



**LAWYERS
DEFENDING
AMERICAN
DEMOCRACY**

VIA EMAIL

December 15, 2023

Ms. Jessica E. Yates
Attorney Regulation Counsel
Ralph L. Carr Judicial Center
Colorado Supreme Court
1300 Broadway, Suite 500
Denver, CO 80203
j.yates@csc.state.co.us

**Re: Request for Commencement of Disciplinary Proceeding Against Jenna L. Ellis
(also known as Jenna Lynn Rives), Colorado Registration Number 44026**

Dear Ms. Yates:

The States United Democracy Center is a nonpartisan organization advancing free, fair, and secure elections. We focus on connecting state and local officials, public-safety leaders, and pro-democracy partners across America with the tools and expertise they need to safeguard our democracy. Our work centers on making sure every election is safe, every vote is counted, and every voice is heard. Critical to our mission is helping to ensure that democracy violators are held accountable, including those in the legal profession who betray their professional responsibilities to uphold the rule of law.

Lawyers Defending American Democracy (LDAD) is a nonpartisan organization, the purpose of which is to foster adherence to the rule of law. LDAD is devoted to ensuring that individual lawyers are held accountable for participating in unethical conduct that assaults fundamental principles of our American democracy.

We, together with the additional signatories below, write to urge the Office of Attorney Regulation Counsel (OARC) to promptly commence a formal disciplinary proceeding against Jenna Ellis seeking her disbarment in light of her recent guilty plea to a felony in Georgia and to initiate an interim suspension proceeding under Colo. R. Civ. P. 242.22.

The Supreme Court of Colorado has stated: “Lawyers serve our system of justice, and if lawyers are dishonest, then there is a perception that the system, too, must be dishonest. Certainly, the reality of such behavior must be abjured so that the perception of it may diminish.”

In re Pautler, 47 P.3d 1175, 1179 (Colo. 2002). Attorneys barred in Colorado take an oath to “employ such means as are consistent with truth and honor.”¹ As set forth below, through acts undertaken in late 2020, Ms. Ellis violated that oath.

I. Brief Background About Ms. Ellis’s Felony Guilty Plea

On August 14, 2023, Ms. Ellis and 18 others were charged in Fulton County, Georgia with a conspiracy to overturn the 2020 presidential election.² Ms. Ellis was also charged with a second felony count arising from her participation in a December 3, 2020 meeting with certain members of the Georgia Senate, during which she and two of her co-defendants – Rudolph Giuliani and Ray Smith III, also Trump campaign attorneys – were alleged to have solicited the Senate members to unlawfully appoint presidential electors from the State of Georgia, in violation of the Senators’ oaths of office.

On October 24, 2023, Jenna Ellis pled guilty to a felony charge arising from her conduct as counsel to the Trump campaign in that December 3 meeting. Specifically, she pled guilty to intentionally aiding and abetting Giuliani and Smith in knowingly, willfully, and unlawfully making certain false statements (enumerated in section II, *infra*) to members of the Georgia Senate.³ These false statements attempted to cast doubt on the legitimate results of the 2020 presidential election, in violation of Official Code of Georgia Annotated (O.G.C.A.) § 16-10-20.⁴

O.G.C.A. § 16-10-20 reads, in pertinent part: “A person who knowingly and willfully... makes a false, fictitious, or fraudulent statement or representation...in any matter within the jurisdiction of any department or agency of state government or of the government of any county, city, or other political subdivision of this state shall, upon conviction thereof, be punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both.” In Ms. Ellis’s case, the false statements at issue (*i.e.*, about the integrity of the outcome of the 2020 presidential election) were within the jurisdiction of, *inter alia*, the Office of the Georgia Secretary of State and the Georgia Bureau of Investigation.

Under the terms of her plea agreement, Ms. Ellis will serve five years on probation, pay \$5,000 in restitution, serve 100 hours of community service, must write an apology letter to the

¹ *Colorado Oath of Admission*, Office of Attorney Regulation Counsel, available at: <https://coloradosupremecourt.com/Current%20Lawyers/Oath.asp> (Last visited Nov. 20, 2023).

² See Indictment, *State of Georgia v. Donald J. Trump, et al.*, 23SC188947 (Aug. 14, 2023), available at <https://int.nyt.com/data/documenttools/georgia-indictment-trump/daed97d37562a76f/full.pdf>.

³ An aider and abettor is someone who has knowledge of the intended crime and shared in the criminal intent of the principal actor. See *Denson v. State*, 353 Ga. App. 450, 452 (2020).

⁴ A true and correct copy of the filed Accusation is attached hereto as Attachment 1.

citizens of Georgia, testify truthfully against her co-defendants, and fully cooperate with the prosecution of the remaining alleged co-conspirators.⁵

II. The False Statements Provide a Strong Basis for Further Discipline

The false statements at issue in Ms. Ellis’s plea are distinct from the misrepresentations underlying Ms. Ellis’s previous censure and provide a strong basis for further discipline. *Compare People v. Ellis*, 526 P.3d 958, 959-960 (Colo. O.P.D.J. March 8, 2023) (Opinion Approving Stipulation to Discipline Under Colo. R. Civ. P. 242.19(c) with Criminal Accusation (Attachment 1). The falsehoods for which Ms. Ellis was previously censured related mainly to her claims on Twitter and in media appearances that the 2020 election was stolen. The falsehoods involved in her Georgia felony guilty plea were allegations of fraud and misconduct by Georgia voters, election officials and workers. These allegations fueled the spread of disinformation about Georgia’s election process and election workers, undermine trust in American elections, discourage public participation in the electoral process, pose a threat to the safety and well-being of election workers and, accordingly, threaten democracy as a whole.

The false statements at issue in Ms. Ellis’s plea are that: Georgia election officials illegally permitted: (1) “at least 96,000 mail-in ballots [to be] counted...despite there being no record of those ballots having been returned”; (2) 2,506 Georgia felons to vote; (3) 66,248 underage people to register to vote; (4) “at least 2,423” people to vote who were not listed as registered; (5) “10,315 or more” dead people to vote; (6) 1,043 people to vote who had illegally registered using a post office box; and, further, (7) that “Fulton County election workers at State Farm Arena ordered poll watchers and members of the media to leave the tabulation area on the night of November 3, 2020, and continued to operate after ordering everyone to leave[]” thus dishonestly implying that election workers were engaged in nefarious conduct. *See* Att. 1 ¶¶ 1-7.

There was no reasonable basis for these explosive and false statements to the Georgia state senators. In fact, investigation of these allegations showed that: (1) the 96,600 number represented the number of ballots that were *cancelled, not* counted;⁶ (2) a maximum of seventy-four potential felons voted, *not* 2,506; (3) zero individuals voted who were not listed in the State’s records as having been registered to vote, *not* “at least 2,423”; (4) two potentially deceased individuals were given credit for voting, *not* “10,315 or more”; (5) four voters requested a ballot prior to turning 18, the minimum age for voter eligibility, *not* 66,248, and all four turned 18 prior to the election; and (6) that the addresses alleged to be post office boxes appeared to be apartments.⁷ Investigation also showed that “observers and media were not asked

⁵ *See* Video of plea hearing, *State of Georgia v. Jenna Ellis*, 23SC188947 (Oct. 24, 2023), available at <https://www.youtube.com/watch?v=Eu7uzRFDpTY>.

⁶ *See* Report of Kenneth R. Mayer, Ph.D., filed in *Pearson v. Kemp*, 1:20-cv-04809-TCB at pp. 1, 4-5 (Dec. 5, 2020). A true and correct copy of Dr. Mayer’s Report is attached as Attachment 2.

⁷ *See* Jan. 4 Press Conference of Gabriel Sterling, Chief Operating Officer of the Georgia Secretary of State’s Office, available at <https://www.c-span.org/video/?507710-1/georgia-election-security>; and Jan. 6, 2021 Letter to Congress from Georgia Secretary of State Brad

to leave” but rather, that 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.”⁸

Once the false statements were made to the Georgia state senators, they were then repeated and amplified by other Trump allies and media outlets and incorporated into various reports and lawsuits, thereby perpetuating deceptive and incendiary conspiracy theories. For example, on Dec. 17, 2020, Georgia state senator William Ligon, the Chairman of the Georgia Senate’s Judiciary Committee, issued a report based on the December 3, 2020 hearing, which regurgitated these same falsehoods.⁹ A couple of weeks later, on December 31, 2020, the Trump campaign filed *Trump v. Kemp*, a frivolous lawsuit against Georgia’s Governor and Secretary of State in the Northern District of Georgia. *See Trump v. Kemp*, 1:20-CV-5310-MHC, 2020 WL 7872546 at ¶¶ 9, 17 (N.D. Ga., Dec. 31, 2020, Complaint).¹⁰ The lawsuit cited the same falsehoods as a basis for its claim that “illegal votes have been counted which Plaintiff contend [sic] are sufficient to change the outcome of the election or place the election in doubt, and, therefore, the vote tabulations in Georgia cannot be accurately certified.” *Id.* at ¶ 42. The District Court denied the requested relief on January 5, 2021. *See Trump v. Kemp*, 511 F. Supp. 3d 1325 (N.D. Ga. 2021).

The December 3 falsehoods also exposed election workers in Georgia to harassment and threats of violence.¹¹ A defamation complaint filed by Fulton County election workers Ruby

Raffensperger at pp. 8-9. A true and correct copy of the Raffensperger letter is attached as Attachment 3.

⁸ *See* Declaration of Frances Watson, Chief Investigator in the Office of the Georgia Secretary of State, at ¶ 6. A true and correct copy of the Watson Declaration is attached as Attachment 4. *See also* Att. 3 at p. 7 (Jan. 6 Raffensperger letter) (noting that partisan poll watchers and other monitors remained at the election warehouse where results were being tabulated and were aware that absentee ballot scanning was continuing at State Farm Arena).

⁹ *See* Hon. William T. Ligon, *The Chairman’s Report of the Election Law Study Subcommittee of the Standing Senate Judiciary Committee* (Dec. 17, 2020) at pp. 9-10. A true and correct copy of the Ligon Report is attached as Attachment 5.

¹⁰ Paragraph 9 of the *Trump v. Kemp* Verified Complaint incorporates by reference the allegations in a state court complaint the Trump campaign filed on December 4, 2020, styled as *Trump v. Raffensperger*, which it attaches as exhibit 1. A true and correct copy of exhibit 1 is attached hereto as Attachment 6. The false statements at issue are at ¶¶ 60-68, 87-88, 101-102, 187-191.

¹¹ *See* Dec. 1, 2020 Press Conference of Gabriel Sterling, Chief Operating Officer of the Georgia Secretary of State’s Office (reporting that false statements like the ones at issue were leading to harassment and death threats against officials overseeing the Georgia’s recount), available at <https://tinyurl.com/2f6dhrtu>. *See also* Jason Szep & Linda So, *Trump Campaign Demonized Two Georgia Election Workers – and Death Threats Followed*, Reuters (Dec. 1, 2021), <https://www.reuters.com/investigates/special-report/usa-election-threats-georgia/>; Lindsay

Freeman and Shaye Moss describes in detail the instant and devastating impact on their lives of the December 3 hearing. See *Freeman v. Giuliani et al.*, No. 1:21-CV-03354, 2021 WL 6102228 at ¶¶ 12-16, 59-64 (D.D.C., Dec. 23, 2021, [Complaint](#)).¹² The *Freeman* Complaint alleges how, “[o]n December 3, 2020, Donald Trump’s legal team—including Defendant Giuliani—testified before the Georgia Senate, alleging that fraud and misconduct had occurred during Georgia’s November 2020 election.” *Id.* ¶ 59 & n. 54.¹³ *Id.* at ¶¶ 59-60. It explains how Giuliani and the media then amplified the Dec. 3 false statements, including their statements about how Fulton County election workers at State Farm Arena ordered poll watchers and members of the media to leave the tabulation area. *Id.* ¶¶ 61-64. The *Freeman* Complaint further alleges those “lies had instant and profound consequences. Both Ms. Freeman and Ms. Moss received an immediate onslaught of violent and racist threats and harassment. Their personal and professional reputations have been destroyed. To this day, Ms. Freeman and Ms. Moss fear for their physical safety and have suffered a devastating emotional toll.” *Id.* at ¶ 12. See also ¶ 13 (explaining how, “[a]t the height of Defendants’ campaign of disinformation, Ms. Freeman, at the recommendation of the FBI, fled her home and did not return for two months.”)

III. OARC Should Initiate a Formal Disciplinary Proceeding Against Ms. Ellis

By engaging in the criminal conduct to which she pled guilty, Ms. Ellis violated, at least, rules 8.4(a), (b), (c) and 4.1(b) of the Colorado Rules of Professional Conduct (“Colo. RPC”). Colo. RPC 8.4 states, in relevant part, that it is professional misconduct for a lawyer to: “(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects; [or] (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation[.]” Colo. RPC 4.1(b) prohibits lawyers, in the course of representing a client, from “knowingly fail[ing] to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client[.]”

As a New York court observed when suspending the bar license of Trump attorney Rudolph Giuliani, including for the false statements at issue in Ms. Ellis’s plea:

Whitehurst, Christina A. Cassidy, *Election workers are being bombarded with death threats, the U.S. government says* (Aug. 31, 2023), available at <https://tinyurl.com/3ra572mt>.

¹² On Oct. 31, 2022, the District Court denied Giuliani’s motion to dismiss. *Freeman v. Giuliani*, 2022 WL 16551323 (D.D.C., Oct. 31, 2022). On Aug. 30, 2023, the District Court entered a default judgment against Giuliani. *Freeman v. Giuliani*, 2023 WL 5600316 (D.D.C., Aug. 30, 2023). On Dec. 3, 2023, the District Court denied Giuliani’s motion seeking to convert the scheduled jury trial on damages to a bench trial. *Freeman v. Giuliani*, 2023 WL 8360664, at *1 (D.D.C. Dec. 3, 2023).

¹³ Citing Beau Evans, *Georgia Senate Panel Hosts Trump Attorney Giuliani As Election Officials Dispute Fraud Claims*, Augusta Chron. (Dec. 3, 2020), available at <https://www.augustachronicle.com/story/news/2020/12/03/georgia-senate-panel-probingelection-hosts-trump-attorney-giuliani/3818365001/>.

statements intended to foment a loss of confidence in our elections and resulting loss of confidence in government generally damage the proper functioning of a free society. When those false statements are made by an attorney, it also erodes the public's confidence in the integrity of attorneys admitted to our bar and damages the profession's role as a crucial source of reliable information. It tarnishes the reputation of the entire legal profession and its mandate to act as a trusted and essential part of the machinery of justice.

Matter of Giuliani, 146 N.Y.S.3d 266, 277-279, 283 (2021) (internal citations omitted) (concluding Giuliani's false statements to members of the Georgia Senate on Dec. 3, 2020 violated NY RPC 4.1 and 8.4(c)). The same observation applies to Ms. Ellis under the applicable Colorado analogs to those rules.¹⁴

The fact that Ms. Ellis entered her guilty plea under Georgia's first offender law has no bearing on whether she should face discipline.¹⁵ The Georgia Supreme Court routinely upholds attorney discipline imposed following first-offender pleas, even though a guilty plea does not constitute a "conviction" under Georgia law. *See, e.g., In the Matter of Davis*, 292 Ga. 897 (2013); *In re Waldrop*, 283 Ga. 80 (2008); *In the Matter of Caroway*, 279 Ga. 381 (2005); *In the Matter of Lewis*, 282 Ga. 649 (2007); and *In the Matter of Calhoun*, 268 Ga. 877 (1998). While Colorado does not have an analogous first-offender statute, Colorado courts have imposed attorney discipline for crimes, like Ellis's, involving dishonesty, based on the attorney's having pled guilty to a felony. *See In re DeRose*, 55 P.3d 126, 128 (Colo. 2002) (upholding disbarment of an attorney who pled guilty to a felony for purchasing money orders to assist a client in evading reporting requirements and who had received prior discipline by the Bar); *see also* Colo. R. Civ. P. § 241 (defining "conviction" to include a "plea of guilty...irrespective of: (1) whether entry of judgment or imposition of the sentence is suspended or deferred[.]")

Likewise, the fact that Ms. Ellis negotiated into her plea deal a statement that her crime did not involve moral turpitude is of no moment.¹⁶ The crime to which she pled guilty – one involving false statements in the context of her representation of former President Trump –

¹⁴ New York's Rule 8.4(a)-(c) is materially identical to Colorado's. Unlike in the Colorado Rules, New York's Rule 4.1 does not have a subsection (b).

¹⁵ Under Georgia's first offender law, O.C.G.A § 42-8-60, "[a] first offender's guilty plea does not constitute a 'conviction' as that term is defined in the Criminal Code, but rather, under the First Offender Act, until an adjudication of guilt is entered, there is no conviction; the case has, in effect, been suspended during the period of probation until eventually the probation is either revoked or it is discharged, and unless it is revoked, there is no conviction." *Collins v. State*, 338 Ga.App. 886, 889 (2016).

¹⁶ At her plea hearing, Ms. Ellis's counsel explained the inclusion of the moral turpitude language was intended "to assist her in other venues." *See* Video of plea hearing at 15:56, *State of Georgia v. Jenna Ellis*, 23SC188947 (Oct. 24, 2023), available at <https://www.youtube.com/watch?v=Eu7uzRFDpTY>.

unquestionably reflects adversely on her fitness to practice law. *See* Colo. RPC 8.4 cmt. 2. Indeed, as the Presiding Disciplinary Judge of the Supreme Court of Colorado noted in approving her prior discipline, and as Ms. Ellis previously stipulated, her misrepresentations as Trump’s personal counsel “undermined the American public’s confidence in the presidential election, violating her duty of candor to the public.” *People v. Ellis*, 526 P.3d 958, 962 (Colo. O.P.D.J. 2023).

IV. OARC Should Seek Ms. Ellis’s Disbarment and Interim Suspension

Colorado courts apply the American Bar Association *Standards for Imposing Sanctions* (“ABA Standards”) and Colorado Supreme Court case law to determine when disbarment is appropriate. *People v. Borzillo*, 464 P.3d 281, 283 (Colo. O.P.D.J. 2016). ABA Standard 5.11 provides that “disbarment is generally appropriate when: (a) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft;” or (b) “a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyers fitness to practice.” *See, e.g., People v. Borzillo*, 464 P.3d 281, 283 (Colo. O.P.D.J. 2016) (disbarring attorney who pled guilty to bank fraud); *People v. Hilgendorf*, 895 P.2d 544, 544 (Colo. 1995) (upholding disbarment of an attorney convicted of making false statements to federal banks).

The crime to which Ms. Ellis pled guilty – intentionally aiding and abetting her co-counsel in knowingly, willfully, and unlawfully making false statements that were clearly intended to undermine public confidence in the 2020 presidential election – undoubtedly runs afoul of both prongs of ABA Standard 5.11.¹⁷ Indeed, it is difficult to imagine conduct more antithetical to the rule of law that attorneys take an oath to uphold. *See People v. Zimmerman*, 470 P.3d 827, 836 (Colo. O.P.D.J. 2016) (disbarring attorney whose “acts, taken together, amount to a renunciation of the oath Respondent swore when he gained admission to the Colorado bar: to maintain respect due to courts; to uphold the rule of law; to employ only such means that are consistent with truth and honor; and to treat all persons with honesty.) Accordingly, disbarment is appropriate.

Further, Colo. R. Civ. P. 242.22 provides, in pertinent part: “the supreme court may suspend a respondent’s license on an interim basis if there is reasonable cause to believe that: (1) The respondent is causing or has caused substantial public or private harm; and (2) The respondent has: (A) Been convicted of a serious crime[.]” In Colorado, the term “serious crime” includes “any felony” or “any lesser crime a necessary element of which... involves... misrepresentation[.]” Colo. R. Civ. P. § 241. The term “conviction” refers to “any determination in a criminal matter, including at a federal, state, municipal, or other level, that a person is guilty, whether the determination rests on a verdict of guilty, a judicial finding of guilt, a *plea of guilty*, an Alford plea, or a plea of nolo contendere, *irrespective of (1) whether entry of judgment or imposition of the sentence is suspended or deferred by the court, (2) whether the person is appealing the determination, and (3) whether sentencing has occurred.*” *Id.* (Emphasis added).

¹⁷ An aider and abettor is someone who has knowledge of the intended crime and shared in the criminal intent of the principal actor. *See Denson*, 353 Ga. App. at 452.

As shown above, the crime to which Ms. Ellis pled guilty caused substantial public harm and it is a felony. Thus, it is a “serious crime”. Were Ms. Ellis to argue that aiding and abetting somehow constitutes a “lesser crime,” the fact that it involves misrepresentation still brings it within the definition of “serious crime.” *See* Colo. R. Civ. P. § 241. Thus, the Supreme Court may suspend her license on an interim basis. *See* Colo. R. Civ. P. 242.22.

While Ms. Ellis will likely claim that her March 2023 stipulation to discipline and her October 2023 guilty plea reflect acceptance of responsibility thereby warranting departure from the presumptive sanction of disbarment, a departure is unwarranted here. First, her public statements after her censure by OARC and, even at her October 24 allocution, reflect an effort to shift blame to others and minimize her responsibility. In a tweet in the wake of her censure in Colorado, instead of showing remorse for her actions to undermine American democracy, Ms. Ellis attacked the process, writing to her followers that: “This is and always was political lawfare to intimidate lawyers from representing Trump or Republicans candidates, especially in election challenges and try to destroy our livelihood and reputation.”¹⁸ At her allocution in Georgia, she attempted to cast her criminal conduct as a mere failure to conduct due diligence “to make sure that the facts the other lawyers alleged to be true, were in fact true.” Instead of accepting responsibility, she stated, “I relied on others, including lawyers with many more years of experience than I to provide me with true and reliable information, especially since my role involved speaking to the media and legislators in various states.” These statements elide her more than a decade of experience as a barred attorney and fall far short of demonstrating the type of contrition that would warrant lesser discipline.¹⁹

Conclusion

In light of the foregoing, we urge OARC to promptly initiate a formal disciplinary proceeding against Ms. Ellis seeking her disbarment and to initiate an interim suspension proceeding under Colo. R. Civ. P. 242.22.

Sincerely,

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Executive Chair, Board of Directors

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John T. Montgomery

Lawyers Defending American

Democracy Board Member

¹⁸ Jenna Ellis (@jennaellisesq), Twitter (Mar. 9, 2023, 7:03 AM), available at <https://x.com/JennaEllisEsq/status/1633815849676021760?s=20>.

¹⁹ Ms. Ellis has been barred in Colorado for more than a decade.

Former White House Special Counsel for
Ethics and Government Reform*

Joanna Lydgate, Chief Executive Officer
Former Chief Deputy Attorney General of
Massachusetts

Governor Christine Todd Whitman, Co-Chair
Former Governor of New Jersey

Gillian Feiner, Senior Counsel
Meagan Harding, Counsel
Christine P. Sun, Senior Vice President, Legal

Additional signatories*

Governor Steve Bullock
Former Governor of Montana
Former Attorney General of Montana

Dean Erwin Chemerinsky
Dean and Jesse H. Choper Distinguished Professor of Law
University of California, Berkeley, School of Law

Honorable Frankie Sue Del Papa
Former Attorney General of Nevada

Honorable John J. Farmer Jr.
Former Attorney General of New Jersey
Former Assistant U.S. Attorney, District of New Jersey

Honorable Trey Grayson
Former Secretary of State of Kentucky

Honorable Jim Hood
Former Attorney General of Mississippi

Honorable Jahna Lindemuth
Former Attorney General of Alaska

Honorable Patricia A. Madrid
Former Attorney General of New Mexico

Professor Richard W. Painter
S. Walter Richey Professor of Corporate Law, University of Minnesota Law School
Former Associate Counsel to the President

Honorable Sarah R Saldaña
Former Director of the U.S. Immigration and Customs Enforcement
Former U.S. Attorney, Northern District of Texas

Honorable Bill Weld
Former Governor of Massachusetts

Honorable Kim Wyman
Former Secretary of State of Washington

ATTACHMENT 1

GC

ACCUSATION

EJ15 McAfee

Clerk No. 23SC190514

FULTON SUPERIOR COURT

THE STATE OF GEORGIA

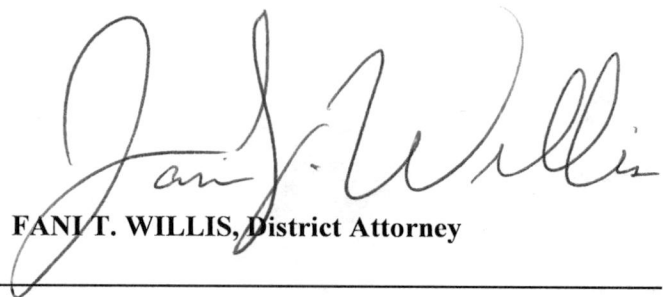
1 AIDING AND ABETTING
FALSE STATEMENTS AND WRITINGS
O.C.G.A. §16-10-20

V.

JENNA LYNN ELLIS
DA #: 23DA07670

Fulton County Superior Court
FILED NY
Date: 10/24/2023
Che Alexander, Clerk of Court

PERSONID: 8852853



FANI T. WILLIS, District Attorney

The Defendant waives copy of indictment, list of witnesses, formal arraignment and pleads _____ Guilty.

The Defendant waives copy of indictment, list of witnesses, formal arraignment and pleads _____ Guilty.

The Defendant waives copy of indictment, list of witnesses, formal arraignment and pleads _____ Guilty.

Defendant

Defendant

Defendant

Attorney for Defendant

Attorney for Defendant

Attorney for Defendant

Assistant District Attorney

Assistant District Attorney

Assistant District Attorney

This ___ day of _____, _____

This ___ day of _____, _____

This ___ day of _____, _____

STATE OF GEORGIA, COUNTY OF FULTON

IN THE SUPERIOR COURT OF SAID COUNTY

On behalf of the People of the State of Georgia, the undersigned, **Fani T. Willis**, District Attorney, as prosecuting attorney for the County and State aforesaid, does charge and accuse **JENNA LYNN ELLIS** with the offense of **AIDING AND ABETTING FALSE STATEMENTS AND WRITINGS, O.C.G.A. § 16-10-20**, for the said accused, in the County of Fulton and State of Georgia, on or about the 3rd day of December 2020, intentionally aided and abetted **RUDOLPH WILLIAM LOUIS GIULIANI** and **RAY STALLINGS SMITH III** in knowingly, willfully, and unlawfully making the following false statements to members of the Georgia Senate present at a Senate Judiciary Subcommittee meeting:

1. That at least 96,600 mail-in ballots were counted in the November 3, 2020, presidential election in Georgia, despite there being no record of those ballots having been returned to a county elections office;
2. That 2,506 felons voted illegally in the November 3, 2020, presidential election in Georgia;
3. That 66,248 underage people illegally registered to vote before their seventeenth birthday prior to the November 3, 2020, presidential election in Georgia;
4. That at least 2,423 people voted in the November 3, 2020, presidential election in Georgia who were not listed as registered to vote;
5. That 1,043 people voted in the November 3, 2020, presidential election in Georgia who had illegally registered to vote using a post office box;
6. That 10,315 or more dead people voted in the November 3, 2020, presidential election in Georgia;
7. That Fulton County election workers at State Farm Arena ordered poll watchers and members of the media to leave the tabulation area on the night of November 3, 2020, and continued to operate after ordering everyone to leave;

said statements being within the jurisdiction of the Office of the Georgia Secretary of State and the Georgia Bureau of Investigation, departments and agencies of state government, and county and city law enforcement agencies, contrary to the laws of said State, the good order, peace and dignity thereof;

FANI T. WILLIS
District Attorney

Related Clerk No:

Complaint #:

Defendant	DA #	Booking	Race	Sex	Birthdate	OTN	Agency
ELLIS, JENNA	23DA07670		White	Female	11/01/1984		

FULTON COUNTY SUPERIOR COURT
REQUEST FOR RELATED ASSIGNMENT
UNDER LOCAL RULE 3 (c)

Page _____ of _____

The case listed below is related under Local Rule 3 (a) to other cases pending or previously heard in this Court:

I. INDICTMENT # _____ DATE _____

DEFENDANTS: Jenna Lynn Ellis

OFFENSE(S): Aiding and Abetting False Statements - OCGA 16-10-20

(PENDING) RELATED CASES - INDICTMENT SAME DATE

#1 INDICTMENT # _____ DATE _____

DEFENDANT: _____

OFFENSE: _____

#2 INDICTMENT# _____

DEFENDANT: _____

OFFENSE: _____

LIST THE PREVIOUSLY ASSIGNED CASE THAT REQUIRES THIS CASE BE ASSIGNED UNDER THE RELATED CASE RULE: (See instructions and priorities on back of this form.)

INDICTMENT # 235C188947 DATE 08/14/23

DEFENDANT: Jenna Lynn Ellis

REASON: IDENTICAL ACCUSED PENDING CASE

CASE RISING FROM SAME CRIMINAL TRANSACTION

JUDGE McAfee

OPEN (UNTRIED)

UNDER SENTENCE/PROBATION

DATE 10/24/23 REQUESTED BY: Mr. Rood

ATTACHMENT 2

**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., Mo. 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.

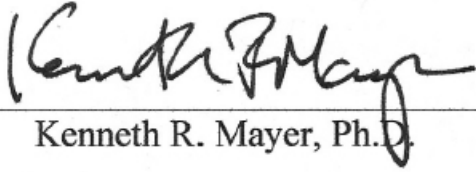
Finally, at the end of his report, Overholt asserts that “other anomalies in the reported data” raise questions about the conduct of the 2020 election. Overholt never identifies what these alleged anomalies are, what “reported data” he is using, or what “questions” he thinks these unspecified and unsupported anomalies raise. This unspecified and unsupported claim require no response.

D. Conclusion

Overholt’s report is a string of errors and unfounded assertions 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

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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 Khademanian.
- “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, February 19-20, 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
Presidential Debates
Comparative Electoral Systems
Legislative Process
Theories of Legislative Organization
Senior Honors Thesis Seminar

Graduate

Contemporary Presidency
American National Institutions
Classics of American Politics
Legislative Process

ATTACHMENT 3



Office of the Secretary of State

Brad Raffensperger
SECRETARY OF STATE

January 6, 2021

VIA ELECTRONIC MAIL

The Honorable Jody Hice
404 Cannon House Office Building
Washington, D.C. 20515

The Honorable Barry Loudermilk
2133 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Kelly Loeffler
131 Russell Senate Office Building
Washington, D.C. 20510

RE: Point by Point Refutation of False Claims about Georgia Elections

Dear Congressmen and Senator Loeffler:

Thank you to each of you for your service to our country. I am addressing this letter to you because each of you have publicly stated that you are going to object to Georgia's electors elected in the November 2020 election. You are certainly entitled to your opinions. However, I want to ensure that your colleagues in the House and Senate have accurate information on which to base their votes to your objection. I respectfully request that you enter this letter into the Congressional Record. Once these refutations are considered, I am confident that Georgia's validly elected electors will be accepted.

Like you, I am disappointed in the results of the 2020 Presidential Election. However, my office has taken multiple steps to confirm that the result is accurate, including conducting a hand audit that confirmed the results of the Presidential contest, a recount requested by President Trump that also confirmed the result, an audit of voting machines that confirmed the software on the machine was accurate and not tampered with, and an audit of absentee ballot signatures in Cobb County that confirmed that process was done correctly. Law enforcement officers with my office and the Georgia Bureau of Investigation have been diligently investigating all claims of fraud or irregularities and continue to investigate. Their work has shown me that there is nowhere close to sufficient

evidence to put in doubt the result of the presidential contest in Georgia. In Georgia, elections are run by county election officials in each of our 159 counties. While there is no such thing as a perfect election, our law enforcement officers are not seeing anything out of the ordinary scope of regular post-election issues that will be addressed by the State Election Board after the investigations are complete. There will end up being a small amount of illegal votes (there always is in any election because federal and state law err on the side of letting people vote and punishing them after the fact), but nowhere near the amount that would put the result of the presidential election in question.

The result of the presidential election is not what I preferred, but the result from Georgia is accurate. Indeed, this body, and both of you, have already voted to accept the results of Georgia's elections by voting to seat the elected Congressional representatives from Georgia. As your colleague Representative Chip Roy astutely pointed out, "[T]hose representatives were elected through the very same systems --- with the same ballot procedures, with the same signature validations, with the same broadly applied decisions of executive and judicial branch officials --- as were the electors chosen for the President of the United States under the laws of those states, which have become the subject of national controversy." Just as the result of your own election was valid and accurate, the certified result in the presidential contest is valid and accurate as well.

Losing candidates contesting election results and procedures is nothing new in Georgia. Former gubernatorial candidate Stacey Abrams and her allies made false claims about Georgia's election equipment and processes in the run up to and aftermath of her 2018 defeat. Many of those same claims are made now by the President and his allies. They were false then and are false now. Objecting to a state's presidential electors is nothing new in Congress either. Your colleagues on the other side of the aisle objected to accepting the votes of certain presidential electors after the 2000, 2004, and 2016 presidential elections. Those objections were not merited then, and, at least in the case of Georgia's electors, are not merited now. As Senator Tom Cotton recently pointed out, "If Congress purported to overturn the results of the Electoral College, it would not only exceed [it's] power, but also establish unwise precedents. ...Objecting to certified electoral votes won't give [President Trump] a second term—it will only embolden those Democrats who want to erode further our system of constitutional government."

POINT BY POINT REFUTATION OF FALSE CLAIMS

The claims raised by the President and his allies to dispute the result in Georgia fall into four broad categories: 1) allegations regarding Dominion voting machines, 2) allegations regarding absentee ballots, 3) allegations regarding poll watchers, and 4) allegations of votes cast by ineligible voters. I will go through each of the allegations in turn and explain how we know that none of these issues come even close to placing in doubt the result of the election.

I. ALLEGATIONS REGARDING DOMINION VOTING MACHINES

Many false allegations have been made about the Dominion voting machines. These claims were made by Democrat-allied groups prior to the election and are being made by people allied with the President now. These claims ranged from the perennial allegations from losing candidates that the machines were “flipping-votes” to the truly bizarre claims that Dominion was founded by foreign oligarchs and dictators for the purpose of keeping Hugo Chavez in power. The claims were false when Democrat-allied groups raised them prior to the election and are still false. These claims have been thoroughly debunked by election authorities, subject matter experts, and third party fact checkers.¹ There was even a social media rumor that a third-party had conducted an audit of voting machines in Ware County, Georgia and had found that the machines “flipped” votes from Trump to Biden at a rate of 28%. Not a single part of that rumor was true. It was quickly debunked by the Ware County Elections Director² and by fact checkers.³ After Fox News and Newsmax were made aware that they had been reporting false claims about Dominion voting machines, both networks published retractions. Newsmax stated, “[n]o evidence has been offered that Dominion... used software of reprogrammed software that manipulated votes in the 2020 election.”⁴

The allegations about Dominion most relevant to the election outcome in Georgia are that votes tallied on a Dominion vote tabulator were somehow manipulated on a statewide basis to elevate the count in favor of the Democratic presidential candidate. It is important to understand that this is not possible—not on a machine-by-machine basis, not by alleged hacking, not by manipulating software, and not by imagined ways of “sending” votes to overseas locations.⁵ In Georgia, we were able to show that none of these allegations are true because we completed a 100% hand audit of all ballots cast in the presidential contest.⁶ This hand audit, which relied exclusively on the printed text on

¹Setting the Record Straight: Facts and Rumors. <<https://www.dominionvoting.com/election2020-setting-the-record-straight/>>. Accessed January 5, 2021.

² Ware County Election Supervisor Carlos Nelson said, “I can tell you this—I don’t want to cuss—this is a darned lie. Our vote machines are secure. There’s no vote flips.” https://sos.ga.gov/index.php/elections/secretary_of_states_office_debunks_ware_county_voting_machine_story. Accessed January 5, 2021.

³ Dominion Machines Didn’t Flip Votes in Ware County, Georgia. Associated Press. December 7, 2020. <https://apnews.com/article/fact-checking-9773239691>. Accessed January 5, 2021.

⁴Fox News, Newsmax Shoot Down Their Own Aired Claims on Election After Threat of Legal Action. USA Today. December 22, 2020. <https://www.usatoday.com/story/entertainment/tv/2020/12/22/fox-newsmax-shoot-down-their-own-aired-claims-election/4004912001/>. Accessed January 5, 2021.

⁵ Dominion Statement on Sidney Powell Charges. <<https://www.dominionvoting.com/dominion-statement-on-sidney-powell-charges/>>. Accessed January 5, 2021.

⁶Georgia Secretary of State. Historic First Statewide Audit of Paper Ballots Upholds Results. https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race. Accessed January 5, 2021.

the ballot-marking device ballot or the bubbled in choice of the absentee ballot confirmed the result of the election with a 0% risk limit.⁷

We further know these allegations are false because our office engaged a federally-certified voting systems test lab to perform an audit of the voting machines following the November election.⁸ Pro V&V, based in Huntsville, Alabama is a U.S. Election Assistance Commission-certified⁹ Voting System Test Laboratory (VSTL), meaning the lab is “qualified to test voting systems to Federal standards.”¹⁰ Pro V&V’s accreditation by the USEAC was also recommended by the National Institute of Standards and Technology (NIST), the U.S. government’s physical science laboratory dedicated to creating standards and measures that would help America be the leading science innovator in the world.

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.¹¹ 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.¹² The testing was conducted on a Pro V&V laptop independent of the system.¹³ 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.¹⁴

Through each of these actions, I can definitively say that the results reported by the Dominion Voting System used in Georgia were accurate.

II. ALLEGATIONS REGARDING ABSENTEE BALLOTS

Georgia has had no-excuse absentee voting since 2005, when it passed on a party-line vote by a Republican controlled legislature and was signed by a Republican governor. Traditionally, absentee by mail voting in Georgia only accounts for about 5% of the electorate, but due to the Coronavirus pandemic, it increased to approximately 25% of the electorate in November 2020. Absentee by mail ballots increased from around 222,000 in

⁷ *Id.*

⁸ Georgia Secretary of State. Secretary Raffensperger Announces Completion of Voting Machine Audit. https://sos.ga.gov/index.php/elections/secretary_raffensperger_announces_completion_of_voting_machine_audit_using_forensic_techniques_no_sign_of_foul_play. Accessed January 5, 2021.

⁹ <https://www.eac.gov/voting-equipment/voting-system-test-laboratories-vstl/pro-vv>

¹⁰ *Id.*

¹¹ See Note 5, *supra*.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

the November 2018 General Election to over 1.3 million in the November 2020 Election. The President and his allies have alleged that Georgia did not adequately enforce its laws regarding verification of absentee ballots. This allegation is untrue. The truth is that my office protected and strengthened Georgia's signature verification system. My office provided GBI training to each county so that they could better conduct signature verification and also introduced a photo ID requirement into absentee ballot applications by creating an online request portal that requires the voter's name, date of birth, and Georgia driver's license number to match voter records in order to request an absentee ballot.

Much has been made of a Signature Match Settlement Agreement¹⁵ entered into on the advice and recommendation of the Georgia Attorney General's office in order to protect Georgia's signature verification laws on both absentee ballots and absentee ballot applications. The President and his allies allege that the Settlement Agreement unconstitutionally changed Georgia law. That assertion has been rejected by courts and is not supported by the facts.

Multiple lawsuits have challenged the Settlement Agreement. All have rejected the claims that it weakened Georgia's signature match laws.¹⁶ The Settlement Agreement came about because Democrat party groups filed a lawsuit challenging Georgia's signature verification process as unconstitutional. To get a full release of all claims and protect Georgia's signature verification laws, my office agreed to send out an Official Election Bulletin to counties from our Elections Director that offered best practices on how to conduct signature verification. The recommended practices were based off many counties' existing procedures.

As Judge Grimberg of the Northern District held in considering these claims, "[this] argument is belied by the record."¹⁷ According to the latest data provided to our office from counties, Georgia counties rejected 2980 absentee ballots for missing or invalid signatures in the November election. This is in addition to the 2777 ballots that were initially identified as having a missing or invalid signature and were later cured by the voter pursuant to the process set forth by the Georgia General Assembly. Out of 1,322,529 absentee ballots cast in the November election, this means 0.43% of absentee ballots were initially identified as having a signature issue and that 0.22% of ballots were rejected due to missing or invalid signatures. These numbers are actually slightly higher than the number of rejected ballots for signature issues in the 2018 election, where

¹⁵ The President and his allies generally refer to the Settlement Agreement as a Consent Order or Consent Decree. However, as the title of document clearly shows, it is a Compromise Settlement Agreement and Release.

¹⁶ See *Wood v. Raffensperger et al.*, Order Denying TRO. NDGA. 1:20cv04651-SDG (stating that "Woods' argument is belied by the record.")

¹⁷ *Id.*

222,193 absentee by mail ballots were cast and 454 were rejected for signature issues, a rejection rate of 0.2%.¹⁸

To further put any questions regarding Georgia county elections officials signature verification to bed, the law enforcement officers in my office, in conjunction with law enforcement officers with the Georgia Bureau of Investigation, conducted an audit of signatures on absentee ballots in Cobb County. We chose to start with Cobb County because it was the only county where the President and his allies had submitted any credible evidence that the signature verification process was not properly done. The audit found “no fraudulent absentee ballots” with a 99% confidence threshold (based on the sample size of reviewed signatures).¹⁹ The audit found that only two ballots should have been identified by Cobb County Elections Officials for cure notification that weren’t.²⁰ In one case, the ballot was “mistakenly signed by the elector’s spouse,” and in the other, the voter “reported signing the front of the envelope only.”²¹ In both cases, the identified voters filled out the ballots themselves.²²

There have also been allegations of so-called “pristine ballots” in Fulton County. These are ballots that partisan poll watchers thought looked suspicious during the hand audit because they were not folded (as ballots that had been put in an envelope would be). First, there are numerous reasons why a hand-marked ballot may be not folded. Emergency ballots, which are ballots cast by eligible voters at polling places if there is an issue with a ballot marking device, are scanned straight into the scanner. Certain military/overseas ballots or ballots that are damaged and cannot be scanned are duplicated and would also not be folded prior to scanning. The unstated implication of this allegation is that county elections officials are creating fake or invalid ballots and running them through scanners. There is absolutely no evidence that this happened a single time in Georgia.

Finally, there have been allegations of illegal ballot harvesting. One of the first things I did as Secretary of State was to ensure that ballot harvesting was illegal in Georgia. The law outlawing ballot harvesting in Georgia was challenged in court, but we successfully defended it. No specific allegations of ballot harvesting have been brought forward. Nevertheless, the MITRE Corporation’s National Election Security Lab conducted a statewide Ballot Harvesting Analysis of the November elections across Georgia’s 159 counties. MITRE collected data on the absentee by mail ballots requested and returned to check for unusually high or unusually low return rates. According to the report, a

¹⁸ *Id.*

¹⁹ Georgia Secretary of State/Georgia Bureau of Investigation Absentee by Mail Signature Audit Report. December 29, 2020.

<https://sos.ga.gov/admin/uploads/Cobb%20County%20ABM%20Audit%20Report%2020201229.pdf>. Accessed January 5, 2021.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

“statistical analysis of ballot return rates shows no anomalous points; no suspicious indicators of ballot harvesting.”²³

III. ALLEGATIONS REGARDING POLL WATCHERS

There have been numerous reports of insufficient access for poll watchers or public monitors. Ironically, those reports are all made by poll watchers or other public monitors, showing that they were in fact highly involved in the process and monitoring each step of the way. Georgia law balances access for partisan poll watchers and public observers with the necessity of allowing county election officials to complete their work in a timely fashion without interference. It is not unusual in any election for partisan poll watchers and election officials to disagree on the exact level of access that they should receive. Throughout this election cycle, my office has told Georgia counties to ensure transparency and openness and, when any questions arise, to err on the side of transparency. We ensured monitors had access and that the public could observe the hand audit and recount, in addition to the regular laws that govern partisan poll watchers on Election Day and early voting.²⁴

The most prominent allegation of issues with monitors took place in State Farm Arena, where Fulton County conducted its absentee ballot processing. Unfortunately, due to what appears to be a miscommunication between county staff and poll watchers, the poll watchers left at 10:30 p.m. on election night when they thought Fulton was done scanning for the night. Fulton denies ever telling monitors that they had to leave. Fortunately, a monitor designated by the State Election Board arrived shortly after the other poll watchers left. Partisan poll watchers and other monitors remained at Fulton County’s election warehouse where results were being tabulated the entire time and were aware that absentee ballot scanning was continuing at State Farm Arena. Fortunately, surveillance video of the entire time scanning was taking place exists and is publicly available. While the President and his allies have used snippets of that video to imply untoward activity, review of the entire surveillance tape by both law enforcement officers with my office and fact checkers has shown that no untoward activity took place—election officials simply scanned valid ballots as they had been doing all night. The entire video has been made available by my office so that people can confirm this fact for themselves.²⁵

IV. ALLEGATIONS REGARDING INELIGIBLE VOTERS VOTING

²³ Georgia Secretary of State. National Election Security Lab Report on November Election. https://sos.ga.gov/index.php/elections/national_election_security_lab_report_on_november_election_shows_sec_raffenspergers_ballot_harvesting_ban_holds_strong. Accessed January 5, 2021.

²⁴ Georgia Secretary of State. Monitors Closely Observing Audit Triggered Full Hand Recount. https://sos.ga.gov/index.php/elections/monitors_closely_observing_audit_triggered_full_hand_recount_transparency_is_built_into_process. Accessed January 5, 2021.

²⁵ SecureVote GA Fact Check. <https://securevotega.com/factcheck/>. Accessed January 5, 2021.

The President and his allies have also made allegations regarding ineligible voters voting. My office has investigated each of these allegations and will continue to investigate them, but our initial investigations show two things: 1) the data used by the President's allies is not correct and 2) the actual number of potentially ineligible voters who voted in Georgia does not put the result of the election in question.

There are ineligible voters who vote in every election because both federal and state law err on the side of letting a potentially eligible voter vote and then punish any illegal voting after the fact. If the number of illegal voters is sufficient to place the result in question, the remedy is an election contest filed in state court. The President and his allies have filed multiple election contests in Georgia. Three have already been dismissed, and one remains ongoing. In Georgia, we have strong laws to deter illegal voting, and we conduct as much list maintenance on our voter rolls as allowed by federal law.

The data that the President's allies used to determine their alleged number of illegal voters is wrong. Matt Braynard, the President's purported expert witness in his election contest, has already admitted in testimony to the Georgia House of Representatives Government Affairs Committee that he is not accusing the people he has identified of actually voting illegally.²⁶ Although he states in his affidavit filed in Court that there were 20,312 individuals who cast ballots illegally in the November 3, 2020 election..., he clarified to the Georgia House of Representatives Government Affairs Committee that he was not actually accusing anyone of voting illegally.²⁷ Actual experts in political science, data analysis, and election data have pointed out the data used by Mr. Braynard is not reliable. Dr. Charles Stewart III, the Kenan Sahin Distinguished Professor at the Massachusetts Institute of Technology and the founding director of the MIT Election Data and Science Lab, reviewed Mr. Braynard's declaration and data and concluded that he uses data matching techniques that are "[k]nown to be unreliable and produce a preponderance of 'false positives' and that the methodology used by Mr. Braynard and the President's other purported experts is "highly inaccurate."²⁸

Despite the inaccuracy of the numbers alleged by the President's allies, my office is committed to fully investigating all claims of illegal voting, and that is exactly what we have been doing. Those investigations are tedious and time consuming because whether or not a person actually illegally voted can depend on the specific factual circumstances, but those investigations have allowed me to get a good sense of the potential universe of illegal voters in the November election in Georgia. The factual investigations confirm the

²⁶ *Trump v. Raffensperger*. Fulton County Superior Court. Civil Action No. 2020-CV343255. Respondent's Motion to Exclude Affidavits and Testimony of Experts. December 15, 2020.

²⁷ *Id.* Braynard Testimony to Georgia House of Representatives Government Affairs Committee. December 10, 2020. ("In my affidavit I don't believe I specifically accuse anybody of committing any crime. I said there were indications—over and over again potentially illegal ballots has been my language. Uh indications of illegally cast ballots. I have not accused anybody of committing a felony in any of my declarations.").

²⁸ See Note 25, *supra*. Declaration of Dr. Charles Stewart III.

opinions of experts like Dr. Stewart who have accurately concluded that the numbers of illegal voters in Georgia alleged by the President's allies are not accurate or reliable.

The President's allies have alleged that 2,056 felons voted illegally in Georgia. By comparing information from the Department of Corrections and Department of Community Supervision to the list of people who voted in November, the actual universe of potential felon voters is 74. Each of those voters are under investigation to determine if they are the same person indicated and that they are still under felony sentence.

The President's allies have alleged that 66,241 underage teenagers voted in Georgia in November. The actual number is 0. Our office compared the list of people who voted in Georgia to their full birthdays to determine this. 4 voters requested a ballot prior to turning 18, and all 4 turned 18 prior to the November 3 election.

The President's allies allege that 2,423 people voted who were not registered to vote. The actual number is 0. Voters cannot be given credit for voting in Georgia unless they are registered to vote.

The President's allies allege that 10,315 dead people voted. Our office has discovered 2 potential dead voters and both instances are under investigation. We will fully investigate all credible allegations of potential dead voters, but the allegation that a large number of dead people voted in Georgia is not supported by any evidence.

The President's allies allege that 395 people cast ballots in both Georgia and another state in November. That list is under investigation and in working with election officials from other states, we have already determined that many of the alleged "double voters" are not the same people.

The President's allies allege that 1,043 people voted who were registered at addresses that are actually post office boxes. A simple google search of this list revealed that many of the addresses that are alleged to be post office boxes are actually apartments. The President's allies allege that approximately 4000 people voted in Georgia who had subsequent voter registrations in other states. Our research into these people shows that these allegations rely on inaccurate and incomplete data. The detailed voter registration records on those voters reviewed so far show that they are legitimate Georgia voters. The President's allies also allege that there are approximately 15,000 people who voted in Georgia after having filed a National Change of Address with the U.S. Post Office indicating they had a new out of state address. Mr. Braynard himself admits this fact does not establish that a person voted illegally. There are many people who live out of state who are still completely legitimate Georgia residents, including military and overseas citizens, people in government service, college students, temporary workers on assignment somewhere else, and voters temporarily caring for family others, etc. There will end up being a small amount of illegal out-of-state voters, and my office will seek punishment for those voters to the full extent of the law. But our initial investigation

indicates that the total number of illegal voters for any reason (no longer a Georgia resident, felon, double voter, etc.) will not be close to sufficient to place the result of the presidential election in Georgia in question.

CONCLUSION

As Secretary of State of Georgia, I know that half the people are going to be happy after an election and the other half are going to be upset. My job is to make sure that both sides know that the results are accurate. That is why I ordered a hand audit, a recount, a signature audit in Cobb County, and a statewide signature study in conjunction with the University of Georgia. The facts show that the claims asserted by the President and his allies about the voting machines used in Georgia are false. The facts show that the claims that the 2020 election did not follow Georgia law on absentee ballots are false. The claims that the election was not transparent or that monitors did not have the access to which they were entitled are false. The claims that there are a sufficient number of illegal voters to put the result of the Presidential contest in question are false. You have already accepted the results of the November 3, 2020 election in Georgia for your own seats and those of your colleagues. I respectfully request that, after you review this evidence, you do the same for the presidential electors who were validly elected by the people of Georgia. We do not have to like the results of an election to accept them. Thank you for your consideration and your continued service to our country.

Sincerely,


Brad Raffensperger

cc: Georgia Congressional Delegation
Office of the Vice President of the United States
Office of the Speaker of the United States House of Representatives
Office of the Minority Leader of the United States House of Representatives
Office of the Majority Leader of the United States Senate
Office of the Minority Leader of the United States Senate

ATTACHMENT 4

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

CORECO JA'QAN PEARSON, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.
v.)	1:20-cv-4809-TCB
)	
BRIAN KEMP, <i>et al.</i> ,)	
)	
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 then. 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

ATTACHMENT 5

**THE CHAIRMAN’S REPORT OF THE ELECTION LAW
STUDY SUBCOMMITTEE
OF THE STANDING SENATE
JUDICIARY COMMITTEE**

SUMMARY OF TESTIMONY FROM DECEMBER 3, 2020 HEARING

Honorable William T. Ligon, Chairman
Senator, District 3

Honorable John Kennedy
Senator, District 18

Honorable Bill Heath
Senator, District 31

Honorable Blake Tillery
Senator, District 19

Honorable Michael Rhett
Senator, District 33

Honorable Elena Parent
Senator, District 42

- I. INTRODUCTION
- II. EXECUTIVE SUMMARY
- III. ORAL TESTIMONY
- IV. FINDINGS
- V. RECOMMENDATIONS

I. INTRODUCTION

The charge assigned to the Election Law Study Subcommittee of the Standing Senate Judiciary Committee was to examine the recent election cycle, the recount process, the audit process, the current investigations taking place, the litigation that is moving forward, as well as address issues relating to the upcoming runoffs. In the matter of the law itself, we were to also consider Georgia's election laws as they have impacted and are impacting the current election cycle. This Report may be further amended prior to the 2021 Georgia Legislative Session.

This Subcommittee met once at the Georgia State Capitol on Thursday, December 3, 2020. The hearing was open to the public, and there was an open invitation for citizens to speak before the committee. Subcommittee members also expressed stories they had heard from their constituents. Other committee meetings have also been hearing testimony which should be considered to present an even broader understanding. At this time, the additional committees which have met and received testimony are the Senate Governmental Affairs Committee and the House Governmental Oversight Committee. Many who could not testify due to lack of time have recorded their own testimonies online and shared their written speeches with this committee; the Subcommittee received many affidavits under oath.

This Report by the Subcommittee Chair has not been formally approved by the Subcommittee or the standing Judiciary Committee. It is submitted for informational purposes to be a part of the record at the request of the Judiciary Chair. It is a summary of testimony given in person and by affidavit. For more information, please refer to the video record of the hearing and the affidavits submitted.

II. EXECUTIVE SUMMARY

The November 3, 2020 General Election (the "Election") was chaotic and any reported results must be viewed as untrustworthy. The Subcommittee took evidence from witnesses and received affidavits sworn under oath. The Subcommittee heard evidence that proper protocols were not used to ensure chain of custody of the ballots throughout the Election, after the opening of ballots prior to the Election, and during the recounts. The Subcommittee heard testimony that it was possible or even likely that large numbers of fraudulent ballots were introduced into the pool of ballots that were counted as voted; there is no way of tracing the ballots after they have been separated from the point of origin. The Subcommittee heard testimony of pristine ballots whose origin looked suspicious or which could not be verified and the inability of poll workers to distinguish between test ballots and absentee ballots. Signatures were not consistently verified according to law in the absentee balloting process.

Poll watchers on Election Night testified that they had noted that ballots were not secured, that seals and security tags were not used, and the chain of custody was often lax or non-existent. During the recount process, the monitors observed similar patterns of unsecured ballots that had broken seals and open cases of ballots laying around for hours or overnight in unsecured

locations. There was a lack of enforcement of the law, sloppy handling of the ballots by those counting, deliberate covering-up of voting numbers by workers, lack of following the process during the recount, unsafe handling of military ballots, and insecure data such as on laptops and flash drives. According to submitted testimony, there were also many equipment failures when ballots would not go through the machines and other times when ballots were counted more than once.

A great deal of testimony supported evidence of a coordinated effort to prevent a transparent process of observing the counting of ballots during the absentee ballot opening period and on Election Night. Witnesses testified to hostility to Republican poll workers during the recount – directional signage was unavailable, doors were locked, and Republican poll watchers were sent home early or given menial assignments.

Monitors throughout the state were often kept at an unreasonably long distance – some social distancing was understandable, but monitors were blocked from having the visual ability to see what was written on the ballots or to have any meaningful way to check the counting or to double-check that what was counted was actually assigned to the right candidate. They also could not observe what was entered into the ARLO system, nor could they be told the count that was being entered into ARLO. Instead, they were told that those numbers would be totaled and come back from the Secretary of State's Office. They were also told not to take pictures, film, or have other means of acquiring proof of the process that they were experiencing based on a rule from the State Elections Board. That rule contravenes the spirit and purpose of the election law.

The Secretary of State's Office was unresponsive to its hotline. It has been unresponsive to many who wonder if their vote ever really counted. The office has turned a blind eye to fraud to the point that it ought to be considered gross negligence.

The Subcommittee did not have time to investigate the numerous publicly reported issues with the Dominion voting machines. The Subcommittee takes notice of the various publicly reported functions of the machines and heard evidence that the machines can duplicate fraudulent ballots to the point that not even trained personnel can tell the difference between a test ballot and a real ballot. Testimony also suggested that the system responds wirelessly to being reset from an unknown location as happened with the poll books. The Subcommittee also heard that Dominion machines can be programmed with algorithms that reallocate votes between candidates. In addition, the Dominion machines are programmed to count votes using percentages of whole numbers rather than actual votes, which is a feature incompatible with the actual voting process. The Subcommittee learned that the history and control of the company that owns the Dominion voting system is unclear and provides serious implications of foreign interference in the U.S. election.

III. ORAL TESTIMONY

Violation of Ballot/Computer Security Procedures During Early Voting and on Election Day

- Bridget Thorne, who has nine years' experience as a poll worker/precinct manager in Fulton County, worked for five and a half days during early voting as a technician in the temporary warehouse in the Georgia World Congress Center. Because of positive COVID tests among Fulton County elections employees, Dominion Software was selected to run the warehouse. Thorne was disturbed at the lack of ballot security. Test ballots were printed on the same type of paper (official Rolland Voting paper) as real ballots, but test ballots were not routinely marked as such or destroyed. Thorne testified she saw a stack of these ballots almost eight inches tall.

On October 30, when early voting finished at State Farm Arena in Fulton County (the "State Farm Arena"), Thorne observed 40-50 scanners being brought into the arena and tens of thousands of ballots being scanned in by random people pulling ballots from random places – no formal procedure, no oaths, no chain of custody. When Thorne objected to this haphazard process, a Dominion employee replied, "It's fine, we have been doing this all week." When Thorne left that night, she observed unsecured suitcases of ballots next to the scanners.

Upon arriving at the State Farm Arena the following morning, Thorne saw that suitcases of ballots had been piled in a corner and sealed. But there was no restricted access, so anyone could have removed one or more suitcases. In addition, anyone could have opened them and resealed them" because "seals were easily accessible." During the day, employees brought Thorne other ballots that were found in the warehouse, asking if they were real or test. She had no way of knowing.

The following night, when Thorne was again working at the warehouse, she observed a Dominion employee and an Election Group Consultant printing "test ballots" but doing so incorrectly. She realized then that "anyone in the warehouse had access to printing real ballots."

Before Election Day, Thorne attempted to report her concerns about these insecure ballot operations to the Secretary of State (SOS) office and to the State Board of Elections; she received no response.

Since giving her testimony to the Senate Subcommittee, Bridget Thorne has been fired by a consultant working for Fulton County.

Recount: Counting Votes Without Monitoring, or Without Meaningful Monitoring

- Election Day – Video from State Farm Arena in Fulton County showed a Fulton County Election worker approaching the media and poll monitors. After a brief exchange, the media and monitors packed up and left. This coincided with media reports that everyone was told to leave State Farm Arena around 10 p.m. on Election Night; workers testified they were told that tabulation was stopping for the night and would resume the next morning. Instead, video from State Farm Arena revealed that about six workers stayed behind. What happened next revealed a coordinated effort by election workers to deliberately conceal their continued counting of ballots out of public view, in direct violation of the law. This incident was premeditated. Those workers pulled out four concealed cases of ballots from under a table and continued counting for another two hours. During those two hours there were multiple machines running, each of which could process up to 3000 ballots per hour. A “representative” of The Secretary of State’s office claimed that it had a representative present during that period, and the media reported that statement widely; it was not true. The representative admitted he was not present during that time period and is not evident on the video.
- David Cross, though unable to speak at the hearing due to time constraints, submitted written testimony with graphs, one of which appears to enhance the significance of what took place with the change in vote totals just after the late-night activities took place at State Farm Arena. Due to its significance to the State Farm Arena video seen by the committee, his graph is included with this Report. It shows that 136,155 votes suddenly appeared in Biden’s vote column at 1:59 a.m., November 4, 2020.
- Scott Hall of Fulton County is an experienced poll watcher who testified that there was a secured “lunch area” but when he bought lunch for workers, they were not permitted to use that area. There were no cameras in that area, yet tables were set up for counting, and poll watchers were excluded. He has photographs of the area. He also testified that there were stacks and stacks of unsecured blank ballots (“checks,” as he called them) that were in the open.
- Mr. Hall noted a limitation of one monitor per 10 recounting tables as being an inadequate ratio to be truly effective. He was constantly engaged in the recount, even being called to go to the World Congress Center at ridiculous hours, such as 10 p.m., for more counting. He was adamant that something was seriously wrong with how Fulton County was handling the ballots.
- Mark Amick reported that in DeKalb County, only one monitor was allowed per 10 tables of 16 recounters. He testified that monitors were kept six feet away and could not see the totals entered on the computer screens.

- At State Farm Arena at the end of the recount day on November 14, Susan Voyles of Sandy Springs observed pallets of ballots remaining to be counted beginning the following day. When she arrived the next morning, November 15, those pallets were gone.
- On November 15, Voyles and her partner with whom she had traveled to State Farm Arena (also identified as a Republican), were given only 60 ballots to review, even though other tables had thousands. Voyles and her partner, as well as other Republican monitors, were told at 10 a.m. there was nothing else for them to do, so they should leave. Since giving her testimony to the Senate Subcommittee, Susan Voyles has been fired by a consultant working for Fulton County.
- Tony Burrison of Savannah and a military veteran served as one of very few recount observers during the recount in Chatham County. He described the process as “disgusting” – stacks of ballots were being counted with no oversight or accountability. Based on what he observed, he believed there is a major problem with voting integrity due to tampering with the vote.
- Nancy Kain of DeKalb reported that she was kept too far from the counting to verify any votes.
- Hal Soucie of Smyrna, a poll watcher at State Farm Arena, testified that he was told that he was not supposed to be close enough to see batch numbers.

No Chain of Custody

- Annette Davis Jackson, a Gwinnett monitor, saw broken locks on the bins containing paper backup ballots.
- Scott Hall of Fulton County was told to leave the World Congress Center after he tried to document and photograph nine unsecured bags of ballots. He testified he “cried” over the incidents he saw.
- Dana Smith, a Republican poll watcher in Hart County, testified that she observed the paper backup ballots being placed in unlocked canvas bags for transport to the county office of the Elections Supervisor. The precinct manager finally (at Smith’s insistence) obtained locks before transporting the bags in her car, but she refused to complete chain-of-custody forms. Smith also testified that there was open access to the special paper used to print the paper backup ballots.

- Hal Soucie observed the recount process in two counties, Cobb and Fulton. At State Farm Arena in Fulton County, he reported “suitcases” full of ballots “all over the place,” with no chain-of-custody procedures, no time and no date information. He observed people taking ballots out of the cases, counting, and putting them right back into the cases. No one checked him in as a credentialed observer, and one man handed him a stack of ballots without knowing who he was or where the ballots came from.

Suspicious “Pristine” Absentee Ballots

- At the State Farm Arena recount on November 14, Susan Voyles – who has 20 years’ experience managing election precincts in Fulton County – reviewed a stack of 110 absentee ballots [ballots are normally placed in stacks of 100] and noticed they were “pristine.” They had not been folded, and they did not appear worn as though voters and election workers had handled them. Each ballot was “bubbled in” with exactly the same marking, which showed a small crescent of white in the bubble. It appeared as though one ballot had been marked and then reproduced over 100 times. In addition, one of these ballots bore the distinctive ink markings of having been pulled from a printer too soon. Almost all of these ballots were votes for Vice President Biden; only two were for President Trump. In her 20 years of election experience, Voyles had never seen any ballots like these. As noted above, Ms. Voyles has been fired from her position as a poll manager with Fulton County, presumably for her honest testimony.
- Hal Soucie, who was also at the State Farm Arena, verified that he saw the pristine ballots mentioned by Ms. Voyles.
- During the recount, Scott Hall of Fulton County saw large quantities of ballots at the World Congress Center that appeared to have been machine-produced. He stated that he saw this “over and over.” The Subcommittee received evidence that other poll workers throughout the State reported similar instances of “pristine” ballots with no explicable origin.

Duplication of Ballots Without Oversight

- Nancy Kain, a naturalized citizen in DeKalb County, volunteered as a poll watcher for Advance Voting at lower Roswell Road, served as a poll monitor during processing of absentee ballots and as a poll watcher on Election Day. At 10 a.m. on November 5, at the State Farm Arena, she was not asked for credentials and noticed that many people did not even have credentials. She observed a young man with paper ballots putting in selections on a ballot on a voting machine and wondered why it was not going through the scanner. The supervisor explained that the military ballots are transcribed in proper format and ballots come in that they were trying to salvage because of damage, thus they were just transferring them to a new ballot, and that was the process. Yet, no one was there to verify what the young man was doing. He was the brother of the

supervisor. Technically, he was voting for someone else on a voting machine. She took video and photographs and recorded her conversation with the supervisor.

- Mark Amick observed the processing of Provisional, Military and UOCAVA ballots in Fulton County on November 6 from early morning until 10:15 p.m. The only “oversight” provided was from a Secretary of State (SOS) employee who was not seen in the area before mid-morning, and who spent much of day not observing the duplication and tabulation process but rather sitting in the back of the room and leaving the room while on his phone. The first time Amick saw the SOS employee on the counting/sorting floor was 5:53 p.m. By 6:02 p.m. he had returned to his chair at the back of the room, and he did not go back onto the counting/sorting floor by the time Amick left at 10:15 p.m.

Denial of Entry to Election Day Poll Watchers and During Recount

- Mark Amick, a credentialed Statewide Poll Watcher in Milton (Fulton County), was denied entry into the Birmingham Falls Elementary School precinct despite his statewide credentials. The Subcommittee has also received evidence from monitors that some of them were denied entrance during the recount.

Hostility

- Hale Soucie of Symrna testified that Cobb County was using an electronic counting machine on the first day to count ballots, which was not the approved way to do the recount. The next day, it was the hand count process. He stated that on his second day he immediately observed that the first auditor made three mistakes in two minutes calling three ballots marked for Trump as Biden votes, but the second auditor caught those mistakes. He noticed another table that was not even doing a double-check at all. When he sought to observe, he was met with great hostility and vulgar name calling directed at him. The Subcommittee received other evidence of hostility against the monitors.

Wildly Disparate Vote Totals from the Recount

- While observing the recount at the DeKalb County Board of Elections on November 15, Mark Amick saw that a box of ballots was recorded as 10,707 votes for Biden and 13 votes for President Trump. He flagged this obvious disparity to the election workers, who discussed among themselves how it came to be. Two election officials with whom he engaged about this issue became agitated with Amick for his continued monitoring of the situation. They finally agreed to recount the box, resulting in a revised total of 1,081 votes for Vice President Biden and 13 for President Trump – still statistically disparate, but 9,626 votes less so. Amick was not certain if the corrected count was actually entered into the final recount totals.

- At State Farm Arena during the recount, Susan Voyles also noted a stack of absentee ballots with only two votes for President Trump.
- Hal Soucie of Smyrna, while monitoring in State Farm Arena, noticed stacks of ballots quite high, such as eight inches high for Biden, yet not a single Trump vote. He stated that he works with data and marketing, and anytime figures start reaching the 90th percentile, that type of consumer data is suspect, and when it gets to 100 percent that is passing the level of improbable to impossible.

Ballots Counted from Ineligible Voters

- Mark Davis analyzed data from U.S. Postal Service change-of-address (COA) forms and compared it to voters who voted in their former precincts. For example, he discovered that 14,980 out-of-state movers still voted in the Georgia General Election. Another 40,279 moved across county lines more than 30 days prior to the election, yet still voted in their former county precincts, a violation of Georgia law. He also noted that about 1,000 voters had voted twice in the Primary, inferring that the same pattern could have existed in the General Election.

Constitutional Violations of Duly Passed Law

- Dr. John C. Eastman, former Professor of Law and former Dean of the Chapman University Fowler School of Law and current Fellow at the Claremont Institute, testified regarding the plenary authority of the legislative body of the States to set the “Times, Places and Manner” of elections involving Federal officials, including with respect to the selection of Electors for the Electoral College in the presidential election, citing Article I, Section 4 and Article II, Section 1 of the U.S. Constitution. He noted that when States have vested that authority in the people of their States that they are bound to follow the people’s choice in a free and fair election, but where fraud and failure to follow the law as passed by the legislative body is evident, that authority can be withdrawn. The legislature then can exercise its plenary authority to choose the electors in a presidential contest. He referenced both *Bush v. Gore* and *McPherson v. Blacker* as authoritative.

Professor Eastman further explained that the failure of State election officials to follow the manner of conducting the election according to the statutes duly passed by the legislative body can annul an election. The U.S. Constitution clearly gives State legislatures under Article I, Section 4 the duty to determine the “manner” of federal elections, and that power rests solely with the State legislatures unless Congress passes its own laws that preempt State election laws. There is no provision which allows any Executive branch member to modify, set aside, enhance, or otherwise create policies or procedures which undermine or contravene those laws.

He noted various ways State election officials had failed to follow the statutes in conducting the election. He reiterated failures such as counting the votes of approximately 66,000 underage individuals, the 2,500 felons whose votes were unlawfully counted, the votes of those who had no verifiable residences within the State, and the “biggest” of all he believed was the March 2020 settlement agreement that was entered into with Georgia’s Secretary of State and “certain democrat committee challengers that effectively altered the signature verification process” with regard to Absentee Ballots, an agreement that was contrary to State law. He further noted that the “intermingling of legal and illegal ballots” also meant that the election cannot legally be certified. “The State has failed to make a choice on Election Day in accordance with the manner” the legislature prescribed. In light of the failures, the fraud, and the unconstitutional agreement, Dr. Eastman opined that it was the duty of the legislative body to choose the State’s Electors for the presidential election.

Data Analysis in General and Dominion Issues

- Russell J. Ramsland, Jr., a cybersecurity expert from Texas, testified that his team had compared data from Dominion voting machines in those places where they were used around the nation. They discovered that with Dominion machines, Vice President Biden outperformed what he was statistically expected to receive by an “amazing” 5%. He also outperformed statistical expectations when the analysis was run by county, with Vice President Biden picking up 78% of Dominion counties but only 46% of counties using machines from other manufacturers. Depending on the type of analysis performed, Ramsland estimated that these anomalies translated to between 123,000 and 136,000 extra votes for Vice President Biden in Georgia.

Ramsland also found that the rejection rate for absentee ballots in Georgia was much lower in 2020 (0.2%) than in 2016 (6.4%). He also identified over 96,000 phantom votes, meaning that they had been counted, but there was no record of the counties recording those ballots as “received.”

- Phil Waldron, a former U.S. Army information officer with expertise in electronic warfare, identified a “pretty significant information warfare campaign” conducted across the country during the Election. He described the history of the Dominion and other voting machines, with the operating software sharing the same “DNA” going back to Smartmatic, which was created to help steal elections in Venezuela.

Waldron analyzed these machines in Michigan and found them extremely insecure. He said a good hacker could get into them within two minutes, while an elementary-school student could probably do it in twelve. There are 12 avenues of attack. Dominion also sends voter data outside the United States.

Waldron discussed fractional voting. Waldron testified that the Dominion software used in the Georgia machines assigns a fractional value to each vote; there is no legitimate purpose in assigning an elector's vote as a fractional vote. That feature can allow the manipulation of election results.

Waldron said federal law (USC Title 46) requires that the ballot images within the machine are required to be preserved for 22 months, but only a forensic analysis would show if this was done. Each machine can record 2,000-3,000 ballots per hour. His Michigan analysis showed "huge breaches in chain of custody" with respect to the machines and to absentee ballots. In Georgia, there was an unexplained upload of ballots at 3:36 a.m. on November 4.

Waldron urged a full forensic audit of the machines and of absentee ballots (for example, ink analysis would show if ballots were mass-produced).

- Scott Hall of Fulton County stated that when he worked at the English Street facility that he had concerns about the contractors hired there. He noted that every vote in Fulton County ends up on thumb drives that eventually find their way to the English Street location. He said, "I have photographs of pallet loads of basically signed checks." "So you've got every single vote, you've got currency, and now you just need someone to do it." He said he hired one of his own guys to determine if a fraudulent vote could be recorded on the Dominion machines at that point in the process. "Now, I've got all these votes that have not been uploaded anywhere. And he actually wrote me a paper, and he said that it was the 'stupidest, simplest thing I've ever seen.' He said, 'Dominion's own documentation shows how you take an entire batch, swipe it off, and then swipe on a new batch, before you put it into the real-time reader that uploads.'" He summed up the voter fraud by using the analogy that the referee got paid off to call the game and something is very wrong.

Outside Influence Over Governmental Election Functions

- Scott Walter from the Capitol Research Group testified about Mark Zuckerberg's Center for Technology and Civic Life (CTCL), a progressive advocacy group that seeks to influence elections via voter "education" and get-out-the-vote efforts. In the 2020 election, CTCL made grants to individual counties, in Georgia and elsewhere, ostensibly to help run safe elections during COVID. But county boards could use the money for whatever they wanted, and the bulk of the grants (95% of total funding) went to counties that voted for Clinton in 2016 and for Biden in 2020. In fact, nine of the 10 Georgia counties that experienced the largest shifts toward Democrats in 2020 received CTCL grants -- \$4.38-\$10.47 spent per each man, woman, and child in those counties. Georgia should not allow "privatized" elections via the organization that the Washington Post has called the "Democratic Party's Hogwarts for digital wizardry."

Voters Unable to Verify Votes Counted

- Grace Lennon, a student at Georgia Tech, hoped to early vote on October 23. When she arrived, she was told that she had been sent an absentee ballot. She never received an absentee ballot. She had to sign an affidavit saying that she had not requested nor had she received an absentee ballot. She was then given a voter card to vote on the machine. However, the next day, she learned that someone had voted absentee in her name on October 7th. She was not able to verify that her vote actually counted for the one she chose to select in the election or whether the absentee ballot counted instead. Senator Greg Dolezal confirmed that most all the Senators had heard many similar stories.

V. FINDINGS

- 1- The November 3, 2020 election was chaotic and the results cannot be trusted.
- 2- The Secretary of State and the State Elections Board failed to enforce the law as written in the Georgia Code, and furthermore, created policies that contravened State law. As Senator Matt Brass concluded at the December 3 hearing, “We have heard evidence that State law was not followed, time after time after time.”
- 3- The Secretary of State failed to have a transparent process for the verification of signatures for absentee ballots, for the counting of votes during the subsequent recount and audit, and for providing the type of guidance and enforcement necessary to ensure that monitors and other observers had meaningful access to the process.
- 4- The Secretary of State instituted an unconstitutional gag order so that monitors were told not to use photography or video recording devices during the recount.
- 5- Election officials at all levels failed to secure test ballots and actual ballots. Many reports indicate that proper procedures were not followed, and there was systematic failure to maintain appropriate records of the chain of custody for these ballots, both prior to and after voting and throughout the recount.
- 6- The Secretary of State and Election Supervisors failed to stop hostile behavior of workers toward citizen volunteer monitors during the recount process.
- 7- The events at the State Farm Arena are particularly disturbing because they demonstrated intent on the part of election workers to exclude the public from viewing the counting of ballots, an intentional disregard for the law. The number of votes that could have been counted in that length of time was sufficient to change the results of the presidential election and the senatorial contests. Furthermore, there appears to be coordinated illegal activities by election workers themselves who purposely placed fraudulent ballots into the final election totals.
- 8- Grants from private sources provided financial incentives to county officials and exerted influence over the election process.
- 9- The oral testimonies of witnesses on December 3, 2020, and subsequently, the written testimonies submitted by many others, provide ample evidence that the 2020 Georgia General Election was so compromised by systemic irregularities and voter fraud that it should not be certified.

VI. RECOMMENDATIONS

A. Absentee Ballots

In addition to following the law as already written by the legislature, such as not opening absentee ballots until Election Day, additional steps should be taken to ensure that only legal absentee votes are counted.

At a minimum, these recommendations include requiring photo identification, following signature match procedures faithfully, allowing absentee ballots to be used only upon demonstration of need, mailing absentee ballots out only upon the request of the registered voter, and although already illegal, expressly prohibiting drop boxes.

B. Secure Chain of Custody and Additional Security Measures

Procedures should be established to ensure proper chain of custody for all ballots, whether they are test ballots, new unused ballots, spoiled ballots, cast BMD-generated ballots, absentee ballots, and even the specialty paper that is used to print the ballots.

Penalties should be clearly known and enforced for any violations.

There should be complete security when workers go on the job, with sign-in of their names and a time stamp, when they go in and when they go out.

Cameras should also be on-site to monitor the process at all times, as well as all the entrances to the buildings where ballots and the ballot paper are stored.

C. Meaningful Access for Poll Watchers and Monitors

Citizens who are seeking to ensure the integrity of the vote need to be able to truly see the process. They should be able to ensure that people are reading their ballots before they are cast. They should be able to inspect the signature match process when ballots are opened. They should be able to write down seal information so they can ensure proper custody is in place. They should be close enough to see the names on the ballots during any recounts, the counts written on recount report sheets, the counts going into the ARLO system, the counts written on ballot containers, the process of the seals being broken as the ballots are entering the process, and so forth.

More poll watchers and monitors should be allowed to participate since the ratio needs to be improved. Objections by monitors should be addressed immediately on-site to ensure access and transparency.

Hostile actions by election workers toward volunteers should be immediately addressed and should be cause for dismissal.

D. No Unconstitutional Gag Orders

There is no reason to ban cameras when tabulation is taking place or when recounts and audits are taking place.

Furthermore, there is no reason to ban cameras at the polling booth as long as voters have privacy while voting.

The State Board of Elections should not ban cameras and recording equipment. They must fulfill their duty to ensure a transparent election process. Furthermore, citizens have a right to share those photos, recordings, and thoughts about what they observe.

E. Unqualified Voters Should Be Purged from the System

No underage voters should be in the system to allow their votes. No felons should be in the system to allow their votes.

Other categories of voters, such as the deceased and those who have moved out of state, should also be examined as to their continued presence on the voter rolls.

F. Violations of State Election Laws Must Be Prosecuted

The Georgia Bureau of Investigation (“GBI”) and the Attorney General should aggressively investigate and prosecute those who violate election laws, including those conspiring to place fraudulent ballots into the system and the 1,000 persons identified by the Secretary of State who voted twice in the 2020 primaries. If prosecutions do not happen, violations will recur.

The GBI should establish an independent office for the investigation of all claims of voter fraud. That office should report regularly to the Judiciary Committee and, except in the case of investigations involving the Secretary of State or its personnel, the office of the Secretary of State.

The GBI should investigate the cases where many affidavits already exist regarding election fraud in the 2020 General Election.

G. Forensic Audits of Ballots and Machines

The Legislature must determine if ballot marking devices (BMDs) have been manipulated to provide a fraudulent result and without regard to whether the forensic audits can actually identify the manipulation of votes and the authenticity of the ballots that are in the ballot boxes, either generated by the BMDs or those that are absentee ballots.

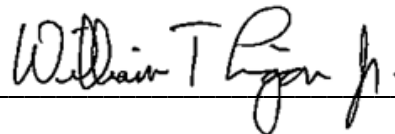
Independent third-party auditors should review the fiducials on all ballots types (absentee, military, machine generated), audit the absentee ballot results from the last election, confirm the number of external envelopes in each county, and the number of ballots for each county.

Such audits should help ensure that phantom ballots and other fraudulent ballots are not counted in election results, and that legal votes are the only votes counted.

H. For Rectifying the 2020 General Election Results

The Legislature should carefully consider its obligations under the U.S. Constitution. If a majority of the General Assembly concurs with the findings of this report, the certification of the Election should be rescinded and the General Assembly should act to determine the proper Electors to be certified to the Electoral College in the 2020 presidential race. Since time is of the essence, the Chairman and Senators who concur with this report recommend that the leadership of the General Assembly and the Governor immediately convene to allow further consideration by the entire General Assembly.

Respectfully submitted this the 17th day of December 2020.



Honorable William T. Ligon, Chairman
Senator, District 3

ATTACHMENT 6

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DONALD J. TRUMP, in his capacity as a)
Candidate for President, DONALD J.)
TRUMP FOR PRESIDENT, INC., and)
DAVID J. SHAFER, in his capacity as a)
Registered Voter and Presidential Elector)
pledged to Donald Trump for President,)

Petitioners,)

v.)

CIVIL ACTION FILE NO.

2020CV343255

BRAD RAFFENSPERGER, in his official)
capacity as Secretary of 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, ANH LE, in her official)
capacity as a Member of the Georgia State)
Election Board, RICHARD L. BARRON,)
in his official capacity as Director of)
Registration and Elections for Fulton)
County, JANINE EVELER, in her official)
capacity as Director of Registration and)
Elections for Cobb County, ERICA)
HAMILTON, in her official capacity as)
Director of Voter Registration and)
Elections for DeKalb County, KRISTI)
ROYSTON, in her official capacity as)
Elections Supervisor for Gwinnett County,)
RUSSELL BRIDGES, in his official)
capacity as Elections Supervisor for)
Chatham County, ANNE DOVER, in her)
official capacity as Acting Director of)
Elections and Voter Registration for)
Cherokee County, SHAUNA DOZIER, in)
her official capacity as Elections Director)
for Clayton County, MANDI SMITH, in)
her official capacity as Director of Voter)
Registration and Elections for Forsyth)

County, AMEIKA PITTS, in her official)
 capacity as Director of the Board of)
 Elections & Registration for Henry)
 County, LYNN BAILEY, in her official)
 capacity as Executive Director of Elections)
 for Richmond County, DEBRA)
 PRESSWOOD, in her official capacity as)
 Registration and Election Supervisor for)
 Houston County, VANESSA WADDELL,)
 in her capacity as Chief Clerk of Elections)
 for Floyd County, JULIANNE ROBERTS,)
 in her official capacity as Supervisor of)
 Elections and Voter Registration for)
 Pickens County, JOSEPH KIRK, in his)
 official capacity as Elections Supervisor)
 for Bartow County, and GERALD)
 MCCOWN, in his official capacity as)
 Elections Supervisor for Hancock County,)
 Respondents.)

**VERIFIED PETITION TO CONTEST GEORGIA'S PRESIDENTIAL ELECTION
 RESULTS FOR VIOLATIONS OF THE CONSTITUTION AND LAWS OF THE STATE
 OF GEORGIA, AND REQUEST FOR EMERGENCY DECLARATORY AND
 INJUNCTIVE RELIEF**

COME NOW Donald J. Trump, in his capacity as a Candidate for President, Donald J. Trump for President, Inc., and David J. Shafer, in his capacity as a Georgia Registered Voter and Presidential Elector pledged to Donald Trump for President (collectively "Petitioners"), Petitioners in the above-styled civil action, by and through their undersigned counsel of record, and file this, their Verified Petition to Contest Georgia's Presidential Election Results for Violations of the Constitution and Laws of the State of Georgia, and Request for Emergency Declaratory and Injunctive Relief (the "Petition"), respectfully showing this honorable Court as follows:

INTRODUCTION

1.

The United States Constitution sets forth the authority to regulate federal elections: “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.

2.

With respect to the appointment of presidential electors, the Constitution further provides, “[e]ach 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 Congress.” U.S. Const. art. II, § 1.

3.

In Georgia, the General Assembly is the “legislature.” *See* Ga. Const. art. III, § 1, para. I.

4.

Pursuant to the legislative power vested in the Georgia General Assembly (the “Legislature”), the Legislature enacted the Georgia Election Code governing the conduct of elections in the State of Georgia. *See* O.C.G.A. §§ 21-2-1 et seq. (the “Election Code”).

5.

Thus, through the Election Code, the Legislature promulgated a statutory framework for choosing the presidential electors, as directed by the Constitution.

6.

In this case, Petitioners present to this Court substantial evidence that the November 3, 2020, Presidential Election in Georgia (the “Contested Election”) was not conducted in accordance with the Election Code and that the named Respondents deviated significantly and substantially from the Election Code.

7.

Due to significant systemic misconduct, fraud, and other irregularities occurring during the election process, many thousands of illegal votes were cast, counted, and included in the tabulations from the Contested Election for the Office of the President of the United States, thereby creating substantial doubt regarding the results of that election.

8.

Petitioners demonstrate that the Respondents’ repeated violations of the Election Code constituted an abandonment of the Legislature’s duly enacted framework for conducting the election and for choosing presidential electors, contrary to Georgia law and the United States Constitution.

9.

Petitioners bring this contest pursuant to O.C.G.A. §21-2-522.

10.

“Honest and fair elections must be held in the selection of the officers for the government of this republic, at all levels, or it will surely fall. If [this Court] place[s] its stamp of approval upon an election held in the manner this one [was] held, it is only a matter of a short time until

unscrupulous men, taking advantage of the situation, will steal the offices from the people and set up an intolerable, vicious, corrupt dictatorship.” *Bush v. Johnson*, 111 Ga. App. 702, 705, 143 S.E.2d 21, 23 (1965).

11.

The Georgia Supreme Court has made clear that it is not incumbent upon Petitioners to show how voters casting irregular ballots would have voted had their ballots been regular. Petitioners “only [have] to show that there were enough irregular ballots to place in doubt the result.” *Mead v. Sheffield*, 278 Ga. 268, 271, 601 S.E.2d 99, 101 (2004) (citing *Howell v. Fears*, 275 Ga. 627, 628, 571 S.E.2d 392, 393 (2002)).

12.

To allow Georgia’s presidential election results to stand uncontested, and its presidential electors chosen based upon election results that are erroneous, unknowable, not in accordance with the Election Code and unable to be replicated with certainty, constitutes a fraud upon Petitioners and the Citizens of Georgia, an outcome that is unlawful and must not be permitted.

THE PARTIES

13.

President Donald J. Trump (“President Trump”) is President of the United States of America and a natural person. He is the Republican candidate for reelection to the Presidency of the United States of America in the November 3, 2020, General Election conducted in the State of Georgia.

14.

Donald J. Trump for President, Inc. is a federal candidate committee registered with, reporting to, and governed by the regulations of the Federal Election Commission, established pursuant to 52 U.S.C. §§ 30101 et seq. as the principal authorized committee of President Trump, candidate for President, which also serves as the authorized committee for the election of the Vice Presidential candidate on the same ticket as President Trump (the "Committee"). The agent designated by the Committee in the State of Georgia is Robert Sinners, Director of Election Day Operations for the State of Georgia for President Trump (collectively the "Trump Campaign"). The Trump Campaign serves as the primary organization supporting the election of presidential electors pledged to President Trump and Vice President Pence.

15.

David J. Shafer ("Elector Shafer") is a resident of the State of Georgia and an aggrieved elector who was entitled to vote, and did vote, for President Trump in the November 3, 2020, General Election. Elector Shafer is an elector pledged to vote for President Trump at the Meeting of Electors pursuant to United States Constitution and the laws of the State of Georgia.

16.

Petitioners are "Contestants" as defined by O.C.G.A. § 21-2-520(1) who are entitled to bring an election contest under O.C.G.A. § 21-2-521 (the "Election Contest").

17.

Respondent Brad Raffensperger is named in his official capacity as the Secretary of State of Georgia.¹ 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 also responsible for the administration of the Election Code. *Id.*

18.

Respondents Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Le in their official capacities as members of the Georgia State Election Board (the "State Election Board"), are members of the State Election Board in Georgia, responsible for "formulat[ing], adopt[ing], and promulgat[ing] 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).

¹ 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).

19.

Respondent Richard L. Barron is named in his official capacity as Director of Registration and Elections for Fulton County, Georgia, and conducted the Contested Election within that county.

20.

Respondent Janine Eveler is named in her official capacity as Director of Registration and Elections for Cobb County, Georgia, and conducted the Contested Election within that county.

21.

Respondent Erica Hamilton is named in her official capacity as Director of Voter Registration and Elections for DeKalb County, Georgia, and conducted the Contested Election within that county.

22.

Respondent Kristi Royston is named in her official capacity as Elections Supervisor for Gwinnett County, Georgia, and conducted the Contested Election within that county.

23.

Respondent Russell Bridges is named in his official capacity as Elections Supervisor for Chatham County, Georgia, and conducted the Contested Election within that county.

24.

Respondent Anne Dover is named in her official capacity as Acting Director of Elections and Voter Registration for Cherokee County, Georgia, and conducted the Contested Election within that county.

25.

Respondent Shauna Dozier is named in her official capacity as Elections Director for Clayton County, Georgia, and conducted the Contested Election within that county.

26.

Respondent Mandi Smith is named in her official capacity as Director of Voter Registration and Elections for Forsyth County, Georgia, and conducted the Contested Election within that county.

27.

Respondent Ameika Pitts is named in her official capacity as Director of the Board of Elections & Registration for Henry County, Georgia, and conducted the Contested Election within that county.

28.

Respondent Lynn Bailey is named in her official capacity as Executive Director of Elections for Richmond County, Georgia, and conducted the Contested Election within that county.

29.

Respondent Debra Presswood is named in her official capacity as Registration and Election Supervisor for Houston County, Georgia, and conducted the Contested Election within that county.

30.

Respondent Vanessa Waddell is named in her official capacity as Chief Clerk of Elections for Floyd County, Georgia, and conducted the Contested Election within that county.

31.

Respondent Julianne Roberts is named in her official capacity as Supervisor of Elections and Voter Registration for Pickens County, Georgia, and conducted the Contested Election within that county.

32.

Respondent Joseph Kirk is named in his official capacity as Elections Supervisor for Bartow County, Georgia, and conducted the Contested Election within that county.

33.

Respondent Gerald McCown is named in his official capacity as Elections Supervisor for Hancock County, Georgia, and conducted the Contested Election within that county.

34.

All references to Respondents made herein include named Respondent and those election workers deputized by Respondents to act on their behalf during the Contested Election.

JURISDICTION AND VENUE

35.

Jurisdiction is proper in this Court pursuant to O.C.G.A. § 21-2-523(a) as the Superior Court of the county where Secretary Raffensperger, the State Board of Elections, and Respondent Richard L. Barron are located. *See also Ga. Dep't of Human Servs. v. Dougherty Cty.*, 330 Ga. App. 581, 582, 768 S.E.2d 771, 772 (2015).

36.

Venue is proper before this Court.

FACTUAL BACKGROUND

The Georgia Election Code and Election Contest Provisions

37.

The Election Code sets forth the manner in which the Citizens of Georgia are allowed to participate in the Legislature's duty of choosing presidential electors by specifying, *inter alia*, which persons are eligible to register to vote in Georgia, the circumstances and actions by which a voter cancels his or her voter registration, the procedures for voting in person and by absentee ballot, the manner in which elections are to be conducted, and the specific protocols and procedures for recounts, audits, and recanvasses. *See* O.C.G.A. §§ 21-2-1 et seq.

38.

The Election Code in O.C.G.A. § 21-2-522 provides the means for a candidate in a federal election to contest the results of said election based on:

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 results; 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.²

39.

The results of an election may be set aside when a candidate has “clearly established a violation of *election procedures* and has demonstrated that the violation has placed the result of the election in doubt.” *Martin v. Fulton Cty. Bd. of Registration & Elections*, 307 Ga. 193-94, 835 S.E.2d 245, 248 (2019) (quoting *Hunt v. Crawford*, 270 GA 7, 10, 507 S.E.2d 723 (1998) (emphasis added)).

40.

The Election Code “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 securely.” *Martin*, 307 Ga. at 194.

41.

The Georgia Supreme Court has made clear that “it [is] not incumbent upon [Petitioners] to show *how . . . voters would have voted* if their . . . ballots had been regular. [Petitioners] only ha[ve] to show that there were enough irregular ballots to place in doubt the result.” *Mead* at 268 (emphasis added).

² Petitioners do not contest pursuant O.C.G.A. § 21-2-522 Ground (2).

The Contested Election

42.

On November 3, 2020, the Contested Election for electors for President of the United States took place in the State of Georgia.

43.

President Trump, former Vice President Joseph R. Biden (Mr. Biden), and Jo Jorgensen were the only candidates on the ballot for President in the Contested Election.

44.

The original results reported by Secretary Raffensperger for the Contested Election (the “Original Result”) consisted of a purported total of 4,995,323 votes cast, with Mr. Biden “ahead” by a margin of 12,780 votes.

45.

The results of the subsequent Risk Limiting Audit conducted by the Secretary of State (the “Risk Limiting Audit”) included a total of 5,000,585 votes cast, with Mr. Biden “ahead” by a margin of 12,284 votes.

46.

On November 20, 2020, the Contested Election was declared and certified for Mr. Biden by a margin of only 12,670 votes (the “Certified Result”).³

³ The first certified number of votes.

47.

On November 21, 2020, President Trump and the Trump Campaign notified Secretary Raffensperger of President Trump's request to invoke the statutory recount authorized by O.C.G.A. § 21-2-495(c) for elections in which the margin is less than one-half of one percent (the "Statutory Recount"). A true and correct copy of President Trump's request for the Statutory Recount is attached hereto and incorporated by reference as **Exhibit 1**.

48.

The Statutory Recount is ongoing as of the time of the filing of this Petition.

49.

On multiple occasions Secretary Raffensperger announced he does not anticipate the Statutory Recount to yield a substantial change in the results of the Contested Election.

50.

On December 1, 2020, Robert Gabriel Sterling, Statewide Voting System Implementation Manager for the Secretary of State, gave a press conference to discuss the status of the ongoing Statutory Recount.

51.

During his press conference, Mr. Sterling stated that at least two counties needed to recertify their vote counts as the totals reached during the Statutory Recount differed from the Certified Results.

52.

As of the date of this Petition, not all of Georgia's 159 counties have certified their results from the Statutory Recount.

53.

Consequently, as of the date of this Petition, Secretary Raffensperger has yet to certify the results from the Statutory Recount.

54.

The presidential electors of the States are scheduled to meet on December 14, 2020. Therefore, this matter is ripe, and time is of the essence.

55.

An actual controversy exists.

56.

Because the outcome of the Contested Election is in doubt, Petitioners jointly and severally hereby contest Georgia's November 3, 2020, election results for President of the United States pursuant to O.C.G.A. §§ 21-2-521 and 21-2-522, et seq.

57.

Petitioners assert that the laws of the State of Georgia governing the conduct of the Contested Election were disregarded, abandoned, ignored, altered, and otherwise violated by Respondents, jointly and severally, allowing a sufficient number of illegal votes to be included in

the vote tabulations, such that the results of the Contested Election are invalid, and the declaration of the presidential election in favor of Mr. Biden must be enjoined, vacated, and nullified.

**THERE WERE SYSTEMIC IRREGULARITIES AND VIOLATIONS OF THE
GEORGIA ELECTION CODE IN THE CONTESTED ELECTION**

Requirements to Legally Vote in Georgia

58.

The Election Code sets forth the requirements for voting in Georgia, including the requirements that a voter must be: (1) “Registered as an elector in the manner prescribed by law; (2) A citizen of this state and of the United States; (3) At least 18 years of age on or before the date of the...election in which such person seeks to vote; (4) A resident of this state and of the county or municipality in which he or she seeks to vote; and (5) “Possessed of all other qualifications prescribed by law.” O.C.G.A. § 21-2-216(a). “No person shall remain an elector longer than such person shall retain the qualifications under which such person registered.” O.C.G.A. § 21-2-216(f).

59.

In violation of O.C.G.A. § 21-2-216, Respondents, jointly and severally, allowed thousands of unqualified persons to register to vote and to cast their vote in the Contested Election. These illegal votes were counted in violation of Georgia law. **Exhibits 2, 3, 4, and 10** attached hereto and incorporated by reference.

60.

O.C.G.A. § 21-2-216(b) provides that “[n]o person who has been convicted of a felony involving moral turpitude may register, remain registered, or vote except upon completion of the sentence.”

61.

In violation of O.C.G.A. § 21-2-216(b), Respondents, jointly and severally, allowed as many as 2,560 felons with an uncompleted sentence to register to vote and to cast their vote in the Contested Election. **Exhibit 3** attached hereto and incorporated by reference.

62.

In violation of Georgia law, Respondents, jointly and severally, counted these illegal votes in the Contested Election.

63.

“Any person who possesses the qualifications of an elector except that concerning age shall be permitted to register to vote if such person will acquire such qualification within six months after the day of registration.” O.C.G.A. § 21-2-216(c).

64.

In violation of O.C.G.A. § 21-2-216(c), Respondents, jointly and severally, allowed at least 66,247 underage—and therefore ineligible—people to illegally register to vote, and subsequently illegally vote. *See Exhibit 3.*

65.

In violation of Georgia law, Respondents, jointly and severally, counted these illegal votes in the Contested Election.

66.

In order to vote in Georgia, a person must register to vote.

67.

Respondents, jointly and severally, allowed at least 2,423 individuals to vote who were not listed in the State's records as having been registered to vote. *See Exhibit 3.*

68.

Respondents then, jointly and severally, improperly counted these illegal votes in the Contested Election.

69.

Because determining a voter's residency is necessary to confirm he or she is a qualified voter in this state and in the county in which he or she seeks to vote, the Election Code provides rules for determining a voter's residency and when a voter's residency is deemed abandoned. *See* O.C.G.A. § 21-2-217.

70.

"The residence of any person shall be held to be in that place in which such person's habitation is fixed." O.C.G.A. § 21-2-217(a)(1).

71.

Additionally, “[t]he specific address in the county...in which a person has declared a homestead exemption...shall be deemed the person’s residence address.” O.C.G.A. § 21-2-217(a)(14).

72.

A voter loses his or her Georgia and/or specific county residence if he or she: (1) “register[s] to vote or perform[s] other acts indicating a desire to change such person’s citizenship and residence;” (2) “removes to another state with the intention of making it such person’s residence;” (3) “removes to another county or municipality in this state with the intention of making it such person’s residence;” or (4) “goes into another state and while there exercises the right of a citizen by voting.” O.C.G.A. § 21-2-217(a); *see also* O.C.G.A. § 21-2-218(f) (“No person shall vote in any county or municipality other than the county or municipality of such person’s residence except [“an elector who moves from one county...to another after the fifth Monday prior to a[n]...election”] O.C.G.A. § 21-2-218(e).)

73.

In violation of O.C.G.A. § 21-2-217, Respondents, jointly and severally, allowed at least 4,926 individuals to vote in Georgia who had registered to vote in another state after their Georgia voter registration date. *See Exhibit 2.*

74.

It is illegal to vote in the November 3, 2020, general election for president in two different states.

75.

It is long established that “one man” or “one person” has only one vote.

76.

In violation of O.C.G.A. § 21-2-217, Respondents, jointly and severally, allowed at least 395 individuals to vote in Georgia who also cast ballots in another state (the “Double Voters”).
See Exhibit 2.

77.

The number of Double Voters is likely higher than 395, yet Respondents have the exclusive capability and access to data to determine the true number of Double Voters.

78.

Respondents, jointly and severally, improperly counted these illegal votes in the Contested Election.

79.

Despite having the exclusive ability to determine the true number of Double Voters in Contested Election, to date Respondents, jointly and severally, have failed to properly analyze and remove the Double Voters from the election totals.

80.

To date, and despite multiple requests, Respondents, jointly and severally, have failed to provide identifying information or coordinate with the other 49 states and U.S. Territories to adequately determine the number of Double Voters.

81.

Respondents, jointly and severally, improperly counted these illegal votes in the Contested Election.

82.

In violation of O.C.G.A. § 21-2-217, Respondents, jointly and severally, allowed at least 15,700 individuals to vote in Georgia who had filed a national change of address with the United States Postal Service prior to November 3, 2020. *See Exhibit 2.*

83.

Respondents, jointly and severally, improperly counted these illegal votes in the Contested Election.

84.

If a Georgia voter “who is registered to vote in another county...in this state...moves such person’s residence from that county...to another county...in this state,” that voter “shall, at the time of making application to register to vote in that county...provide such information as specified by the Secretary of State in order to notify such person’s former voting jurisdiction of the person’s application to register to vote in the new place of residence and to cancel such person’s registration in the former place of residence.” O.C.G.A. § 21-2-218(b); *see also The Democratic Party of Georgia, Inc. v. Crittenden*, Civil Action File No. 1:18-CV-05181-SCJ, Doc. 33, Supplemental Declaration of Chris Harvey, Elections Director of the Office of the Secretary of State, ¶ 11 (N.D. Ga. Nov. 13, 2018) (“If the state allowed out of county voting, there would be no practical way of knowing if a voter voted in more than one county.”).

85.

In violation of O.C.G.A. § 21-2-218(b), Respondents, jointly and severally, allowed at least 40,279 individuals to vote who had moved across county lines at least 30 days prior to Election Day and who had failed to properly re-register to vote in their new county after moving. **Exhibit 4** attached hereto and incorporated by reference.

86.

Respondents, jointly and severally, improperly counted these illegal votes in the Contested Election.

87.

In violation of O.C.G.A. § 21-2-217, Respondents, jointly and severally, allowed at least 1,043 individuals to cast ballots who had illegally registered to vote using a postal office box as their habitation. *See Exhibit 2.*

88.

Respondents then, jointly and severally improperly counted these illegal votes in the Contested Election.

89.

A postal office box is not a residential address.

90.

One cannot reside within a postal office box.

91.

It is a violation of Georgia law to list a postal office box as one's voter place of habitation. *See* O.C.G.A. § 21-2-217(a)(1).

92.

A person desiring "to vote at any...general election" must apply to register to vote "by the close of business on the fifth Monday...prior to the date of such...general election." O.C.G.A. § 21-2-224(a).

93.

The application for registration is "deemed to have been made as of the date of the postmark affixed to such application," or if received by the Secretary of State through the United States Postal Service, by "the close of business on the fourth Friday prior to a . . . general election." O.C.G.A. § 21-2-224(c).

94.

In violation of O.C.G.A. § 21-2-224, Respondents, jointly and severally, allowed at least 98 individuals to vote who the state records as having registered after the last day permitted under law. *See Exhibit 3.*

95.

Respondents, jointly and severally, improperly counted these illegal votes in the Contested Election.

96.

“Each elector who makes timely application for registration, is found eligible by the board of registrars and placed on the official list of electors, and is not subsequently found to be disqualified to vote shall be entitled to vote in any...election.” O.C.G.A. § 21-2-224(d).

97.

Secretary Raffensperger is required to maintain and update a list of registered voters within this state.

98.

On the 10th day of each month, each county is to provide to the Secretary of State a list of convicted felons, deceased persons, persons found to be non-citizens during a jury selection process, and those declared mentally incompetent. *See* O.C.G.A. § 21-2-231(a)-(b), (d).

99.

In turn, any person on the Secretary of State’s list of registered voters is to be removed from the registration list if the voter dies, is convicted of a felony, is declared mentally incompetent, confirms in writing a change of address outside of the county, requests his or her name be removed from the registration list, or does not vote or update his or her voter’s registration through two general elections. *See* O.C.G.A. §§ 21-2-231, 21-2-232, 21-2-235.

100.

Respondents, jointly and severally, did not update the voter registration list(s).

101.

In violation of O.C.G.A. § 21-2-231(a)-(b) and (d), Respondents, jointly and severally, allowed as many as 10,315 or more individuals to vote who were deceased by the time of Election Day. *See Exhibit 3.*

102.

Respondents, jointly and severally, improperly counted these illegal votes in the Contested Election.

103.

Of these individuals, 8,718 are recorded as having perished prior to the date the State records as having accepted their vote. *See Exhibit 3.*

104.

Respondents, jointly and severally, improperly counted these illegal votes in the Contested Election.

105.

For example, Affiant Lisa Holst received three absentee mail-in ballots for her late father-in-law, Walter T. Holst, who died on May 13, 2010. **Exhibit 5** attached hereto and incorporated by reference.

106.

Voter history shows that an absentee ballot was returned for Mr. Holst on October 28, 2020.

107.

Someone deceased for 10 years should not have received three absentee ballots.

108.

Someone deceased for 10 years should not have received any absentee ballot.

109.

Someone deceased for 10 years should not have had any absentee ballot counted.

110.

Another Affiant, Sandy Rumph, has stated that her father-in-law, who died on September 9, 2019, had his voter registration change from "deceased" to "active" 8 days *after* he passed away.

Exhibit 6 attached hereto and incorporated by reference.

111.

With his registration status change, his address was also changed online from his real address in Douglasville to an unfamiliar address in DeKalb County. *Id.*

112.

Respondents jointly and severally failed to maintain and update voter registration lists which allowed voter registration information to be changed after the death of an elector.

113.

Respondents jointly and severally failed to maintain and update voter registration lists which allowed absentee ballots to be used fraudulently.

**RESPONDENTS COMMITTED SUBSTANTIAL VIOLATIONS OF GEORGIA LAW
WITH RESPECT TO ABSENTEE BALLOTS**

114.

The Legislature has established procedures for absentee voting in the state.

115.

Pursuant to O.G.C.A. 21-2-381, absentee ballots must be requested by the voter, or the voter's designee, before they can be sent out.

116.

In violation of O.C.G.A. § 21-2-381, Respondent Raffensperger sent unsolicited absentee ballot applications before the 2020 primary election to all persons on the list of qualified electors, whether or not an application had been requested by the voter.

117.

The unlawfully sent applications allowed the recipient to check a box to request an absentee ballot for the Contested Election in advance of the period for which an absentee ballot could be requested.

118.

Individuals wishing to vote absentee may apply for a mail-in ballot "**not more than 180 days prior to the date of the primary or election.**" O.C.G.A. § 21-2-381(a)(1)(A) (emphasis added).

119.

In violation of O.C.G.A. § 21-2-381(a)(1)(A), Respondents, jointly and severally, allowed at least 305,701 individuals to vote who, according to State records, applied for an absentee ballot more than 180 days prior to the Contested Election. *See Exhibit 3.*

120.

Respondents then, jointly and severally, improperly counted these illegal votes in the Contested Election. *Id.*

121.

Pursuant to O.C.G.A. § 21-2-381(b) an absentee voter must have requested an absentee ballot before such ballot is capable of being received by the voter.

122.

If such applicant is eligible under the provisions of the Election Code, an absentee ballot is to be mailed to the voter.

123.

In violation of O.C.G.A. § 21-2-385, Respondents, jointly and severally, allowed at least 92 individuals to vote whose absentee ballots, according to State records, were returned and accepted prior to that individual requesting an absentee ballot. *See Exhibit 3.*

124.

Respondents then, jointly and severally, improperly counted these illegal votes in the Contested Election. *Id.*

125.

Absentee ballots may only be mailed after determining the applicant is registered and eligible to vote in the election. O.C.G.A. § 21-2-381(b)(1).

126.

In violation of O.C.G.A. § 21-2-381(b)(1), Respondents, jointly and severally, allowed state election officials to mail at least 13 absentee ballots to individuals who were not yet registered to vote according to the state's records. *See Exhibit 3.*

127.

Respondents then, jointly and severally, improperly counted these illegal votes in the Contested Election. *Id.*

128.

Pursuant to O.C.G.A. § 21-2-384(a)(2) absentee ballots may not be mailed more than 49 days prior to an election.

129.

Respondents, jointly and severally, mailed at least 2,664 absentee ballots to individuals prior to the earliest date permitted by law. *See Exhibit 3.*

130.

Respondents then, jointly and severally, improperly counted these illegal votes in the Contested Election. *Id.*

131.

According to State records, Respondents jointly and severally allowed at least 50 individuals to vote whose absentee ballots were returned and accepted prior to the earliest date that absentee ballots were permitted by law to be sent out. *See Exhibit 3.*

132.

Respondents then, jointly and severally improperly counted these illegal votes in the Contested Election. *Id.*

133.

An absentee voter's application for an absentee ballot must have been accepted by the election registrar or absentee ballot clerk in order for that individual's absentee ballot vote to be counted. O.C.G.A. § 21-2-385.

134.

In violation of O.C.G.A. § 21-2-385, Respondents, jointly and severally, allowed at least 2 individuals to vote whose absentee ballot applications had been rejected, according to state records. *See Exhibit 3.*

135.

Respondents, jointly and severally, improperly counted these illegal votes in the Contested Election. *Id.*

136.

It is not possible for an absentee voter to have applied by mail, been issued by mail, and returned by mail an absentee ballot, and for that ballot to have been accepted by election officials, all on the same day.

137.

In violation of O.C.G.A. § 21-2-384, Respondents, jointly and severally, allowed at least 217 individuals to vote whose absentee ballots, according to state records, were applied for, issued, and received all on the same day. *See Exhibit 3.*

138.

Respondents then, jointly and severally, improperly counted these illegal votes in the Contested Election. *Id.*

**RESPONDENTS FAILED TO COMPLY WITH GEORGIA LAW PROVISIONS FOR
MATCHING SIGNATURES AND CONFIRMING VOTER IDENTITY FOR ELECTORS
SEEKING TO VOTE ABSENTEE**

139.

O.C.G.A. §21-2-381(b) mandates the procedures to be followed by election officials upon receipt of an absentee ballot application:

“Upon receipt of a timely application for an absentee ballot, a registrar or absentee ballot clerk...shall determine...if the applicant is eligible to vote in the...election involved. In order to be found eligible to vote an absentee ballot by mail, the registrar or absentee ballot clerk shall compare the identifying information on the application with the information on file in the registrar’s office and, if the application is signed by the elector, compare the signature or mark of the elector on the application with the signature or mark of the elector on the elector’s voter registration card. In order to be found eligible to vote an absentee ballot in person...shall show one of the forms of identification listed in Code Section 21-2-417 and the registrar or absentee ballot clerk shall compare the

identifying information on the application with the information on file in the registrar's office." O.C.G.A. § 21-2-381(b) (emphasis added).

140.

O.C.G.A. § 21-2-386(a)(1)(B) mandates the procedures to be followed by election officials upon receipt of an absentee ballot:

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 mark 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)(1)(B) (emphasis added).

141.

O.C.G.A. § 21-2-386(a)(1)(C) mandates the procedures to be followed by election 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)(1)(C) (emphasis added).

**RESPONDENT RAFFENSPERGER DISREGARDED THE ELECTION CODE BY FIAT
AND INSTRUCTED THE RESPONDENT COUNTIES TO DO LIKEWISE**

142.

On March 6, 2020, Respondents Raffensperger and the State Election Board entered into a “Compromise and Settlement Agreement and Release” (the “Consent Decree”) in litigation filed by the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee (collectively the “Democrat Party Agencies”).⁴ A true and correct copy of the Consent Decree is attached hereto and incorporated by reference as **Exhibit 7**.

143.

The litigation was one of more than one hundred lawsuits nationwide filed by Democrats and partisan affiliates of the Democratic Party to seeking to rewrite the duly enacted election laws of the states. **Exhibit 8** attached hereto and incorporated by reference.

144.

Without legislative authority, Respondents unlawfully adopted standards to be followed by the clerks and registrars in processing absentee ballots inconsistent with the election code.

145.

The Consent Decree exceeded Respondents’ authority under the Georgia Constitution. *See* Ga. Const. art. III, §1; **Exhibit 15** attached hereto and incorporated by reference; *see also* O.C.G.A. § 21-2-31 (providing that the State Election Board shall “formulate, adopt, and promulgate such

⁴ *See Democratic Party of Georgia, Inc., et al. v. Raffensperger, et al.*, Civil Action File No. 1:19-cv-05028-WMR, Doc. 56-1, Joint Notice of Settlement as to State Defendants, Att. A, Compromise Settlement Agreement and Release (N.D. Ga. Mar. 6, 2020).

rules and regulations, *consistent with the law*, as will be conducive to the fair, legal, and orderly conduct of primaries and elections” (emphasis added)).

146.

The Consent Decree changed the plain language of the statute for receiving and processing absentee ballot applications and ballots.

147.

The Consent Decree increased the burden on election officials to conduct the mandatory signature verification process by adding additional, cumbersome steps.

148.

For example, the Consent Decree tripled the number of personnel required for an absentee ballot application or ballot to be rejected for signature mismatch.

149.

The unlawful Consent Decree further violated the Election Code by purporting to allow election officials to match signatures on absentee ballot envelopes against the application, rather than the voter file as required by O.C.G.A. §§ 21-2-381, 21-2-385.

**RESPONDENTS DID NOT CONDUCT MEANINGFUL VERIFICATION OF
ABSENTEE BALLOT APPLICANT AND VOTER IDENTITIES**

150.

Notwithstanding the unlawful changes made by the Consent Decree, the mandatory signature verification and voter identification requirements were not altogether eliminated.

151.

Despite the legal requirement for signature matching and voter identity verification, Respondents failed to ensure that such obligations were followed by election officials. **Exhibit 9** attached hereto and incorporated by reference.

152.

According to state records, an unprecedented 1,768,972 absentee ballots were mailed out in the Contested Election. **Exhibit 10** attached hereto and incorporated by reference.

153.

Of the total number of absentee ballots mailed out in the Contested Election, 1,317,000 were returned (i.e., either accepted, spoiled, or rejected). *Id.*

154.

The number of absentee ballots returned in the Contested Election represents a greater than 500% increase over the 2016 General Election and a greater than 400% increase over the 2018 General Election. *Id.*

155.

The state received over a million more ballots in the Contested Election than the 2016 and 2018 General Elections. *Id.*

156.

The number of returned absentee ballots that were rejected in the Contested Election was 4,471, yielding a 0.34% rejection rate. *Id.*

157.

The number of returned absentee ballots that were rejected in the 2016 General Election was 6,059, yielding a 2.90% rejection rate. *Id.*

158.

The number of returned absentee ballots that were rejected in the 2018 General Election was 7,889, yielding a 3.46% rejection rate. *Id.*

159.

Stated differently, the percentage of rejected ballots fell to 0.34% in 2020 from 2.9% in 2016 and 3.46% in 2018, despite a nearly sixfold increase in the number of ballots returned to the state for processing.

160.

The explosion in the number of absentee ballots received, counted, and included in the tabulations for the Contested Election, with the simultaneous precipitous drop in the percentage of absentee ballots rejected, demonstrates there was little or no proper review and confirmation of the eligibility and identity of absentee voters during the Contested Election.

161.

Had the statutory procedure for signature matching, voter identity and eligibility verification been followed in the Contested Election, Georgia's historical absentee ballot rejection rate of 2.90-3.46% applied to the 2020 absentee ballot returned and processed, between 38,250 and 45,626 ballots should have been rejected in the Contested Election. *See Exhibit 10.*

**RESPONDENTS VIOLATED GEORGIANS' FUNDAMENTAL RIGHT TO A
TRANSPARENT AND OPEN ELECTION**

162.

A fair, honest, and transparent vote count is a cornerstone of democratic elections. INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE, INTERNATIONAL ELECTORAL STANDARDS, GUIDELINES FOR REVIEWING THE LEGAL FRAMEWORK OF ELECTIONS (2002).

163.

All citizens, including Georgians, have rights under the United States Constitution to the full, free, and accurate elections built upon transparency and verifiability. *Purcell v. Gonzalez*, 549 U.S. 1, 4, 127 S. Ct. 5, 7 (2006) (per curiam).

164.

Citizens are entitled—and deserve—to vote in a transparent system that is designed to protect against vote dilution. *Bush v. Gore*, 531 U.S. 98, 104-05, 121 S. Ct. 525, 529-30 (2000); *Anderson v. United States*, 417 U.S. 211, 227 (1974); see also *Baker v. Carr*, 369 U.S. 186, 208, 82 S. Ct. 691, 705 (1962).

165.

This requires that votes be counted, tabulated and consolidated in the presence of the representatives of parties and candidates and election observers, and that the entire process by which a winner is determined is fully and completely open to public scrutiny. INTERNATIONAL ELECTORAL STANDARDS at 77.

166.

The importance of watchers and representatives serving as an important check in elections is recognized internationally. *Id.*

167.

Georgia law recognizes “the fundamental right of citizens to vote *and to have their votes counted accurately.*” *Martin* at 194 (emphasis added).

168.

The right to have one’s vote counted accurately infers a right to a free, accurate, public, and transparent election, which is reflected throughout Georgia election law. *Cf. Ellis v. Johnson*, 263 Ga. 514, 516, 435 S.E.2d 923, 925 (1993) (“Of particular importance is that the General Assembly has provided the public with the right to examine . . . the actual counting of the ballots, . . . and the computation and canvassing of returns . . .”).

169.

Georgia law requires “[s]uperintendents, poll officers, and other officials engaged in the conducting of primaries and elections . . . shall perform their duties in public.” O.C.G.A. §21-2-406.

170.

Each political party who has nominated a candidate “shall be entitled to designate . . . state-wide poll watchers.” O.C.G.A. § 21-2-408 (b)(2).

171.

Poll watchers “may be permitted behind the enclosed space for the purpose of observing the conduct of the election and the counting and recording of votes.” O.C.G.A. § 21-2-408 (d).

172.

“All proceedings at the tabulating center and precincts shall be open to the view of the public.” O.C.G.A. § 21-2-483(b).

173.

Under O.C.G.A. § 21-2-493, “[t]he superintendent shall, at or before 12:00 noon on the day following the primary or election, at his or her office or at some other convenient **public place** at the county seat or in the municipality, of which **due notice of shall have been given** as provided by Code Section 21-2-492, **publicly commence** the computation and canvassing of returns and continue the same from the day until completed.” (Emphasis added.)

174.

During the tabulation of votes cast during an election, vote review panels are to convene to attempt to determine a voter’s intent when that intent is unclear from the ballot, consisting of equal Republican and Democratic representation. *See* O.C.G.A. § 21-2-483(g)(2).

175.

The activities of the vote review panel are required to be open to the view of the public. *See* O.C.G.A. § 21-2-483(a).

176.

Moreover, Respondent Raffensperger declared that for the Risk Limiting Audit:

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.**⁵

177.

Respondents, jointly and severally, violated Petitioners' fundamental right to a free, accurate, public, and transparent election under the Constitution of the State of Georgia in the Contested Election and the Risk Limiting Audit. *See* composite Affidavit Appendix attached hereto and incorporated by reference as **Exhibit 17**.

178.

Respondents, jointly and severally, violated provisions of the Georgia Election Code mandating meaningful public oversight of the conduct of the election and the counting and recording of votes in the Contested Election and the Risk Limiting Audit. *Id.*

⁵ Office of Secretary of State Brad Raffensperger, *Monitors Closely Observing Audit-Triggered Full Hand Recount: Transparency is Built Into Process* (Nov. 17, 2020), https://sos.ga.gov/index.php/elections/monitors_closely_observing_audit_triggered_full_hand_recount_transparency_is_built_into_process.

179.

Respondents, jointly and severally, failed to adhere to Respondent Raffensperger's own guidelines promising a free, accurate, public, and transparent process in the Risk Limiting Audit.

Id.

**RESPONDENTS HAVE ADMITTED MISCONDUCT, FRAUD, AND WIDESPREAD
IRREGULARITIES COMMITTED BY MULTIPLE COUNTIES**

180.

The Secretary of State has admitted that multiple county election boards, supervisors, employees, election officials and their agents failed to follow the Election Code and State Election Board Rules and Regulations.⁶

181.

The Secretary of State has called The Fulton County Registration and Elections Board and its agents' ("Fulton County Elections Officials") job performance prior to and through the Election Contest "dysfunctional."

182.

The Secretary of State and members of his staff have repeatedly criticized the actions, poor judgment, and misconduct of Fulton County Elections Officials.

⁶ Note: These are samples and not an exhaustive list of the Secretary of State's admissions of Respondents' failures and violations of Georgia law.

183.

Fulton County Elections Officials' performance in the 2020 primary elections was so dysfunctional that it was fined \$50,000 and subject to remedial measures.

184.

Describing Respondent Barron's Fulton County Elections in the Election Contest, Secretary Raffensperger stated, "Us and our office, and I think the rest of the state, is getting a little tired of always having to wait on Fulton County and always having to put up with [Fulton County Elections Officials'] dysfunction."

185.

The Secretary of State's agent, Mr. Sterling, said initial findings from an independent monitor allegedly show "generally bad management" with Fulton's absentee ballots.⁷

Fulton County Elections' Deception and Fraud

186.

The Secretary of State's Office claims it is currently investigating an incident where Fulton County election officials fraudulently stated there was a "flood" and "a pipe burst," which was later revealed to be a "leaky" toilet.

⁷ Ben Brasch, *Georgia Opens 2 Investigations Into Fulton's Elections Operations*, The Atlanta Journal-Constitution (Nov. 17, 2020), <https://www.ajc.com/news/atlanta-news/georgia-opens-2-investigations-into-fultons-elections-operations/EVCBN4ZJTZELPDHMH63POL3RKQ/>.

187.

At approximately 10:00 p.m. on November 3, 2020, Fulton County Election Officials, who were handling and scanning thousands of ballots at the State Farm Arena, instructed Republican poll watchers and the press that they were finished working for the day and that the Republican poll watchers and the press were to leave. The Fulton County Elections Officials further stated that they would restart their work at approximately 8:00 a.m. on November 4, 2020.

188.

The Fulton County Election Officials lied.

189.

Deliberate misinformation was used to instruct Republican poll watchers and members of the press to leave the premises for the night at approximately 10:00 p.m. on November 3, 2020. **Exhibits 12, 13, and 14** attached hereto and incorporated by reference.

190.

After Fulton County Elections Officials **lied and defrauded** the Republican poll watchers and members of the press, whereby in reasonable reliance the Republican poll watchers and members of the press left the State Farm Arena (where they had been observing the ballots being processed), without public transparency Fulton County Elections Officials continued to process, handle, and transfer many thousands of ballots. *See Exhibit 14.*

191.

Fulton County Elections Officials' fraudulent statements not only defrauded the Republican poll watchers and the press, but also deprived every single Fulton County voter,

Georgian, American, and Petitioners of the opportunity for a transparent election process and have thereby placed the Election Contest in doubt.

Spalding County Elections & Voter Registration Supervisor and Her Agents' Failures

192.

Respondent Raffensperger has called for the resignation of the Spalding County Elections and Voter Registration Supervisor, who has, as of this filing, resigned.⁸

193.

Respondent Raffensperger cited "serious management issues and poor decision-making" by Election Supervisor Marcia Ridley during the Contested Election.

Floyd County Elections & Voter Registration Supervisor and Her Agents' Failures

194.

Respondent Raffensperger has called for the resignation of the Executive Director of the Floyd County Board of Registrations and Elections for his failure to follow proper election protocols.⁹

⁸ David Wickert, *Georgia Officials Call for Spalding Election Director to Resign*, The Atlanta Journal-Constitution (Nov. 17, 2020), <https://www.ajc.com/politics/election/georgia-officials-call-for-spalding-election-director-to-resign/YYUISCBSV5FTHDZPM3N5RJVV6A/>.

⁹ Jeffrey Martin, *Georgia Secretary of State Calls for Resignation of County Election Director After 2,600 Ballots Discovered* (Nov. 16, 2020), <https://www.newsweek.com/georgia-secretary-state-calls-resignation-county-election-director-after-2600-ballots-discovered-1547874>.

**RESPONDENTS CONSPIRED TO DISREGARD THE ELECTION CODE AND TO
SUBSTITUTE THEIR OWN UNLAWFUL EDICTS**

195.

In violation of O.C.G.A. § 21-2-386 et seq. the State Board of Election promulgated a rule that authorized county election board to begin processing absentee ballots on the third Monday preceding the election, provided they give the Secretary of State and the public notice of such intention to begin processing absentee ballots.

196.

Failure to follow the process directed by the statute is a derogation of the Election Code and denies voters the ability to cancel their absentee ballot up until Election Day.

197.

Respondents, jointly and severally, were complicit in conspiring to violate and violating the Election Code.

198.

As a direct and proximate result of Respondents multiple, continued, and flagrant disregard of the Election Code, the outcome of the Contested Election is not capable of being known with certainty.

199.

Petitioners incorporate by reference and reallege all prior paragraphs of this Petition and the paragraphs in the Counts below as though set forth fully herein.

200.

Despite Respondents receiving substantial funding from the Center for Technology and Civic Life (CTCL), Respondents failed to use such funds to train the election workers regarding signature verification, the proper procedures for matching signatures, and how to comply fully with the Election Code. **Exhibit 11** attached hereto and incorporated by reference.

201.

Due to the lack of uniform guidance and training, the signature verification and voter identity confirmation was performed poorly or not at all in some counties and served as virtually no check against improper voting. *See Exhibit 9.*

RESPONDENT SECRETARY OF STATE MUST ALLOW AND CONDUCT AN AUDIT OF THE SIGNATURES ON ABSENTEE BALLOT APPLICATIONS AND ABSENTEE BALLOTS IN ORDER TO DETERMINE WHETHER THE SIGNATURES WERE PROPERLY MATCHED PRIOR TO BEING COUNTED AND INCLUDED IN THE TABULATIONS

202.

The data regarding the statistically tiny rejection rate of absentee ballots cast and counted in the Contested Election gives rise to sufficient concerns that there were irregularities that should be reviewed and investigated.

203.

Petitioners have brought these concerns about the signature matching and voter verification process to the attention of Respondent Raffensperger **on five separate occasions** since the Contested Election, requesting that the Secretary conduct an audit of the signatures on the absentee ballot applications and absentee ballots, via Letter on November 10, 2020; Letter on November

12, 2020; Letter on November 23, 2020; Email on November 23, 2020, and again via Letter on November 30, 2020. **Exhibit 18** attached hereto and incorporated by reference.

204.

The Secretary of State is obligated by law to “to permit the public inspection or copying, in accordance with this chapter, of any return, petition, certificate, paper, account, contract, report, or any other document or record in his or her custody.” O.G.C.A. § 21-2-586(a).

205.

Failure to comply with any such request by the Secretary of State or an employee of his or her office shall [constitute] a misdemeanor.” O.G.C.A. § 21-2-586(a).

206.

The Secretary of State’s refusal on five separate occasions to comply with requests to produce the signatures used to request absentee ballots and to confirm the identities of those individuals requesting such ballots in the contested election is a violation of O.G.C.A. § 21 2 586(a).

207.

In order for the Secretary of State to comply with O.G.C.A. § 21-2-586(a), professional handwriting experts recommend a minimum of Ten Thousand (10,000) absentee ballot signatures be professionally evaluated. **Exhibit 16** attached hereto and incorporated by reference.

208.

Petitioners respectfully request that the Court order the production of the records of the absentee ballot applications and absentee ballots, for purposes of conducting an audit of the signatures on absentee ballot applications and absentee ballots cast in the Contested Election.

**THERE ARE MYRIAD REPORTS OF IRREGULARITIES AND VIOLATIONS OF
THE ELECTION CODE DURING THE CONTESTED ELECTION**

209.

Petitioners have received hundreds of incident reports regarding problems, irregularities, and violations of the Election Code during the Contested Election.

210.

From those reports, Petitioners have attached affidavits from dozens of Citizens of Georgia, sworn under penalty of perjury, attesting to myriad violations of law committed by Respondents during the Contested Election. *See Exhibit 17.*

211.

The affidavits are attached to this Petition as an Appendix, with details of the multiple violations of law. *Id.*

212.

Also included in the Appendix are sworn declarations from data experts who have conducted detailed analysis of irregularities in the State's voter records. *See Exhibits 2, 3, 4, and 10.*

COUNTS

COUNT I:

ELECTION CONTEST

O.C.G.A §21-2-521 *et seq.*

213.

Petitioners incorporate by reference and re-allege paragraphs 1 through 212 this Petition as set forth herein verbatim.

214.

Respondents, jointly and severally, have violated the Constitution of the State of Georgia.

215.

Respondents, jointly and severally, have violated the laws of the State of Georgia.

216.

Respondents, jointly and severally, have violated the Election Code.

217.

Respondents, jointly and severally, have violated State Election Board Rules and Regulations.

218.

Respondents, jointly and severally, have violated the basic tenants of an open, free, and fair election.

219.

Respondents, jointly and severally, have failed in their duties to their constituents, the people of the State of Georgia, and the entire American democratic process.

220.

The Contested Election has been timely and appropriately contested per O.C.G.A. § 21-2-522 et seq.

221.

As a direct and proximate result of Respondents' actions, the Contested Election is fraught with misconduct, fraud, and irregularities.

222.

Due to the actions and failures of Respondents, many thousands of illegal votes were accepted, cast, and counted in the Contested Election, and legal votes were rejected.

223.

The fraud, misconduct, and irregularities that occurred under the "supervision" of Respondents are sufficient to change the purported results of the Contested Election.

224.

The fraud, misconduct, and irregularities that occurred under the "supervision" of Respondents are sufficient to place the Contested Election in doubt.

225.

Respondents' misconduct is sufficient to change the purported results in the Contested Election in President Trump's favor.

226.

Respondents' misconduct is sufficient to place the purported Contested Election results in doubt.

227.

Respondents, jointly and severally, erred in counting the votes in the Contested Election.

228.

Respondents' error in counting the votes in the Contested Election would change the result in President Trump's favor.

229.

Respondents, jointly and severally, erred in declaring the Contested Election results in favor of Mr. Biden.

230.

Respondents' systemic negligent, intentional, willful, and reckless violations of the Georgia Constitution, Georgia law, as well as the fundamental premise of a free and fair election created such error and irregularities at every stage of the Contested Election—from registration through certification and every component in between—that the outcome of the Contested Election is in doubt.

231.

As a result, there is substantial doubt as to the outcome of the Contested Election, and the Contested Election and any certification associated therewith shall be enjoined, vacated, and nullified and either a new presidential election be immediately ordered that complies with Georgia

law or, in the alternative, that such other just and equitable relief is obtained so as to comport with the Constitution of the State of Georgia.¹⁰ See O.C.G.A. § 21-2-522.

COUNT II:

VIOLATIONS OF THE GEORGIA CONSTITUTION'S EQUAL PROTECTION PROVISION

232.

Petitioners incorporate by reference and re-allege paragraphs 1 through 212 of this Petition as set forth herein verbatim.

233.

The Constitution of the State of Georgia provides, "Protection and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws." Ga. Const. art. I, § I, para. II.

234.

Under Georgia's Equal Protection Clause, "the government is required to treat similarly situated individuals in a similar manner." *State v. Jackson*, 271 GA 5 (1999), *Favorito v. Handel*, 285 Ga. 795, 798 (2009) (citation and quotations omitted). See **Exhibit 15**.

235.

This requires establishing a uniform procedure for all counties to conduct absentee voting, advance voting, and Election Day in-person voting.

¹⁰ In the event this Court enjoins, vacates, and nullifies the Contested Election, the Legislature shall direct the manner of choosing presidential electors. U.S. art II, § 1; see also *Bush v. Gore*, 531 U.S. 98.

236.

Respondents, jointly and severally, failed to establish such uniform procedure for the verification of signatures of absentee ballots.

237.

Respondents, jointly and severally, failed to establish a uniform level of scrutiny for signature matching.

238.

Respondents, jointly and severally, failed to train those who would be conducting signature verification on how to do so.

239.

The burdens of applying for and voting an absentee ballot were different in various counties throughout the State of Georgia.

240.

Electors voting via by absentee mail-in ballot were not required to provide identification, other than a matching signature.

241.

Electors voting in person were required to show photo identification and verify the voter's identity.

242.

The burdens of applying for and voting via absentee mail-in ballot were different from those for absentee in person.

243.

Georgia voters were treated differently depending on how they voted (i.e., whether by mail or in person), where they voted, when they voted, and for whom they voted.

244.

An elector in one county casting a ballot would not have his or her ballot treated in a similar manner as a voter in a different county.

245.

Electors in the same county would not have their ballots treated in a similar manner as electors at different precincts.

246.

Electors in the same precinct would not have their ballots treated in a similar manner whose votes were tabulated using different tabulators.

247.

Respondents, jointly and severally, failed to establish uniform procedures for treating similarly situated electors similarly.

248.

Respondents' systemic failure to even attempt uniformity across the state is a flagrant violation of the Constitution of the State of Georgia.

249.

Such a violation of the rights of the Citizens of Georgia constitutes misconduct and irregularity by election officials sufficient to change or place in doubt the result of the Contested Election.

250.

As a result, there is substantial doubt as to the outcome of the Contested Election, and the Contested Election and any certification associated therewith should be enjoined, vacated, and nullified and either a new presidential election be immediately ordered that complies with Georgia law or such other just and equitable relief is obtained so as to comport with the Constitution of the State of Georgia. *See* O.C.G.A. § 21-2-522.

COUNT III:

VIOLATIONS OF THE GEORGIA CONSTITUTION'S DUE PROCESS PROVISIONS

251.

Petitioners incorporate by reference and re-allege paragraphs 1 through 212 of this Petition and Count II as set forth herein verbatim.

252.

Pursuant to the Constitution of the State of Georgia, "No person shall be deprived of life, liberty, or property except by due process of law." Ga. Const. art. I, § I, para. I.

253.

Moreover, "All citizens of the United States, resident in this state, are hereby declared citizens of this state; and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges, and immunities due to such citizenship." Ga. Const. art. I, § 1, para. VII.

254.

The right to vote is a fundamental right.

255.

When a fundamental right is allegedly infringed by government action, substantive due process requires that the infringement be narrowly tailored to serve a compelling state interest. *Old S. Duck Tours v. Mayor & Aldermen of City of Savannah*, 272 Ga. 869, 872, 535 S.E.2d 751, 754 (2000).

256.

By allowing illegal ballots to be cast and counted, Respondents diluted the votes of qualified Georgia electors.

257.

By allowing illegal ballots to be cast and counted, Respondents, by and through their misconduct, allowed the disenfranchisement of qualified Georgia electors.

258.

Respondents, jointly and severally, violated the Due Process protections of qualified Georgia Electors guaranteed by the Georgia State Constitution.

259.

As a result, there is substantial doubt as to the outcome of the Contested Election and any certification associated therewith should be enjoined, vacated, and nullified and either a new presidential election be immediately ordered that complies with Georgia law or such other just and equitable relief is obtained so as to comport with the Constitution of the State of Georgia.

COUNT IV:

DECLARATORY JUDGMENT AND RELIEF

260.

Petitioners incorporate by reference and re-allege paragraphs 1 through 259 of this Petition as set forth herein verbatim.

261.

This claim is an action for a declaratory judgment pursuant to O.C.G.A. §§ 9-4-1 et seq.

262.

An actual controversy is ripe and exists between Petitioners and Respondents with regard to the misconduct, fraud, and irregularities occurring in the Contested Election, specifically including but not limited to:

- a. The illegal and improper inclusion of unqualified voters on Georgia's voter list;
- b. allowing ineligible voters to vote illegally in the Contested Election;
- c. whether the Contested Election results are invalid;

- d. whether the Consent Decree is unauthorized under Georgia law such that it is null and void, and unlawfully interfered with the proper administration of the Election Code;
- e. whether the results of the Contested Election are null and void.

263.

It is necessary and proper that the rights and status amongst the parties hereto be declared.

264.

This Honorable Court is a Court of Equity and therefore endowed with the authority to hear and the power to grant declaratory relief.

265.

As a result of the systemic misconduct, fraud, irregularities, violations of Georgia law, and errors occurring in the Contested Election and consequently in order to cure and avoid said uncertainty, Petitioners seek the entry of a declaratory judgment providing that:

- a. ineligible and unqualified individuals are unlawfully included on Georgia's voter role;
- b. unregistered, unqualified, and otherwise ineligible voters cast their votes during the Contested Election;
- c. the Consent Decree is unauthorized under Georgia law and is therefore null and void; and
- d. the results of the Contested Election are null and void.

COUNT V:

**REQUEST FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY AND
PERMANENT INJUNCTIVE RELIEF**

266.

Petitioners incorporate by reference and re-allege paragraphs 1 through 265 of this Petition as set forth herein verbatim.

267.

Petitioners seek an emergency temporary restraining order, as well as preliminary and permanent injunctive relief per O.C.G.A. § 9-11-65, to:

- a. Order expedited discovery and strict compliance with all open records requests;
- b. Order Respondents to respond to this Petition within 3 days;
- c. Require Respondents to immediately fulfill their obligations under the Election Code to properly maintain and update Georgia's list of registered voters to remove ineligible voters;
- d. Prevent Respondents from allowing unqualified, unregistered, and otherwise ineligible individuals from voting in Georgia elections, including but not limited to the upcoming January 5, 2021 run-off¹¹;
- e. Require an immediate audit of the signatures on absentee ballot applications and ballots as described in Exhibit 16;
- f. Enjoin and restrain Respondents from taking any further actions or to further enforce the Consent Decree;
- g. Prevent the certification of the results of the Contested Election;

¹¹ To the extent ineligible voters have already voted absentee for the January 5, 2021, runoff, those votes should be put into a provisional status.

- h. Enjoin the Secretary of State from appointing the Electors to the Electoral College;
- i. **Order a new Presidential Election to occur at the earliest opportune time;** and
- j. For such other relief that this Court deems just and proper under the circumstances.

268.

In the absence of an emergency temporary restraining order and preliminary and permanent injunctions, Petitioners (and the Citizens of Georgia and the United States) will suffer irreparable harm for which there is no adequate remedy at law, while injunctive relief will cause no harm to Respondents.

269.

Immediate and irreparable injury, loss, or damage will result to the Petitioners (as well as the Citizens of Georgia and the United States) if the requested emergency injunctive relief is not granted.

270.

There will be immediate and irreparable damage to the Citizens of Georgia by allowing an illegal, improper, fraudulent, error-ridden presidential election to be certified, thereby improperly appointing Georgia's electors for Mr. Biden even though the Contested Election is in doubt.

271.

There will be irreparable damage to the Citizens of Georgia through their loss of confidence in the integrity of the election process by virtue of the illegal votes included in the tabulations of the Contested Election, which outweighs any potential harm to Respondents.

272.

Granting the requested relief will not disserve the public interest.

273.

Petitioners will be irreparably injured in the event the prayed for injunctive relief is not granted.

274.

It is further in the public interest to grant Petitioner's request for emergency injunctive relief so that Georgia voters can have confidence that the January 5, 2021, Senate election is conducted in accordance with the Election Code.

275.

As early as possible, notice to Respondents of Petitioners' motion for emergency injunctive relief will be made via email and / or telephone.

276.

Petitioners are further entitled to the injunctive relief sought herein because there is a substantial likelihood of success on the merits.

277.

The damage to Petitioners is not readily compensable by money.

278.

The balance of equities favors entry of a temporary restraining order and injunctive relief against Respondents and would not be adverse to any legitimate public interest.

WHEREFORE, Petitioners respectfully pray as follows for emergency and permanent relief as follows:

1. That this Court, pursuant to O. C. G. A. § 21-2-523, expeditiously assign a Superior Court or Senior Judge to preside over this matter;
2. That this Court issue a declaratory judgment that systemic, material violations of the Election Code during the Contested Election for President of the United States occurred that has rendered the Contested Election null and void as a matter of law;
3. That this Court issue a declaratory judgment that systemic, material violations of the Election Code during the Contested Election violated the voters' due process rights under the Georgia Constitution have rendered the Contested Election null and void as a matter of law;
4. That this Court issue a declaratory judgment that systemic, material violations of the Election Code violated the voters' equal protection rights under the Constitution of the State of Georgia that have rendered the Contested Election null and void as a matter of law;
5. That the Court issue an injunction requiring all Respondents to decertify the results of the Contested Election;
6. That the Court order a new election to be conducted in the presidential race, in the entirety of the State of Georgia at the earliest date, to be conducted in accordance with the Election Code;
7. *Alternatively*, that the Court issue an injunction prohibiting the Secretary of State from appointing the slate of presidential electors due to the systemic irregularities in the Contested Election sufficient to cast doubt on its outcome;

8. That the Court order expedited discovery and hearing, since time is of the essence, given the legal requirements that the presidential electors from the State of Georgia are to meet on December 14, 2020, and that the electoral votes from the State of Georgia are to be delivered to and counted by the United States Congress on January 6, 2021;
9. That this Court issue a declaratory judgment that the Consent Decree violates the Constitution of the State of Georgia and the laws of the State of Georgia;
10. *Alternatively*, that the Consent Decree be stayed during the pendency of this matter;
11. That the Court order Respondents to make available 10,000 absentee ballot applications and ballot envelopes from Respondents, as per Exhibit 16, and access to the voter registration database sufficient to complete a full audit, including but not limited to a comparison of the signatures affixed to absentee ballot applications and envelopes to those on file with the Respondents;
12. That the Court order the Secretary of State and other Respondents to release to Petitioners for inspection all records regarding the Contested Election pursuant to O.C.G.A. § 21-2-586;
13. That the Court order all Respondents to immediately identify and remove felons with uncompleted sentences, cross-county voters, out-of-state voters, deceased voters, and other ineligible persons from Respondents' voter rolls within the next 30 days;
14. That the Court declare that all rules adopted by the Respondents Secretary of State or the State Election Board in contravention of the Georgia Election Code be invalidated, specifically regarding the authentication and processing of absentee ballots, to wit State Election Board Rule 183-1-14-0.9-.15;
15. That the Court order such other relief as it finds just and proper.

Respectfully submitted this 7th day of December, 2020.

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