court Reporter

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 08, 2020

Julia Z. Haller
Defending the Republic
601 PENNSYLVANIA AVE NW S BLDG STE 900
WASHINGTON, DC 20004

Howard Kleinhendler
Law Office of Howard Kleinhendler, Esq.
369 LEXINGTON AVE 12TH FL
NEW YORK, NY 10017

Harry Woodward MacDougald
Caldwell Propst & DeLoach, LLP
2 RAVINIA DR STE 1600
ATLANTA, GA 30346

Sidney K. Powell
Law Office of Sidney Powell
2911 TURTLE CREEK BLVD STE 300
DALLAS, TX 75219

L. Lin Wood
L. Lin Wood, PC
PO BOX 52584
ATLANTA, GA 30355-0584

Appeal Number: 20-14579-C
Case Style: Coreco Pearson, et al v. Governor of Georgia, et al
District Court Docket No: 1:20-cv-04809-TCB

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov.

The referenced case has been docketed in this court. Please use the appellate docket number noted above when making inquiries.

Attorneys who wish to participate in this appeal must be admitted to the bar of this Court, admitted for this particular proceeding pursuant to 11th Cir. R. 46-3, or admitted pro hac vice pursuant to 11th Cir. R. 46-4. In addition, all attorneys (except court-appointed counsel) who wish to participate in this appeal must file an Appearance of Counsel form within 14 days. The Application for Admission to the Bar and Appearance of Counsel Form are available at www.ca11.uscourts.gov. The clerk generally may not process filings from an attorney until that attorney files an appearance form. See 11th Cir. R. 46-6(b).

11th Cir. R. 33-1(a) requires appellant to file a Civil Appeal Statement in most civil appeals. You must file a completed Civil Appeal Statement, with service on all other parties, within 14 days from the date of this letter. Civil Appeal Statement forms are available on the Internet at www.ca11.uscourts.gov, and as provided by 11th Cir. R. 33-1(a).

Every motion, petition, brief, answer, response and reply filed must contain a Certificate of Interested Persons and Corporate Disclosure Statement (CIP). Appellants/Petitioners must file a CIP within 14 days after the date the case or appeal is docketed in this court; Appellees/Respondents/Intervenors/Other Parties must file a CIP within 28 days after the case or appeal is docketed in this court, regardless of whether appellants/petitioners have filed a CIP. See FRAP 26.1 and 11th Cir. R. 26.1-1.

On the same day a party or amicus curiae first files its paper or e-filed CIP, that filer must also complete the court's web-based CIP at the Web-Based CIP link on the court's website. Pro se filers (except attorneys appearing in particular cases as pro se parties) are **not required or authorized** to complete the web-based CIP.

Pursuant to Eleventh Circuit Rule 42-1(b) you are hereby notified that upon expiration of (14) days from this date, this appeal will be dismissed by the clerk without further notice unless the default(s) noted below have been corrected:

File a Transcript Information Form, as required by Fed.R.App.P. 10(b)(1); a Transcript Information Form is available from the district court clerk. Appellant is required to file and serve copies of the form in accordance with the instructions included on the form. UNLESS A TRANSCRIPT IS ORDERED, APPELLANT'S BRIEF MUST BE SERVED AND FILED WITHIN 40 DAYS FROM DECEMBER 7, 2020. See 11th Cir. R. 12-1 and 31-1.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Regina Veals-Gillis, C
Phone #: (404) 335-6163

DKT-2 Appeal WITH Deficiency

United States District Court
Northern District Of Georgia
Atlanta Division

Coreco Jaqan Pearson, et al.,
Plaintiff,
vs.
Brian Kemp, et al.,
Defendant.

Civil Action
File No. 1:20-CV-4809-TCB

Atlanta, Georgia
Sunday November 29, 2020
7:45 p.m.

Transcript of Motions Hearing
Before The Honorable Timothy C. Batten, Sr.
United States District Judge

APPEARANCES:

FOR THE PLAINTIFFS: Sidney Powell
L. Lin Wood, Jr.
Howard Kleinhendler
Harry MacDougald
Christine Dial Buckler
Attorneys at Law

FOR THE DEFENDANTS: Russell David Willard
Charlene Swartz McGowan
Attorneys at Law

Lori Burgess, Official Court Reporter
(404) 215-1528

Proceedings recorded by mechanical stenography, transcript produced by CAT.

THE COURT: Hi. I'm Judge Batten.
THE CLERK: I think we have everybody here. Harry MacDougald.
MR. MACDOUGALD: I want to announce that my associate Christine Buckler is in the office with me but off camera.
THE COURT: Thank you, Mr. MacDougald.
THE CLERK: Howard Kleinhendler.
THE COURT: Howard. Who are you with?
MR. KLEINHENDLER: I am with the Plaintiffs.
THE COURT: Keep going.
THE CLERK: Sidney Powell.
THE COURT: I don't see Ms. Powell.
MS. POWELL: I am also here with Lin Wood for the Plaintiffs.
THE COURT: I don't see either of y'all.
THE CLERK: If you will turn on your video, please, Ms. Powell.
MS. POWELL: I am not sure it is working properly, but I have given it my best shot.
THE COURT: Who else do we have on the call besides Ms. Powell and Mr. Wood?
THE CLERK: Charlene McGowan.
THE COURT: Is she on the video?
THE CLERK: Everyone's video is on except Ms. Powell

and Rus Willard.

THE COURT: I can't see everybody. I suppose that is okay as long as I can hear everybody. So I think we are ready to proceed. Are the Plaintiffs ready to proceed and are the Defendants ready to proceed? One at a time. Plaintiffs?

MS. POWELL: Yes.

THE COURT: And the Defendants?

MR. WILLARD: Yes, Your Honor.

THE COURT: You know, I am not really sure exactly what it is the Plaintiffs are trying to obtain in the case right now regarding these machines. There has been a mention of wiping of a machine at the World Congress Center, and also been a discussion about reference to the fact that Union County is going to wipe their machines. You know, I understand that these county officials are obligated by state law to preserve the data from the election on November 3. What is it exactly that the Plaintiffs want me to order the Secretary of State and/or the other Defendants to do? I am not -- excuse me, I am sorry -- I am not talking about ultimately under the complaint that has been filed, I am talking about this emergency temporary relief right now. I know you want me to throw out the election results and et cetera, but I just mean on the short-term basis, what is it exactly that the Plaintiffs would like? Ms. Powell?

MS. POWELL: Right now what you ordered in your

first order of the day would be perfect. We need access to the machines as soon as possible so we can do mirror images of the data that is on there and the operations that are on there, because it's well-established throughout Dominion software systems and anybody who knows anything about them that they can be easily altered. And we understand, from what is going on at the Center today, that process has already begun. Apparently from 11:00 to 1:30 they began substituting software in the machines that was completely unnecessary to count the ballots.

THE COURT: Let me stop you right there and ask Mr. Willard, first of all, I understand the State's argument that -- the Defendants' argument that the Plaintiffs lack standing. I also understand that they cite *Jacobson* for the proposition that they aren't the right people to be sued to provide this relief and that instead it should have been the county elections officers. I understand all of that. But I am wondering, and I am just trying to get factual information here, what is it about access to the voting machines that the Defendants have a problem with? Why can't the Plaintiffs' experts go ahead and do a forensic examination? Are they going to damage anything or in any other way interfere with the performance of the government officials' duties?

MR. WILLARD: Your Honor, I appreciate the

opportunity to respond. I apologize about the video. With the weather out there, we've had it bad with issues all weekend in my subdivision. I will say that we've got a concern because what your original proposed order and what the Plaintiffs are seeking is going to basically take certain voting equipment out of the equation for the election scheduled to take place this Tuesday, as well as the election scheduled to take place on January 5th, because Plaintiffs are wanting us to hold and basically mothball and preserve these machines at the county level - not in our possession, not in our custody and control - at the county level. They want to preserve those in the form that they were in after the November 3rd election. Under state law there is an obligation on those county election officials to preserve the data. But the State of Georgia has set up a system where the actual equipment is used at each successive election in the cycle. And there is a certain amount of recalibration in terms of getting them ready. For the individual machines, they are not going to have the November 3rd, 2020 ballot card being inserted in them. They are not going to have that database built in any longer. You're going to have a December 1st, 2020 database in the machines and in the tabulation computers. You're going to have a January 5th, 2020 database tabulating the results of the federal and state-wide run-off on January 5th. They have cited to *Curling*. *Curling* is inapposite

because it was decided before the 11th Circuit's redressability decision in *Jacobson*. In addition, they are wanting you to poke the procedure. You've got election officials who, as of Tuesday morning, have to turn on the lights, conduct in-person voting, Tuesday night of this week have to tabulate results on the very equipment that the Plaintiffs are wanting you to take out of circulation. And that gets -- now it is so broad, based on what Ms. Powell has asked in some of her more recent emails, you've now implicated the *Purcell* line of cases and the progeny as interpreted by this circuit that says Plaintiffs don't get to come in and poke at an election procedure that is currently underway.

THE COURT: Let me interrupt you, Mr. Willard. First of all, refresh my recollection. The election in two days, which is December 1, is that the run-off for the Public Service Commissioner? Or is that on January 5, 2021?

MR. WILLARD: The Public Service Commission race has been moved to January 5th, 2021.

THE COURT: What is December 1?

MR. WILLARD: Basically any local race that is still out there that --

THE COURT: Okay.

MR. WILLARD: For example, the Athens Clarke County, Oconee County and, I forget, I think it's the Northeastern Judicial Circuit, that District Attorney's race is on the

ballot for this Tuesday.

THE COURT: I remember that.

MR. WILLARD: Clarke County and Oconee are going to be voting in that.

THE COURT: Right.

MR. WILLARD: I am not aware here on Sunday evening at 7:59 what other counties may have races on Tuesday and what may not. We've been sort of struggling ever since the Plaintiffs filed their emergency motion right before midnight on Friday that we saw sometime around lunchtime on Saturday. We've sort of been scrambling. I don't think all of my clients have still seen everything, as Plaintiffs acknowledge. There has been a complete absence of notice requisite to grant any relief as to the temporary hearing at this point, because I haven't been able to communicate with all of my clients to see if all of my clients have even been properly served with the emergency motion.

Plaintiffs have been sort of trying to do this by the seat of their pants, and they keep asking for this sort of ever-shifting claim of relief that they are saying isn't going to matter all that much in the grand scheme of things, but in terms of a currently underway election, it is going to be throwing sugar in that gas tank and gumming up the works for not only the December 1st election, but also the January 5th election, as well as the recount that is underway.

THE COURT: Well, I am having the impression, from what you've just said, Mr. Willard, that there really is not expected to be much turnout for Tuesday's elections, whatever remains statewide. Obviously we are going to have an enormous turnout January 5th, 2021. I just -- you know, I don't fault the Defendants for complaining about the timing, and the fact that they've been given precious little time to respond to the Plaintiffs' requests. I don't blame them. And my draft proposed orders, the two that we are discussing from today, both reflect a hearing schedule that reflects my understanding of the State's position. In other words, I feel like, you know, you've complained, understandably, about the timing and said you need a little more time, and I feel like I am giving you that by having the hearing on Friday, giving you till Wednesday to file the brief in opposition. Believe me, I am not saying that you are getting an abundance of time, but to me, I divided that baby as fair as I thought I could, and I feel like I am giving you enough time. My point is, if I am going to give you that time, I don't understand why it is asking too much. And forget for just a moment the argument about it's not under the Secretary of State's control. I understand that argument. I am going to deal with that in a minute. Laying that aside for a second, the question is, why isn't there enough already -- let me put it like this. What you are asking for, why should you not correspondingly agree

to allow a quick inspection of these machines? And I guess -- you know, I don't know how many counties the Plaintiffs are talking about. I think that *Jacobson* may be on point. I am not sure yet. I don't know. It seems to me hard to believe that the Plaintiffs should have to sue 159 elections commissioners to get the relief they want. I understand exactly what *Jacobson* said, but that was a different case. What I am trying to accomplish here is, taking into both sides' consideration, their arguments, their respective positions, but incorporating into them also the law. The Plaintiffs want to seize these and impound these machines for a forensic audit by their experts.

Let me go back to Ms. Powell and ask you, Ms. Powell, which machines are we talking about? Are you talking about in every county in Georgia? Where exactly are you talking about?

MS. POWELL: No, Your Honor. In our motion we asked specifically for machines in ten counties.

THE COURT: Those ten counties that you've highlighted. Okay.

MS. POWELL: Yes, sir.

THE COURT: And what do you want to do with those machines? How long is it going to take your experts to do their thing on those machines?

MS. POWELL: It will take approximately a day of

time per county, but we can dispatch three separate teams and be able to do the bulk of it I would think within three days.

THE COURT: Okay. What do you say in response to Mr. Willard's argument -- I wasn't -- let me go back to Mr. Willard and just make sure I am clear on this. Mr. Willard, specifically with respect to the Clarke County and Oconee County DA's I guess it is a run-off. I don't remember if it's a run-off or a special election. But for the record, which is it, Mr. Willard?

MR. WILLARD: It is a special election run-off.

THE COURT: Yeah.

MR. WILLARD: Your Honor, if I can clarify for the record, that is just one example of a race that is scheduled to be run on Tuesday. There are a myriad other races that we anticipate are being held throughout Georgia, we just haven't had the opportunity to compile an exhaustive list.

THE COURT: I understand.

MR. WILLARD: But we are letting you know that there is a race scheduled for Tuesday.

THE COURT: Right. I understand. I guess what I am wondering is -- well, I guess -- let me think this through. It seems to me that the question should be, and we might -- I might give y'all a little bit of time to find this out. Other than the -- are there any elections set in these ten counties that are going to take place this Tuesday, December 1? And if

so, are the Plaintiffs going to, to get the relief they want, are they going to have to access these machines and not have a -- which would prevent these ten counties from having the machines to use for those Tuesday elections?

MR. WILLARD: I'm sorry, Your Honor, is that addressed to me or Ms. Powell?

THE COURT: I am kind of thinking out loud and addressing both of you. Basically we have narrowed it from 159 down to 10 counties. And the Defendants right now can't tell me, and I don't fault them for that at all, what elections are taking place, if any, in those ten counties this coming Tuesday in two days. So how am I supposed to -- and so that is one issue, is this may be moot if it turns out that there is not even an election taking place in those ten counties on Tuesday, I don't see what the problem would be of me entering a temporary restraining order allowing the Plaintiffs to have quick access to those machines for a forensic examination. On the other hand, if there is going to be an election in any of those ten counties, that raises the question of can they still have the election without those machines. Do you have to look at every single machine? I mean, I don't understand how it works.

So I guess I would ask Ms. Powell, let's suppose that in two or three of the ten counties that you are interested in, there are in fact going to be run-off elections

on Tuesday, December 1. How can your objective be met, your objective being a forensic examination of those machines in those counties if there is going to be an election there on Tuesday?

MS. POWELL: We can get experts to them tomorrow, Your Honor. We've got at least three teams of experts that could be dispatched to three separate counties to collect the information from the machines. The important part is, it's not just the data that comes out of the machines that is crucial to the fraud case that is so rampant across the country, it is the fact that an algorithm we believe was uploaded to the Dominion machines that weighted the votes for Mr. Biden over the votes for President Trump at approximately 1.22 versus .78, and that is what would change with any alteration of the software that is crucial to making the proof of the fraud absolutely conclusive and irrefutable. We know they have already gone into the machines in Fulton County to change the software with no basis to do so whatsoever. In fact, there is an attorney that contacted me just earlier today, in fact while I was replying to the last message from the Court. I believe her last name is Broyles, a Ms. Broyles, who had been contacted by a witness who was very concerned by what she had seen down at the Center today, and felt like it was an abject pretense that they were going to be redoing all the same ballots and there was no reason to change the

software for any reason whatsoever.

THE COURT: All right. Mr. Willard, what is your response to that?

MR. WILLARD: Your Honor, I apologize. I am used to dealing with facts and law, not innuendo and accusation. The bottom line here, the Plaintiffs have sent you a copy of the *Curling* order which, as I mentioned earlier, is inapposite because it predates *Jacobson*. But in that case, where the security and reliability of the DRE machines, which have now been retired, even Judge Totenberg recognized that you cannot willy-nilly allow individuals from outside of state and county custody and control procedures to have access to these machines. It poses a security risk for Ms. Powell's minions to go in and image everything, download the software, and figure out for future elections a way to hack in so that their preferred candidates can win. That is in effect what they are seeking here. They want to image, as they just said, not only the data on the machines, but also the entire software package and the security protocols that are set up. That is something that no Federal Court can possibly countenance. Even if they had the appropriate defendants here, which they don't, you cannot allow, during the midst of an election cycle, a third party to come in and get the proverbial keys to the software kingdom. I will say that we are trying to get up to speed on this as much as possible. Our office is not representing the

Secretary in the *Curling* litigation because our office was forced to declare a conflict several years ago, but we have Conflict Special Attorneys General who have spent months and years dealing with the security of the State's electronic voting system in Federal Court. There was a whole procedure set up where you had a white room established in Virginia where experts were only permitted to go in and inspect a single machine at that white room after security protocols were set in place where they couldn't remove anything from there, where they weren't able to take anything that could later compromise the system with them when they left.

MS. POWELL: Well it's a little bit late to be worrying about the compromise of the system. That happened, as we have evidence that both Iran and China were hacking into the system during our election, not to mention any number of other foreign entities and domestic actors as well. The entire system was built to be both hackable from afar and locally to overwrite votes, to overwrite review of signature, to drag and drop ballots into the trash can as wanted. It was conceived and created by Mr. Chavez's regime for the very purpose of ensuring that he won future elections. As corrupt as it could possibly be. And that's the system that the Georgia Secretary of State decided was appropriate to run in Georgia, despite any number of revelations of the myriad problems it has.

THE COURT: The problem I have --

MS. POWELL: A two-year-old can hack these machines as they are now, and we are certainly amenable to having an observer and videotaping the process that we use to create the mirror images, and to submitting it and holding it under a protective order.

THE COURT: And am I correct in expecting that the Defendants further contend that these are -- there is proprietary information on these machines that should not be publicly disclosed?

MR. WILLARD: Yes, Your Honor, as well as from a security protocol standpoint.

THE COURT: Right. Okay. Well, here is the problem. It's Sunday, November 29th at 8:12 p.m. This motion did not come in until late Friday night. I was not aware of the motion until Saturday. And the State, including the Secretary of State, the Governor, and the Elections Board members have hardly had any opportunity to respond to these allegations. I don't know if that is anybody's fault. I don't know at this particular point -- I haven't considered the issue of whether the suit should have been brought earlier and the Plaintiffs are guilty of laches. I have no opinion on that issue at this point. But what I do have an opinion on is that the burden is on the Plaintiffs, and the relief that they seek is extraordinary. And although they make allegations of

tremendous worldwide improprieties regarding the Dominion voting machines, those allegations are supported by precious little proof. Now let's just suppose hypothetically that the obligations are true, and there simply has not been time to marshal the evidence in support of those allegations. The problem with that is that that doesn't create an exception for me as to whether I should grant this extraordinary relief of a temporary restraining order, which of course can only be granted in truly extraordinary circumstances, and the Defendant -- and it's not even clear to the Court that the named Defendants are the proper parties to this lawsuit with respect to this particular form of relief that the Plaintiffs are seeking. So I am going to deny the Plaintiffs' request for a temporary restraining order on the grounds that the Plaintiffs have failed to carry their burden of showing a substantial likelihood, a real likelihood of prevailing on the merits on this claim, or at least I am going to refrain from granting that relief now. If, in the course of discovery in this case, the Plaintiffs become -- the Plaintiffs acquire additional proof that would support their allegations that might make a difference, I am happy to revisit this order. But for now, that is going to be the order of the Court. I am going to deny the request for temporary injunctive relief.

And here is what we are going to do regarding the scheduling. The Plaintiffs' response to Defendants' motion

will be due on Wednesday December 2 by -- I am going to change that to 5 o'clock p.m. Eastern Standard Time. If the Plaintiffs choose to file a reply, it will be due 24 hours after the Defendants' response is filed. And we will have an in-person hearing in my Atlanta courtroom this coming Friday at 10 o'clock a.m. to consider the balance of the claims that have been raised by the Plaintiffs in their complaint. All right. Anything else, Counsel?

MR. WOOD: Judge Batten, this is Lin Wood. How are you, sir?

THE COURT: Yes, sir. How are you doing, sir?

MR. WOOD: I am doing well. Please let me make one request.

THE COURT: Okay.

MR. WOOD: I understand Your Honor's ruling. I kind of live under the theory that he who has nothing to hide hides nothing. Would there be any way -- would there be any way to give us a very limited, such for example let us go in tomorrow, pick two or three counties, and then randomly two or three machines and do the forensics on that? Because at least we would have some information in the event all of these machines end up being wiped clean? Something very --

THE COURT: At first blush, I don't have -- I would not have too much of a problem with that. It certainly is more reasonable than what we have talked about. But the

problem is, again, the State has represented to me that -- the Defendants have represented to me, through counsel, that there are security concerns that they have, and I am being asked to decide this on a Sunday night, have been received no evidence from the Defendants because they haven't had a chance. So I am going to respectfully deny, Lin, your request. But you know, I am going to leave it with -- it is hard for me to believe -- let me ask this. Let me put it this way. Doesn't sound like 159 counties in Georgia are going to have special run-off elections on Tuesday, special election run-offs, I should say, on Tuesday. Why can't you -- if we can find ways to protect the State's legitimate interest in security and proprietary software, can you not look for the algorithm that you claim is there and any other incriminating evidence from some of the other counties, from one or more of the counties where no election is going to take place Tuesday? Why can't you do that?

MR. WOOD: Your Honor, this is Mr. Wood again. We can do that. And in fact, this one solution would be if we identify a very limited number of machines, number of counties, we can have our experts come in and do a mirror image, we can turn it over to the Court so there are no security concerns, and then it can be examined at a different time. But the problem is, once the machines are wiped, the evidence is gone. If there is nothing there, there is nothing

there. But at least we will have an opportunity to check on a limited basis and we can preserve it and secure the security of it by having our experts, with their oversight, mirror image and then turn it over to the possession of the Court for a later review. But we don't get that opportunity, once lost we will never get it again. I don't see any harm to the State to preserve this information on a very limited basis.

THE COURT: Okay, I am having a hard time identifying any such harm myself. Mr. Willard, what would be wrong with the Plaintiffs being granted access to three of the counties not among -- not in any county where there is going to be an election this coming Tuesday, but tomorrow be granted access in three of these where all of the evidence that are obtained by Plaintiffs' experts will be accompanied by forensic experts from the Defendants. I know you may not be able to line that up by tomorrow, so it probably wouldn't be tomorrow, but where we can have a forensic expert with the Plaintiffs on behalf of the Defendants accompanying and overseeing the Plaintiffs' expert's inspection of the machines; and then with all of the data and all of the information obtained from that inspection, or those three inspections, to be turned over to the Court in camera and not provided to Plaintiffs or their counsel or anybody else until further order of the Court? That's -- I want to hear your response, Mr. Willard. But I have to say, at first blush that

doesn't sound very unreasonable to me. What is the response? And again, we are laying aside for a moment whether or not they have sued the right parties. We are not going to address that yet. But let's assume that they did, and let's assume that they do have standing, what is wrong with that proposal that I have just suggested?

MR. WILLARD: Well Your Honor, I think you've hit the nail on the head, and it is sort of impossible to set aside *Jacobson*. There is no redressability here as to any of these machines right now. They are not in the custody and control of the State Defendants. You can order us every day this week; we cannot give you access to the Hart County voting machines. I cannot go in and tell the Hart County Elections Superintendent to do squat in regards to discovery in a case that they are not a party to. Second, if you are violating trade secrets and security protocols, it doesn't matter if you are doing it for one machine or the entirety of machines. If Plaintiffs' experts are going to come in with a thumb drive and stick it in and take their screwdrivers out and do everything to these machines, we have no safeguards that we can put in place, in this very compressed time frame that Plaintiffs are wanting to have, where you prevent somebody from sticking that thumb drive in their pocket and walking out the door, or doing something else that is going to impact that machine for future elections.

THE COURT: Mr. Wood, I will give you the last word.

MR. WOOD: I don't believe we will be using screwdrivers. I think we can do a simple mirror image, they can see it done, and then it will be turned over to the Court. If we've got the wrong parties, we've got the wrong parties. But if we have the right parties, and the Court determines that the Secretary of State does have the authority as we contend that the Secretary of State does, I don't see any harm. We will turn it over to the Court. The battles can be fought. If we win, then we can have -- we can have the examination completed. But if we don't get something, then we end up with nothing, and we don't know whether or not it was erased. I don't see any downside, Your Honor. We turn it over to you and hold it until further rulings in the case. It is just a matter of preserving some reasonably minimum amount of evidence with respect to some of these machines.

MS. POWELL: I believe there are no elections Your Honor in Cobb, Gwinnett, Cherokee, or Forsyth, or Paulding, or Hall, or Houston, or Hart, or Hancock, all of which we have requested, or Gwinnett or Henry. In fact, Defendants haven't said where there are any elections at all.

THE COURT: Okay.

MR. WILLARD: One last point, if I could.

THE COURT: Yes.

MR. WILLARD: I would point you -- you know, I know

there has been some question about whether the *Jacobson* decision applies to voting equipment, and decisions made regarding voting equipment. I would point you to the *Anderson* case, *Anderson versus Raffensperger*, decided by Judge Brown last month, the docket number is 1:20-CV-03263. It is a 78-page decision, and it is very well-reasoned. And pages 62 through 68 go into great detail about how the failure to include county election officials presented a redressability problem. Remember, Your Honor, you didn't choose who the Plaintiffs sued, I didn't choose who the Plaintiffs sued. The Plaintiffs knew or should have been aware of the *Jacobson* line of cases and its progeny. You --

MS. POWELL: *Jacobson* is Florida law.

THE COURT: Let him finish.

MR. WILLARD: -- cannot craft relief to county defendants --

THE COURT: Go ahead.

MR. WILLARD: You cannot craft relief that goes to county defendants and equipment in county custody and control where the Plaintiffs have only chosen to sue State Defendants.

THE COURT: Ms. Powell, let me ask you this along those lines of what he is saying. I understand the distinction that the Plaintiffs have argued through their counsel's emails to me today between this case and *Jacobson*. But you know, it sounds to me that Mr. Willard is probably

correct that as a matter of fact and law, the Secretary of State can't call up to Marietta and tell the Cobb County elections officials what to do with their machine. What you want to do is access the machine. You are not talking about data results from the election. You want to actually access the physical machines for a forensic inspection. And --

MS. POWELL: Your Honor.

THE COURT: Just a second. And so this is the first time we are really addressing the redressability issue. Tell me what is the Plaintiffs' response to that.

MS. POWELL: The machines are owned by the State of Georgia. They were purchased by the State of Georgia for $107 million of taxpayer money. They are controlled by the Secretary of State's office which has legal responsibility both for investigating the fraud and making sure the machines are what are supposed to be used and properly used and enforcing the rules and regulations and laws related to elections for the State of Georgia. It is clear from the *Curling* decision that we do not have to sue 600 people in 159 counties to obtain the relief we want. It couldn't be more clear as a matter of law.

MR. WOOD: Judge, could I say one last thing?

THE COURT: Yes, sir.

MR. WOOD: And I appreciate this has all been done with not a lot of time.

THE COURT: Right.

MR. WOOD: Again, if we don't have the correct parties, we can add the correct parties before the Court would release for further examination the materials that we would collect in the next day or two.

THE COURT: I don't understand why the Plaintiffs don't just move to add Cobb County as a party to the case, or the Cobb -- I don't know who it is, Cobb County elections officers? I don't know. I am not going to give you a legal opinion.

MR. WOOD: Let me say this. If the Court gives us until Tuesday to examine, we will add the counties that the Court lets us go examine, we will add them tomorrow; add them tonight. I just don't think -- I think that is a procedural issue, and ultimately one the Court can decide, but there is no harm, Your Honor, in preserving what could be critical evidence with respect to this election. We are not asking to look at it until we've got it all down pat and Your Honor is satisfied we are entitled to it, but let's preserve at least some small amount reasonably so we don't find ourselves with no evidence simply because the evidence was erased or destroyed. If there is nothing there, there is nothing there. But, Your Honor, if there is something there, then this state has a serious problem. And I think it ought to be in the interest of the taxpayers and the voters that this material,

on a reasonable basis, limited basis, be preserved so that down the road, if we meet all the other qualifications to have it fully examined, we've at least got it preserved. That seems to me to be in the best interest of the citizens of the State of Georgia.

THE COURT: Well let me go back --

MS. POWELL: We have obtained access to machines in another state, with no problem of damage to the machines or exposure of trade secrets or any other concern, and in that instance we found that there were 1,474 votes on two rolls on a machine, 1,474 which were changed across the two rolls, almost the same number of voters that voted had their votes completely changed on Dominion machines.

THE COURT: Where was that?

MS. POWELL: That is a county in Michigan.

THE COURT: That was this year?

MS. POWELL: Yes, sir. Just a few days ago.

THE COURT: Right, okay. And again, just for my factual understanding, Mr. Willard, are you telling me that if I grant this relief, let's say to -- if I were to add a couple of these counties as defendants, or whatever the right entity or person is that should be the defendant, are you telling me that if I grant this relief for this forensic inspection, there is no way that any election run-off can take place on Tuesday in that county? Or do you know?

MR. WILLARD: That is my understanding right now. Once again, I am working on Sunday night at 8:28 p.m. and something that I've been aware of for a little over 24 hours. But at this point in time, Your Honor has already indicated which way he was going to rule, and now Plaintiffs are trying to shift the ground underneath us. The fact is, as I indicated to your clerk last night, Ms. McGowan and I have now given up the entirety of our Sunday, we have responded in a timely fashion, at the Court's request, first on a three-and-a-half-hour turnaround, and then on an hour turnaround, substantively responding to Plaintiffs' arguments. And their responses have been long on rhetoric and short on any authority. We are at a situation now where if the Court is willing to do what it said it was going to do earlier in this call and earlier this evening via email and deny relief, we go on and we prepare for the Friday hearing. If the Court is inclined to grant the relief, we would ask you to certify it so that we can immediately take it up to the 11th Circuit and the 11th Circuit can reassure the Plaintiff that it meant what it said when it ruled in *Jacobson*.

THE COURT: All right, I am going to have to think about it. I am not sure yet what I am going to do, but I need to do some research and think about it a little bit. I am trying to -- I would like, Mr. Willard -- I am sure we are going to talk again tomorrow. I guess we ought to just --

let's plan on an 11 o'clock Zoom hearing tomorrow to address some of these issues. And I am going to want to know -- let me just say, in terms of what I am thinking out loud is that if I were to allow -- let me first ask this question of Ms. Powell and Mr. Wood. If I were to allow the forensic inspection of either the Cobb or Gwinnett or Cherokee or Hart, whatever -- wouldn't it just be sufficient to add one of those counties? If it is the same machine?

MS. POWELL: No, Your Honor. The counties can read differently. We really request Cobb, Gwinnett, and Cherokee counties at the bare minimum.

THE COURT: Okay. I hear you.

MS. POWELL: And we can add those as Defendants tonight if that is important to the Court. I really don't think it's necessary as a matter of law, but we can certainly add them.

THE COURT: Who exactly would you move to add?

MS. POWELL: The Board of Elections of each -- all the members of the boards of those four counties. We would have to add 12 people.

THE COURT: I heard three counties. Cobb, Gwinnett, and Cherokee.

MS. POWELL: Three counties, but four people per county, is my understanding.

THE COURT: Okay. Here is what I would like to do.

Mr. Willard, if you could tell me when we resume tomorrow at 11:00, if you could tell me, having done a little research, what impact, if any, allowing this forensic examination on these three counties' machines would have on the elections that are supposed to take place Tuesday? It may be that there is no election in any of those counties, there may be an election in all three of them. I have no idea.

MS. POWELL: It is my understanding, Your Honor, there is no election in those three counties.

THE COURT: Let me have that confirmed. I will give Mr. Willard a chance to confirm that tomorrow. And also --

MR. WILLARD: That was Cobb, Gwinnett, and Cherokee. Correct, Your Honor?

THE COURT: Yes, sir.

MS. POWELL: Correct.

THE COURT: I want to hear a little more on the issue of how would -- you know, one of the issues in the decision of whether to grant injunctive relief is what harm the party opposing the injunction would suffer if the relief were granted. That is one of the four factors that I am sure all of you know quite well, I certainly would expect that you do. I know you do. I would like to hear, Mr. Willard, from you tomorrow morning if you could please tell me -- if you could answer that question for me. What harm would it do the State or to these Defendants, including any newly added

Defendants, if I were to grant that relief?

MR. WILLARD: Your Honor, I will do my best, but it may not be me on the call. As I indicated to your clerk, we've got two brief responses in the *Woods* case due on Tuesday. We've already had to give up our Sunday responding to this, after I asked your clerk last night not to schedule anything until after those briefs were filed. Now because of Plaintiffs' shifting demands, they want to go forward with a hearing in the morning. Whoever is going to respond to that hearing is going to have to take time away from getting the responses filed in the 11th Circuit on Tuesday, including our client, in the midst of an ongoing state-wide recount for President, in the midst of conducting and supporting county election officials with the December 1st election, as well as getting ready for early and advanced voting for the January 5th election. We --

THE COURT: I understand, Mr. Willard. Let me ask a question of Ms. Powell. If there are in fact no elections taking place in those three counties, why does this have to be done tomorrow? Why do we have to have the answer to this by tomorrow or Tuesday?

MS. POWELL: Time is of the essence, Your Honor, on the entire election proceeding.

THE COURT: I got you. In other words, the general time-is-of-the-essence principle. It sounds to me like having

a response by 11:00 tomorrow is not necessary and would be unreasonable to expect the Secretary of State, the Governor and the Elections Board Defendants to be able to respond so quickly. So here is what I am going to do. I am going to reserve ruling. I am going to keep the schedule regarding briefing and the hearing, and I am going to reserve ruling on the Plaintiffs' request -- I am going to consider it a motion to amend the pleadings, and a motion to add as parties these elections officers in Cobb, Gwinnett, and Cherokee counties. I want the Secretary of State to let me know -- I will give you a deadline in the second, but what I want the Secretary of State and the other Defendants to let me know is what opposition, if any, they have or what conditions they would like to see complied with if these machines are going to be inspected. In other words, if they want their own inspector there, et cetera. I agree with Ms. Powell on the general principle that time is of the essence, but it is not at all reasonable to give the Defendants in this case until 11 o'clock tomorrow morning. There is just no way they can do that. I am trying to decide right now how much time to give them. It certainly is going to be this week. I guess, Mr. Willard, what I would like you to do is let me know, as soon as you find out, but in any event you are going to have to let me know by Wednesday. That is what my first blush issue is this issue. I just don't see what the urgency is.

The case will still be pending after this week. So I just -- you know, I understand the -- I completely understand the general urgency of the case, but the Defendants have got to have a little bit of time to provide that information I want, which again namely is whether they would oppose these three counties' machines being forensically examined, and why they would -- what the basis for any such opposition would be, and I would want that supported with an affidavit or affidavits from an expert or experts or somebody affiliated with the Defendants who could provide evidence to why that would be harmful. Again, we are focusing on the -- I believe is the third prong -- I may have them in the wrong order -- of the four-part test, which is what the harm would be to the party opposing the injunctive relief. So that is going to be the order of the Court. And I will --

MR. KLEINHENDLER: Your Honor.

THE COURT: Yes, sir?

MR. KLEINHENDLER: I wanted to make one point here. And that is, I understand the State's concern about having us go in and look at their machines. However, what we have alleged with affidavit testimony is that they are erasing their machines. So while they are thinking about what the harm is, and while they are figuring out where their elections are that they can't identify, at a minimum, Your Honor, where there are no elections to be taking place, there should be an

order entered now that no machine should be erased. Because that is very troubling, it is spoliation, it's irreparable injury. That is point one. I want to make one other point for you, Your Honor. They mentioned that the county is under an obligation to preserve the evidence of the election. Let me explain to you what they preserve. They have these machines that people vote on, and they produce these memory cards. They make a copy of the memory card, but the machine stays the same. It's sort of like you have an iPhone --

THE COURT: I understand.

MR. KLEINHENDLER: You can take out the sim, right?

THE COURT: Right.

MR. KLEINHENDLER: So I would ask Your Honor to please order no more erasing machines that are not being --

THE COURT: Okay.

MR. KLEINHENDLER: -- used for these local elections --

THE COURT: That sounds reasonable to me, Mr. Willard, until we resolve this in just a few days. Do your clients have any objection to that? The way I would phrase it, and I am going to give you a chance to respond to this, but my inclination is to order and temporarily restrain the Defendants to the extent it is within their lawful authority, from altering or destroying or erasing or allowing the alteration, destruction, or erasing of any of the computer

information on any of the machines in these three counties that we discussed, specifically Cobb, Gwinnett, and Cherokee. What is y'all's response? What is the State's response to that, Mr. Willard?

MR. WILLARD: Your Honor, I will say that there are no State officials, there is no one within the direction and control of any of the named State Defendants who is going to be doing anything in regards to this voting equipment this week or in the coming months. So you still have the same redressability issue. You can order us to stop all you want, but if we are not the ones behind the wheel, it is not doing anything.

THE COURT: Well then I would think that the Defendants wouldn't have any problem being ordered to stop. If they are not doing anything, there is nothing for them to stop. So that is going to be another feature of this order. And we are not going to enter a written order, it will be in the transcript. But again, to the extent that it's within the Defendants' lawful authority, they shall not alter, destroy, or erase any of this information from any of these three computers, nor will they allow anyone within their control and authority, legal authority, from doing any of those things. It sounds to me like you've been put on notice, Plaintiffs' counsel, by Mr. Willard, quite clearly that you need to direct these concerns towards these county officials. The State, in

this -- obviously the Defendants in this case are disavowing any authority or any responsibility or connection with these county machines in this sense, they are not going to be going down to any -- they are not going down to Lawrenceville or Canton, or Marietta to try to erase any of these machines, the concern that -- is Mr. Kleinhendler?

MR. KLEINHENDLER: Kleinhendler, Your Honor.

THE COURT: I was close. Closer than you usually get, I'll bet. So let's do that. Why don't we do this, why don't we have a Zoom call tomorrow afternoon at 4 o'clock where we will wait to hear back from someone on behalf of the Defendants, if it is either Mr. Willard or someone else, to respond, and let us know if there is something that the Court is missing regarding the inspection, the forensic examination of these machines. So my --

MR. WILLARD: Your Honor?

THE COURT: Yes, sir.

MR. WILLARD: Your Honor, we have moved again from Wednesday. To say --

THE COURT: All I want tomorrow, Rus, is an update. If they can give us an update. If you want to update. In fact, I will leave it like that. But if you want to update us, just let us know tomorrow, and we'll be ready for a call at 4 o'clock. But if you don't have anything to report tomorrow, that is perfectly fine. I understand the competing

interests that the Defendants have. They are trying to juggle a lot of balls in the air at one time. I understand that. Let me know if you know something tomorrow. And if not -- I guess, you know, I am -- I have to admit, you know, when I think out loud like this, which is not something judges enjoy doing because it gets pointed out to them that they are changing their mind. And I am inclined to agree with Mr. Willard on this. Let's wait until Wednesday to hear back from Mr. Willard. How about something in writing, Mr. Willard, by the same time that the brief is due on Wednesday, 5:00 p.m., in response to this inquiry that the Court has as to the basis for any opposition by the Defendants to this particular relief regarding the forensic examination of the Dominion equipment in these three counties. That is what the order of the Court is going to be. And contrary to what I said a minute ago, I will put it in writing so everyone can see it and it will be clear and you don't have to read the transcript. That order will be entered either tonight or more -- I would say almost certainly not until tomorrow morning. Okay? Anything else, Counsel? Yes, sir?

MR. WILLARD: Just two procedural points. One, do you want as a unified filing on Wednesday, or do you want us to make them as two separate filings?

THE COURT: Separate filings.

MR. WILLARD: All right. So I won't need, I think

at this juncture, to ask for a page limit extension, but I may revisit that issue with the Court.

THE COURT: You can have however many pages you need. There is no limit on the pages.

MR. MACDOUGALD: The Plaintiffs as well, Your Honor?

THE COURT: The Plaintiffs' response as well.

MR. MACDOUGALD: Thank you.

MR. WILLARD: Your Honor, the second point, and now that you have said that you are going to reduce this to writing, I know that there has been a lot of rumor, innuendo, and misinformation spread out there regarding what has taken place in a number of courts around the country, and this Court today, there were a number of social media posts made about this Court's indication of the two earlier rulings.

THE COURT: Right.

MR. WILLARD: I ask you to make clear in your order that only the State Defendants are being enjoined by anything in your order and it is not enjoining any county officials from doing anything.

THE COURT: Not at this time. They are not parties to the case yet.

MR. WILLARD: Thank you.

MR. WOOD: Judge, for what it's worth, when we add them tonight, we will be sending spoliation litigation hold letters. I think they have already received those a week ago,

but we will redo it.

THE COURT: And Mr. Willard, just to be clear, you are referring to -- you refer to the Governor and the Secretary of State, not the other members of the Elections Board? Is that right?

MR. WILLARD: I am actually referring -- I'm sorry?

THE COURT: The Governor and the Secretary of State. Let's see, of course I don't -- the Governor is a party and of course the Secretary of State is a party, and then we have the --

MR. WILLARD: The Election Board --

THE COURT: -- four other Election Board members. And what you just wanted to make clear to me, or clarify with me, was that it was your understanding that the order I am going to enter would only be enjoining the Governor and the Secretary of State and not the four Election Board members who are also named as Defendants. Am I right about that?

MR. WILLARD: No, Your Honor. I am requesting that you make clear in your order that only the State Defendants are enjoined, and there is no injunction against any of the unnamed county defendants.

MR. KLEINHENDLER: Your Honor, this is Howard again. I think your language earlier was right on. You said you are going to enjoin the State Defendants and anybody in their control. And our argument is that all these counties are

under the control of the Secretary of State. So now if the State wants to play a game and say, well, we have no ability to control the counties, okay, we will deal with that on a sanctions motion. But I think you were very clear, Your Honor, anybody -- the Defendants and anybody under their control. What the State is asking for now is to wiggle out of that order, and I would urge you not to give to them that language. It is enough for you to say the Defendants in the case and anybody under their control.

THE COURT: Okay. I understand the issue. The only point I was trying to make with Mr. Willard was I was trying to see if he was trying to exclude the Governor. I understand that his main point was really that I was not ordering directly any county officials to do or not do anything. I understand that that is what he was saying. I think I understand it. I am actually clear on it. So I think everybody has their marching orders, we know what to do. I am the one that has to move next. I have to enter an order that clarifies all of this, and I think I do that with no problem. It will probably be in the morning, okay?

MR. MACDOUGALD: Judge, one housekeeping matter. In terms of serving future papers and filings on the Defendants, can we agree or can the Court order that service on Mr. Willard and Ms. McGowan is sufficient service on the State Defendants?

THE COURT: I can't order them to waive their right to be served.

MR. MACDOUGALD: Okay, but what we would have to do otherwise is send the papers directly to the State Defendants.

THE COURT: Right. That is a matter for you and Mr. Willard to discuss when I am not on the line. If the Defendants want to acknowledge and waive service that is fine, and if they don't that is not something that I am going to upset with a ruling.

MR. MACDOUGALD: Okay.

THE COURT: We are adjourned, and you will hear from me in the morning. Y'all have a good night.

(End of hearing at 8:48 p.m.)

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REPORTER'S CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

_____
Lori Burgess
Official Court Reporter
United States District Court
Northern District of Georgia

Date: November 30, 2020