
From: ORR Administration <openrecords@sos.ga.gov>

Sent: Thursday, March 3, 2022, 2:31 PM

To: Khahilia Shaw

Subject: GASOS ORR #22-165

EXTERNAL SENDER

Good afternoon,

Please find below responsive redacted documents to your request. Redactions are made only to the extent authorized by law. Pursuant to state law, such confidential or exempt information found in the responsive records will be redacted, including, but not limited to, the following: individuals' day and month of birth; unlisted telephone number; personal email address; personal cellular telephone number; social security number; driver's license number; financial information; health information; information that (if disclosed) would compromise election security; records of election cases pending investigation; communications subject to attorney-client privilege; and attorney-work product. See O.C.G.A. § 50-18-72(a)(1)-(4), (20) (A), (21), (25) (A), (34), (41), (42), and (44); O.C.G.A. § 21-2-225; and O.C.G.A. § 21-2-379.24.

Link: <https://sendsecure.sos.ga.gov/index.php/s/K3ycVxPwkhC7g7Z>

Password: Pgroeihto8947uyhifbieu

Stephany Sheriff

Open Records Request Officer

Georgia Secretary of State

Phone: 4705839100



From: Germany, Ryan
Sent: Thursday, February 3, 2022 12:19 PM
To: Bryan Tyson
Subject: Fwd: Comments on HB 886 and HB 933

—

Ryan Germany
678-672-9230

From: Kirk, Joseph <kirkj@bartowcountyga.gov>
Sent: Thursday, February 3, 2022 11:32:40 AM
To: Germany, Ryan <rgermany@sos.ga.gov>
Subject: FW: Comments on HB 886 and HB 933

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mittee, and while I'm thinking about it please update my email to

kirkj@bartowcountyga.gov.

Thanks,

Joseph

From: Kirk, Joseph
Sent: Friday, January 21, 2022 3:10 PM
To: steven.sainz@house.ga.gov; alan.powell@house.ga.gov; shaw.blackmon@house.ga.gov; rhonda.burnough@house.ga.gov; micah.gravley@house.ga.gov; joseph.gullett@house.ga.gov; rob.leverett@house.ga.gov; mesha.mainor@house.ga.gov; shea.roberts@house.ga.gov; darlene.taylor@house.ga.gov; maryfrances.williams@house.ga.gov; rick.williams@house.ga.gov; bruce.williamson@house.ga.gov
Cc: Gambill, Matthew <matthew.gambill@house.ga.gov>; Scoggins, Mitchell <Mitchell.Scoggins@house.ga.gov>; trey.kelley@house.ga.gov; bruce.thompson@senate.ga.gov; chuck.hufstetler@senate.ga.gov
Subject: Comments on HB 886 and HB 933

My name is Joseph Kirk and I am the Election Supervisor of Bartow County. I also serve as the Secretary for the Georgia Association of Voter Registrars and Elected Officials (GAVREO) and in numerous advisory roles with different organizations, but the comments that I submit to you today represent my personal views and not those of any organization which I serve.

I submit these comments via email in opposition to both HB 886 as well as HB 933 because I cannot attend in person on Monday, January 24th due to scheduling conflicts, but I felt it was important to share my thoughts on both bills.

Both of these bills seem address “issues” (and I hesitate to even use that word in this context) that arose as individuals attempted to find evidence that the 2020 Presidential Election was stolen. The reason they couldn’t find evidence is that the election wasn’t stolen, not that they were unable to look deep enough to find it. Frankly, HB 886 all but accuses election officials of improper conduct. I’m a big fan of something referred to as “evidence-based elections” meaning that we have records to audit against and aren’t just saying “trust us – we did good.” That being said, I think that there is a difference between meaningful election security and simply adding more steps to the process which will only increase our workload and costs.

HB 886

- **Additional Requirements for Security Paper**

I personally think that security paper is a tremendous waste of money. The only thing it prevents is someone copying a ballot so they can deposit multiple ballots in a scanner during the in person voting process. Keep in mind that they would have to be checked in and go through the entire voting process first and then deposit multiple ballots under the nose of a poll worker (and we would catch it when we reconciled our numbers which would spark an investigation). I do deploy the security paper in sealed containers, but I know a lot of counties deploy it already in the printers and if they can do that securely they should be allowed to do so. I would argue that the security paper should be stored in a secure area (similar to ballots) rather than in sealed containers, and that accounting for it to the sheet both during testing as well as voting is a waste of time and resources that will increase our costs as well as the time it takes to test the voting system, facilitate the voting process, and report results on Election Night.

- **Additional Containers and Procedural Steps in General**

The bill seems to favor constantly storing all security paper and voted ballots (but not unvoted ballots) in sealed containers with chain of custody requirements for every time a container is opened - even when they are in our secure areas. I personally think this is overkill. Anything related to ballots should be stored in a secure area with access limited to those who need it to do their jobs and those areas should have access logs to record who is in the area and for what purpose. Secure containers should be used whenever ballots or security paper are removed from those areas, and yes the seals should be accounted for prior to opening the containers once they are sealed. However, I’m not sure we need an entirely new form for this purpose rather than simply keeping a log with the container that enables the employee to verify the number prior to or soon after breaking the seal (depending on the container). If a political party is concerned that this process is not being followed properly, they need to be sure they have someone there observing it and that person has to be trained to know what to look for. In practical terms that means having someone there whenever the office is open, or at designated times as set by the election officials when they will take certain actions. Again, what is proposed in this bill will increase our costs (more containers, more seals, more staff time, etc.), and will unnecessarily increase the time it takes to complete each step of the process.

- **Requiring Poll Watchers**

This is probably the worst part of the entire bill, and I’m not sure if it refers to ballots being handled at polling places after the polls close or generally. There is a practical reason that poll watchers are allowed (and even encouraged), but not required – volunteers are hard to find and don’t always show up! There are even some counties who don’t have at least one local party or whose membership is so small that they will not be able to recruit or train

enough poll watchers to meet the requirements of this code section and every other part of the process that should be observed. I know that there is a lot of interest in serving as a poll watcher right now, but what about all the smaller election cycles? There are local special or municipal elections that get less than 10% turnout that no one will want to observe. What do the election officials do when poll watchers aren't appointed or don't show up? Do we just stop and say "oh well – there's nothing we can do" and not process the ballots? What happens when we can't report results on Election Night as a result? I want poll watchers every chance I can get them, but I know they won't always be there. If the desire is to ensure poll watchers observe the process – help the local parties recruit them by funding some sort of stipend or incentive.

HB 933

My understanding of the records that I send to the Clerk of Court after each election is that they are sealed in preparation for judicial intervention. If there is an election contest or lawsuit, neither I nor anyone else associated with the election process would be able to alter or amend them. I think this is an important step in the process, and I believe the Clerks do as well based on their response to the provision of SB 202 that gave the Secretary of State the right to examine the oath envelopes while under seal (many of them still required a court order to release the envelopes to the SOS). I understand that some individuals believe that they could find the answers they seek if they could only get to the Clerk's records, but I don't think that's a good reason to make the records less secure and accessible to a larger number of people and that that allowing the judges grant or deny access is still our best bet.

Thank you for taking the time to receive my input, and I am happy to answer any questions or concerns you may have. I can be reached via email at kirkj@bartowcountyga.gov or on my cell phone at (770) 387-6012.

Sincerely,

Joseph Kirk
Bartow County Election Supervisor

From: Germany, Ryan
Sent: Wednesday, January 12, 2022 3:18 PM
To: Russ Willard; Charlene McGowan; Bryan Tyson
Subject: Fwd: Fulton Daily Report re: new redistricting challenge
Attachments: 43218981_complaint.pdf

New one filed by Elias.

—

Ryan Germany
678-672-9230

From: Jones, Walter <wjones@sos.ga.gov>
Sent: Wednesday, January 12, 2022 3:11:08 PM
To: Fuchs, Jordan <jfuchs@sos.ga.gov>; Germany, Ryan <rgermany@sos.ga.gov>
Cc: Schaffer, Ari <aschaffer@sos.ga.gov>
Subject: Fulton Daily Report re: new redistricting challenge

Jordan and Ryan,

Fulton Daily Report is looking for a comment on this challenge filed yesterday about the House map.

Walter Jones
Communications Manager for Voter Education
Georgia Secretary of State
214 Capitol
Atlanta, GA 30334

404-360-9033
wjones@sos.ga.gov

From: Everett Catts <ecatts@alm.com>
Sent: Wednesday, January 12, 2022 1:39 PM
To: Jones, Walter
Subject: New lawsuit

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Walter,

I am doing another article on another lawsuit filed yesterday against the secretary of state's office and members of the State Election Board, also about the newly redrawn district maps (this one, *Grant et al v. Raffensperger et al*, is about the Georgia House map).

So I wanted to see if Raffensperger/the secretary of state's office had any comment on the latest lawsuit, which is attached.

Thanks.

Everett Catts

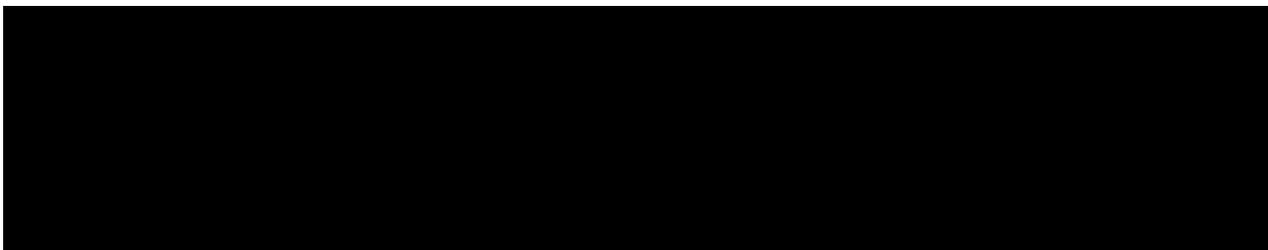
Brand Editor, Daily Report
Georgia Bureau Chief, ALM
404-964-2222

<https://www.law.com/dailyreportonline/>

Twitter: @ecattsdr



From: Germany, Ryan
Sent: Thursday, February 3, 2022 12:16 PM
To: Bryan Tyson
Subject: Fwd: HB 886.pdf



From: Kirk, Joseph <kirkj@bartowcountyga.gov>
Sent: Thursday, February 3, 2022 11:31:52 AM
To: Eveler, Janine <Janine.Eveler@cobbcounty.org>; Germany, Ryan <rgermany@sos.ga.gov>; 'Joseph Kirk' <kirkj@bartowga.org>; 'LBailey@augustaga.gov' <LBailey@augustaga.gov>
Subject: RE: HB 886.pdf

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I agree that this bill is overkill and sent in comments to the subcommittee to that affect (I'll forward them to you Ryan). The subcommittee did pull the part about poll watcher which prevents it from being a show stopper, and some of the other concepts aren't horrible – I think they just take them too far.

First, we should not be accounting for blank security paper by the sheet. The only thing that security paper prevents is someone copying a BMD ballot and trying to vote more than once under the nose of a poll worker. It could prevent someone from copying a ABM ballot to vote the wrong ballot style, but the central scanner can't detect the security fibers so it doesn't. It is basically just really expensive security theater, and I don't see any benefit of accounting for it to the page being worth the massive amount of time that it will take to count it (and the count probably won't be accurate anyway). As one of the subcommittee members pointed out during the hearing – the security paper isn't a ballot until it's printed.

To give you a real world example - during the pilot in 2019, one of my Poll Managers decided to account for all the unused security paper before coming back to the office and it delayed his return by about an hour and a half. That was during a municipal election when I didn't send out that much paper. I do send out the security paper in sealed boxes, but in many cases I only have an estimate of how much is in each box. Plus, as Janine pointed out this sort of accounting will drag out the testing and training processes at our offices for no good reason which leads me to the next point.

The only thing that needs to be in sealed containers within our secure spaces are voted ballots that are not in oath envelopes. Blank security paper and unscanned ABM ballots do not need to be in sealed containers while they are in our offices. They should be stored in areas with security and

access control, but adding seals to the mix only increases the time it takes to do our jobs and the money we spend on containers and seals – it doesn't increase security in a meaningful way.

If I was writing it I would:

- Require blank paper, unused ballots, voted and unvoted ballots to be stored in secure areas when they are not in use and require those areas be access controlled in similar ways to our server rooms.
- Require that security paper and blank ballots be deployed in sealed containers (which could include the printers if the county has a way to seal them such as those carts) with the chain of custody forms and accounting for the blank ballots but not security paper.
- Require that any ballot that has been scanned be stored in a sealed container with the rigorous chain of custody that the bill requires from the time it's scanned on the central scanner or removed from a ballot box through the time it's transferred to the Clerk of Court.
- Require that the boxes transferred to the Clerk of Court be sealed in a tamper evident way, but not necessarily with a numbered seal. There is nifty tape or seals that the officials sign that could achieve the desired result.

Thanks,
Joseph

From: Eveler, Janine <Janine.Eveler@cobbcounty.org>

Sent: Thursday, February 3, 2022 9:52 AM

To: 'Germany, Ryan' <rgermany@sos.ga.gov>; 'Joseph Kirk' <kirkj@bartowga.org>; 'LBailey@augustaga.gov' <LBailey@augustaga.gov>

Subject: RE: HB 886.pdf

When I first read this bill, it made my head spin a little. Several of us had a discussion via email about the proposal to track BLANK paper! The main problem I have is the added work to count paper pieces as they are removed and replaced in the container, especially when it is still in the custody of the elections office. It is overkill to track paper pieces as they are used in testing and training within the superintendent's offices.

I can see tracking the number of reams that are delivered to the polls and those that are returned, as well as the person opening and sealing the container, but not each piece of paper. These are not ballots, they are blank pieces of paper. To become an unauthorized ballot that is introduced into the ballot stream, many other processes would have to break down.

Janine Eveler

Director,
Cobb County Elections & Registration
770-528-2312
770-528-2519 Fax
678-315-0439 Cell
www.CobbElections.org

From: Germany, Ryan
Sent: Friday, October 1, 2021 8:02 PM
To: Bryan Tyson; Doug Chalmers
Subject: Fwd: RECIEVED 10/1/21- Recall Petition Application
Attachments: 1589_001.pdf

FYI. See below and attached.

—

Ryan Germany
678-672-9230

From: Northen, Nicolas <nnorthen@sos.ga.gov>
Sent: Friday, October 1, 2021 7:08:11 PM
To: Evans, Blake <bevans@sos.ga.gov>
Cc: Germany, Ryan <rgermany@sos.ga.gov>; Beck, Sarah <sbeck@sos.ga.gov>
Subject: RECIEVED 10/1/21- Recall Petition Application

Good day team,

I wanted to inform you in writing that received a Recall Petition Application for Secretary of State, Brad Raffensperger at approx.. 4:15 PM today, October 1st. I have attached a copy of the application to this email.

I would like to note that the date/time stamp in the front office was set with the incorrect date upon the first stamping attempt, but the first & last page of the application were stamped with the correct date & time once we fixed the machine. A photo copy of the first & last page were also given to Ms. Kremer once stamped.

Please reach out if you have any further questions!

Best,

Nick Northen
Election Systems & Data Manager
Georgia Secretary of State
Main: 404-656-2871
Direct Office: 470-312-2751
Cell: 470-376-7063



Fax: 404-463-5231



From: Coine-Mayers Kathleen <ckathleen@greenecountyga.gov>
Sent: Friday, December 3, 2021 9:48 AM
To: Davenport, Angela <adavenport@sos.ga.gov>
Subject: Update on Court Petitions

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Angela:

The lawyer (Sunnita Blount) for the petition for a contested election filed for a “dismissal without prejudice” after not providing any response to the assigned judge when the lawyer was provided notice that a hearing was scheduled for Thursday, December 2nd, 2021

So, when we were in court yesterday the only item on the docket was the recount petition.

The petitioner’s lawyer called Jeanne Dufort from the Coalition for Good Governance as a witness. Ms. Dufort spoke about the activities of CGG in federal court and read from an order from Judge Totenberg in the ongoing Curling v. Raffensperger where Judge Totenberg makes comments critical of the Dominion system.

I was the sole witness for Greene County BOER.

Preceding his verdict, the judge addressed me to say that he thought that everything that the BOER had done was done in an exemplary manner and there was no fault to be attributed to us.

However, at the end of the day, Judge Gillis determined that due to the concerns with the equipment as detailed by Judge Totenberg and the 1 voter separating the two candidates, he ordered a hand count.

At this time, we are moving forward with a hand count on Monday, December 6th.

We anticipate the same results as the Certified Summary and the machine recount.

Also, Georgia Balbona who has been active with Voter Ga and the Coalition for Good Governance was also in the courtroom and videotaped the proceedings after submitting a request to the judge.

We have now scheduled a hand count for this Monday, December 6th to

start at 8:30 am at our board office.

Regards,

Kathleen Mayers

Greene County Board of Elections and Registration Supervisor
1180 C. Weldon Smith Drive, Suite 120
Greensboro, Ga 30642
706-453-1108 Office
706-453-9438 Fax

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202</p>	<p>DATE FILED: September 17, 2021 8:12 PM FILING ID: E9E5DD591D201 CASE NUMBER: 2020CV34319</p>
<p>ERIC COOMER, Ph.D., Plaintiff</p> <p>vs.</p> <p>DONALD J. TRUMP FOR PRESIDENT, INC., et al., Defendants</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Plaintiff Charles J. Cain, No. 51020 ccain@cstrial.com Steve Skarnulis, No. 21PHV6401 skarnulis@cstrial.com Bradley A. Kloewer, No. 50565 bkloewer@cstrial.com Zachary H. Bowman, No. 21PHV6676 zbowman@cstrial.com CAIN & SKARNULIS PLLC P. O. Box 1064 Salida, Colorado 81201 719-530-3011/512-477-5011 (Fax)</p> <p>Thomas M. Rogers III, No. 28809 trey@rklawpc.com Mark Grueskin, No. 14621 mark@rklawpc.com Andrew E. Ho, No. 40381 andrew@rklawpc.com RechtKornfeld PC 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900/303-446-9400 (Fax)</p>	<p>Case Number: 2020cv034319</p> <p>Division Courtroom: 409</p>
<p style="text-align: center;">EXHIBIT O DECLARATION OF J. ALEX HALDERMAN</p>	

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>ERIC COOMER, Ph.D., Plaintiff</p> <p>vs.</p> <p>DONALD J. TRUMP FOR PRESIDENT, INC., et al., Defendants</p>	
<p>Attorneys for Plaintiff Charles J. Cain, No. 51020 ccain@cstrial.com Steve Skarnulis, No. 21PHV6401 skarnulis@cstrial.com Bradley A. Kloewer, No. 50565 bkloewer@cstrial.com Zachary H. Bowman, No. 21PHV6676 zbowman@cstrial.com CAIN & SKARNULIS PLLC P. O. Box 1064 Salida, Colorado 81201 719-530-3011 /512-477-5011 (Fax)</p> <p>Thomas M. Rogers III, No. 28809 trey@rklawpc.com Mark Grueskin, No. 14621 mark@rklawpc.com Andrew E. Ho, No. 40381 andrew@rklawpc.com RechtKornfeld PC 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900/303-446-9400 (Fax)</p>	<p>Case Number: 2020cv034319</p> <p>Division Courtroom: 409</p>
<p>DECLARATION OF J. ALEX HALDERMAN</p>	

I, J. Alex Halderman, declare and state as follows:

1. “My name is J. Alex Halderman. I am Professor of Computer Science and Engineering, Director of the Center for Computer Security and Society, and Director of the Software Systems Laboratory at the University of Michigan in Ann Arbor. I hold a Ph.D. (2009), a master’s degree (2005), and a bachelor’s degree (2003), *summa cum laude*, in computer science, all from Princeton University. My background, qualifications, and professional affiliations are set forth in my curriculum vitae, which is attached as **Exhibit O-1**.

2. “My research focuses on computer security and privacy, with an emphasis on problems that broadly impact society and public policy. Among my areas of research are software security, network security, computer forensics, and election cybersecurity. I have authored more than 90 articles and books, and my work has been cited in more than 12,000 scholarly publications. I have served as a peer-reviewer for more than 35 research conferences and workshops.

3. “I have published numerous peer-reviewed research papers analyzing security problems in electronic voting systems used in U.S. states and in other countries. I have also investigated methods for improving election security, such as efficient techniques for auditing whether computerized election results match paper ballots. I regularly teach courses in computer security, network security, and election cybersecurity at the graduate and undergraduate levels. I am the creator of *Securing Digital Democracy*, a massive, open, online course about computer security and elections that has attracted more than 20,000 students.

4. “I serve as co-chair of the State of Michigan’s Election Security Advisory Commission, by appointment of the Michigan Secretary of State. I have also performed security testing of electronic voting systems for the Secretary of State of California. I have testified before

the U.S. Senate Select Committee on Intelligence and before the U.S. House Appropriations Subcommittee on Financial Service and General Government on the subject of cybersecurity and U.S. elections.

5. “I received the John Gideon Award for Election Integrity from the Election Verification Network, the Andrew Carnegie Fellowship, the Alfred P. Sloan Foundation Research Fellowship, the IRTF Applied Networking Research Prize, the Eric Aupperle Innovation Award, the University of Michigan College of Engineering 1938E Award for teaching and scholarship, and the University of Michigan President’s Award for National and State Leadership.

6. “I have personal knowledge of the facts in this declaration and, if called to testify as a witness, I would testify under oath to these facts.

Dr. Eric Coomer

7. “There is not, and has never been, credible evidence that the outcome of the 2020 Presidential election was “rigged” by anyone, let alone by Dr. Eric Coomer. Election security experts and public officials have reiterated this countless times, beginning shortly after the election, yet Defendants ignored these authorities and instead advanced baseless conspiracy theories. In an apparent attempt to promote their own political agendas regardless of the truth, they portrayed Dr. Coomer as a criminal who had somehow manipulated enough votes to deny victory to Donald Trump. Defendants’ vote-rigging allegations were always implausible, consisting of wild speculation, readily debunked claims, and incoherent technical assertions, and months of subsequent investigations and audits have both failed to vindicate their theories and added further evidence that the election outcome was correctly decided.

8. “Dr. Coomer was not a public figure prior to Defendants’ conduct. In my 15 years working in the election security field, I encountered him on only two occasions prior to Election Day 2020. The first time was on February 2, 2019, at the National Association of Secretaries of State winter conference, which I attended. There, Dr. Coomer staffed Dominion’s vendor booth and demonstrated the company’s equipment. He knew me by reputation and introduced himself; I did not know who he was. Later, on September 15, 2020, Dr. Coomer testified about Dominion’s equipment at a preliminary injunction hearing in *Curling v. Raffensperger* (1:17-CV-2989-AT, N.D. Ga.), a lawsuit regarding the security of Georgia’s election system. I testified as an expert witness for the opposing party in the same hearing. Although Dr. Coomer and I disagreed about certain technical issues, our interactions impressed on me that he was a man of principle who shared my goal of safeguarding election integrity.

There was Never Credible Evidence that the Presidential Result was “Rigged”

9. “While I and other scientists have warned for many years that there are security weaknesses in voting systems sold by all major vendors,¹ credible election security experts have never claimed that such vulnerabilities were actually exploited to alter the outcome of an election in the United States. Technical, physical, and procedural safeguards complicate the task of maliciously exploiting election systems, as does the distributed nature of U.S. elections. Monitoring of likely adversaries by law enforcement and the intelligence community increases the probability that an attempted attack would be discovered and foiled. Merely citing the existence

¹ As the National Academies recently concluded, “There is no realistic mechanism to fully secure vote casting and tabulation computer systems from cyber threats.” National Academies of Science, Engineering, and Medicine, *Securing the Vote: Protecting American Democracy* (2018) at p. 92. Available at <https://doi.org/10.17226/25120>.

of technical flaws, as Defendants have tended to do, does not establish that an attack occurred, much less that it altered the Presidential election outcome.

10. “Starting soon after Election Day, I and other leading election security experts publicly stated that we had seen no credible evidence to support emerging conspiracy theories about the election having been rigged, including those involving Dominion and Dr. Coomer.

11. “For example, on November 7, 2020, in response to public concerns about errors that had been discovered and corrected in the unofficial election-night results from Antrim County, Michigan (which used Dominion equipment), I posted a thread on Twitter² that explained why the problem almost certainly resulted from human error rather than “hacking” or fraud.

12. “On November 13 and 14, 2020, I appeared on Fox News to debunk claims that the Presidential outcome had been hacked. I stated, “There is absolutely no evidence, none, that Dominion voting machines changed any votes in this election.”³ I went on to describe the election-rigging accusations as “extraordinary” and based on “pure speculation.”

13. “In an open letter dated November 16, 2020⁴ and reported in *The New York Times* that day,⁵ I and 58 other leading election security specialists called further attention to the implausibility of conspiracy theories such as Defendants’. The letter, which I co-authored, was

² Available at <https://twitter.com/jhalderm/status/1325163291161755649>.

³ “Officials: Dominion machines did not change or delete votes”, Fox News (Nov. 14, 2020). Available at <https://video.foxnews.com/v/6209855488001>.

⁴ T. Adams *et al.*, “Scientists say no credible evidence of computer fraud in the 2020 election outcome, but policymakers must work with experts to improve confidence” (Nov. 16, 2020). Available at <https://www.mattblaze.org/papers/election2020.pdf>.

⁵ N. Perlroth, “Election Security Experts Contradict Trump’s Voting Claims,” *The New York Times* (Nov. 16, 2020). Available at <https://www.nytimes.com/2020/11/16/business/election-security-letter-trump.html>.

signed by prominent experts such as Harri Hursti, Matt Blaze, and Andrew Appel, whose work has been repeatedly cited by Defendants in support of their theories, as has my own.

14. “Our letter distinguished the established science about election security from the wild and unsubstantiated claims that the election outcome had been hacked. Moreover, we emphasized that such hacking claims were inherently improbable and carried a high burden of proof: “Anyone asserting that a U.S. election was ‘rigged’ is making an *extraordinary* claim, one that must be supported by persuasive and verifiable evidence” (emphasis in the original).

15. “Leaving no doubt about our view of the credibility of claims such as those advanced by Defendants, we stated:

We are aware of alarming assertions being made that the 2020 election was “rigged” by exploiting technical vulnerabilities. However, in every case of which we are aware, these claims either have been unsubstantiated or are technically incoherent. To our collective knowledge, no credible evidence has been put forth that supports a conclusion that the 2020 election outcome in any state has been altered through technical compromise.

16. “During the same period, state and federal authorities also affirmed that they were unaware of any credible evidence that election results had been hacked.

17. “For example, on November 9 and 10, *The New York Times* contacted election officials in every state to ask whether they had seen evidence of fraud or other irregularities during the election. Officials in 49 states reportedly responded that they had not.⁶ (The remaining state,

⁶ N. Corasaniti, R. J. Epstein and J. Rutenberg, “The Times Called Officials in Every State: No Evidence of Voter Fraud,” *The New York Times* (Nov. 10, 2020). Available at <https://www.nytimes.com/2020/11/10/us/politics/voting-fraud.html>.

Texas, did not respond.) Numerous elected leaders and election officials have repeated as much in their own public statements.

18. “On November 12, 2020, the Cybersecurity and Infrastructure Security Agency (CISA, the Federal agency that oversees election infrastructure security) released a joint statement from the Elections Infrastructure Government Coordinating Council and the Election Infrastructure Sector Coordinating Executive Committees that stated, “There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.”⁷ The statement was signed by CISA Assistant Director Bob Kolasky, U.S. Election Assistance Commission Chair Benjamin Hovland, National Association of Secretaries of State President Maggie Toulouse Oliver, and National Association of State Election Directors President Lori Augino, as well as by representatives from major election equipment manufacturers.

19. “On December 1, 2020, Attorney General William Barr reportedly told the Associated Press that U.S. attorneys and FBI agents had been working to investigate specific complaints of alleged irregularities in the election, but “to date, we have not seen fraud on a scale that could have effected a different outcome in the election.”⁸

20. “Today, almost ten months after the election and following numerous audits and investigations, I am still unaware of any credible evidence whatsoever that the 2020 Presidential election outcome was altered by technical manipulation.

⁷ “Joint Statement from Elections Infrastructure Government Coordinating Council and the Election Infrastructure Sector Coordinating Executive Committees” (Nov. 12, 2020). Available at <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

⁸ M. Balsamo, “Disputing Trump, Barr says no widespread election fraud,” The Associated Press (Dec. 1, 2020). Available at <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

Oltmann's Claims About Dr. Coomer Were Clearly Not Credible

21. “In the aftermath of the election, virtually every election security expert and election official who weighed in stated that claims that the Presidential outcome had been hacked were unsubstantiated or not credible. Nevertheless, Defendants ignored these authorities and instead chose to promote incredible conspiracy theories, such as those advanced by Defendant Joseph Oltmann.

22. “Shortly after Election Day, Oltmann began to advance wildly speculative theories that Dr. Coomer had personally engaged in a criminal conspiracy to somehow rig the election against Donald Trump. Oltmann voiced these theories on his *Conservative Daily Podcast* program, in media interviews with other Defendants, and in an affidavit dated November 13, 2020.⁹

23. “Oltmann has no discernable expertise in election security. According to his affidavit, he is a businessman and political activist, but he indicates no prior experience with election administration or computer security. Without such expertise, he was unqualified to assess whether Dr. Coomer plausibly could have engaged in a plot to rig the election.

24. “Nevertheless, Oltmann claimed that in late September, he attended an “Antifa” conference call on which a person named “Eric,” identified by another participant as “the Dominion guy,” stated, “Don’t worry about the election. Trump is not going to win. I made f— sure of it. Hahaha.”¹⁰ Only after the election, Oltmann states, did he begin to associate “Eric” with Dr. Coomer.

⁹ Affidavit of Joseph T. Oltmann (Nov. 13, 2020). Available at <https://voterga.files.wordpress.com/2020/12/joseph-oltmann-affidavit.pdf>.

¹⁰ *Id.* at p. 2.

25. “It is implausible on its face that Dr. Coomer ever made such a statement. Even if someone in Dr. Coomer’s position had the ability to manipulate election results, the success of a plot to “rig” the Presidential election would have been far from assured. It would have been impossible to predict several weeks in advance where cheating would have to occur, and by how much, to swing the Presidential outcome. (At the time, polls had President Biden winning by an even larger electoral margin that he eventually received.¹¹) Such cheating would have required complex manipulation of highly monitored systems across multiple states. The detection and thwarting of the attempt (and subsequent prosecution of the perpetrators) would have been likely, so keeping the plan a secret would have been a constant concern. It would have been the height of cartoonish buffoonery to claim to a large group that such a scheme was in the works, much less that it was guaranteed to prevail.

26. “Oltmann further states in his affidavit that he “started digging into the code irregularities and tying all of the pieces together with the irregularities and the Dominion uses in the disputed states. The correlation was astonishing.”¹² Oltmann offers no explanation for what he means by “the code irregularities” or for what “correlation” he found surprising or why. In my experience, claims such as Oltmann’s, that assert to have found “proof” of an improbable event by connecting the dots among widely disparate pieces of evidence in an ill-defined manner, are characteristic of “crackpot” conspiracy theories. This should have cast doubt on the entirety of Oltmann’s allegations in the mind of any responsible party.

¹¹ FiveThirtyEight, “2020 Election Forecast” (Nov. 3, 2020). Available at <https://projects.fivethirtyeight.com/2020-election-forecast/>.

¹² Oltmann affid. at p. 5-6.

27. “Oltmann’s affidavit goes on to say, “I then found the information related to justifying voting machines being online and his justification that they had ‘hardware and IP address protection’. This statement by itself is FALSE.” It appears here that he is referring to the fact that, in certain jurisdictions, ballot scanners are sometimes connected to the Internet or to a private external network for purposes of returning unofficial election results. This practice is supported by some models of equipment from Dominion and from other vendors. I and many other experts consider this practice to be a security risk, although vendors like Dominion point to technical mitigations they have put in place, such as IP address filtering. While I disagree that these mitigations are sufficient to outweigh remaining security concerns, the practice is obviously motivated by market demand (many jurisdictions find online results transmission convenient) rather than by malicious intent. And once again, the existence of security risks, including those due to electronic vote transmission, is not evidence that those risks were actually exploited by anyone, let alone by Dr. Coomer.

28. “Oltmann, in his affidavit and elsewhere, implied that he had data analysis expertise and had statistical evidence that the election results were fraudulent. For example, in the November 6, 2020 *Conservative Daily Podcast* program, he asserted that application of Benford’s law (a property of the frequency distribution of leading digits in many kinds of natural data) showed election results from precincts in Fulton County, Georgia and elsewhere had been fabricated. Statistical experts debunked this notion at least as early as November 10, 2020.¹³ Benford’s law does not apply to such data for the simple reason that precincts within a small

¹³ W. Mebane, “Inappropriate Applications of Benford’s Law Regularities to Some Data from the 2020 Presidential Election in the United States” (Nov. 10, 2020). Available at <http://websites.umich.edu/~wmebane/inapB.pdf>.

jurisdiction, such as an individual county, tend to be approximately equal in size and to have similar vote shares among the candidates. As a result, the leading digits in the results have a different distribution from the one that Benford's law would predict, even in the absence of fraud. This early debunking should have cast further doubt on the reliability of Oltmann's theories.

29. "Oltmann's affidavit further claims:

I used ARIMA analysis to show me trends on data and probability models to prove that they were in fact using code and technology to ghost voters, switch votes or even remove probable ballots completely. Code is random unless it is not. Since we are a data company and understand artificial intelligence and use of neural networks, we understand the capabilities of creating chaos in outcome based on weighted density of probable voters.¹⁴

Auto-regressive integrated moving average (ARIMA) modeling is a method of using time-series data for forecasting. Oltmann does not explain how he applied it, or to what data. He does not explain how ARIMA analysis could possibly offer "proof" that the election results were fraudulent, much less how it could prove the fraud was perpetrated by "code and technology" as opposed to some other means. Oltmann's statement is remarkable in that it clothes vague and unsubstantiated reasoning in scientific-sounding terms—such as "ARIMA analysis", "artificial intelligence", "neural networks", chaos theory, and "weighted density." In my experience, this is a red flag that indicates claims are likely based on quackery and junk science.

30. "The errors, gaps, and indicators of charlatanism in Oltmann's statements, together with his lack of election security expertise, should have rendered his claims about Dr. Coomer

¹⁴ Oltmann affid. at p. 6.

non-credible to any responsible party, but other Defendants nonetheless chose to promote them on the national stage.

Defendants Promoted False and Implausible Theories

31. “Defendants seem never to have fully articulated any coherent explanation for how Dr. Coomer could have influenced the election result. The vague vote-rigging theories they did offer seem to have centered around two main themes, both readily debunked.

32. “The first was that Dominion voting equipment, in the words of Defendant Sidney Powell, had the “ability to weight votes, which is essentially to run an algorithm to shave votes, or part of a vote, from one candidate and give it to another.”¹⁵ Powell stated during the November 19, 2020, Trump Campaign news conference that, “It’s not just the swing states that were affected. The algorithm was likely run across the country to affect the entire election.”¹⁶

33. “While it is true that some older voting systems had a feature that could be configured to assign different weights to votes from different voters¹⁷ (for use in certain exotic kinds of elections) these systems were not widely used in any of the closely contested states in 2020. The Dominion machines that were in widespread use do not contain this feature and cannot be configured to “weight” votes.

34. “In any event, had votes been weighted or otherwise tampered with by a computer algorithm during counting, this would have been detected in jurisdictions that counted ballots by

¹⁵ Deposition of Sidney Powell and Sidney Powell, P.C. (July 20, 2021), Tr. at 39:14-16.

¹⁶ Trump Campaign News Conference on Legal Challenges (Nov. 19, 2020), Tr. at 32:25-33:3.

¹⁷ B. Harris, “Fraction Magic,” Black Box Voting (May 12, 2016). Available at <https://blackboxvoting.org/fraction-magic-2/>.

hand during post-election audits and recounts, since then the manual counts would differ significantly from the electronic totals. Georgia announced the results of a complete hand count of the Presidential contest on the same day that Powell spoke at the news conference, without finding evidence of fraud.¹⁸ Later manual audits in Michigan, Wisconsin, Arizona, and Pennsylvania also found no evidence of fraud.

35. “Other vote-rigging theories that Defendants espoused centered around a feature of the Dominion system known as electronic adjudication. As summarized by Powell, the theory was that electronic adjudication “enables an individual to take a massive amount of votes, throw them in an adjudication file, and then assign them however they want—to assign them to a candidate or to trash them or do whatever they want to with them.”¹⁹ At the same Trump Campaign news conference, Powell claimed to have evidence “in a number of states of massive quantities of Trump votes being trashed, just simply put in the trash like you would on your computer with any file, and Biden votes being injected.”²⁰

36. “These theories appear to have originated from Ronald Watkins. Watkins is not an expert in election security; however, he is notorious for reportedly being a mastermind of the QAnon conspiracy theory.²¹ He filed declarations related to the Dominion adjudication system in

¹⁸ Georgia Secretary of State’s Office, “Historic First Statewide Audit of Paper Ballots Upholds Results of Presidential Race” (Nov. 19, 2020). Available at https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race.

¹⁹ Powell Depo. at 39:10-13.

²⁰ Tr. at 34:12-15

²¹ D. Harwell and C. Timberg, “A QAnon revelation suggests the truth of Q’s identity was right there all along,” *The Washington Post* (Apr. 5, 2021). Available at <https://www.washingtonpost.com/technology/2021/04/05/ron-watkins-qanon-hbo/>.

voter fraud lawsuits in Arizona, Michigan, and Wisconsin.²² These declarations give no indication that Watkins ever tested Dominion equipment nor even observed it in use. The sole basis for his conclusions appears to be his having reviewed certain publicly available user manuals and purchasing contracts relating to Dominion systems. In a highly technical subject area such as election security, conclusions drawn by a non-expert on such a limited basis demand a high degree of skepticism.

37. “Watkins’s central claim, as detailed in his declarations, is that Dominion’s electronic adjudication system promotes large-scale fraud:

The software is designed, whether with malicious intent or through plain incompetence, in such a way so as to facilitate digital ballot stuffing via simple vote result manipulation and abuse of the digital adjudication manual review system. Specifically, the Dominion Democracy Suite both enables voter fraud by unethical officials out to undermine the will of the people and facilitates tabulation errors by honest officials making simple, nearly untraceable mistakes.²³

38. “These claims reveal Watkins’s lack of familiarity with election technology and procedures. In fact, electronic adjudication is a process designed to *reduce errors* and is *highly traceable*. Far from being unique to Dominion (or even invented by Dr. Coomer, as some Defendants suggested), it is a feature long offered by voting systems from every major vendor.

²² Declaration of Ronald Watkins, filed Dec. 02, 2020, Civil Action No. 2:20-cv-023221-DJH; *Bowyer, et al. v Ducey, et al.*; In the United States District Court for the District of Arizona [Dkt. 1-6]; Declaration of Ronald Watkins, filed Nov. 25, 2020, Civil Action No. 2:20-cv-13134-LVP-RSW; *King, et al. v. Whitmer, et al.*; In the United States District Court for the Eastern District of Michigan [Dkt. 1-16], filed Nov. 25, 2020; and Declaration of Ronald Watkins, filed Dec. 1, 2020, Case No. 2:20-cv-1771; *Feehan, et al. v. Wisconsin Elections Commission, et al.*; In the United States District Court for the Eastern District of Wisconsin. See Exs. O-2, O-3, and O-4, respectively, attached and incorporated herein for all purposes.

²³ Ex. O-3 at ¶ 3.

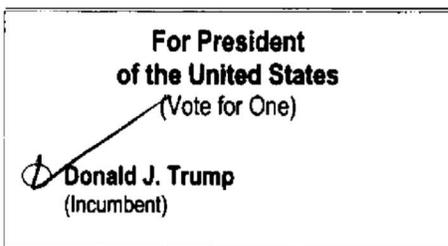
39. “Ballot scanners operate by measuring the degree of shading within voting targets, the ovals or rectangles that voters fill in to make their selections. When voters follow the ballot instructions and fill in the targets completely, scanners can process their ballots automatically with very high accuracy. However, some voters do not follow the instructions. For example, they may make exes or check marks for their chosen candidates. In these cases, the scanner may be unable to determine whether a target contains a valid mark. At in-person polling places, scanners can be programmed to return problem ballots to voters for correction, but for ballots that are scanned remotely, such as mail-in ballots, there is no opportunity to let voters fix problems, so ballots with ambiguous marks require human review.

40. “This review process is called adjudication. Adjudication procedures vary by jurisdiction, but the process typically is conducted by a vote review panel that involves bipartisan participation or monitoring and public observation.

41. “Adjudication can be performed manually or electronically, depending on the jurisdiction. In an electronic adjudication system, the vote review panel examines ballot scans on a computer screen rather than the original pieces of paper. This both expedites the process and facilitates the creation of detailed electronic records reflecting every adjudication decision. Dominion’s adjudication system preserves the original ballot image file and attaches a log that shows the scanner’s interpretation of the votes as well as any subsequent changes made by the vote review panel, a feature that Dominion calls AuditMark.²⁴ Additional log files record every time a ballot is flagged for adjudication and each adjudication system action.

²⁴ Dominion, “AuditMark Brochure.” Available at <https://www.votescount.us/Portals/16/New%20voting%20system/AuditMark%20Brochure%20-%20final.pdf>.

42. “The figure below shows excerpts from a real adjudicated ballot that was cast on a Dominion scanner in Georgia during the 2020 Presidential primary. At left is the voter’s mark in the Presidential contest, which was ambiguous because the oval was not filled in completely. The AuditMark record (portions of which are shown on the right) indicates that the scanner would have interpreted the contest as blank but that, during adjudication at 8:42 PM on election night, it was corrected to a vote for Donald Trump.



Scanned on: ICC Tabulator: 410 Batch: 400
Poll ID: 61 Ballot ID: 117

REP - President of the United States
BLANK CONTEST

Adjudicated at 8:42 PM on 6/9/2020 by emsadmin01

REP - President of the United States
Adjudicated Vote for Donald J. Trump (I) (100%)

43. “Defendants have persistently mischaracterized adjudication to support their conspiracy theories concerning Dr. Coomer. For example, on November 23, 2020, Defendant Chanel Rion prominently featured Watkins in a program entitled “Dominion-izing the Vote.” Rion stated that adjudication “would allow enormous batches [of ballots] by the hundreds of thousands to be decided on by a few unmonitored workers.” Watkins, referring to the vote review panel, told Rion, “your votes doesn’t matter in these districts with the Dominion machines in them, because these two-to-six people trained by Dominion have ultimate control.” Rion concluded the segment by wondering aloud, “to what extent was this actually designed by the top on purpose?” This segue led into an interview with Oltmann that focused on Dr. Coomer. Rion also stated that Coomer “holds several patents with Dominion” regarding adjudication.

44. “This is an absurd mischaracterization of the adjudication process. Use of adjudication certainly does not mean “your vote doesn’t matter”; on the contrary, it provides added assurance that if you make a common mistake, like the one shown in the figure above, your vote will *still* count.

45. “It would not be feasible to use adjudication to change or discard “enormous batches” of ballots without detection. First, jurisdictions typically use ballot reconciliation procedures to track the number of ballots cast, independently of the electronic adjudication process. They compare the number of ballots that were counted (according to the election results) with the number of voters who voted (according to the voter registration system). Deleting ballots flagged for adjudication would cause these counts to differ and prompt officials to investigate.

46. “Second, as I have explained, vote review panels typically involve bipartisan participation or monitoring, and every decision the reviewers make is subject to extensive electronic logging. There is also no “mass adjudication” feature; the review panel must inspect ballots one at a time and make any necessary corrections to each before saving it and moving on. Even if the entire vote review panel (and any observers) conspired to commit fraud, manually clicking through hundreds of thousands of ballots to alter the Presidential votes would likely take days, and it would leave clear traces in multiple sets of data files and logs.

47. “Finally, like cheating due to an “algorithm”, large-scale cheating via adjudication would be revealed in manual recounts and post-election audits of the original paper ballots. Several states have conducted such reviews without detecting any evidence of fraud.

48. “Defendants have referred to patents relating to adjudication that list Dr. Coomer as an inventor, seemingly to give the impression that he introduced electronic adjudication

capabilities for the purpose of facilitating fraud. In fact, Dr. Coomer did not invent electronic adjudication. The concept has long been applied and is a feature offered by all major election equipment vendors. The only adjudication-related patents I have been able to locate that list Dr. Coomer as an inventor are US8913787B2 and US9202113B2, both entitled “Ballot adjudication in voting systems utilizing ballot images” and having substantially similar claims. A close reading of those claims shows that the patents relate to an *improvement* to electronic adjudication that makes it even more traceable: appending information about the adjudicated result to the image of the ballot, as shown in the figure above. Like adjudication generally, there is nothing sinister about this invention. It does not make fraud easier; it makes it *easier to detect*. This should have been obvious to Defendants from the patents alone, and credible experts in election security or election administration could have explained it had Defendants consulted them.

Events in Antrim County, Michigan Do Not Support Defendants’ Theories

49. “Defendants have frequently referenced the publication of erroneous election-night results in Antrim County, Michigan as evidence for their vote-rigging theories. It is no such thing.

50. “In Antrim County, there were major errors in the initial, unofficial election-night results. County officials quickly discovered and corrected these problems. County and state officials also quickly explained, correctly, that the problems were caused by human error and not by any kind of fraud or security breach.²⁵

²⁵ Michigan Secretary of State’s Office, “False claims from Ronna McDaniel have no merit” (Nov. 6, 2020). Available at <https://www.michigan.gov/sos/0,4670,7-127-93094-544676--,00.html>.

51. “In response to a lawsuit that alleged that the Antrim County results were fraudulent,²⁶ the Michigan Secretary of State and the Department of Attorney General tasked me with performing a forensic investigation of the incident to independently confirm what had happened. Using data from the election system, I precisely accounted for the discrepancies and confirmed that they were in fact caused by operator error arising from the county’s mishandling of last-minute ballot design changes. I was also able to determine that the discrepancies in the Presidential result had been fully corrected. Election officials further confirmed this with a county-wide hand count of the Presidential votes. I submitted a detailed expert report that explains how the incident occurred and recommends improvements to election technology, training, and procedures to guard against similar problems in future elections.²⁷

52. “Defendants instead point to an expert report by Russell J. Ramsland Jr. as proof of their conspiracy claims.²⁸ Ramsland’s conclusions are not credible. His report contains an extraordinary number of false, inaccurate, or unsubstantiated statements and conclusions, the most serious of which I refute in my expert report referenced above.²⁹ Many of his errors were also quickly publicly debunked, and his conclusions should have been suspect even to non-experts.

53. “Ramsland’s central contention in the report is that “the Dominion Voting System is intentionally and purposefully designed with inherent errors to create systemic fraud and

²⁶ *William Bailey v. Antrim County*, 13th Circuit Court, Michigan, Case No. 2020-9238 CZ.

²⁷ J. A. Halderman, “Analysis of the Antrim County, Michigan November 2020 Election Incident” (Mar. 26, 2021). Available at https://www.michigan.gov/documents/sos/Antrim_720623_7.pdf.

²⁸ R. J. Ramsland Jr., “Antrim Michigan Forensics Report – Revised Preliminary Summary, v2” (Dec. 13, 2020). Available at [https://www.depernow.com/uploads/2/7/0/2/27029178/antrim_michigan_forensics_report_\[121320\]_v2_\[redacted\].pdf](https://www.depernow.com/uploads/2/7/0/2/27029178/antrim_michigan_forensics_report_[121320]_v2_[redacted].pdf).

²⁹ Halderman analysis at §5.

influence election results.” His reasoning is that the system intentionally generates many errors while scanning ballots in order to cause the images of the ballots to be subject to electronic adjudication, during which the votes can be manually edited. This provides an opportunity, Ramsland claims, for a malicious operator to change votes without being detected. Citing a forensic examination he conducted, Ramsland claims that a “staggering number of votes [in Antrim] required adjudication,” and that “all adjudication log entries for the 2020 election cycle are missing” and must “have been manually removed.”

54. “In fact, *no* ballots in Antrim County were altered through electronic adjudication. We know this for the simple reason that Antrim County’s Dominion system was not capable of performing electronic adjudication at all. Electronic adjudication is an optional feature of the Dominion system, and Antrim County did not purchase it. The forensic evidence clearly shows that the functionality was not installed on Antrim’s systems. There are no adjudication logs because electronic adjudication was not used. In any case, the County’s final Presidential totals exactly match the results that were printed by each individual scanner before electronic adjudication could have taken place, and the results were further confirmed by a county-wide hand-count of the paper ballots.

55. “Any competent expert would have recognized that whether Antrim County practiced electronic adjudication was a threshold question for the adjudication vote-rigging claim. Ramsland seems to have been either ignorant about the basic operation of Dominion’s technology or to have disregarded the truth in favor of a fictional narrative to support this outlandish theory.

Post-Election Audits Provide Strong Evidence Against Hacking

56. “Beyond the lack of credible evidence that the 2020 Presidential election *was* hacked, there is strong evidence that the election outcome was *not* hacked by Dr. Coomer or anyone else. The strongest affirmative evidence comes from voters’ paper ballots, which cannot be retroactively changed by computers. Five of the six states that Donald Trump most narrowly lost used paper ballots state-wide: Georgia, Arizona, Wisconsin, Pennsylvania, and Michigan. All five states conducted post-election audits that involved people inspecting paper ballots by hand. None found evidence that the election outcome was wrong.

- a) Georgia conducted a statewide hand-count of the Presidential contest that found no significant discrepancy from the reported statewide totals.³⁰
- b) In Arizona, Maricopa County (home to 62% of the state’s population and the only county that used Dominion equipment³¹) hand-counted 5000 early votes from 26 randomly selected batches and all votes in a randomly selected 2% of polling places.³² There were zero discrepancies.
- c) Wisconsin hand-counted more than 145,000 ballots, corresponding to 5% of all reporting units statewide, and found “no evidence that any voting equipment [...] changed votes from one candidate to another, incorrectly tabulated votes, or altered vote totals in any way.”³³
- d) Pennsylvania conducted a risk-limiting audit (RLA) exercise involving 63 of 67 counties, in which workers reviewed a random sample of 45,000 ballots. According to the Secretary of State’s office, “the sample mirrored the reported presidential election results across the participating counties

³⁰ Georgia Secretary of State’s Office, “2020 General Election Risk-Limiting Audit.” Available at https://sos.ga.gov/index.php/elections/2020_general_election_risk-limiting_audit.

³¹ Verified Voting, “The Verifier — Polling Place Equipment in Arizona — November 2020.” <https://verifiedvoting.org/verifier/#mode/navigate/map/ppEquip/mapType/normal/year/2020/state/4>.

³² Maricopa County, “General Election – November 3, 2020 Hand County/Audit Report.” Available at https://azsos.gov/sites/default/files/2020_General_Maricopa_Hand_Count.pdf.

³³ Wisconsin Elections Commission, “2020 Post-Election Voting Equipment Audit Final Report” (Feb. 3, 2021). Available at <https://elections.wi.gov/sites/elections.wi.gov/files/2021-02/2020%20Voting%20Equipment%20Audit%20Report.pdf>.

within a fraction of a percentage point, providing strong evidence of the accuracy of the vote count.”³⁴

- e) Michigan conducted a similar RLA exercise in which 18,000 randomly selected ballots from more than 1300 local jurisdictions were manually inspected, and the state oversaw a complete hand-count of the Presidential contest in one county, Antrim. There was no evidence of fraud or significant error.³⁵

57. “Although these audits do not fully meet the rigorous standard for post-election audits that I and many other election security experts recommend (a risk-limiting audit of hand-marked paper ballots that achieves a high risk-limit), they nevertheless severely constrain the set of possible attacks that could have occurred without detection. It is highly unlikely that an attack that altered enough votes in enough of these states to change the winner of the 2020 Presidential election would have evaded detection in every one of these audits.

58. “The U.S. has made important progress in election security over the past five years. Although weaknesses remain that need to be better addressed, their existence does not make every assertion of fraud a plausible one, and it certainly does not vindicate Defendants’ baseless allegations that Dr. Coomer “rigged” the 2020 Presidential election or ever boasted that he did to a group of “Antifa” members. Indeed, the Defendants allegations regarding Dr. Coomer remain, in my opinion, inherently improbable to this day. Ironically, almost ten months after Election Day, the only attack on the Presidential result for which there is credible evidence is the one perpetrated

³⁴ Pennsylvania Secretary of State’s Office, “Risk-Limiting Audit Pilot of November 2020 Presidential Election Finds Strong Evidence of Accurate Count” (Feb. 5, 2021). Available at <https://www.media.pa.gov/pages/state-details.aspx?newsid=453>.

³⁵ Michigan Secretary of State’s Office, “Audits of the November 3, 2020 General Election” (Apr. 21, 2021). Available at https://www.michigan.gov/documents/sos/BOE_2020_Post_Election_Audit_Report_04_21_21_723005_7.pdf.

by Defendants and others like them, who spread lies and distortions to undermine the legitimate winner and advance their own political ends.

59. “I declare under penalty of the perjury laws of the State of Colorado and the United States that the foregoing is true and correct and that this declaration was executed this 31st day of August, 2021 in Ann Arbor, Michigan.”



J. ALEX HALDERMAN, Declarant

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>ERIC COOMER, Ph.D., Plaintiff</p> <p>vs.</p> <p>DONALD J. TRUMP FOR PRESIDENT, INC., et al., Defendants</p>	
<p>Attorneys for Plaintiff Charles J. Cain, No. 51020 ccain@cstrial.com Steve Skarnulis, No. 21PHV6401 skarnulis@cstrial.com Bradley A. Kloewer, No. 50565 bkloewer@cstrial.com Zachary H. Bowman, No. 21PHV6676 zbowman@cstrial.com CAIN & SKARNULIS PLLC P. O. Box 1064 Salida, Colorado 81201 719-530-3011/512-477-5011 (Fax)</p> <p>Thomas M. Rogers III, No. 28809 trey@rklawpc.com Mark Grueskin, No. 14621 mark@rklawpc.com Andrew E. Ho, No. 40381 andrew@rklawpc.com RechtKornfeld PC 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900/303-446-9400 (Fax)</p>	<p>Case Number: 2020cv034319</p> <p>Division Courtroom: 409</p>
<p>EXHIBIT O-1</p>	

J. Alex Halderman

Professor, Computer Science and Engineering
University of Michigan

April 20, 2021

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Research Overview

My research focuses on computer security and privacy, with an emphasis on problems that broadly impact society and public policy. Topics that interest me include software security, network security, data privacy, anonymity, surveillance, election cybersecurity, censorship resistance, computer forensics, ethics, and cybercrime. I'm also interested in the interaction of technology with politics and international affairs.

Selected Projects

'20: Human factors limit BMD verifiability	'13: ZMap Internet-wide network scanner
'19: Leading Michigan Election Security Taskforce	'12: Widespread weak keys in network devices
'18: Commercial launch of Censys, Inc.	'11: Anticensorship in the network infrastructure
'17: Testimony to U.S. Senate Russia investigation	'10: Hacking Washington D.C.'s Internet voting
'17: Weaknesses in TLS interception middleboxes	'10: Vulnerabilities in India's e-voting machines
'16: U.S. presidential election recounts	'09: Analysis of China's Green Dam censorware
'16: Let's Encrypt HTTPS certificate authority	'09: Fingerprinting paper with desktop scanners
'16: DROWN: Attacking TLS with SSLv2	'08: Cold-boot attacks on encryption keys
'15: Weak Diffie-Hellman and the Logjam attack	'07: California's "top-to-bottom" e-voting review
'14: Understanding Heartbleed's aftermath	'07: Machine-assisted election auditing
'14: Security problems in full-body scanners	'06: The Sony rootkit: DRM's harmful side effects
'14: Analysis of Estonia's Internet voting system	'03: Analysis of MediaMax "shift key" DRM

Positions

- University of Michigan, Ann Arbor, MI
Department of Electrical Engineering and Computer Science,
Computer Science and Engineering Division
Professor ... (2016–present)
Associate Professor ... (2015–2016)
Assistant Professor ... (2009–2015)
Director, Center for Computer Security and Society (2014–present)
- ISRG; Co-founder and Board Member (2013–present)
- Censys; Co-founder and Chief Scientist (2017–2020)

Education

- Ph.D. in Computer Science, Princeton University, June 2009
Advisor: Ed Felten Committee: Andrew Appel, Adam Finkelstein, Brian Kernighan, Avi Rubin
Thesis: *Investigating Security Failures and their Causes: An Analytic Approach to Computer Security*
- A.B. in Computer Science, *summa cum laude*, Princeton University, June 2003

Honors and Awards

- Best Student Paper Award of the 41st IEEE Symposium on Security and Privacy for “Can Voters Detect Malicious Manipulation of Ballot Marking Devices?” (2020)
- President’s Award for National and State Leadership, University of Michigan (2020)
- Andrew Carnegie Fellowship (2019)
- Merit Network’s Eric Aupperle Innovation Award (2017)
 (“named for Merit’s first president, recognizes individuals that enhance their work by using networking and related technologies in exciting ways”)
- Pwnie Award in the category of “Best Cryptographic Attack” for “DROWN: Breaking TLS using SSLv2,” Black Hat 2016
- Finalist for 2016 Facebook Internet Defense Prize for “DROWN: Breaking TLS using SSLv2”
- Named one of Popular Science’s “Brilliant 10” (2015) (“each year *Popular Science* honors the brightest young minds reshaping science, engineering, and the world”)
- Best Paper Award of the 22nd ACM Conference on Computer and Communications Security for “Imperfect Forward Secrecy: How Diffie-Hellman Fails in Practice” (2015)
- Pwnie Award in the category of “Most Innovative Research” for “Imperfect Forward Secrecy: How Diffie-Hellman Fails in Practice,” Black Hat 2015
- IRTF Applied Networking Research Prize for “Neither Snow Nor Rain Nor MITM. . . An Empirical Analysis of Email Delivery Security” (2015)
- Alfred P. Sloan Research Fellowship (2015)
- University of Michigan College of Engineering 1938 E Award (2015) (“recognizes an outstanding teacher in both elementary and advanced courses, an understanding counselor of students who seek guidance in their choice of a career, a contributor to the educational growth of the College, and a teacher whose scholarly integrity pervades his/her service and the profession of Engineering”)
- Morris Wellman Faculty Development Assistant Professorship (2015)
 (“awarded to a junior faculty member to recognize outstanding contributions to teaching and research”)
- Best Paper Award of the 14th ACM Internet Measurement Conference for “The Matter of Heartbleed” (2014)
- Best Paper Award of the 21st USENIX Security Symposium for “Mining Your Ps and Qs: Detection of Widespread Weak Keys in Network Devices” (2012)
- Runner-up for 2012 PET Award for Outstanding Research in Privacy Enhancing Technologies for “Telex: Anticensorship in the Network Infrastructure” (2012)
- John Gideon Memorial Award from the Election Verification Network for contributions to election verification (2011)
- Best Student Paper Award of the 17th USENIX Security Symposium for “Lest We Remember: Cold Boot Attacks on Encryption Keys” (2008)

- Pwnie Award in the category of “Most Innovative Research” for “Lest We Remember: Cold Boot Attacks on Encryption Keys,” Black Hat 2008
- Charlotte Elizabeth Procter Honorific Fellowship, Princeton University (2007) (“awarded in recognition of outstanding performance and professional promise, and represents high commendation from the Graduate School”)
- National Science Foundation Graduate Research Fellowship (2004–2007)
- **Best Paper Award** of the 8th International Conference on 3D Web Technology for “Early Experiences with a 3D Model Search Engine” (2003)
- Princeton Computer Science Department Senior Award (2003)
- Accenture Prize in Computer Science, Princeton University (2002)
- Martin A. Dale Summer Award, Princeton University (2000)
- USA Computing Olympiad National Finalist (1996 and 1997)

Refereed Conference Publications

- [1] **Security Analysis of the Democracy Live Online Voting System**
Michael A. Specter and J. A. Halderman
To appear in *Proc. 30th USENIX Security Symposium*, Aug. 2021.
- [2] **Investigating Large-Scale HTTPS Interception in Kazakhstan**
Ram Sundara Raman, Leonid Evdokimov, Eric Wustrow, J. A. Halderman and Roya Ensafi
Proc. 20th ACM Internet Measurement Conference (IMC), Oct. 2020.
Acceptance rate: 25%, 53/216.
- [3] **Running Refraction Networking for Real**
Benjamin VanderSloot, Sergey Frolov, Jack Wampler, Sze Chuen Tan, Irv Simpson, Michalis Kallitsis, J. A. Halderman, Nikita Borisov, and Eric Wustrow
Proc. 20th Privacy Enhancing Technologies Symposium (PETS), July 2020.
Acceptance rate: 22%, 54/250.
- [4] **Characterizing Transnational Internet Performance and the Great Bottleneck of China**
Pengxiong Zhu, Keyu Man, Zhongjie Wang, Zhiyun Qian, Roya Ensafi, J. A. Halderman, and Haixin Duan
Proc. ACM SIGMETRICS, June 2020.
- [5] **Can Voters Detect Malicious Manipulation of Ballot Marking Devices?**
Matthew Bernhard, Allison McDonald, Henry Meng, Jensen Hwa, Nakul Bajaj, Kevin Chang, and J. A. Halderman
Proc. 41st IEEE Symposium on Security and Privacy (“Oakland”), May 2020.
Acceptance rate: 12%, 104/841.
Best student paper award.

- [6] **Let's Encrypt: An Automated Certificate Authority to Encrypt the Entire Web**
Josh Aas, Richard Barnes, Benton Case, Zakir Durumeric, Peter Eckersley, Alan Flores-López, J. A. Halderman, Jacob Hoffman-Andrews, James Kasten, Eric Rescorla, Seth Schoen, and Brad Warren
Proc. 26th ACM Conference on Computer and Communications Security (CCS), Nov. 2019.
Acceptance rate: 16%, 117/722.
- [7] **Conjure: Summoning Proxies from Unused Address Space**
Sergey Frolov, Jack Wampler, Sze Chuen Tan, J. A. Halderman, Nikita Borisov, and Eric Wustrow
Proc. 26th ACM Conference on Computer and Communications Security (CCS), Nov. 2019.
Acceptance rate: 16%, 117/722.
- [8] **UnclearBallot: Automated Ballot Image Manipulation**
Matthew Bernhard, Kartikeya Kandula, Jeremy Wink, and J. A. Halderman
Proc. 4th International Joint Conference on Electronic Voting (E-Vote-ID), October 2019.
Acceptance rate: 29%, 13/45.
- [9] **On the Usability of HTTPS Deployment**
Matthew Bernhard, Jonathan Sharman, Claudia Ziegler Acemyan, Philip Kortum, Dan S. Wallach, and J. A. Halderman
Proc. ACM Conference on Human Factors in Computing Systems (CHI), May 2019.
Acceptance rate: 24%, 705/2958.
- [10] **403 Forbidden: A Global View of Geoblocking**
Allison McDonald, Matthew Bernhard, Benjamin VanderSloot, Will Scott, J. A. Halderman, and Roya Ensafi
Proc. 18th ACM Internet Measurement Conference (IMC), October 2018.
Acceptance rate: 24%, 43/174.
- [11] **Quack: Scalable Remote Measurement of Application-Layer Censorship**
Benjamin VanderSloot, Allison McDonald, Will Scott, J. A. Halderman, and Roya Ensafi
Proc. 27th USENIX Security Symposium, August 2018.
Acceptance rate: 19%, 100/524.
- [12] **Tracking Certificate Misissuance in the Wild**
Deepak Kumar, Zhengping Wang, Matthew Hyder, Joseph Dickinson, Gabrielle Beck, David Adrian, Joshua Mason, Zakir Durumeric, J. A. Halderman, and Michael Bailey
Proc. 39th IEEE Symposium on Security and Privacy ("Oakland"), May 2018.
Acceptance rate: 11%, 63/549.
- [13] **Initial Measurements of the Cuban Street Network**
Eduardo Pujol, Will Scott, Eric Wustrow, and J. A. Halderman
Proc. 17th ACM Internet Measurement Conference (IMC), London, November 2017.
Acceptance rate: 23%, 42/179.

- [14] **Public Evidence from Secret Ballots**
Matthew Bernhard, Josh Benaloh, J. A. Halderman, Ronald L. Rivest, Peter Y. A. Ryan, Philip B. Stark, Vanessa Teague, Poorvi L. Vora, and Dan S. Wallach
Proc. 2nd International Joint Conference on Electronic Voting (E-Vote-ID), Bregenz, Austria, October 2017.
- [15] **Understanding the Mirai Botnet**
Manos Antonakakis, Tim April, Michael Bailey, Matt Bernhard, Elie Bursztein, Jaime Cochran, Zakir Durumeric, J. A. Halderman, Luca Invernizzi, Michalis Kallitsis, Deepak Kumar, Chaz Lever, Zane Ma, Joshua Mason, Damian Menscher, Chad Seaman, Nick Sullivan, Kurt Thomas, and Yi Zhou
Proc. 26th USENIX Security Symposium, Vancouver, BC, August 2017.
Acceptance rate: 16%, 85/522.
- [16] **Security Challenges in an Increasingly Tangled Web**
Deepak Kumar, Zane Ma, Zakir Durumeric, Ariana Mirian, Joshua Mason, J. A. Halderman, and Michael Bailey
Proc. 26th World Wide Web Conference (WWW), April 2017.
Acceptance rate: 17%, 164/966.
- [17] **The Security Impact of HTTPS Interception**
Zakir Durumeric, Zane Ma, Drew Springall, Richard Barnes, Nick Sullivan, Elie Bursztein, Michael Bailey, J. A. Halderman, and Vern Paxson
Proc. 24th Network and Distributed Systems Symposium (NDSS), February 2017.
Acceptance rate: 16%, 68/423.
- [18] **Measuring Small Subgroup Attacks Against Diffie-Hellman**
Luke Valenta, David Adrian, Antonio Sanso, Shaanan Cohney, Joshua Fried, Marcella Hastings, J. A. Halderman, and Nadia Heninger
Proc. 24th Network and Distributed Systems Symposium (NDSS), February 2017.
Acceptance rate: 16%, 68/423.
- [19] **An Internet-Wide View of ICS Devices**
Ariana Mirian, Zane Ma, David Adrian, Matthew Tischer, Thasphon Chuenchujit, Tim Yardley, Robin Berthier, Josh Mason, Zakir Durumeric, J. A. Halderman, and Michael Bailey
Proc. 14th IEEE Conference on Privacy, Security, and Trust (PST), Auckland, NZ, December 2016.
- [20] **Implementing Attestable Kiosks**
Matthew Bernhard, J. A. Halderman, and Gabe Stocco
Proc. 14th IEEE Conference on Privacy, Security, and Trust (PST), Auckland, NZ, December 2016.
- [21] **A Security Analysis of Police Computer Systems**
Benjamin VanderSloot, Stuart Wheaton, and J. A. Halderman
Proc. 14th IEEE Conference on Privacy, Security, and Trust (PST), Auckland, NZ, December 2016.

- [22] **Measuring the Security Harm of TLS Crypto Shortcuts**
Drew Springall, Zakir Durumeric, and J. A. Halderman
Proc. 16th ACM Internet Measurement Conference (IMC), Santa Monica, November 2016.
Acceptance rate: 25%, 46/184.
- [23] **Towards a Complete View of the Certificate Ecosystem**
Benjamin VanderSloot, Johanna Amann, Matthew Bernhard, Zakir Durumeric, Michael Bailey, and J. A. Halderman
Proc. 16th ACM Internet Measurement Conference (IMC), Santa Monica, November 2016.
Acceptance rate: 25%, 46/184.
- [24] **DROWN: Breaking TLS using SSLv2**
Nimrod Aviram, Sebastian Schinzel, Juraj Somorovsky, Nadia Heninger, Maik Dankel, Jens Steube, Luke Valenta, David Adrian, J. A. Halderman, Viktor Dukhovni, Emilia Käsper, Shaanan Cohney, Susanne Engels, Christof Paar, and Yuval Shavitt
Proc. 25th USENIX Security Symposium, Austin, TX, August 2016.
Acceptance rate: 16%, 72/463.
Tied for highest ranked submission.
Pwnie award for best cryptographic attack.
Facebook Internet Defense Prize finalist.
- [25] **FTP: The Forgotten Cloud**
Drew Springall, Zakir Durumeric, and J. A. Halderman
Proc. 46th IEEE/IFIP International Conference on Dependable Systems and Networks (DSN), Toulouse, June 2016.
Acceptance rate: 22%, 58/259.
- [26] **Android UI Deception Revisited: Attacks and Defenses**
Earlence Fernandes, Qi Alfred Chen, Justin Paupore, Georg Essl, J. A. Halderman, Z. Morley Mao, and Atul Prakash
Proc. 20th International Conference on Financial Cryptography and Data Security (FC), Barbados, February 2016.
- [27] **Imperfect Forward Secrecy: How Diffie-Hellman Fails in Practice**
David Adrian, Karthikeyan Bhargavan, Zakir Durumeric, Pierrick Gaudry, Matthew Green, J. A. Halderman, Nadia Heninger, Drew Springall, Emmanuel Thomé, Luke Valenta, Benjamin VanderSloot, Eric Wustrow, Santiago Zanella-Béguelin, and Paul Zimmermann
Proc. 22nd ACM Conference on Computer and Communications Security (CCS), Denver, CO, October 2015.
Acceptance rate: 19%, 128/659.
Best paper award. Perfect review score.
Pwnie award for most innovative research.
CACM Research Highlight.

- [28] **Censys: A Search Engine Backed by Internet-Wide Scanning**
Zakir Durumeric, David Adrian, Ariana Mirian, Michael Bailey, and J. A. Halderman
Proc. 22nd ACM Conference on Computer and Communications Security (CCS), Denver, CO, October 2015.
Acceptance rate: 19%, 128/659.
- [29] **Neither Snow Nor Rain Nor MITM... An Empirical Analysis of Email Delivery Security**
Zakir Durumeric, David Adrian, Ariana Mirian, James Kasten, Elie Bursztein, Nicholas Lidzorski, Kurt Thomas, Vijay Eranti, Michael Bailey, and J. A. Halderman
Proc. 15th ACM Internet Measurement Conference (IMC), Tokyo, October 2015.
Acceptance rate: 26%, 44/169.
IRTF Applied Networking Research Prize winner.
- [30] **The New South Wales iVote System: Security Failures and Verification Flaws in a Live Online Election**
J. A. Halderman and Vanessa Teague
Proc. 5th International Conference on E-Voting and Identity (VoteID), Bern, Switzerland, September 2015.
- [31] **The Matter of Heartbleed**
Zakir Durumeric, Frank Li, James Kasten, Johanna Amann, Jethro Beekman, Mathias Payer, Nicolas Weaver, David Adrian, Vern Paxson, Michael Bailey, and J. A. Halderman
Proc. 14th ACM Internet Measurement Conference (IMC), November 2014.
Acceptance rate: 23%, 43/188
Best paper award.
Honorable mention for Best dataset award.
- [32] **Security Analysis of the Estonian Internet Voting System**
Drew Springall, Travis Finkenauer, Zakir Durumeric, Jason Kitcat, Harri Hursti, Margaret MacAlpine, and J. A. Halderman
Proc. 21st ACM Conference on Computer and Communications Security (CCS), Scottsdale, AZ, November 2014.
Acceptance rate: 19%, 114/585.
Highest ranked submission.
- [33] **Efficiently Auditing Multi-Level Elections**
Joshua A. Kroll, Edward W. Felten, and J. A. Halderman
Proc. 6th International Conference on Electronic Voting (EVOTE), Lochau, Austria, October 2014.
- [34] **Security Analysis of a Full-Body Scanner**
Keaton Mowery, Eric Wustrow, Tom Wypych, Corey Singleton, Chris Comfort, Eric Rescorla, Stephen Checkoway, J. A. Halderman, and Hovav Shacham
Proc. 23rd USENIX Security Symposium, San Diego, CA, August 2014.
Acceptance rate: 19%, 67/350.

- [35] **TapDance: End-to-Middle Anticensorship without Flow Blocking**
Eric Wustrow, Colleen Swanson, and J. A. Halderman
Proc. 23rd USENIX Security Symposium, San Diego, CA, August 2014.
Acceptance rate: 19%, 67/350.
- [36] **An Internet-Wide View of Internet-Wide Scanning**
Zakir Durumeric, Michael Bailey, and J. A. Halderman
Proc. 23rd USENIX Security Symposium, San Diego, CA, August 2014.
Acceptance rate: 19%, 67/350.
- [37] **Elliptic Curve Cryptography in Practice**
Joppe W. Bos, J. A. Halderman, Nadia Heninger, Jonathan Moore, Michael Naehrig, and Eric Wustrow
Proc. 18th Intl. Conference on Financial Cryptography and Data Security (FC), March 2014.
Acceptance rate: 22%, 31/138.
- [38] **Outsmarting Proctors with Smartwatches: A Case Study on Wearable Computing Security**
Alex Migicovsky, Zakir Durumeric, Jeff Ringenberg, and J. A. Halderman
Proc. 18th Intl. Conference on Financial Cryptography and Data Security (FC), March 2014.
Acceptance rate: 22%, 31/138.
- [39] **Analysis of the HTTPS Certificate Ecosystem**
Zakir Durumeric, James Kasten, Michael Bailey, and J. A. Halderman
Proc. 13th ACM Internet Measurement Conference (IMC), Barcelona, Spain, October 2013.
Acceptance rate: 24%, 42/178.
- [40] **ZMap: Fast Internet-Wide Scanning and its Security Applications**
Zakir Durumeric, Eric Wustrow, and J. A. Halderman
Proc. 22nd USENIX Security Symposium, Washington, D.C., August 2013.
Acceptance rate: 16%, 45/277.
- [41] **CAGE: Taming Certificate Authorities by Inferring Restricted Scopes**
James Kasten, Eric Wustrow, and J. A. Halderman
Proc. 17th Intl. Conference on Financial Cryptography and Data Security (FC), April 2013.
- [42] **Mining Your Ps and Qs: Detection of Widespread Weak Keys in Network Devices**
Nadia Heninger, Zakir Durumeric, Eric Wustrow, and J. A. Halderman
Proc. 21st USENIX Security Symposium, pages 205–220, Bellevue, WA, August 2012.
Acceptance rate: 19%, 43/222.
Best paper award.
Named one of *Computing Reviews*' Notable Computing Books and Articles of 2012.

- [43] **Attacking the Washington, D.C. Internet Voting System**
Scott Wolchok, Eric Wustrow, Dawn Isabel, and J. A. Halderman
In Angelos D. Keromytis, editor, *Financial Cryptography and Data Security (FC)*, volume 7397 of *Lecture Notes in Computer Science*, pages 114–128. Springer, 2012.
Acceptance rate: 26%, 23/88.
Election Verification Network John Gideon Memorial Award.
- [44] **Telex: Anticensorship in the Network Infrastructure**
Eric Wustrow, Scott Wolchok, Ian Goldberg, and J. A. Halderman
Proc. 20th USENIX Security Symposium, pages 459–474, San Francisco, CA, August 2011.
Acceptance rate: 17%, 35/204.
Runner-up for 2012 PET Award for Outstanding Research in Privacy Enhancing Technologies.
- [45] **Internet Censorship in China: Where Does the Filtering Occur?**
Xueyang Xu, Z. Morley Mao, and J. A. Halderman
In Neil Spring and George F. Riley, editors, *Passive and Active Measurement*, volume 6579 of *Lecture Notes in Computer Science*, pages 133–142. Springer, 2011.
Acceptance rate: 29%, 23/79.
- [46] **Absolute Pwnage: Security Risks of Remote Administration Tools**
Jay Novak, Jonathan Stribley, Kenneth Meagher, and J. A. Halderman
In George Danezis, editor, *Financial Cryptography and Data Security (FC)*, volume 7035 of *Lecture Notes in Computer Science*, pages 77–84. Springer, 2011.
Acceptance rate: 20%, 15/74.
- [47] **Security Analysis of India's Electronic Voting Machines**
Scott Wolchok, Eric Wustrow, J. A. Halderman, Hari K. Prasad, Arun Kankipati, Sai Krishna Sakhamuri, Vasavya Yagati, and Rop Gonggrijp
Proc. 17th ACM Conference on Computer and Communications Security (CCS), pages 1–14. ACM, Chicago, IL, October 2010.
Acceptance rate: 17%, 55/320.
Highest ranked submission.
- [48] **Sketcha: A Captcha Based on Line Drawings of 3D Models**
Steve Ross, J. A. Halderman, and Adam Finkelstein
Proc. 19th International World Wide Web Conference (WWW), pages 821–830. ACM, Raleigh, NC, April 2010.
Acceptance rate: 12%, 91/754.
- [49] **Defeating Vanish with Low-Cost Sybil Attacks Against Large DHTs**
Scott Wolchok, Owen S. Hofmann, Nadia Heninger, Edward W. Felten, J. A. Halderman, Christopher J. Rossbach, Brent Waters, and Emmett Witchel
In *Proc. 17th Network and Distributed System Security Symposium (NDSS)*. Internet Society, San Diego, CA, February–March 2010.
Acceptance rate: 15%, 24/156.

- [50] **Fingerprinting Blank Paper Using Commodity Scanners**
William Clarkson, Tim Weyrich, Adam Finkelstein, Nadia Heninger, J. A. Halderman, and Edward W. Felten
IEEE Symposium on Security and Privacy ("Oakland"), pages 301–314. IEEE, May 2009.
Acceptance rate: 10%, 26/254.
- [51] **Lest We Remember: Cold-Boot Attacks on Encryption Keys**
J. A. Halderman, Seth D. Schoen, Nadia Heninger, William Clarkson, William Paul, Joseph A. Calandrino, Ariel J. Feldman, Jacob Appelbaum, and Edward W. Felten
Proc. 17th USENIX Security Symposium, pages 45–60, San Jose, CA, July 2008.
Acceptance rate: 16%, 27/170.
Best student paper award.
Pwnie award for most innovative research.
CACM Research Highlight.
- [52] **Harvesting Verifiable Challenges from Oblivious Online Sources**
J. A. Halderman and Brent Waters
Proc. 14th ACM Conference on Computer and Communications Security (CCS), pages 330–341.
ACM, Washington, D.C., October 2007.
Acceptance rate: 18%, 55/302.
- [53] **Lessons from the Sony CD DRM Episode**
J. A. Halderman and Edward W. Felten
Proc. 15th USENIX Security Symposium, pages 77–92, Vancouver, BC, August 2006.
Acceptance rate: 12%, 22/179.
- [54] **A Convenient Method for Securely Managing Passwords**
J. A. Halderman, Brent Waters, and Edward W. Felten
Proc. 14th International World Wide Web Conference (WWW), pages 471–479. ACM, Chiba, Japan, May 2005.
Acceptance rate: 14%, 77/550.
- [55] **New Client Puzzle Outsourcing Techniques for DoS Resistance**
Brent Waters, Ari Juels, J. A. Halderman, and Edward W. Felten
Proc. 11th ACM Conference on Computer and Communications Security (CCS), pages 246–256.
ACM, Washington, D.C., October 2004.
Acceptance rate: 14%, 35/251.
- [56] **Early Experiences with a 3D Model Search Engine**
Patrick Min, J. A. Halderman, Michael Kazhdan, and Thomas Funkhouser
Proc. 8th International Conference on 3D Web Technology (Web3D), pages 7–18. ACM, Saint Malo, France, March 2003.
Best paper award.

Book Chapters

[57] **Practical Attacks on Real-world E-voting**

J. A. Halderman

In Feng Hao and Peter Y. A. Ryan (Eds.), *Real-World Electronic Voting: Design, Analysis and Deployment*, pages 145–171, CRC Press, December 2016.

Journal Publications

[58] **Imperfect Forward Secrecy: How Diffie-Hellman Fails in Practice**

David Adrian, Karthikeyan Bhargavan, Zakir Durumeric, Pierrick Gaudry, Matthew Green, J. A. Halderman, Nadia Heninger, Drew Springall, Emmanuel Thomé, Luke Valenta, Benjamin VanderSloot, Eric Wustrow, Santiago Zanella-Béguelin, and Paul Zimmermann
Communications of the ACM, 61(1):106–114, 2019.

[59] **Lest We Remember: Cold-Boot Attacks on Encryption Keys**

J. A. Halderman, Seth D. Schoen, Nadia Heninger, William Clarkson, William Paul, Joseph A. Calandrino, Ariel J. Feldman, Jacob Appelbaum, and Edward W. Felten
Communications of the ACM, 52(5):91–98, 2009.

[60] **A Search Engine for 3D Models**

Thomas Funkhouser, Patrick Min, Michael Kazhdan, Joyce Chen, J. A. Halderman, David P. Dobkin, and David Jacobs
ACM Transactions on Graphics (TOG), 22(1):83–105, 2003.

Refereed Workshop Publications

[61] **Bernoulli Ballot-Polling: A Manifest Improvement for Risk-Limiting Audits**

Kellie Ottoboni, Matthew Bernhard, J. A. Halderman, Ronald L. Rivest, and Philip B. Stark
Proc. 4th Workshop on Advances in Secure Electronic Voting, Feb. 2019.

[62] **An ISP-Scale Deployment of TapDance**

Sergey Frolov, Fred Douglas, Will Scott, Allison McDonald, Benjamin VanderSloot, Rod Hynes, Adam Kruger, Michalis Kallitsis, David G. Robinson, Nikita Borisov, J. A. Halderman, and Eric Wustrow
Proc. 7th USENIX Workshop on Free and Open Communications on the Internet (FOCI), Aug. 2017.

[63] **Content-Based Security for the Web**

Alexander Afanasyev, J. A. Halderman, Scott Ruoti, Kent Seamons, Yingdi Yu, Daniel Zappala, and Lixia Zhang
Proc. 2016 New Security Paradigms Workshop (NSPW), September 2016.

[64] **Umbra: Embedded Web Security through Application-Layer Firewalls**

Travis Finkenauer and J. A. Halderman

Proc. 1st Workshop on the Security of Cyberphysical Systems (WOS-CPS), Vienna, Austria, September 2015.

- [65] **Replication Prohibited: Attacking Restricted Keyways with 3D Printing**
Ben Burgess, Eric Wustrow, and J. A. Halderman
Proc. 9th USENIX Workshop on Offensive Technologies (WOOT), Washington, DC, August 2015.
- [66] **Green Lights Forever: Analyzing the Security of Traffic Infrastructure**
Branden Ghena, William Beyer, Allen Hillaker, Jonathan Pevarnek, and J. A. Halderman
Proc. 8th USENIX Workshop on Offensive Technologies (WOOT), San Diego, CA, August 2014.
- [67] **Zippier ZMap: Internet-Wide Scanning at 10Gbps**
David Adrian, Zakir Durumeric, Gulshan Singh, and J. A. Halderman
Proc. 8th USENIX Workshop on Offensive Technologies (WOOT), San Diego, CA, August 2014.
- [68] **Internet Censorship in Iran: A First Look**
Simurgh Aryan, Homa Aryan, and J. A. Halderman
Proc. 3rd USENIX Workshop on Free and Open Communications on the Internet (FOCI), Washington, D.C., August 2013.
- [69] **Illuminating the Security Issues Surrounding Lights-Out Server Management**
Anthony Bonkoski, Russ Bielawski, and J. A. Halderman
Proc. 7th USENIX Workshop on Offensive Technologies (WOOT), Washington, D.C., August 2013.
- [70] **Crawling BitTorrent DHTs for Fun and Profit**
Scott Wolchok and J. A. Halderman
Proc. 4th USENIX Workshop on Offensive Technologies (WOOT), Washington, D.C., August 2010.
- [71] **Can DREs Provide Long-Lasting Security?
The Case of Return-Oriented Programming and the AVC Advantage**
Steve Checkoway, Ariel J. Feldman, Brian Kantor, J. A. Halderman, Edward W. Felten, and Hovav Shacham
Proc. 2009 USENIX/ACCURATE/IAVoSS Electronic Voting Technology Workshop / Workshop on Trustworthy Elections (EVT/WOTE), Montreal, QC, August 2009.
- [72] **You Go to Elections with the Voting System You Have:
Stop-Gap Mitigations for Deployed Voting Systems**
J. A. Halderman, Eric Rescorla, Hovav Shacham, and David Wagner
In *Proc. 2008 USENIX/ACCURATE Electronic Voting Technology Workshop (EVT)*, July 2008.
- [73] **In Defense of Pseudorandom Sample Selection**
Joseph A. Calandrino, J. A. Halderman, and Edward W. Felten
Proc. 2008 USENIX/ACCURATE Electronic Voting Technology Workshop (EVT), San Jose, CA, July 2008.
- [74] **Security Analysis of the Diebold AccuVote-TS Voting Machine**
Ariel J. Feldman, J. A. Halderman, and Edward W. Felten
Proc. 2007 USENIX/ACCURATE Electronic Voting Technology Workshop (EVT), Washington, D.C., August 2007.

- [75] **Machine-Assisted Election Auditing**
Joseph A. Calandrino, J. A. Halderman, and Edward W. Felten
Proc. USENIX/ACCURATE Electronic Voting Technology Workshop (EVT), Washington, D.C., August 2007.
- [76] **Privacy Management for Portable Recording Devices**
J. A. Halderman, Brent Waters, and Edward W. Felten
Proc. 2004 ACM Workshop on Privacy in the Electronic Society (WPES), pages 16–24, ACM, Washington, D.C., October 2004.
Acceptance rate: 22%, 10/45.
- [77] **Evaluating New Copy-Prevention Techniques for Audio CDs**
J. A. Halderman
In Joan Feigenbaum, editor, *Digital Rights Management*, volume 2696 of *Lecture Notes in Computer Science*, pages 101–117. Springer, 2003.

Selected Other Publications

- [78] **Analysis of the Antrim County, Michigan November 2020 Election Incident**
J. A. Halderman
Expert report prepared for the State of Michigan, March 26, 2021.
- [79] **Elections Should be Grounded in Evidence, Not Blind Trust**
Philip B. Stark, Edward Perez, and J. A. Halderman
Barrons, January 4, 2021.
- [80] **Scientists say no credible evidence of computer fraud in the 2020 election outcome, but policymakers must work with experts to improve confidence**
Matt Blaze, J. A. Halderman, Joseph Lorenzo Hall, *et al.*
Public statement from election security experts, November 16, 2021.
- [81] **Michigan Election Security Advisory Commission Report and Recommendations**
J. A. Halderman *et al.*
Report prepared for the State of Michigan, October 2020.
- [82] **Internet Voting Is Happening Now—And it could destroy our elections**
Rachel Goodman and J. A. Halderman
Slate, January 15, 2020.
- [83] **U.S. House Testimony Regarding Federal Funding for Election Cybersecurity**
J. A. Halderman
Testimony before the U.S. House Appropriations Subcommittee on Financial Service and General Government, “Election Security: Ensuring the Integrity of U.S. Election Systems,” February 27, 2019.
- [84] **I Hacked an Election. So Can the Russians.**
J. A. Halderman
Video op/ed in collaboration with *The New York Times*, April 5, 2018.

- [85] **U.S. Senate Testimony Regarding Russian Interference in the 2016 U.S. Elections**
J. A. Halderman
Testimony before the U.S. Senate Select Committee on Intelligence, June 21, 2017.
- [86] **Here's How to Keep Russian Hackers from Attacking the 2018 Elections**
J. A. Halderman and J. Talbot-Zorn
The Washington Post, June 21, 2017.
- [87] **Want to Know if the Election was Hacked? Look at the Ballots**
J. A. Halderman
Posted on Medium, November 23, 2016. (Read by over a million people.)
- [88] **The Security Challenges of Online Voting Have Not Gone Away**
Robert Cunningham, Matthew Bernhard, and J. A. Halderman
IEEE Spectrum, November 3, 2016.
- [89] **TIVOS: Trusted Visual I/O Paths for Android**
Earlence Fernandes, Qi Alfred Chen, Georg Essl, J. A. Halderman, Z. Morley Mao, and Atul Prakash
Technical report, Computer Science and Engineering Division, University of Michigan, Ann Arbor, MI, May 2014.
- [90] **Tales from the Crypto Community:
The NSA Hurt Cybersecurity. Now It Should Come Clean**
Nadia Heninger and J. A. Halderman
Foreign Affairs, October 23, 2013.
- [91] **Ethical Issues in E-Voting Security Analysis**
David G. Robinson and J. A. Halderman
In George Danezis, Sven Dietrich, and Kazue Sako, editors, *Financial Cryptography and Data Security*, volume 7126 of *Lecture Notes in Computer Science*, pages 119–130. Springer, 2011.
Invited paper.
- [92] **To Strengthen Security, Change Developers' Incentives**
J. A. Halderman
IEEE Security & Privacy, 8(2):79–82, March/April 2010.
- [93] **Analysis of the Green Dam Censorware System**
Scott Wolchok, Randy Yao, and J. A. Halderman
Technical report, Computer Science and Engineering Division, University of Michigan, Ann Arbor, MI, June 2009.
- [94] **AVC Advantage: Hardware Functional Specifications**
J. A. Halderman and Ariel J. Feldman
Technical report, TR-816-08, Princeton University Computer Science Department, Princeton, New Jersey, March 2008.

- [95] **Source Code Review of the Diebold Voting System**
J. A. Calandrino, A. J. Feldman, J. A. Halderman, D. Wagner, H. Yu, and W. Zeller
Technical report, California Secretary of State’s “Top-to-Bottom” Voting Systems Review (TTBR),
July 2007.
- [96] **Digital Rights Management, Spyware, and Security**
Edward W. Felten and J. A. Halderman
IEEE Security & Privacy, 4(1):18–23, January/February 2006.
- [97] **Analysis of the MediaMax CD3 Copy-Prevention System**
J. A. Halderman
Technical report, TR-679-03, Princeton University Computer Science Department, Princeton,
New Jersey, October 2003.

Selected Legal and Regulatory Filings

- [98] **Request for DMCA Exemption: Security Research**
Petition to the U.S. Copyright Office of Ed Felten and J. Alex Halderman, represented by
Elizabeth Field, Justin Manusov, Brett Hildebrand, Alex Kimata, and Blake Reid, regarding the
Seventh Triennial Section 1201 Proceeding, 2017–18.
(*Outcome*: Requested exemption granted in part.)
- [99] **Request for DMCA Exemption: Security Research**
Petition to the Librarian of Congress of S. M. Bellovin, M. Blaze, E. W. Felten, J. A. Halderman,
and N. Heninger, represented by Andrea Matwyshyn, regarding the U.S. Copyright Office
2014–2015 DMCA Anticircumvention Rulemaking, Nov. 2014.
(*Outcome*: Requested exemption granted in part.)
- [100] **Request for DMCA Exemption: Games with Insecure DRM and Insecure DRM Generally**
Petition to the Librarian of Congress of J. A. Halderman, represented by B. Reid, P. Ohm, H.
Surden, and J. B. Bernthal, regarding the U.S. Copyright Office 2008–2010 DMCA Anticircum-
vention Rulemaking, Dec. 2008.
(*Outcome*: Requested exemption granted in part.)
- [101] **Request for DMCA Exemption for Audio CDs with Insecure DRM**
Petition to the Librarian of Congress of E. Felten and J. A. Halderman, represented by D.
Mulligan and A. Perzanowski, regarding the U.S. Copyright Office 2005–2006 DMCA Anticir-
cumvention Rulemaking, Dec. 2005.
(*Outcome*: Requested exemption granted in part.)

Patents

- [102] **Controlling Download and Playback of Media Content**
Wai Fun Lee, Marius P. Schilder, Jason D. Waddle, and J. A. Halderman
U.S. Patent No. 8,074,083, issued Dec. 2011.

[103] **System and Method for Machine-Assisted Election Auditing**
Edward W. Felten, Joseph A. Calandrino, and J. A. Halderman
U.S. Patent No. 8,033,463, issued Oct. 2011.

Speaking

Major Invited Talks and Keynotes

- **U.S. House Testimony Regarding Federal Funding for Election Cybersecurity**
Testimony before the U.S. House Appropriations Subcommittee on Financial Service and General Government, February 27, 2019.
- **Election Cybersecurity Progress Report: Will the U.S. be Ready for 2020?**
35c3, Leipzig, December 27, 2018.
- **Cyberattacks on Election Infrastructure**
Keynote speaker, DIMVA 2018, Paris, June 29, 2018.
- **U.S. Senate Testimony Regarding Russian Interference in the 2016 U.S. Elections**
Testimony before the U.S. Senate Select Committee on Intelligence, June 21, 2017.
- **Recount 2016: A Security Audit of the U.S. Presidential Election**
Keynote talk, NDSS 2017, February 27, 2017.
- **Recount 2016: An Uninvited Security Audit of the U.S. Presidential Election**
33c3, Hamburg, December 28, 2016.
- **Elections and Cybersecurity: What Could Go Wrong?**
Keynote speaker, Merit Security Summit, Ypsilanti, MI, November 7, 2016.
- **Let's Encrypt**
Invited speaker, TTI/Vanguard conference on Cybersecurity, Washington, D.C., Sept. 28, 2016.
- **Elections and Cybersecurity: What Could Go Wrong?**
Keynote speaker, 19th Information Security Conference (ISC), Honolulu, September 9, 2016.
- **Internet Voting: What Could Go Wrong?**
Invited speaker, USENIX Enigma, San Francisco, January 27, 2016.
- **Logjam: Diffie-Hellman, Discrete Logs, the NSA, and You**
32c3, Hamburg, December 29, 2015.
- **The Network Inside Out: New Vantage Points for Internet Security**
Invited talk, China Internet Security Conference (ISC), Beijing, September 30, 2015.
- **The Network Inside Out: New Vantage Points for Internet Security**
Keynote speaker, ESCAR USA (Embedded Security in Cars), Ypsilanti, Michigan, May 27, 2015.
- **Security Analysis of the Estonian Internet Voting System**
31c3, Hamburg, December 28, 2014.

- **The Network Inside Out: New Vantage Points for Internet Security**
Keynote speaker, 14th Brazilian Symposium on Information Security and Computer Systems (SBSEG), Belo Horizonte, Brazil, November 4, 2014.
- **Empirical Cryptography: Measuring How Crypto is Used and Misused Online**
Keynote speaker, 3rd International Conference on Cryptography and Information Security in Latin America (Latincrypt), Florianópolis, Brazil, September 2014.
- **Healing Heartbleed: Vulnerability Mitigation with Internet-wide Scanning**
Keynote speaker, 11th Conference on Detection of Intrusions and Malware and Vulnerability Assessment (DIMVA), London, July 10, 2014.
- **Fast Internet-wide Scanning and its Security Applications**
30c3, Hamburg, December 28, 2013.
- **Challenging Security Assumptions.** Three-part tutorial. 2nd TCE Summer School on Computer Security, Technion (Haifa, Israel), July 23, 2013.
- **Verifiably Insecure: Perils and Prospects of Electronic Voting**
Invited talk, Computer Aided Verification (CAV) 2012 (Berkeley, CA), July 13, 2012.
- **Deport on Arrival: Adventures in Technology, Politics, and Power**
Invited talk, 20th USENIX Security Symposium (San Francisco, CA), Aug. 11, 2011.
- **Electronic Voting: Danger and Opportunity**
Keynote speaker, ShmooCon 2008 (Washington, D.C.), Feb. 15, 2008.

Selected Talks

- **Election Security: Facts, Myths, and Fixes**
Invited speaker, Washtenaw County League of Women Voters, April 14, 2021.
- **Let's Encrypt: An Automated Certificate Authority to Encrypt the Entire Web**
Invited speaker, OWASP Copenhagen, November 25, 2019.
- **Cybersecurity and U.S. Elections**
Invited speaker, Microsoft Election Law Security Roundtable, September 25, 2020; Invited speaker, U-M Florida Seminars, February 4, 2020; Invited speaker, CyberSec & AI Prague, October 25, 2019; Invited speaker, Indiana University Research, February 7, 2019; Invited speaker, Arizona State, January 16, 2019; Invited speaker, University of San Diego, November 16, 2018; Invited speaker, UMass Amherst, October 31, 2018; Invited speaker, U-M Alumni Association, October 18, 2018; Invited speaker, MIT EmTech, August 13, 2018; Invited speaker, DEFCON Voting Village, August 10, 2018; Invited speaker, U.S. Irvine Election Security Summit, Irvine, March 13, 2018; Invited speaker, Global Election Summit, San Francisco, May 17, 2017; Invited speaker, Wolverine Caucus Forum, Lansing, February 21, 2017; Invited speaker, CSE Science on Screen at Michigan Theater, Ann Arbor, January 25, 2017.
- **Congressional Briefing on Election Cybersecurity.**
Hosted by Rep. Mike Quigley and Rep. John Katko; September 26, 2018.

- **Congressional Briefing on Election Cybersecurity.**
Co-panelists: Harri Hursti, Tony Schaffer, Liz Howard, Shantiel Soeder, Dan Savickas; moderator: Trey Greyson. July 10, 2018.
- **Congressional Briefing: Hacked Voting Machine Demonstration.**
Hosted by Senator Kamala Harris and Senator James Lankford. April 12, 2018.
- **Congressional Briefing: Strengthening Election Cybersecurity.**
Co-panelists: Nicole Austin-Hillery, Tony Shaffer, Bruce Fein, Susan Greenhalgh, Shane Schoeller. October 19, 2017.
- **The Security Impact of HTTPS Interception.** Invited talk, GOTO Copenhagen, Oct. 2, 2017.
- **Congressional Briefing: Free, Automated, and Open Web Encryption.**
August 8, 2017; hosted by Congressional Cybersecurity Caucus.
- **Let's Encrypt: A Certificate Authority to Encrypt the Entire Web.** Invited talk, Summer school on real-world crypto and privacy, Croatia, June 9, 2017; Invited talk, Cubaconf, Havana, April 25, 2016.
- **Congressional Briefing: Strengthening Election Cybersecurity.** Co-panelists: James Woolsey, Tony Shaffer, Lawrence Norden, Susan Greenhalgh, James Scott; moderator: Karen Greenberg. May 15, 2017.
- **The Legacy of Export-grade Cryptography in the 21st Century.** Invited talk, Summer school on real-world crypto and privacy, Croatia, June 9, 2016.
- **Logjam: Diffie-Hellman, Discrete Logs, the NSA, and You.** Invited talk, NYU Tandon School of Engineering, April 8, 2016 [host: Damon McCoy]; Invited talk, UIUC Science of Security seminar, February 9, 2016 [host: Michael Bailey].
- **The Network Inside Out: New Vantage Points for Internet Security.** Invited talk, Qatar Computing Research Institute, Doha, May 24, 2015; Invited talk, University of Chile, Santiago, April 8, 2015; Invited talk, Princeton University, October 15, 2014; Invited talk, U.T. Austin, March 9, 2014.
- **Decoy Routing: Internet Freedom in the Network's Core.** Invited speaker, Internet Freedom Technology Showcase: The Future of Human Rights Online, New York, Sep. 26, 2015.
- **The New South Wales iVote System: Security Failures and Verification Flaws in a Live Online Election.** 5th International Conference on E-Voting and Identity (VoteID), Bern, Switzerland, Sep. 3, 2015; Invited talk, IT Univ. of Copenhagen, Sep. 1, 2015; Invited talk (with Vanessa Teague), USENIX Journal of Election Technologies and Systems Workshop (JETS), Washington, D.C., Aug. 11, 2015.
- **Security Analysis of the Estonian Internet Voting System.** Invited talk, 5th International Conference on E-Voting and Identity (VoteID), Bern, Switzerland, Sep. 3, 2015; Invited talk, Google, Mountain View, CA, June 3, 2014; Invited talk, Copenhagen University, June 12, 2014.
- **Indiscreet Tweets.** Rump session talk; 24th USENIX Security Symposium, Washington, D.C., August 12, 2015.
- **How Diffie-Hellman Fails in Practice.** Invited talk, IT Univ. of Copenhagen, May 22, 2015.

- **Influence on Democracy of Computers, Internet, and Social Media.** Invited speaker, Osher Lifelong Learning Institute at the University of Michigan, March 26, 2015.
- **E-Voting: Danger and Opportunity.** Invited talk, University of Chile, Santiago, April 7, 2015; Keynote speaker, 14th Brazilian Symposium on Information Security and Computer Systems (SBSEG), Belo Horizonte, Brazil, November 3, 2014; Crypto seminar, University of Tartu, Estonia, October 10, 2013; Invited speaker, US–Egypt Cyber Security Workshop, Cairo, May 28, 2013; Invited speaker, First DemTech Workshop on Voting Technology for Egypt, Copenhagen, May 1, 2013; Invited keynote, 8th CyberWatch Mid-Atlantic CCDC, Baltimore, MD, Apr. 10, 2013; Invited speaker, Verifiable Voting Schemes Workshop, University of Luxembourg, Mar. 21, 2013; Invited speaker, MHacks hackathon, Ann Arbor, MI, Feb. 2, 2013; Public lecture, U. Michigan, Nov. 6, 2012.
- **Internet Censorship in Iran: A First Look.** 3rd USENIX Workshop on Free and Open Communications on the Internet (FOCI), Aug. 13, 2013.
- **Mining Your Ps and Qs: Detection of Widespread Weak Keys in Network Devices.** Invited talk, NSA, Aug. 8, 2013; Invited talk, Taiwan Information Security Center Workshop, National Chung-Hsing University (Taichung, Taiwan), Nov. 16, 2012.
- **Securing Digital Democracy.** U. Maryland, Apr. 8, 2013 [host: Jonathan Katz]; CMU, Apr. 1, 2013 [host: Virgil Gligor]; Cornell, Feb. 28, 2013 [host: Andrew Myers].
- **Telex: Anticensorship in the Network Infrastructure.** Invited speaker, Academia Sinica (Taipei), Nov. 14, 2012 [host: Bo-Yin Yang]; TRUST Seminar, U.C., Berkeley, Dec. 1, 2011 [host: Galina Schwartz]; Think Conference, Nov. 5, 2011; Ideas Lunch, Information Society Project at Yale Law School, Oct. 26, 2011; Invited speaker, Committee to Protect Journalists Online Press Freedom Summit (San Francisco), Sept. 27, 2011.
- **Deport on Arrival: Adventures in Technology, Politics, and Power.** Guest lecture, U-M School of Art and Design, Nov 5, 2012 [host: Osman Khan]; Invited speaker, CS4HS Workshop, U. Michigan, Aug. 21, 2012; Invited speaker, U. Michigan IEEE, Feb. 15, 2012.
- **Attacking the Washington, D.C. Internet Voting System.** Invited speaker, International Foundation for Election Systems (IFES), Nov. 2, 2012 [host: Michael Yard]; Invited speaker, IT University of Copenhagen, May 11, 2012 [host: Carsten Schürmann].
- **Voter IDon't.** Rump session talk; 21st USENIX Security Symposium (Bellevue, WA), Aug. 8, 2012; Rump session talk; EVT/WOTE '12 (Bellevue, WA), Aug. 6, 2012 [with Josh Benaloh].
- **Reed Smith's Evening with a Hacker.** Keynote speaker (New Brunswick, NJ), Oct. 20, 2011.
- **Are DREs Toxic Waste?** Rump session talk, 20th USENIX Security Symposium (San Francisco), Aug. 10, 2011; Rump session talk, EVT/WOTE '11 (San Francisco), Aug. 8, 2011.
- **Security Problems in India's Electronic Voting Machines.** Dagstuhl seminar on Verifiable Elections and the Public (Wadern, Germany), July 12, 2011; Harvard University, Center for Research on Computation and Society (CRCS) seminar, Jan. 24, 2011 [host: Ariel Procaccia]; U. Michigan, CSE seminar, Nov. 18, 2010 [with Hari Prasad]; MIT, CSAIL CIS Seminar, Nov. 12, 2010 [with Hari Prasad; host: Ron Rivest]; Distinguished lecture, U.C. San Diego, Department

- of Computer Science, Nov. 9, 2010 [with Hari Prasad; host: Hovav Shacham]; U.C. Berkeley, Center for Information Technology Research in the Interest of Society (CITRIS), Nov. 8, 2010 [with Hari Prasad; host: Eric Brewer]; Google, Inc., Tech Talk (Mountain View, CA), Nov. 5, 2010 [with Hari Prasad; host: Marius Schilder]; U.C., Berkeley TRUST Security Seminar, Nov. 4, 2010 [with Hari Prasad; host: Shankar Sastry]; Stanford University, CS Department, Nov. 3, 2010 [with Hari Prasad; host: David Dill]; Princeton University, Center for Information Technology Policy, Oct. 28, 2010 [with Hari Prasad, host: Ed Felten]; University of Texas at Austin, Department of Computer Science, Aug. 27, 2010 [host: Brent Waters].
- **Ethical Issues in E-Voting Security Analysis.** Invited talk, Workshop on Ethics in Computer Security Research (WECSR) (Castries, St. Lucia), Mar. 4, 2011 [with David Robinson].
 - **Electronic Voting: Danger and Opportunity.** Invited speaker, “Interfaces 10: Technology, Society and Innovation,” Center for Technology and Society (CTS/FGV) (Rio de Janeiro), Dec. 2, 2010 [host: Ronaldo Lemos]; Invited speaker, Conference on “EVMs: How Trustworthy?,” Centre for National Renaissance (Chennai, India), Feb. 13, 2010; Google, Inc., Tech Talk (Mountain View, CA), Jan. 10, 2008; Star Camp (Cape Town, South Africa), Dec. 8, 2007; Lehigh University, Nov. 27, 2007; Princeton OiT Lunch-’n-Learn, Oct. 24, 2007; University of Waterloo (Canada), Feb. 28, 2007.
 - **A New Approach to Censorship Resistance.** Think Conference, Nov. 7, 2010.
 - **Practical AVC-Edge CompactFlash Modifications can Amuse Nerds [PACMAN].** Rump session, 19th USENIX Security Symposium (Washington, D.C.), Aug. 11, 2010; Rump session, EVT/WOTE ’10 (Washington, D.C.), Aug. 9, 2010.
 - **Legal Challenges to Security Research.** Guest lecture, Law 633: Copyright, U. Michigan Law School, Apr. 7, 2010; Invited talk, University of Florida Law School, Oct. 12, 2006.
 - **Adventures in Computer Security.** Invited talk, Greenhills School, grades 6–12 (Ann Arbor, MI), Mar. 8, 2010.
 - **The Role of Designers’ Incentives in Computer Security Failures.** STIET Seminar, U. Michigan, Oct. 8, 2009.
 - **Cold-Boot Attacks Against Disk Encryption.** Invited speaker, SUMIT 09 Security Symposium, U. Michigan, Oct. 20, 2009.
 - **On the Attack.** Distinguished lecture, U.C. Berkeley EECS, Nov. 18, 2009.
 - **AACS, BD+, and the Limits of DRM.** DIMACS/DyDAn Workshop on Internet Privacy, Rutgers University, Sept. 18, 2008.
 - **Security Through the Lens of Failure.** UCSD, Apr. 2, 2008; U. Michigan, Mar. 25, 2008,
 - **Harvesting Verifiable Challenges from Oblivious Online Sources.** ACM Conference on Computer and Communications Security (Washington, D.C.), Oct. 31, 2007.
 - **Dangerous Tunes: Lessons from the Sony CD DRM Episode.** USENIX Security Symposium (Vancouver, Canada), Aug. 2, 2006; SRI International (Palo Alto, CA), July 14, 2006; University of Waterloo (Canada), Mar. 9, 2006.

- **A Convenient Method for Securely Managing Passwords.** International World Wide Web Conference (Chiba, Japan), May 12, 2005.
- **Privacy Management for Portable Recording Devices.** ACM Workshop on Privacy in the Electronic Society (Washington, D.C.), Oct. 18, 2004.
- **Evaluating New Copy-Prevention Techniques for Audio CDs.** ACM Workshop on Digital Rights Management (Washington, D.C.), Nov. 18, 2002.

Selected Other Speaking (2010–present)

- **Panelist: President’s Awards for Public Engagement.** Co-panelists: Marc A. Zimmerman, Emily Toth Martin, Margaret Dewar; moderator: Mark S. Schlissel. University of Michigan, Mar. 22, 2021.
- **Panelist: The 2020 Election: Remote Voting, Disinformation, and Audit.** Co-panelists: Ben Adida and Vanessa Teague; moderator: Avi Rubin. 29th USENIX Security Symposium, Aug. 12, 2020.
- **Panelist: Internet Freedom in the Domestic Arena.** Co-panelists: Nadine Strossen, Milton Mueller, and Roger Dingledine; moderator: Anita Nikolich. 10th USENIX Workshop on Free and Open Communications on the Internet (FOCI), via Zoom, Aug. 11, 2020.
- **Panelist: Internet Voting.** Co-panelists: Thomas Chanussot, Carsten Schürmann, Virginia Atkinson, Robert Krimmer, and Ronan McDermott; moderator: Beata Martin-Rozumilowicz. International Foundation for Electoral Systems (IFES), via Zoom, June 16, 2020.
- **Panelist: How Adversaries Can Erode Public Trust in Democratic Institutions.** Co-panelists: Hany Farid, Ron Rivest, Suzanne Spaulding; moderator: James E. Boasberg. D.C. Circuit Judicial Conference, Cambridge, Maryland, June 26, 2019.
- **Alumni-Faculty Forum: Cold War 2.0: Russia, Cybersecurity and Hacking.** Co-panelists: Walter Slocombe, Alexander Southwell, Ishani Sud; moderator: Jonathan Mayer. June 1, 2018.
- **Panelist: “Critical Infrastructure” Designation for Election Operations: Risks, Mitigations, & Import for 2018.** Election Verification Network Conference, Miami, March 16, 2018.
- **Panelist: The Technology of Voting: Risks & Opportunities.** U.C. Irvine Cybersecurity and Policy Research Institute, March 13, 2018.
- **Panelist: Election Law Conflicts and the Vulnerability of our Election Systems.** Co-panelists: Stephen Berzon, Holly Lake, Harvey Saferstein. Ninth Circuit Judicial Conference, July 18, 2017.
- **Moderator: Apple & the FBI: Encryption, Security, and Civil Liberties.** Panelists: Nate Cardozo and Barbara McQuade. U-M Dissonance Speaker Series, April 12, 2016.
- **Moderator: Privacy, IT Security and Politics.** Panelists: Ari Schwartz and David Sobel. U-M ITS SUMIT_2015, Oct. 22, 2015.
- **Panelist: The Future of E-Voting Research.** 5th International Conference on E-Voting and Identity (VoteID), Bern, Switzerland, Sep. 4, 2015.

- Moderator: **Panel on Research Ethics.** 24th USENIX Security Symposium, Washington, D.C., August 13, 2015.
- Panelist: **Theories of Privacy in Light of “Big Data.”** Michigan Telecommunications and Technology Law Review Symposium on Privacy, Technology, and the Law, University of Michigan Law School, Feb. 21, 2015.
- Panelist: **Measuring Privacy.** Big Privacy symposium, Princeton University CITP, Apr. 26, 2013 [moderator: Ed Felten].
- Panelist: **Civil Society’s Challenge in Preserving Civic Participation.** The Public Voice workshop: Privacy Rights are a Global Challenge, held in conjunction with the 34th International Conference of Data Protection and Privacy Commissioners, Punta del Este, Uruguay, Oct. 22, 2012 [moderator: Lillie Coney].
- Panelist: **Election Technologies: Today and Tomorrow.** Microsoft Faculty Summit (Redmond), July 17, 2012 [moderator: Josh Benaloh].
- Panelist: **Is America Ready to Vote on the Internet?** CSPRI Seminar, George Washington University (Washington, D.C.), May 16, 2012 [moderator: Lance Hoffman].
- Panelist: **Technical Methods of Circumventing Censorship.** Global Censorship Conference, Yale Law School, Mar. 31, 2012.
- Panelist: **Internet Voting.** RSA Conference (San Francisco), Mar. 1, 2012 [moderator: Ron Rivest].
- Panelist: **The Law and Science of Trustworthy Elections.** Association of American Law Schools (AALS) Annual Meeting, Jan. 5, 2012 [moderator: Ron Rivest].
- Panelist: **Connecticut Secretary of State’s Online Voting Symposium** (New Britain, CT), Oct. 27, 2011 [moderator: John Dankosky].
- Panelist: **Cyber Security / Election Technology.** Overseas Voting Foundation Summit, Feb. 10, 2011 [moderator: Candice Hoke].
- Tutorial speaker/organizer: **Security Issues in Electronic Voting, ICISS** (Gandhinagar, India), Dec. 15, 2010 [canceled under threat of deportation].
- Invited testimony: **On D.C. Board of Elections and Ethics Readiness for the Nov. 2010 General Election.** D.C. Council Hearing, Oct. 8, 2010.
- Panelist and organizer: **India’s Electronic Voting Machines.** EVT/WOTE (Washington, D.C.), Aug. 9, 2010.
- Panelist: **Ethics in Networking and Security Research.** ISOC Network and Distributed System Security Symposium (San Diego, CA), Mar. 2, 2010 [moderator: Michael Bailey].

Advising and Mentoring

Graduate Students

- Allison McDonald (Ph.D. in progress; Facebook Emerging Scholar Fellowship)
- Matthew Bernhard (Ph.D. 2020; in went on to position at VotingWorks)

- Benjamin VanderSloot (Ph.D. 2020; went on to tenure-track faculty position at University of Detroit Mercy)
- David Adrian (Ph.D. 2019; went on to principal engineer at Censys)
- Andrew Springall (Ph.D. 2018; went on to Google, then tenure-track faculty position at Auburn)
- Zakir Durumeric (Ph.D. 2017; Google Ph.D. Fellowship in Computer Security; went on to tenure-track faculty position at Stanford)
- Eric Wustrow (Ph.D. 2016; went on to tenure-track faculty position at U. Colorado, Boulder)
- James Kasten (Ph.D. 2015; went on to software engineering position at Google)
- Max Froehlich (M.S. in progress)
- Rose Howell (M.S. 2018)
- Travis Finkenauer (M.S. 2016; went on to security position at Juniper Networks)
- Scott Wolchok (M.S. 2011; went on to software engineering position at Facebook)

Post Docs

- Will Scott (2017–18)
- Colleen Swanson (2014–15)

Doctoral Committees

- Matthew Bernhard (C.S. Ph.D. 2020, Michigan; chair)
- Benjamin VanderSloot (C.S. Ph.D. 2020, Michigan; chair)
- David Adrian (C.S. Ph.D. 2019, Michigan; chair)
- Arunkumaar Ganesan (C.S. Ph.D. 2019)
- Andrew Springall (C.S. Ph.D. 2018, Michigan; chair)
- Kyong Tak Cho (C.S. Ph.D. 2018, Michigan)
- Armin Sarabi (E.E. Ph.D. 2018, Michigan)
- Zakir Durumeric (C.S. Ph.D. 2017, Michigan; chair)
- Armin Sarabi (E.E. Ph.D. 2017, Michigan)
- Eric Crockett (C.S. Ph.D. 2017, Georgia Tech)
- Kassem Fawaz (C.S. Ph.D. 2017, Michigan)
- Amir Rahmati (C.S. Ph.D. 2017, Michigan)
- Earlenze Fernandez (C.S. Ph.D. 2017, Michigan)
- Huan Feng (C.S. Ph.D. 2016, Michigan)
- Jakub Czyz (C.S. Ph.D. 2016, Michigan)
- Denis Bueno (C.S. Ph.D. 2016, Michigan)
- Eric Wustrow (C.S. Ph.D. 2016, Michigan; chair)
- James Kasten (C.S. Ph.D. 2015, Michigan; chair)
- Jing Zhang (C.S. Ph.D. 2015, Michigan)
- Katharine Cheng (C.S. Ph.D. 2012, Michigan)
- Matt Knysz (C.S. Ph.D. 2012, Michigan)

- Zhiyun Qian (C.S. Ph.D. 2012, Michigan)
- Xin Hu (C.S. Ph.D. 2011, Michigan)
- Ellick Chan (C.S. Ph.D. 2011, UIUC)

Undergraduate Independent Work

- 2021: Nakul Bajaj, Carson Hoffman, Siddharth Pittie, Sameer Barretto, William Chown, David Meyer, Aditya Soni, Atreya Tata
- 2020: Nakul Bajaj, Ryan Feng, Carson Hoffman, Jensen Hwa, Yuxuan Luo, Jacob Shreve, Atreya Tata
- 2019: Nakul Bajaj, Scott Bays, Kevin Chang, Jensen Hwa, Kartikeya Kandula, Nicholas Matton, Henry Meng, Ellen Tsao, Hassaan Ali Watoo, Jeremy Wink
- 2018: Jensen Hwa, Henry Meng, Armando Ruvalcaba
- 2017: Gabrielle Beck, Alex Holland
- 2016: Ben Burgess, Noah Duchan, Mayank Patke
- 2015: Ben Burgess, Rose Howell, Vikas Kumar, Ariana Mirian, Zhi Qian Seah
- 2014: Christopher Jeakle, Andrew Modell, Kollin Purcell
- 2013: David Adrian, Anthony Bonkoski, Alex Migicovsky, Andrew Modell, Jennifer O’Neil
- 2011: Yilun Cui, Alexander Motalleb
- 2010: Arun Ganesan, Neha Gupta, Kenneth Meagher, Jay Novak, Dhritiman Sagar, Samantha Schumacher, Jonathan Stribley
- 2009: Mark Griffin, Randy Yao

Teaching

- **Election Cybersecurity**, EECS 498.5, University of Michigan, Fall 2020.
- **Introduction to Computer Security**, EECS 388, University of Michigan
Terms: Winter 2020, Fall 2019, Winter 2019, Winter 2017, Fall 2016, Fall 2015, Fall 2014, Fall 2013, Fall 2011, Fall 2010, Fall 2009
Created new undergrad security elective that has grown to reach >750 students/year. An accessible intro, teaches the security mindset and practical skills for building and analyzing security-critical systems.
- **Surveillance Law and Technology** (with Margo Schlanger), EECS 598.7 / LAW 441.1, University of Michigan, Fall 2019.
- **Election Cybersecurity**, EECS 498.9, University of Michigan, Fall 2018.
- **Computer and Network Security**, EECS 588, University of Michigan
Terms: Winter 2016, Winter 2015, Winter 2014, Winter 2013, Winter 2012, Winter 2011, Winter 2010, Winter 2009
Redesigned core grad-level security course. Based around discussing classic and current research papers and performing novel independent work. Provides an intro. to systems research for many students.
- **Securing Digital Democracy**, Coursera (MOOC)
Designed and taught a massive, open online course that explored the security risks—and future potential—of electronic voting and Internet voting technologies; over 20,000 enrolled students.

Professional Service

Program Committees

- 2021 USENIX Security Symposium (Sec '21)
- 2019 ACM Internet Measurement Conference (IMC '19)
- 2017 ACM Conference on Computer and Communications Security (CCS '17)
- 2017 ISOC Network and Distributed Systems Security Symposium (NDSS '17)
- 2016 ACM Internet Measurement Conference (IMC '16)
- 2016 USENIX Security Symposium (Sec '16)
- 2016 International Joint Conference on Electronic Voting (E-VOTE-ID '16)
- 2016 Workshop on Advances in Secure Electronic Voting (Voting '16)
- 2015 ACM Conference on Computer and Communications Security (CCS '15)
- 2015 ACM Internet Measurement Conference (IMC '15)
- 2015 USENIX Security Symposium (Sec '15)
- 2014 ACM Conference on Computer and Communications Security (CCS '14)
- 2014 USENIX Security Symposium (Sec '14)
- 2013 ACM Conference on Computer and Communications Security (CCS '13)
- **Program co-chair**, 2012 Electronic Voting Technology Workshop/Workshop on Trustworthy Elections (EVT/WOTE '12)
- 2012 Workshop on Free and Open Communications on the Internet (FOCI '12)
- 2012 IEEE Symposium on Security and Privacy (“Oakland” '12)
- 2012 International Conference on Financial Cryptography and Data Security (FC '12)
- 2011 Workshop on Free and Open Communications on the Internet (FOCI '11)
- 2011 Electronic Voting Technology Workshop (EVT/WOTE '11)
- 2010 ACM Conference on Computer and Communications Security (CCS '10)
- 2010 USENIX/ACCURATE/IAVOSS Electronic Voting Technology Workshop (EVT '10)
- 2010 USENIX Security Symposium (Sec '10)
- 2010 IEEE Symposium on Security and Privacy (Oakland '10)
- 2010 International World Wide Web Conference (WWW '10)
- 2009 ACM Conference on Computer and Communications Security (CCS '09)
- 2009 ACM Workshop on Digital Rights Management (DRM '09)
- 2009 ACM Workshop on Multimedia Security (MMS '09)
- 2009 USENIX Workshop on Offensive Technologies (WOOT '09)
- 2009 International World Wide Web Conference (WWW '09)
- 2008 ACM Conference on Computer and Communications Security (CCS '08)
- 2008 ACM Workshop on Privacy in the Electronic Society (WPES '08)
- 2008 USENIX/ACCURATE Electronic Voting Technology Workshop (EVT '08)
- 2008 International World Wide Web Conference (WWW '08)

Boards

- Board of Directors of [Internet Security Research Group](#) (2014–present)
- Board of Advisors for the [Verified Voting Foundation](#) (2012–present)
- External Advisory Board for the [DemTech Project](#), IT University of Copenhagen (2011–2016)
- Advisory Council for the [Princeton University Department of Computer Science](#) (2012–2014)

Government Service

- Michigan Secretary of State’s Election Security Advisory Commission (co-chair, 2019–)

Department and University Service

- Lab Director, [CSE Systems Lab](#) (2018–present)
- [CSE Hiring Committee](#) (member, 2018–present)
- Faculty Advisor for [Michigan Hackers](#) student group (2012–present)
- [CSE Executive Committee](#) (member, 2020)
- [CSE Graduate Affairs Committee](#) (member, 2014–2017)
- [CSE Undergraduate Program Advising \(CS/ENG\)](#) (2011–2017)
- [Faculty Senate, Rules Committee of the Senate Assembly](#) (member, 2011–12)
- [CSE Graduate Admissions Committee](#) (member, 2010–11)
- [CSE Graduate Committee](#) (member, 2009–10)

Broader Impact of Selected Projects

- [2016 U.S. Presidential Election Recounts](#) (2016)
Helped orchestrate election recount efforts in Michigan, Wisconsin, and Pennsylvania in an attempt to detect or deter potential outcome-alerting cyberattacks. Legal and political roadblocks prevented completion of full manual counts; the partial recounts that did occur showed no evidence of tampering.
- [Let’s Encrypt: A Certificate Authority to Encrypt the Entire Web](#) (2016)
Co-founded a new HTTPS certificate authority to provide free, automatically validated certificates for all domains. Developed in partnership with EFF and Mozilla, Let’s Encrypt has helped secure millions of websites and now accounts for more than half of all public browser-trusted certificates worldwide.
- [The Logjam Attack and Weak Practical Use of Diffie-Hellman](#) (2015)
Introduced Logjam, a practical attack on TLS that affected nearly 10% of popular HTTPS websites. Our results suggest that state-level attackers can break 1024-bit Diffie-Hellman, providing the first parsimonious explanation for how NSA is decrypting widespread VPN traffic, as revealed by Snowden.
- [Security Analysis of the Estonian Internet Voting System](#) (2014)
Led the first rigorous security review of world’s most significant Internet voting system. Based on code review, laboratory testing, and in-person observation, our study revealed significant shortcomings that could allow state-level attackers to upset national elections.
- [ZMap Internet-Wide Scanner Open-Source Project](#) (2013)
Created ZMap, a network probing tool designed for Internet-wide measurement research that achieves up to 10,000× better performance than earlier tools. Now a thriving open-source project, ZMap is available in major Linux distros. We also maintain [Scans.io](#), a public scan data repository.

- **Detection of Widespread Weak Keys in Network Devices** (2012)
After conducting the largest Internet-wide survey of HTTPS and SSH hosts, we uncovered serious flaws in cryptographic public key generation affecting millions of users. We disclosed vulnerabilities to more than 60 network device makers and spawned major changes to the Linux random number generator.
- **The Telex Anticensorship System** (2011)
Invented a fundamentally new approach to circumventing state-level Internet censorship, based on placing anticensorship technology into core network infrastructure outside the censoring country. Prototype attracted over 100,000 users, mainly in China. Now testing next-gen. schemes at partner ISP.
- **Attacking Washington, D.C.’s Internet Voting System** (2010)
Participated in the first public security trial of an Internet voting system set to be deployed in a real election. We found serious flaws that allowed us to change all votes without detection. This led to the system being scrapped, and the widespread media coverage has altered the debate on Internet voting.
- **Analysis of India’s E-Voting System** (2010)
Participated in the first independent security review of the electronic voting machines used by half a billion voters in India. The flaws uncovered in our work were front-page news. After arresting my coauthor and threatening to deport me, officials eventually moved to adopt a paper trail nationwide.
- **Green Dam Youth Escort Censorware** (2009)
Uncovered security problems and copyright infringement in client-side censorship software mandated by the Chinese government. Findings helped catalyze popular protest against the program, leading China to reverse its policy requiring installation on new PCs.
- **Cold-Boot Attacks** (2008)
Developed the “cold boot” attack against software disk encryption systems, which altered widespread thinking on security assumptions about the behavior of RAM, influenced computer forensics practice, and inspired the creation of a new subfield of theoretical cryptography.
- **California “Top-to-Bottom” Review** (2007)
Helped lead the California Secretary of State’s “top-to-bottom” review of electronic voting machines, the first public review of this technology by any state. Our reports led California to discontinue use of highly vulnerable touch-screen voting systems and altered the course of election technology in the U.S.
- **DMCA Exemptions for Security** (2006 and 2010)
Worked with legal teams to successfully petition the U.S. Copyright Office to create exemptions to the Digital Millennium Copyright Act (which prohibits circumventing DRM) in order to allow the public to investigate and repair security problems caused by certain DRM. One of only six exemptions granted.
- **Sony DRM Rootkit** (2005)
Discovered dangerous security side-effects in the design of copy protection software used for music CDs. Resulted in the recall of millions of discs, class action lawsuits, and an investigation by the U.S. Federal Trade Commission in which I served as a technical expert on DRM’s harm to consumers’ security.
- **The Art of Science** (2004)
Co-founded an interdisciplinary art competition at Princeton University that showcases images and videos produced in the course of scientific research as well as creative works that incorporate tools and ideas from science. Following international attention, the concept has spread to many other campuses.

Outreach and Press Coverage

I'm happy to speak to the press when the topic is important for the public to understand. Much of my research has received significant media attention, resulting in thousands of stories.

Selected media outlets *Television:* CNN, Fox News, CBS Evening News, NBC Nightly News, MSNBC, CNBC, MTV, Al Jazeera, C-SPAN. *Radio:* NPR News, NPR Science Friday, BBC World Service, The Diane Rehm Show. *Print:* The New York Times, LA Times, USA Today (front page profile), The Wall Street Journal, Washington Post, Boston Globe, Times of India, Time, Fortune, Harpers (incl. Harpers Index), The Atlantic; The Economist, Scientific American, New Scientist, MIT Tech Review, Businessweek, Redbook, PC Magazine, Playboy (long-form profile). *Online:* Hacker News (dozens of top stories), Slashdot (>40 stories), Reddit (top of front page), BoingBoing, CNET News, Wired News, Gizmodo, TechDirt, Ars Technica, The Register, Huffington Post, Politico, The New Republic, The Drudge Report, and hundreds more.

References

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<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>ERIC COOMER, Ph.D., Plaintiff</p> <p>vs.</p> <p>DONALD J. TRUMP FOR PRESIDENT, INC., et al., Defendants</p>	
<p>Attorneys for Plaintiff Charles J. Cain, No. 51020 ccain@cstrial.com Steve Skarnulis, No. 21PHV6401 skarnulis@cstrial.com Bradley A. Kloewer, No. 50565 bkloewer@cstrial.com Zachary H. Bowman, No. 21PHV6676 zbowman@cstrial.com CAIN & SKARNULIS PLLC P. O. Box 1064 Salida, Colorado 81201 719-530-3011/512-477-5011 (Fax)</p> <p>Thomas M. Rogers III, No. 28809 trey@rklawpc.com Mark Grueskin, No. 14621 mark@rklawpc.com Andrew E. Ho, No. 40381 andrew@rklawpc.com RechtKornfeld PC 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900/303-446-9400 (Fax)</p>	<p>Case Number: 2020cv034319</p> <p>Division Courtroom: 409</p>
<p>EXHIBIT O-2</p>	

DECLARATION OF RONALD WATKINS

I, Ronald Watkins, hereby state the following:

1. I am a United States citizen currently residing in Japan.
2. I am an adult of sound mind. All statements in this declaration are based on my personal knowledge and are true and correct.
3. I am making this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive, anything in exchange for my testimony and giving this statement. I have no expectation of any profit or reward and understand that there are those who may seek to harm me for what I say in this statement.
4. I want to alert the public and let the world know the truth about actual voting tabulation software designed, whether with malicious intent or plain incompetence, in such a way so as to facilitate digital ballot stuffing via simple vote result manipulation and abuse of the digital adjudication manual review system. The Dominion Democracy Suite may both enable voter fraud by unethical officials out to undermine the will of the people, and honest officials making simple, nearly untraceable, mistakes. Voting is a fundamental manifestation of our First Amendment right to free speech and under no circumstance shall we allow a conspiracy of people and companies to subvert and destroy one of our most sacred rights.
5. I am a network and information security expert with nine years of experience as a network and information defense analyst and a network security engineer. In my nine years of network and information security experience, I have successfully defended large websites and networks against major and powerful cyberattacks.
6. The ImageCast Central system is a software and hardware workstation system designed to work with just a common "Windows 10 Pro"[1][2] computer paired via data cable [3] to an off-the-shelf document scanner [4] "for high speed scanning and counting of paper ballots.[5]"
7. When bulk ballot scanning and tabulation begins, the "ImageCast Central" workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning

procedure within the software menu [6]. The scanner then begins to scan the ballots which were loaded into the feed tray while the "ImageCast Central" software application tabulates votes in real-time. Information about scanned ballots can be tracked inside the "ImageCast Central" software application [7].

8. After all of the ballots loaded into the scanner's feed tray have been through the scanner, the "ImageCast Central" operator will remove the ballots from the tray then have the option to "Accept Batch" on the scanning menu [8]. Accepting the batch saves the results into the local file system within the "Windows 10 Pro" machine [9]. Any "problem ballots" that may need to be examined or adjudicated at a later time can be found as ballot scans saved as image files into a standard Windows folder named "NotCastImages" [9]. These "problem ballots" are automatically detected during the scanning phase and digitally set aside for manual review based on exception criteria [10]. Examples of exceptions may include: overvotes, undervotes, blank contests, blank ballots, write-in selections, and marginal marks [11]. "Customizable outstack conditions and marginal mark detection lets [Dominion's Customers] decide which ballots are sent for Adjudication. [12]"

9. During the ballot scanning process, the "ImageCast Central" software will detect how much of a percent coverage of the oval was filled in by the voter [13]. The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote [14][15]. If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a "problem ballot" and may be set aside into a folder named "NotCastImages" [9]. "The ImageCast Central's advanced settings allow for adjustment of the scanning properties" to "[set] the clarity levels at which the ballot should be scanned at. Levels can be set as a combination of brightness and contrast values, or as a gamma value. [16]"

10. Through creatively tweaking the oval coverage threshold settings, and advanced settings on the ImageCast Central scanners, it may be possible to set thresholds in such a way that a non-trivial amount of ballots are marked "problem ballots" and sent to the "NotCastImages" folder.

11. The administrator of the ImageCast Central work station may view all images of scanned ballots which were deemed "problem ballots" by simply navigating via the standard "Windows File Explorer" to the folder named "NotCastImages" which holds ballot scans of "problem ballots" [17][18]. It may be possible for an administrator of the "ImageCast Central" workstation to view and delete any individual ballot scans from the "NotCastImages" folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system.

12. Adjudication is “the process of examining voted ballots to determine, and, in the judicial sense, adjudicate voter intent. [19]” A biased poll worker without sufficient honest oversight could abuse the adjudication system to fraudulently switch votes for a specific candidate.

13. After the tabulation process, the ImageCast Central software saves a copy of the tabulation results locally to the "Windows 10 Pro" machine's internal storage. The results data is located in an easy-to-find path which is designed to easily facilitate the uploading of tabulation results to flash memory cards. The upload process is just a simple copying of a "Results" folder containing vote tallies to a flash memory card connected to the "Windows 10 Pro" machine. The copy process uses the standard drag-n-drop or copy/paste mechanisms within the ubiquitous "Windows File Explorer" [20]. While a simple procedure, the report results process may be error prone and is very vulnerable to malicious administrators. Before delivering final tabulation results to the county, it is within the realm of possibility to mistakenly copy the wrong "Results" folder or even maliciously copy a false "Results" folder, which may contain a manipulated data set, to the flash memory card.

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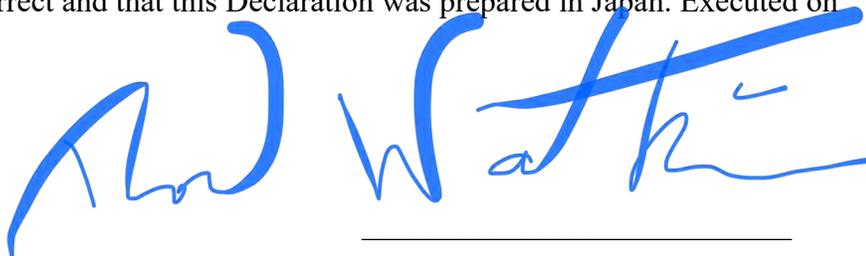
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was prepared in Japan. Executed on November 23, 2020.



RONALD WATKINS

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202</p>	
<p>ERIC COOMER, Ph.D., Plaintiff</p> <p>vs.</p> <p>DONALD J. TRUMP FOR PRESIDENT, INC., et al., Defendants</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Plaintiff Charles J. Cain, No. 51020 ccain@cstrial.com Steve Skarnulis, No. 21PHV6401 skarnulis@cstrial.com Bradley A. Kloewer, No. 50565 bkloewer@cstrial.com Zachary H. Bowman, No. 21PHV6676 zbowman@cstrial.com CAIN & SKARNULIS PLLC P. O. Box 1064 Salida, Colorado 81201 719-530-3011/512-477-5011 (Fax)</p> <p>Thomas M. Rogers III, No. 28809 trey@rklawpc.com Mark Grueskin, No. 14621 mark@rklawpc.com Andrew E. Ho, No. 40381 andrew@rklawpc.com RechtKornfeld PC 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900/303-446-9400 (Fax)</p>	<p>Case Number: 2020cv034319</p> <p>Division Courtroom: 409</p>
<p style="text-align: center;">EXHIBIT O-3</p>	

EXHIBIT 14

DECLARATION OF RONALD WATKINS

I, Ronald Watkins, hereby state the following:

1. My name is Ronald Watkins. I am a United States citizen currently residing in Japan.
2. I am an adult of sound mind. All statements in this declaration are based on my personal knowledge and are true and correct. I am making this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive, anything in exchange for my testimony and giving this statement. I have no expectation of any profit or reward and understand that there are those who may seek to harm me for what I say in this statement.
3. I make this declaration because I want to alert the public and let the world know the truth about the insecurity of actual voting tabulation software used in various states for administering the 2020 Presidential and other elections. The software is designed, whether with malicious intent or through plain incompetence, in such a way so as to facilitate digital ballot stuffing via simple vote result manipulation and abuse of the digital adjudication manual review system. Specifically, the Dominion Democracy Suite both enables voter fraud by unethical officials out to undermine the will of the people and facilitates tabulation errors by honest officials making simple, nearly untraceable mistakes.
4. I believe voting is a fundamental manifestation of our right to self-government, including our right to free speech. Under no circumstance should we allow a conspiracy of people and companies to subvert and destroy our most sacred rights.
5. I am a network and information security expert with nine years of experience as a network and information defense analyst and a network security engineer. In my nine years of network and information security experience, I have successfully defended large websites and complex networks against powerful cyberattacks. I have engaged in extensive training and education and learned through experience how to secure websites and networks.
6. In preparation for making this declaration, I have reviewed extensive technical materials relating to the Dominion Voting Democracy Suite, including those cited herein.
7. The Dominion Voting Systems ImageCast Central system is a software and hardware workstation system designed to work with just a common “Windows 10 Pro”¹² computer

¹ Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, p3, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020) <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive]

² Georgia State Certification Testing, *Dominion Voting Systems D-Suite 5.5-A Voting System*, p5, table 2-1, [online document] https://sos.ga.gov/admin/uploads/Dominion_Test_Cert_Report.pdf (accessed November, 23,

paired via data cable³ to an off-the-shelf document scanner⁴ “for high speed scanning and counting of paper ballots.”⁵

8. When bulk ballot scanning and tabulation begins, the “ImageCast Central” workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning procedure within the software menu.⁶ The scanner then begins to scan the ballots which were loaded into the feed tray while the “ImageCast Central” software application

2020),
https://web.archive.org/web/20201106055006/https://sos.ga.gov/admin/uploads/Dominion_Test_Cert_Report.pdf [archive].

³ Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, p2, s2.1, [online document, <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020) <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive].

⁴ Michigan.gov, DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117, p6, 1.1.E.1, [online document],
https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020),
https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive]

⁵ Commonwealth of Pennsylvania Department of State, Report Concerning the Examination Results of Dominion Voting Systems Democracy Suite 5.5A p6, s2.4, [online document],
<https://www.dos.pa.gov/VotingElections/Documents/Voting%20Systems/Dominion%20Democracy%20Suite%205.5-A/Dominion%20Democracy%20Suite%20Final%20Report%20scanned%20with%20signature%20011819.pdf> (accessed November 23, 2020),
<https://web.archive.org/web/20201016161321/https://www.dos.pa.gov/VotingElections/Documents/Voting%20Systems/Dominion%20Democracy%20Suite%205.5-A/Dominion%20Democracy%20Suite%20Final%20Report%20scanned%20with%20signature%20011819.pdf> [archive]

⁶ Dominion Voting, *ImageCast Central*, p2, [online document],
<https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf> (accessed November 23, 2020)
<https://web.archive.org/web/20201017175507/https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf> [archive]

tabulates votes in real-time. Information about scanned ballots can be tracked inside the “ImageCast Central” software application.⁷

9. After all of the ballots loaded into the scanner’s feed tray have been through the scanner, the “ImageCast Central” operator will remove the ballots from the tray and then will have the option to “Accept Batch” on the scanning menu.⁸ Accepting the batch saves the results into the local file system within the “Windows 10 Pro” machine.⁹ Any “problem ballots” that may need to be examined or adjudicated at a later time can be found as ballot scans saved as image files into a standard Windows folder named “NotCastImages”.¹⁰ These “problem ballots” are automatically detected during the scanning phase and digitally set aside for manual review based on exception criteria.¹¹ Examples of exceptions may include: overvotes, undervotes, blank contests, blank ballots, write-in selections, and marginal

⁷ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, p25, s4.1.2, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive].

⁸ Dominion Voting, ImageCast Central, [website], <https://www.dominionvoting.com/imagecast-central/> (Accessed November 23, 2020) <https://web.archive.org/web/20201101203418/https://www.dominionvoting.com/imagecast-central/> [archive].

⁹ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, p25, s4.1.2, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive].

¹⁰ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, p25, s4.1.2, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive].

¹¹ Michigan.gov, DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117, p21, 1.3.B.6, [online document], https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020), https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive].

marks.”¹² Customizable outstack conditions and marginal mark detection lets [Dominion's Customers] decide which ballots are sent for Adjudication.¹³

10. During the ballot scanning process, the “ImageCast Central” software will detect how much of a percent coverage of the oval was filled in by the voter.¹⁴ The Dominion customer determines the thresholds of which the oval needs to be covered by a mark in order to qualify as a valid vote.¹⁵ If a ballot has a marginal mark which did not meet the specific thresholds set by the customer, then the ballot is considered a “problem ballot” and may be set aside into a folder named “NotCastImages.”¹⁷ “The ImageCast Central's advanced

¹² [11] MASTER SOLUTION PURCHASE AND SERVICES AGREEMENT BY AND BETWEEN DOMINION VOTING SYSTEMS, INC. as Contractor, and SECRETARY OF STATE OF THE STATE OF GEORGIA as State, p52, s1.3, [online document], <https://georgiaelections.weebly.com/uploads/1/0/8/5/108591015/contract.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201122213728/https://georgiaelections.weebly.com/uploads/1/0/8/5/108591015/contract.pdf> [archive].

¹³ Dominion Voting, ImageCast Central, [website], <https://www.dominionvoting.com/imagecast-central/> (Accessed November 23, 2020) <https://web.archive.org/web/20201101203418/https://www.dominionvoting.com/imagecast-central/> [archive].

¹⁴ Michigan.gov, DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117, p3, 1.1.A.22, [online document], https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020), https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive].

¹⁵ Calhoun County, MI, ImageCast Central (ICC) 5.5 Operations, p19, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020), https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive].

¹⁶ IMAGECAST® CENTRAL Brochure, [website], <https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf> (accessed November 23, 2020), <https://web.archive.org/web/20201017175507/https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf> [archive].

¹⁷ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, p25, s4.1.2, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/>

settings allow for adjustment of the scanning properties to “[set] the clarity levels at which the ballot should be scanned at.” Levels can be set as a combination of brightness and contrast values, or as a gamma value.”¹⁸

11. Based on my review of these materials, I conclude the system is designed in such a way that it allows a dishonest or otherwise unethical election administrator to creatively tweak the oval coverage threshold settings and advanced settings on the ImageCast Central scanners to set thresholds in such a way that a non-trivial amount of properly-marked ballots are marked as “problem ballots” and sent to the “NotCastImages” folder.
12. The administrator of the ImageCast Central work-station may view all images of scanned ballots which were deemed “problem ballots” by simply navigating via the standard “Windows File Explorer” to the folder named “NotCastImages” which holds ballot scans of “problem ballots.”¹⁹²⁰ Under this system, it is possible for an administrator of the “ImageCast Central” workstation to view and delete any individual ballot scans from the “NotCastImages” folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system. Adjudication is “the process of examining voted ballots to determine, and, in the judicial sense, adjudicate voter intent.”²¹

elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide- 5-11-CO.pdf [archive].

¹⁸ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, pp20-21, s3.22, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide- 5-11-CO.pdf> [archive].

¹⁹ Dominion Voting, Democracy Suite® Use Procedures, p433, F.3.11, [online document] <https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201101173723/https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf> [archive].

²⁰ Calhoun County, MI, ImageCast Central (ICC) 5.5 Operations, p27, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020), https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive].

²¹ Dominion Voting, Democracy Suite® Use Procedures, p9, [online document] <https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf> (Accessed November 23, 2020),

13. Based on my review of these materials, I conclude that a biased poll worker without sufficient and honest oversight could abuse the adjudication system to fraudulently switch votes for a specific candidate.
14. After the tabulation process, the ImageCast Central software saves a copy of the tabulation results locally to the “Windows 10 Pro” machine’s internal storage. The results data is located in an easy-to-find path which is designed to easily facilitate the uploading of tabulation results to flash memory cards. The upload process is just a simple copying of a “Results” folder containing vote tallies to a flash memory card connected to the “Windows 10 Pro” machine. The copy process uses the standard drag-and-drop or copy/paste mechanisms within “Windows File Explorer.”²² It is my conclusion that while this is a simple procedure, the report results process is subject to user errors and is very vulnerable to corrupt manipulation by a malicious administrator. It is my conclusion that, before delivering final tabulation results to the county, it is possible for an administrator to mistakenly copy the wrong “Results” folder or even maliciously copy a false “Results” folder, which could contain a manipulated data set, to the flash memory card and deliver those false “Results” as the outcome of the election.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Japan on November 24, 2020.

Ronald Watkins

<https://web.archive.org/web/20201101173723/https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf> [archive].

²² Calhoun County, MI, ImageCast Central (ICC) 5.5 Operations, pp25-28, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020), https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive].

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202</p>	
<p>ERIC COOMER, Ph.D., Plaintiff</p> <p>vs.</p> <p>DONALD J. TRUMP FOR PRESIDENT, INC., et al., Defendants</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Plaintiff Charles J. Cain, No. 51020 ccain@cstrial.com Steve Skarnulis, No. 21PHV6401 skarnulis@cstrial.com Bradley A. Kloewer, No. 50565 bkloewer@cstrial.com Zachary H. Bowman, No. 21PHV6676 zbowman@cstrial.com CAIN & SKARNULIS PLLC P. O. Box 1064 Salida, Colorado 81201 719-530-3011/512-477-5011 (Fax)</p> <p>Thomas M. Rogers III, No. 28809 trey@rklawpc.com Mark Grueskin, No. 14621 mark@rklawpc.com Andrew E. Ho, No. 40381 andrew@rklawpc.com RechtKornfeld PC 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900/303-446-9400 (Fax)</p>	<p>Case Number: 2020cv034319</p> <p>Division Courtroom: 409</p>
<p style="text-align: center;">EXHIBIT O-4</p>	

DECLARATION OF RONALD WATKINS

I, Ronald Watkins, hereby state the following:

1. My name is Ronald Watkins. I am a United States citizen currently residing in Japan.
2. I am an adult of sound mind. All statements in this declaration are based on my personal knowledge and are true and correct. I am making this statement voluntarily and on my own initiative. I have not been promised, nor do I expect to receive, anything in exchange for my testimony and giving this statement. I have no expectation of any profit or reward and understand that there are those who may seek to harm me for what I say in this statement.
3. I make this declaration because I want to alert the public and let the world know the truth about the insecurity of actual voting tabulation software used in various states for administering the 2020 Presidential and other elections. The software is designed, whether with malicious intent or through plain incompetence, in such a way so as to facilitate digital ballot stuffing via simple vote result manipulation and abuse of the digital adjudication manual review system. Specifically, the Dominion Democracy Suite both enables voter fraud by unethical officials out to undermine the will of the people and facilitates tabulation errors by honest officials making simple, nearly untraceable mistakes.
4. I believe voting is a fundamental manifestation of our right to self-government, including our right to free speech. Under no circumstance should we allow a conspiracy of people and companies to subvert and destroy our most sacred rights.
5. I am a network and information security expert with nine years of experience as a network and information defense analyst and a network security engineer. In my nine years of network and information security experience, I have successfully defended large websites and complex networks against powerful cyberattacks. I have engaged in extensive training and education and learned through experience how to secure websites and networks.
6. In preparation for making this declaration, I have reviewed extensive technical materials relating to the Dominion Voting Democracy Suite, including those cited herein.
7. The Dominion Voting Systems ImageCast Central system is a software and hardware workstation system designed to work with just a common “Windows 10 Pro”¹² computer

¹ Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, p3, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020)
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² Georgia State Certification Testing, *Dominion Voting Systems D-Suite 5.5-A Voting System*, p5, table 2-1, [online document]
https://sos.ga.gov/admin/uploads/Dominion_Test_Cert_Report.pdf (accessed November, 23,

paired via data cable³ to an off-the-shelf document scanner⁴ “for high speed scanning and counting of paper ballots.”⁵

8. When bulk ballot scanning and tabulation begins, the “ImageCast Central” workstation operator will load a batch of ballots into the scanner feed tray and then start the scanning procedure within the software menu.⁶ The scanner then begins to scan the ballots which were loaded into the feed tray while the “ImageCast Central” software application

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³ Dominion Voting, *Democracy Suite®ImageCast® Central User Guide*, p2, s2.1, [online document, <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020) <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive].

⁴ Michigan.gov, DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117, p6, 1.1.E.1, [online document],
https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020),
https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive]

⁵ Commonwealth of Pennsylvania Department of State, Report Concerning the Examination Results of Dominion Voting Systems Democracy Suite 5.5A p6, s2.4, [online document],
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<https://web.archive.org/web/20201016161321/https://www.dos.pa.gov/VotingElections/Documents/Voting%20Systems/Dominion%20Democracy%20Suite%205.5-A/Dominion%20Democracy%20Suite%20Final%20Report%20scanned%20with%20signature%20011819.pdf> [archive]

⁶ Dominion Voting, ImageCast Central, p2, [online document],
<https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf> (accessed November 23, 2020)
<https://web.archive.org/web/20201017175507/https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf> [archive]

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⁷ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, p25, s4.1.2, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive].

⁸ Dominion Voting, ImageCast Central, [website], <https://www.dominionvoting.com/imagecast-central/> (Accessed November 23, 2020) <https://web.archive.org/web/20201101203418/https://www.dominionvoting.com/imagecast-central/> [archive].

⁹ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, p25, s4.1.2, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive].

¹⁰ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, p25, s4.1.2, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> [archive].

¹¹ Michigan.gov, DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117, p21, 1.3.B.6, [online document], https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020), https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive].

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¹² [11] MASTER SOLUTION PURCHASE AND SERVICES AGREEMENT BY AND BETWEEN DOMINION VOTING SYSTEMS, INC. as Contractor, and SECRETARY OF STATE OF THE STATE OF GEORGIA as State, p52, s1.3, [online document], <https://georgiaelections.weebly.com/uploads/1/0/8/5/108591015/contract.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201122213728/https://georgiaelections.weebly.com/uploads/1/0/8/5/108591015/contract.pdf> [archive].

¹³ Dominion Voting, ImageCast Central, [website], <https://www.dominionvoting.com/imagecast-central/> (Accessed November 23, 2020) <https://web.archive.org/web/20201101203418/https://www.dominionvoting.com/imagecast-central/> [archive].

¹⁴ Michigan.gov, DOMINION VOTING SYSTEMS CONTRACT No. 071B7700117, p3, 1.1.A.22, [online document], https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf (accessed November 23, 2020), https://web.archive.org/web/20201115084004/https://www.michigan.gov/documents/sos/071B7700117_Dominion_Exhibit_2_to_Sch_A_Tech_Req_555357_7.pdf [archive].

¹⁵ Calhoun County, MI, ImageCast Central (ICC) 5.5 Operations, p19, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020), https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive].

¹⁶ IMAGECAST® CENTRAL Brochure, [website], <https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf> (accessed November 23, 2020), <https://web.archive.org/web/20201017175507/https://www.edcgov.us/Government/Elections/Documents/ImageCast%20Central%20Brochure%202018%20FINAL.pdf> [archive].

¹⁷ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, p25, s4.1.2, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/>

settings allow for adjustment of the scanning properties to “[set] the clarity levels at which the ballot should be scanned at.” Levels can be set as a combination of brightness and contrast values, or as a gamma value.”¹⁸

11. Based on my review of these materials, I conclude the system is designed in such a way that it allows a dishonest or otherwise unethical election administrator to creatively tweak the oval coverage threshold settings and advanced settings on the ImageCast Central scanners to set thresholds in such a way that a non-trivial amount of properly-marked ballots are marked as “problem ballots” and sent to the “NotCastImages” folder.
12. The administrator of the ImageCast Central work-station may view all images of scanned ballots which were deemed “problem ballots” by simply navigating via the standard “Windows File Explorer” to the folder named “NotCastImages” which holds ballot scans of “problem ballots.”¹⁹²⁰ Under this system, it is possible for an administrator of the “ImageCast Central” workstation to view and delete any individual ballot scans from the “NotCastImages” folder by simply using the standard Windows delete and recycle bin functions provided by the Windows 10 Pro operating system. Adjudication is “the process of examining voted ballots to determine, and, in the judicial sense, adjudicate voter intent.”²¹

elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide- 5-11-CO.pdf [archive].

¹⁸ Dominion Voting, Democracy Suite®ImageCast® Central User Guide, pp20-21, s3.22, [online document], <https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide-5-11-CO.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201019175854/https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/UG-ICC-UserGuide- 5-11-CO.pdf> [archive].

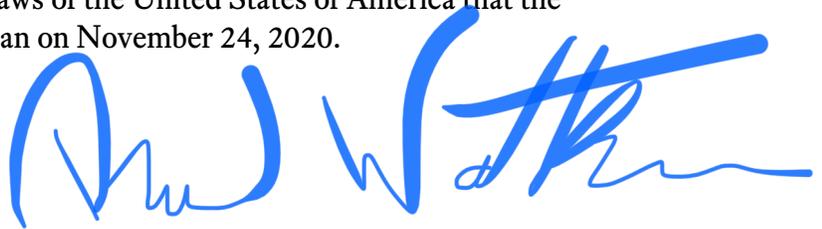
¹⁹ Dominion Voting, Democracy Suite® Use Procedures, p433, F.3.11, [online document] <https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf> (Accessed November 23, 2020), <https://web.archive.org/web/20201101173723/https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf> [archive].

²⁰ Calhoun County, MI, ImageCast Central (ICC) 5.5 Operations, p27, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020), https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive].

²¹ Dominion Voting, Democracy Suite® Use Procedures, p9, [online document] <https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf> (Accessed November 23, 2020),

13. Based on my review of these materials, I conclude that a biased poll worker without sufficient and honest oversight could abuse the adjudication system to fraudulently switch votes for a specific candidate.
14. After the tabulation process, the ImageCast Central software saves a copy of the tabulation results locally to the “Windows 10 Pro” machine’s internal storage. The results data is located in an easy-to-find path which is designed to easily facilitate the uploading of tabulation results to flash memory cards. The upload process is just a simple copying of a “Results” folder containing vote tallies to a flash memory card connected to the “Windows 10 Pro” machine. The copy process uses the standard drag-and-drop or copy/paste mechanisms within “Windows File Explorer.”²² It is my conclusion that while this is a simple procedure, the report results process is subject to user errors and is very vulnerable to corrupt manipulation by a malicious administrator. It is my conclusion that, before delivering final tabulation results to the county, it is possible for an administrator to mistakenly copy the wrong “Results” folder or even maliciously copy a false “Results” folder, which could contain a manipulated data set, to the flash memory card and deliver those false “Results” as the outcome of the election.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Japan on November 24, 2020.



Ronald Watkins

<https://web.archive.org/web/20201101173723/https://votingsystems.cdn.sos.ca.gov/vendors/dominion/ds510-use-proc-jan.pdf> [archive].

²² Calhoun County, MI, ImageCast Central (ICC) 5.5 Operations, pp25-28, [online document], https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf (accessed November 23, 2020), https://web.archive.org/web/20200802003507/https://cms5.revize.com/revize/calhouncountymi/Clerk%20&%20Register%20of%20Deeds/local%20clerk%20resources/5_5_icc_operations_manual.pdf [archive].

INCORRECT DATE
 RECEIVED ON
 State of Georgia
 21 SEP 21 PM 4:16
 TO: Georgia Secretary of State
 SECRETARY OF STATE
 ELECTIONS DIVISION

RECALL APPLICATION



We, the sponsors of this application for a recall petition, demand the recall of:
 Brad Raffensperger, Secretary of State

(Name and Office)
 on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

- Has committed an act or acts of malfeasance while in office;
- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kemerer

RECEIVED
 SECRETARY OF STATE
 ELECTIONS DIVISION
 21 OCT - 1 AM 4:20

OFFICIAL SPONSORS

Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
<u>Kenneth E. Mocham</u> Printed Name KENNETH E. MOCHAM	9-29-21	302 BLUE SKY DR MARIETTA, GA 30068	Cobb
<u>Naean Petty</u> Printed Name NAEAN PETTY	9/29/21	302 Blue Sky Dr MARIETTA GA 30068	Cobb
<u>Devin Quinn</u> Printed Name DEVIN QUINN	9/29/21	4941 Lighthouse Pointe Acworth GA 30101	Cobb
<u>James Skinner</u> Printed Name JAMES SKINNER	9/29/21	1409 Wheaton Ln MARIETTA GA 30068	Cobb
<u>Maria S. Rodriguez</u> Printed Name MARIA S. RODRIGUEZ	9/29/21	2651 FAVOR RD SW APT 1D5 MARIETTA GA 30060	Cobb
<u>Marsha Sprague</u> Printed Name MARSHA SPRAGUE	9/29/21	1580 Reids Ferry Way Marietta, Ga. 30062	Cobb
<u>Deborah Bussart</u> Printed Name DEBORAH BUSSART	9/29/21	1565 Reids Ferry Way Marietta, GA 30062	Cobb
<u>Conetta S. Johnson</u> Printed Name CONETTA S. JOHNSON	9/29/21	1628 MORNINGSIDE TRC MARIETTA GA 30062	Cobb
<u>JAMES M. JOHNSON</u> Printed Name JAMES M. JOHNSON	9/29/21	1628 MORNINGSIDE TRC MARIETTA GA. 30062	Cobb
Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
Printed Name		City	

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia
County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Hoffensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.



Signature of Circulator

4308 N. Smoke Ridge Ct., NE
Residence Address (Number and Street or Route)

Roswell 30075
City

Signature of Petition Chairperson

4308 N. Smoke Ridge Ct., NE
Residence Address (Number and Street or Route)

Roswell 30075
City

Subscribed and sworn to before me this
1st day of October

20 21
Jennifer Rowland
Notary Public
Marietta, Georgia

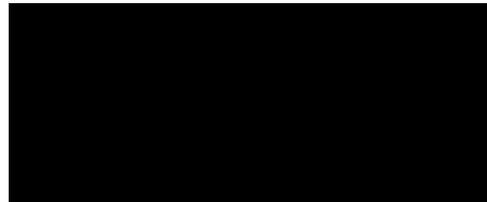
My commission expires on the 24th
day of June, 20 23



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

- Has committed an act or acts of malfeasance while in office;
- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: _____

Amy Kremer

OFFICIAL SPONSORS

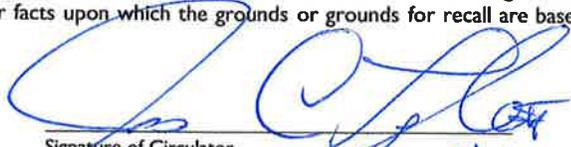
#	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
1	<i>Charlie King</i> Printed Name: CHARLIE KING	9/29/21	280 EVANS LAIVE City: Buchanan GA.	Polk.
2	<i>Phillip M Lankford</i> Printed Name: Phillip M Lankford	9/29/21	140 Dogwood St City: Buchanan, GA	Haralson
3	<i>Megan V Lankford</i> Printed Name: Megan V Lankford	9/29/21	140 Dogwood St City: Buchanan, GA	Haralson
4	<i>Nita Coley</i> Printed Name: Nita Coley	9/29/21	200 Runyon Rd City: Cedartown, GA	Polk
5	<i>Amy Hatsey</i> Printed Name: Amy Hatsey	9/29/21	777 Tallapoosa Hwy City: Cedartown GA	Polk
6	<i>Scott Bevis</i> Printed Name: SCOTT BEVIS	9/29/21	141 CHEROKEE CIR. City: CEDARTOWN	Polk
7	<i>Kaycie Lipetz</i> Printed Name: Kaycie Lipetz	9/29/21	141 Cherokee cir City: Cedartown,	POLK
8	<i>Penny Bevis</i> Printed Name: Penny Bevis	9/29/21	141 Cherokee Cir City: Cedartown, GA 30125	Polk
9	<i>Erik Lipetz</i> Printed Name: Erik Lipetz	9/29/21	141 Cherokee Cir City: Cedartown, GA 30125	Polk
10	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Katersperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.



Signature of Circulator

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell, GA 30075

City



Signature of Petition Chairperson

4308 N. Smoke Ridge Ct.

Residence Address (Number and Street or Route)

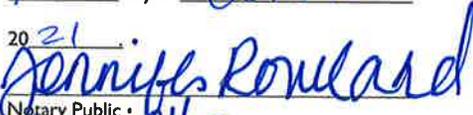
Roswell, GA 30075

City

Subscribed and sworn to before me this

1st day of October

20 21



Notary Public

Manitoca, Georgia

My commission expires on the 24th

day of JUNE, 20 23



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

- Has committed an act or acts of malfeasance while in office;
- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
<u>[Signature]</u> Printed Name Karel D. Hansen	9-27-21	1687 Houghton Ct N City Dunwoody, GA	DeKalb
<u>[Signature]</u> Printed Name Meric Hansen	9-27-21	1687 Houghton Ct N City Dunwoody, GA	DeKalb
<u>[Signature]</u> Printed Name Kim P Brooks	9-27-21	1691 Houghton Ct N City Dunwoody, GA	DeKalb
<u>[Signature]</u> Printed Name Tom Brooks	9-27-21	1691 Houghton Ct N City Dunwoody, GA	DeKalb
<u>[Signature]</u> Printed Name Nancy J. Wamsley	9-28-21	1941 Olde Village Run City Dunwoody, GA	DeKalb
<u>[Signature]</u> Printed Name Richard C. Wamsley	9-28-21	1941 Olde Village Run City Dunwoody, GA	DeKalb
<u>[Signature]</u> Printed Name Whitney R. Games	9-28-21	1700 Houghton Ct N City Dunwoody, GA	DeKalb
<u>[Signature]</u> Printed Name Valerie E. Scott	9-28-21	5249 Winterhall Dr City Dunwoody, GA	DeKalb
<u>[Signature]</u> Printed Name Gail H. Reed	9-28-21	4010 Payten Place City Evans, GA	Columbia
<u>[Signature]</u> Printed Name Travis H. Reed	9-28-21	4010 Payten Place City Evans, GA	Columbia

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia
County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Raffensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

[Handwritten Signature]

Signature of Circulator
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell, GA 30075
City

[Handwritten Signature]

Signature of Petition Chairperson
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell, GA 30075
City

Subscribed and sworn to before me this
1st day of October

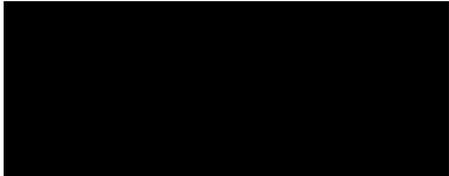
20 21
Jennifer Rowland
Notary Public
Marietta, Georgia

My commission expires on the 24th
day of June, 20 23



RECALL APPLICATION

State of Georgia



TO: Georgia Secretary of State

We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature <i>Casey A. Jones</i> Printed Name Casey A. Jones	Date Signed	Residence Address (Number and street or route) 106 MURRAY WAY City DALLAS GA 30157	County of Residence Paulding
2	Signature <i>Stedie W. Cotton</i> Printed Name Stedie W. Cotton	Date Signed 9/29/21	Residence Address (Number and street or route) 119 Murray Way City Dallas GA 30157	County of Residence Paulding
3	Signature <i>Jennifer L. Tally</i> Printed Name Jennifer L. Tally	Date Signed 9/29/2021	Residence Address (Number and street or route) 147 Murray Way City Dallas GA 30157	County of Residence Paulding
4	Signature <i>P. F. Planne Cotton</i> Printed Name P. F. Planne Cotton	Date Signed 9-29-21	Residence Address (Number and street or route) Dallas, Ga 30157 City 119 Murray Way	County of Residence Paulding
5	Signature <i>Emily Cotton</i> Printed Name Emily Cotton	Date Signed 9/29/21	Residence Address (Number and street or route) 119 Murray Way City Dallas GA 30157	County of Residence Paulding
6	Signature <i>Kala Graham</i> Printed Name KALA GRAHAM	Date Signed 9-29-2021	Residence Address (Number and street or route) 177 MURRAY WAY City DALLAS GA 30157	County of Residence PAULDING
7	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
8	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
9	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
10	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia

County of Cobb

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[Signature]

Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

City

[Signature]

Signature of Petition Chairperson

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

City

Subscribed and sworn to before me this

1st day of October

2021
Jennifer Rowland
Notary Public

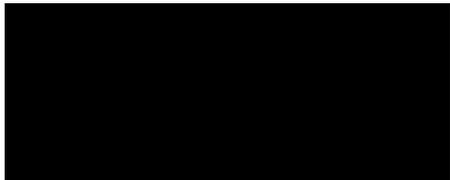
Marietta, Georgia

My commission expires on the 24th
day of June, 2023



RECALL APPLICATION

State of Georgia



TO: Georgia Secretary of State

We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature 	Date Signed 9/29/21	Residence Address (Number and street or route) 36 W Memorial Dr City DALLAS	County of Residence Paulding
	Printed Name Lori A. Camp			
2	Signature 	Date Signed 9/29/21	Residence Address (Number and street or route) 161 Makayla Blvd City Knoxville	County of Residence Paulding
	Printed Name Becky Powell			
3	Signature 	Date Signed 9/29/21	Residence Address (Number and street or route) 49 Ashley Lane City Hiram GA 3014	County of Residence Paulding
	Printed Name John Velvick			
4	Signature 	Date Signed 9/29/21	Residence Address (Number and street or route) 120 Wayside Ln City Dallas GA	County of Residence Paulding
	Printed Name Jenice L. Williams			
5	Signature 	Date Signed 9/29/2021	Residence Address (Number and street or route) 214 HOPE DR City DALLAS GA 30157	County of Residence Paulding
	Printed Name DAVID J WILLIAMS			
6	Signature 	Date Signed 9/29/2021	Residence Address (Number and street or route) 137 Oakmont Way City Dallas GA 30157	County of Residence Paulding
	Printed Name Gail R. Lutz			
7	Signature 	Date Signed 9/29/21	Residence Address (Number and street or route) 130 Oakmont Way City Dallas, GA 30157	County of Residence Paulding
	Printed Name SUSAN Short			
8	Signature 	Date Signed 9/29/21	Residence Address (Number and street or route) 150 Murray Way City Dallas GA 30157	County of Residence Paulding
	Printed Name Diana DiBiacco			
9	Signature 	Date Signed 9/29/21	Residence Address (Number and street or route) 10151 Picketts Ridge City Acworth 30101	County of Residence COBB
	Printed Name Amanda Koch			
10	Signature 	Date Signed 9-29-21	Residence Address (Number and street or route) 147 Murray Way City Dallas GA	County of Residence Paulding
	Printed Name James E. Tilly			

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia
County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Kollensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

[Signature]

Signature of Circulator
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell, GA 30075
City

[Signature]

Signature of Petition Chairperson
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell, GA 30075
City

Subscribed and sworn to before me this
1st day of October
2021
Jennifer Rowland
Notary Public
Marietta, Georgia

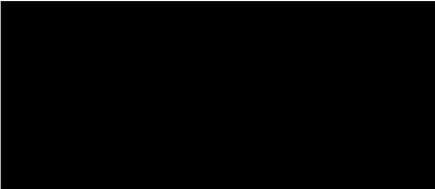


My commission expires on the 24th
day of June, 2023

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

- Has committed an act or acts of malfeasance while in office;
- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: _____

Amy Kremer

OFFICIAL SPONSORS

#	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	<i>Melanie Gibbs</i> Printed Name: Melanie Gibbs	9/29/21	435 Bennett Rd. Rockmart Ga 30153	Polk
2	<i>Larry W Hamer</i> Printed Name: LARRY W HAMER	9/29/21	448 NATHAN DEAN PKWY Rockmart, Ga 30153	Polk
3	<i>Lawrence Long</i> Printed Name: Lawrence Long	9/29/21	2 Aragon Rd Aragon Ga 30104	Polk
4	<i>William Kenneth Rogers</i> Printed Name: William Kenneth Rogers	9/29/21	136 Church St Taylorsville, GA.	Polk
5	<i>Walter H. McNelly</i> Printed Name: Walter H. McNelly	9/25/21	522 Woodson ST Rockmart Ga	Polk
6	<i>Rosey Rose</i> Printed Name: Rosey Rose	9/29/21	1073 KNIGHT ROAD Rockmart, GA	Polk
7	<i>Bobby Helms</i> Printed Name: Bobby Helms	9/29/21	424 Callaway Circle Rockmart GA	Polk
8	<i>Ed Hammonds</i> Printed Name: ED HAMMONDS	9/29/21	1208 S. MAIN ST CedarTown, GA.	Polk
9	<i>Judith Hammonds</i> Printed Name: Judith Hammonds	9/29/21	1208 S. Main St. CedarTown, Ga	Polk
10	<i>Stacie King</i> Printed Name: Stacie King	9/29	280 EVANS DR Buchanan GA 30613	Polk

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia

County of Polk

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Calkersperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

[Signature]
Signature of Circulator

117 Tallgrassa Hwy
Residence Address (Number and Street or Route)
Cedartown GA

City

[Signature]
Signature of Petition Chairperson

4308 A Smoke Ridge Ct, NE
Residence Address (Number and Street or Route)
Roswell, GA 30075

City

Subscribed and sworn to before me this
1st day of October

2021
Jennifer Rowland
Notary Public
Marietta, Georgia

My commission expires on the 24th
day of June, 2023



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

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Name of Petition Chairperson: Amy Kremer

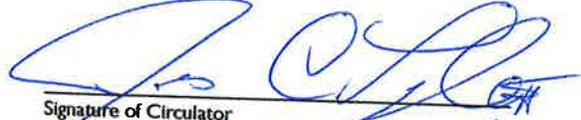
OFFICIAL SPONSORS

#	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
1	 Printed Name: JOHN E. HAMILTON	9-28-21	2405 WICKLIFFE CT City: ATLANTA, GA 30338	USA DeKalb
2	 Printed Name: JOHN E. HAMILTON	9-28-21	2405 WICKLIFFE CT City: ATLANTA, GA 30338	DeKalb USA
3	 Printed Name: JUDITH A. SCORZINI	09/29/21	2300 Adrenal Foundation City: Atlanta, GA 30340	Gwinnett
4	 Printed Name: STANLEY W. BUTLER JR	9/28/21	1234 Mile Post Dr City: Dunwoody 30338	DEKALB
5	 Printed Name: Sandra L. Butler	9/28/21	1234 Mile Post Dr. City: Dunwoody, GA	DeKalb
6	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
7	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
8	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
9	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
10	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia
County of Cobb

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Signature of Circulator
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell, GA 30075
City


Signature of Petition Chairperson
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell, GA 30075
City

Subscribed and sworn to before me this
1st day of October

20 21
Jennifer Rowland
Notary Public
Marietta, Georgia

My commission expires on the 24th
day of JUNE, 20 23



RECALL APPLICATION

State of Georgia



TO: Georgia Secretary of State

We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

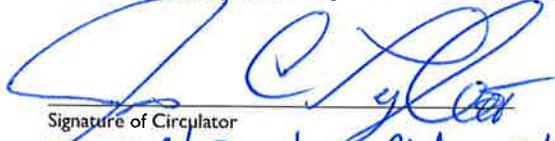
1	Signature <i>[Signature]</i> Printed Name Charlotte Holloway	Date Signed 9/27	Residence Address (Number and street or route) 5164 Wellshire Pl City Dunwoody GA 30338	County of Residence DeKalb
2	Signature <i>[Signature]</i> Printed Name Rob Holloway	Date Signed 9/27	Residence Address (Number and street or route) 5164 Wellshire Pl City Dunwoody GA 30338	County of Residence DeKalb
3	Signature <i>[Signature]</i> Printed Name Ellen McCormick	Date Signed 9/28/21	Residence Address (Number and street or route) 9810 Coleman Rd. City Roswell GA	County of Residence Fulton
4	Signature <i>[Signature]</i> Printed Name James K McMorris	Date Signed 9/28/21	Residence Address (Number and street or route) 9810 Coleman Rd City Roswell, GA	County of Residence Fulton
5	Signature <i>[Signature]</i> Printed Name Keaton Russell	Date Signed 9/28/21	Residence Address (Number and street or route) 1280 Verdon dr City Dunwoody, GA	County of Residence DeKalb
6	Signature <i>[Signature]</i> Printed Name Kelly Russell	Date Signed 9/28/21	Residence Address (Number and street or route) 1280 Verdon dr City Dunwoody, GA	County of Residence DeKalb
7	Signature <i>[Signature]</i> Printed Name Edward S. Hays	Date Signed 9/28/21	Residence Address (Number and street or route) 5287 VERNON LK DR City DUNWOODY GA	County of Residence DEKALB
8	Signature <i>[Signature]</i> Printed Name Cory Follis	Date Signed 9-28-21	Residence Address (Number and street or route) 4905 Parliament City Dunwoody GA	County of Residence DeKalb
9	Signature <i>[Signature]</i> Printed Name Terry Follis	Date Signed 9-28-21	Residence Address (Number and street or route) 4905 Parliament City Dunwoody	County of Residence DeKalb
10	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Cobb

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Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Signature of Petition Chairperson

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Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this

1st day of October

2021

Jennifer Rowland

Notary Public

Marionetta, Georgia

My commission expires on the 24th

day of June, 2023



RECALL APPLICATION

State of Georgia



TO: Georgia Secretary of State

We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature  Printed Name CHARLES ALBERTARIO	Date Signed 09/28/2021	Residence Address (Number and street or route) 4075 LONGFORD RIDGE DR. N.E. City MARIETTA, GA. 30066	County of Residence COBB
2	Signature  Printed Name LUCILLE ALBERTARIO	Date Signed 09/28/2021	Residence Address (Number and street or route) 4075 LONGFORD RIDGE DR. NE City MARIETTA, GA. 30066	County of Residence COBB
3	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
4	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
5	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
6	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
7	Signature Printed Name	Date Signed PG #17	Residence Address (Number and street or route) GA-SOS-22-0172-A-000103	County of Residence

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of COBB

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[Signature]
Signature of Circulator

4308 N. Smoke Ridge Ct. NE
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

[Signature]
Signature of Petition Chairperson

4308 N. Smoke Ridge Ct. NE
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this

1st day of October

2021

Jennifer Rowland

Notary Public

Marietta, Georgia



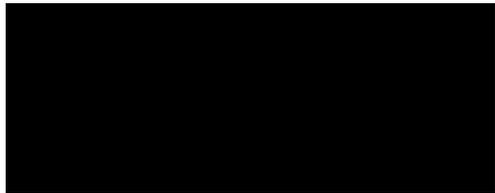
My commission expires on the 24th

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RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



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Brad Raffensperger, Secretary of State

(Name and Office)

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Name of Petition Chairperson: _____

Amy Kremer

OFFICIAL SPONSORS

1	Signature <i>Kathy Pittman</i> Printed Name Kathy Pittman	Date Signed 9/28/21	Residence Address (Number and street or route) 4323 N. Smoke Ridge Ct. City Roswell	County of Residence Cobb
2	Signature <i>Jeffrey L Pittman</i> Printed Name JEFFREY L PITMAN	Date Signed 9/29/21	Residence Address (Number and street or route) 4323 N SMOKE RIDGE CT City ROSWELL	County of Residence COBB
3	Signature <i>Brad Pittman</i> Printed Name Brad Pittman	Date Signed 9/28/21	Residence Address (Number and street or route) 4558 Ashmore Cir City Marietta	County of Residence Cobb
4	Signature <i>Kevin E. Houston</i> Printed Name Kevin E. Houston	Date Signed 9/28/21	Residence Address (Number and street or route) 2695 Shadow Bluff Dr City Marietta	County of Residence Cobb
5	Signature <i>Tara Houston</i> Printed Name Tara Houston	Date Signed 9/28/21	Residence Address (Number and street or route) 2695 Shadow Bluff City Marietta	County of Residence Cobb
6	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
7	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
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RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

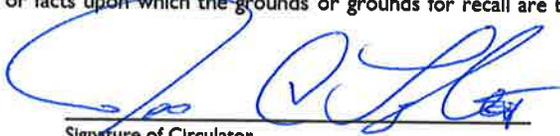
1	Signature <i>Jill Whitwell</i> Printed Name Jill Whitwell	Date Signed 9/28/21	Residence Address (Number and street or route) 1041 W. Canyon Creek Ct City Watkinsville, GA 30677	County of Residence Oconee
2	Signature <i>Laura King</i> Printed Name Laura King	Date Signed 9-29-21	Residence Address (Number and street or route) 1201 Cherokee Creek City Adrian, GA 30601	County of Residence Oconee
3	Signature <i>Elizabeth St. Short</i> Printed Name Elizabeth St. Short	Date Signed 9-29-21	Residence Address (Number and street or route) 562 Riverchase Circle City Statham	County of Residence Barrow
4	Signature <i>Rebecca McCants</i> Printed Name Rebecca McCants	Date Signed 9/29/21	Residence Address (Number and street or route) 1160 Fieldstone Rd City Watkinsville GA	County of Residence Oconee
5	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
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**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Cobb

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Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City



Signature of Petition Chairperson

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this

1st day of October

20 21
Jennifer Rowland

Notary Public
Marietta, Georgia

My commission expires on the 24th
day of June, 20 23



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

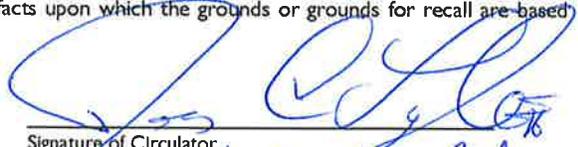
1	Signature <i>Harold G. Bowersford</i>	Date Signed 9-18-21	Residence Address (Number and street or route) 4306 N. Smoke Ridge Ct. NE City Roswell	County of Residence Cobb
2	Signature <i>Jacquelyn C. Bowersford</i>	Date Signed 9-25-21	Residence Address (Number and street or route) 4306 N. Smoke Ridge Ct. NE City Roswell	County of Residence Cobb
3	Signature 	Date Signed 	Residence Address (Number and street or route) City 	County of Residence
4	Signature 	Date Signed 	Residence Address (Number and street or route) City 	County of Residence
5	Signature 	Date Signed 	Residence Address (Number and street or route) City 	County of Residence
6	Signature 	Date Signed 	Residence Address (Number and street or route) City 	County of Residence
7	Signature 	Date Signed 	Residence Address (Number and street or route) City 	County of Residence
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9	Signature 	Date Signed 	Residence Address (Number and street or route) City 	County of Residence
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AFFIDAVIT OF CIRCULATOR AND
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Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Signature of Petition Chairperson

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Residence Address (Number and Street or Route)

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City

Subscribed and sworn to before me this
1st day of October

20 21
Jennifer Rowland
Notary Public

Marietta, Georgia



My commission expires on the 24th
day of June, 20 23

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



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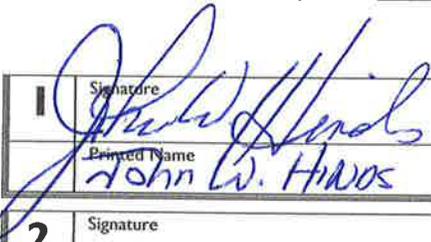
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The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature  Printed Name John W. Haros	Date Signed 9/28/2021	Residence Address (Number and street or route) 765 Oakley Summit Dr City Roswell GA 30075	County of Residence Fulton
2	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
3	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
4	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
5	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
6	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
7	Signature Printed Name	Date Signed pg# 25	Residence Address (Number and street or route) GA-SOS-22-0172-A-000110 City	County of Residence

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Fulton Cobb ^{AK}

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Rattensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

Elizabeth Ainds
Signature of Circulator
765 Valley Summit Drive
Residence Address (Number and Street or Route)
Roswell, GA 30075
City

[Signature]
Signature of Petition Chairperson
4308 N. Smoke Ridge Ct., NE
Residence Address (Number and Street or Route)
Roswell, GA 30075
City

Subscribed and sworn to before me this
1st day of October

20 21.
Jennifer Rowland
Notary Public

Maricetta, Georgia



My commission expires on the 24th
day of June, 20 23

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

- Has committed an act or acts of malfeasance while in office;
- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature <i>Beth Hinds</i>	Date Signed 9/18/2021	Residence Address (Number and street or route) 765 Valley Summit Dr. City Roswell GA 30075	County of Residence Fulton
	Printed Name Elizabeth Hinds			
2	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
3	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
4	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
5	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
6	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
7	Signature	Date Signed <i>pg # 28</i>	Residence Address (Number and street or route) GA-SOS-22-0172-A-000112	County of Residence
	Printed Name		City	

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Fulton Cobb AK

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Raffensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

John W. Affrino
Signature of Circulator

765 Valley Summit Dr
Residence Address (Number and Street or Route)

Roswell GA 30075
City

[Signature]
Signature of Petition Chairperson

4308 N. Smoke Ridge Ct., NE
Residence Address (Number and Street or Route)

Roswell, GA 30085
City

Subscribed and sworn to before me this

1st day of October

20 21

Jennifer Rowland
Notary Public

marietta, Georgia



My commission expires on the 24th

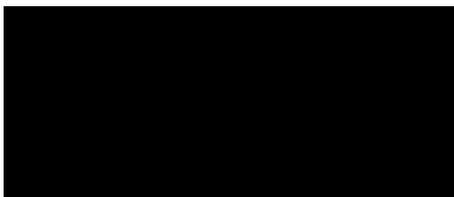
day of June, 20 23

pg # 28

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

- Has committed an act or acts of malfeasance while in office;
- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: _____

Amy Kremer

OFFICIAL SPONSORS

#	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
1	<i>[Signature]</i> Printed Name: <i>Brandon Hough</i>	<i>9/28/21</i>	<i>109 Aspen Ct Woodstock, GA</i>	<i>Cherokee</i>
2	<i>[Signature]</i> Printed Name: <i>LAWRENCE D HOUGH</i>	<i>9/28/21</i>	<i>109 ASPEN CT WOODSTOCK GA</i>	<i>CHEROKEE</i>
3	<i>[Signature]</i> Printed Name: <i>Tamela J. Hough</i>	<i>9/28/21</i>	<i>109 Aspen Ct Woodstock GA</i>	<i>Cherokee</i>
4	<i>[Signature]</i> Printed Name: <i>Peggy J. Jones</i>	<i>9/28/21</i>	<i>109 Aspen Ct Woodstock, GA</i>	<i>Cherokee</i>
5	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
6	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
7	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
8	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
9	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
10	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia
County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brid Kattenberger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

[Signature]
Signature of Circulator
4308 N Smoke Ridge Ct.
Residence Address (Number and Street or Route)
Roswell
City

[Signature]
Signature of Petition Chairperson
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell
City

Subscribed and sworn to before me this
15th day of October

20 21
Jennifer Rowland
Notary Public
Marietta, Georgia



My commission expires on the 24th
day of JUNE, 20 23

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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- Has committed an act of misconduct in office;
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- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

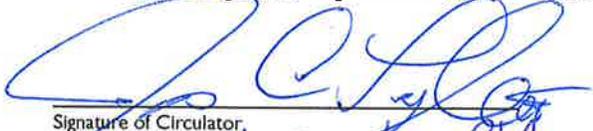
1	Signature <u>Mariela Albertario</u> Printed Name MARIELA L ALBERTARIO	Date Signed 9-28-21	Residence Address (Number and street or route) 2990 Cynthia Ct City Marietta Ga	County of Residence Cobb
2	Signature <u>Jennifer R. James</u> Printed Name JENNIFER R. JAMES	Date Signed 9-28-21	Residence Address (Number and street or route) 2655 Spencers Trace City Marietta, GA	County of Residence Cobb
3	Signature <u>Chris Dugan</u> Printed Name CHRIS DUGAN	Date Signed 9/28/21	Residence Address (Number and street or route) 2655 Spencers Trace City Marietta, GA	County of Residence Cobb
4	Signature <u>Constance A. McFall</u> Printed Name CONSTANCE A MCFALL	Date Signed 9/28/21	Residence Address (Number and street or route) 1905 Holly Springs Rd City Marietta	County of Residence Cobb
5	Signature <u>Cusan Newell</u> Printed Name CUSAN NEWELL	Date Signed 9/28/21	Residence Address (Number and street or route) 2610 Valencia Dr City Marietta	County of Residence Cobb
6	Signature <u>Janet Nagle</u> Printed Name JANET NAGLE	Date Signed 9/28/2021	Residence Address (Number and street or route) 2610 Valencia Drive City Marietta	County of Residence Cobb
7	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
8	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
9	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
10	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia

County of Cobb

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Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City


Signature of Petition Chairperson

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this

1st day of October

2021
Jennifer Rowland
Notary Public

Marietta, Georgia

My commission expires on the 24th
day of June, 2023



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Bremer

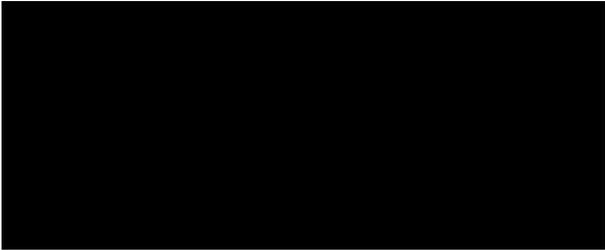
OFFICIAL SPONSORS

#	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
1	<u>[Signature]</u> Printed Name: <u>Jan Coley</u>	<u>9/29/21</u>	<u>406 Runyon Rd</u> City: <u>Cedartown, GA</u>	<u>Polk</u>
2	<u>[Signature]</u> Printed Name: <u>Martha Coley</u>	<u>9-29-21</u>	<u>370 RUNYON Rd.</u> City: <u>Cedartown, GA.</u>	<u>Polk</u>
3	<u>[Signature]</u> Printed Name: <u>RAYMOND COLEY</u>	<u>9-29-21</u>	<u>370 RUNYON Rd.</u> City: <u>Cedartown, GA</u>	<u>Polk</u>
4	<u>[Signature]</u> Printed Name: <u>Donna Runyon</u>	<u>9-29-21</u>	<u>353 Runyon GA</u> City: <u>Cedartown, GA</u>	<u>Polk</u>
5	<u>[Signature]</u> Printed Name: <u>Lee Runyon</u>	<u>9-29-21</u>	<u>353 Runyon Rd GA</u> City: <u>CEDARTOWN GA</u>	<u>Polk</u>
6	<u>[Signature]</u> Printed Name: <u>Ellen Lee</u>	<u>9/29/21</u>	<u>334 Runyon Rd</u> City: <u>Cedartown, Ga</u>	<u>Polk</u>
7	<u>[Signature]</u> Printed Name: <u>Senaiter Hux</u>	<u>9/29/21</u>	<u>717 Tulebrook Hwy</u> City: <u>Cedartown GA</u>	<u>Polk</u>
8	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
9	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
10	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature Printed Name John N. STAVER	Date Signed 09/28/2021	Residence Address (Number and street or route) 405 ALLATOONA TRAIL City Woodstock, GA 30189-7401	County of Residence Cherokee
2	Signature Printed Name Deborah H Staver	Date Signed 9-28-2021	Residence Address (Number and street or route) 405 Allatoona Trail City Woodstock, GA 30189	County of Residence Cherokee
3	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
4	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
5	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
6	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
7	Signature Printed Name	Date Signed POS 35	Residence Address (Number and street or route) GA-SOS-22-0172-A-000119 City	County of Residence

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Rattensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

[Signature]
Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

[Signature]
Signature of Petition Chairperson

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this

1st day of October

20 21
Jennifer Rowland

Notary Public

Maricetta, Georgia



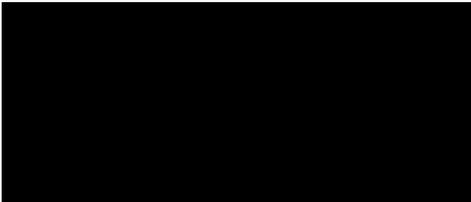
My commission expires on the 24th

day of June, 20 23

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

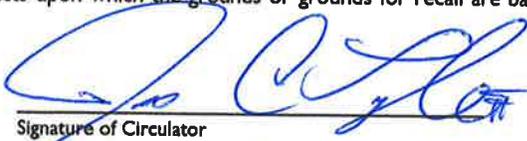
1	Signature <i>Karen Robinson</i> Printed Name Karen Robinson	Date Signed 9/28/2021	Residence Address (Number and street or route) 2121 Hidden Mill Run City Snellville, GA 30078	County of Residence Gwinnett
2	Signature <i>Bryan Robinson</i> Printed Name BRYAN ROBINSON	Date Signed 9/28/21	Residence Address (Number and street or route) 2121 Hidden Mill Run City SNELLVILLE, GA 30078	County of Residence GWINNETT
3	Signature <i>Pamela Lohr Hendrix</i> Printed Name Pamela Lohr Hendrix	Date Signed 9/28/21	Residence Address (Number and street or route) 1151 Thornwood Dr. City Watkinsville, GA 30677	County of Residence Oconee
4	Signature <i>Julie Mauck</i> Printed Name Julie Mauck	Date Signed 9/28/21	Residence Address (Number and street or route) 1110 Summit Cir City Watkinsville GA	County of Residence Oconee
5	Signature <i>Joan Register</i> Printed Name Joan Register	Date Signed 9/28/21	Residence Address (Number and street or route) 1150 Fieldstone Rd. City Watkinsville, GA	County of Residence Oconee
6	Signature <i>Nancy Postiricks</i> Printed Name NANCY Postiricks	Date Signed 9/28/21	Residence Address (Number and street or route) 1110 Fieldstone City Watkinsville GA	County of Residence OCONEE
7	Signature <i>Shirley Bray</i> Printed Name Shirley Bray	Date Signed 9/28/21	Residence Address (Number and street or route) 1071 E. Canyon Creek Rd. City Watkinsville, GA 30677	County of Residence Oconee
8	Signature <i>Marian Maxey Smith</i> Printed Name Marian Maxey Smith	Date Signed 9/28/21	Residence Address (Number and street or route) 1071 Canyon Creek Rd. City Watkinsville, GA 30677	County of Residence Oconee
9	Signature <i>Christopher D. Smith</i> Printed Name Christopher D. Smith	Date Signed 9/28/21	Residence Address (Number and street or route) 1071 Canyon Creek Rd. City Watkinsville, GA 30677	County of Residence Oconee
10	Signature <i>Abigail E. Smith</i> Printed Name Abigail Smith	Date Signed 9/28/21	Residence Address (Number and street or route) 1071 Canyon Creek Rd City Watkinsville	County of Residence Oconee

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Raffensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.



Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell GA 30075
City



Signature of Petition Chairperson

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this
1 day of October

2021
Jennife Rowland

Notary Public,
Marietta, Georgia

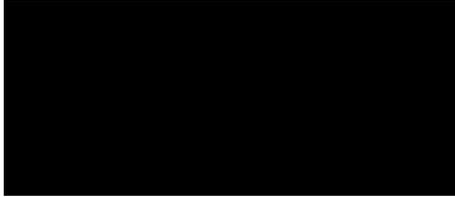


My commission expires on the 24
day of June, 2023

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

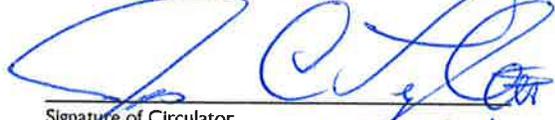
1	Signature <u>Thomas G. Roberts</u> Printed Name THOMAS G. ROBERTS	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>4302 N. SMOKE RIDGE</u> City <u>ROSWELL</u>	County of Residence <u>COBB</u>
2	Signature <u>Donna P. Roberts</u> Printed Name DONNA P. ROBERTS	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>4302 N. SMOKE RIDGE</u> City <u>ROSWELL</u>	County of Residence <u>COBB</u>
3	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
4	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
5	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
6	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
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8	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
9	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
10	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia

County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Rattenspeger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.



Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Signature of Petition Chairperson

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this

1st day of October

2021,
Jennifer Rowland

Notary Public
Marietta, Georgia

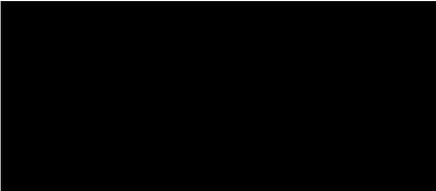
My commission expires on the 24th
day of June, 2023



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

- Has committed an act or acts of malfeasance while in office;
- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

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Name of Petition Chairperson: Amey Kremer

OFFICIAL SPONSORS

1	Signature <u>[Signature]</u> Printed Name LEWY MARKHAM	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>302 BLUE SKY DR</u> City MARIETTA, GA 30068	County of Residence COBB
2	Signature <u>[Signature]</u> Printed Name MARY J HAUSER	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>361 Strawberry Wynde</u> City Marietta, GA 30064	County of Residence COBB
3	Signature <u>[Signature]</u> Printed Name Brooke Schultz	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>2281 Akers Mill Rd Apt</u> City Atlanta, GA 30339 4573	County of Residence COBB
4	Signature <u>[Signature]</u> Printed Name Mary F. Carzoli	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>708 Riverview Dr SE</u> City Marietta, GA 30067	County of Residence Cobb
5	Signature <u>[Signature]</u> Printed Name SABRINA MAO	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>3305 Chestnut Creek Et</u> City Marietta 30062	County of Residence Cobb
6	Signature <u>[Signature]</u> Printed Name Leroy Z. Emkin	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>1632 Morningside Trace</u> City Marietta	County of Residence Cobb
7	Signature <u>[Signature]</u> Printed Name Christine Rozman	Date Signed <u>9-28-21</u>	Residence Address (Number and street or route) <u>1632 Morningside Trace</u> City Marietta 30062	County of Residence Cobb
8	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
9	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
10	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia

County of Cobb

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[Handwritten Signature]

Signature of Circulator

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell, GA 30075

City

[Handwritten Signature]

Signature of Petition Chairperson

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell, GA 30075

City

Subscribed and sworn to before me this

1st day of October

20 21

Jennifer Rowland

Notary Public

Mairetta, Georgia

My commission expires on the

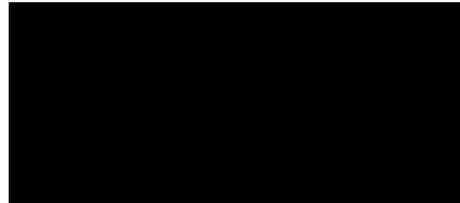
24th day of June, 20 23



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting rounds for recall):

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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature 	Date Signed 10/11/21	Residence Address (Number and street or route) 4305 N. Smoke Ridge Ct City ROZELLE, GA	County of Residence Cobb
	Printed Name Amy Kremer			
2	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
3	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
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	Printed Name		City	
10	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia Cobb
County of _____

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[Signature]
Signature of Circulator
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell, GA 30075
City
[Signature]
Signature of Petition Chairperson
4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)
Roswell, GA 30075
City

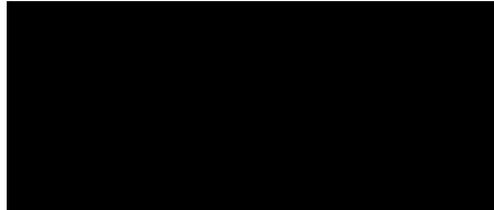
Subscribed and sworn to before me this
1 day of October
2021.
Jennifer Rowland
Notary Public
Marietta, Georgia
My commission expires on the 24
day of June, 2023



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

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The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

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Name of Petition Chairperson: _____

Amy Kremer

OFFICIAL SPONSORS

#	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
1	<i>Maggie Ivey</i> Maggie Ivey	09-28-21	128 Sons Lane Jasper, Ga. 30143	Pickens
2	<i>Garrett McQueen</i> Garrett McQueen	09-28-21	3078 Eagle Watch Dr. Woodstock	Cherokee
3	<i>Angela Evans</i> Angela Evans	9/28/21	119 Hawkins Rdg Jasper	Pickens
4	<i>Helen F. Pharr</i> HELEN F. PHARR	9-28-21	72 Poole Ave. JASPER, GA	Pickens
5	<i>Dana N. Daniel</i> DANA N DANIEL	9-28-2021	2113 WOOD GLEN LANE MARIETTA, GA	COBB
6	<i>Patsy J. Daniel</i> Patsy J Daniel	9-28-2021	5613 Cove Rd Jasper, GA 30143	Pickens
7	<i>Tom K. Daniel</i> Tom K. DANIEL	09/28/2021	5613 COVE RD. JASPER, GA. 30143	PICKENS
8	<i>William O. Cagle</i> William O. Cagle	9-28-21	5712 Cove Rd. JASPER, GA 30143	Pickens
9	<i>Jim Downs</i> Jim Downs	9-28-21	5539 Cove Rd. Jasper, GA 30143	Pickens
10	<i>Tom A. Acker</i> Tom A. Acker	9 29 21	79 TURNER RD EX JASPER GA 30143	Pickens

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Cobb

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Shelma Cagle
Signature of Circulator

5712 Cove Rd
Residence Address (Number and Street or Route)

Jasper, GA 30143
City

[Signature]
Signature of Petition Chairperson

4308 N. Smoke Ridge Ct., NE
Residence Address (Number and Street or Route)

Roswell 30075
City

Subscribed and sworn to before me this
1st day of October

20 21
Jennifer Rowland
Notary Public

Marletta, Georgia

My commission expires on the 24th

day of June, 20 23



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: _____

Amy Kremer

OFFICIAL SPONSORS

Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
<i>Dixie Stewart</i> Printed Name: Dixie Stewart	9/28/21	100 Greystone Rd. Talking Rock	Pickens
<i>Whitney Patterson</i> Printed Name: Whitney Patterson	9/28/21	1588 Fire Tower Rdse Fairmount	Gordon
<i>Deliece H Worley</i> Printed Name: Deliece H Worley	9/28/21	553 Dove St Ball Ground GA 30107	Pickens
<i>William C. Lawrence</i> Printed Name: WILLIAM C. LAWRENCE	09-28-21	570 TAMARACK DR JASPER GA 30143	PICKENS
<i>Kyle Baker</i> Printed Name: Kyle Baker	9/28/21	1706 Amber Oak Ln Talking Rock, Ga	Pickens
<i>Cary L. Pickens</i> Printed Name: Cary L. Pickens	9-28-21	71 FAIRMOUNT # 20154 JASPER GA 30143	Pickens
<i>Mark E. Patterson</i> Printed Name: Mark E. Patterson	9/28/21	85 Hampton Farms Trl Jasper GA 30143	Pickens
<i>Eric Hughes</i> Printed Name: Eric Hughes	9/28/21	429 Hillcity road Jasper	Pickens
<i>Jessy Stallman</i> Printed Name: Jessy Stallman	9/28/21	272 Hontes Rd Jasper 30143	Pickens
<i>Kathryn Byers</i> Printed Name: Kathryn Byers	9/28/21	12346 Hwy. 53 W Fairmount 30139	Pickens

**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Cobb

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Shelmad Cagle
Signature of Circulator

5712 Cove Rd.
Residence Address (Number and Street or Route)

Jasper, GA 30143
City

[Signature]
Signature of Petition Chairperson

4308 A Smoke Ridge Ct. NE
Residence Address (Number and Street or Route)

ROSWELL 30075
City

Subscribed and sworn to before me this

1 day of October

2021

Jennifer Rowland
Notary Public

Marietta, Georgia

My commission expires on the 24
day of June, 2023



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature <i>Susan Knox</i> Printed Name SUSAN KNOX	Date Signed 9/28/21	Residence Address (Number and street or route) 5612 Conway Drive City Marietta	County of Residence COBB
2	Signature <i>B.G. Gibson Thrift, Jr.</i> Printed Name B.G. Gibson Thrift, Jr.	Date Signed 9/28/21	Residence Address (Number and street or route) 5612 Conway Dr. City Marietta	County of Residence Cobb
3	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
4	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
5	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
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**AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON**

State of Georgia

County of Cobb

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[Signature]
Signature of Circulator
4308 N. Smoke Ridge Ct, NE
Residence Address (Number and Street or Route)
ROSWELL, GA 30075
City

[Signature]
Signature of Petition Chairperson
4308 N. Smoke Ridge Ct, NE
Residence Address (Number and Street or Route)
ROSWELL, GA 30075
City

Subscribed and sworn to before me this
1 day of October

2021
Jennifer Rowland
Notary Public
Marionetta, Georgia

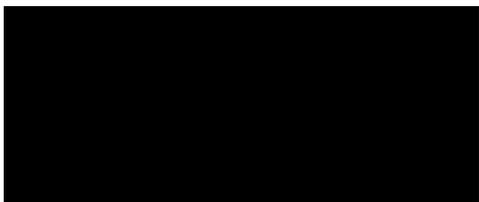
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State of Georgia

TO: Georgia Secretary of State



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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature 	Date Signed 9/28/2021	Residence Address (Number and street or route) 1732 Huntingford Dr. City Marietta 30068	County of Residence Cobb
	Printed Name Hugh M. Norris			
2	Signature 	Date Signed 9/28/2021	Residence Address (Number and street or route) 1732 Huntingford Dr. City Marietta, 30068	County of Residence Cobb
	Printed Name Debbie S. Norris			
3	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
4	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
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	Printed Name		City	
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	Printed Name		City	

**AFFIDAVIT OF CIRCULATOR AND
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State of Georgia
County of Cobb

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[Signature]

Signature of Circulator

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell

City

[Signature]

Signature of Petition Chairperson

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell

City

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1 day of October

2021
Jennifer Rowland

Notary Public

Manetta, Georgia

My commission expires on the 24
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RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



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- Has violated his or her oath of office;
- Has committed an act of misconduct in office;
- Is guilty of a failure to perform duties prescribed by law; or
- Has willfully misused, converted, or misappropriated, without authority, public property or public funds entrusted to or associated with the elective office to which the official has been elected or appointed.

The facts upon which this recall is based are as follows (Give brief statement of fact or facts supporting grounds for recall):

That the Georgia Secretary of State, Brad Raffensperger, has while holding public office, conducted himself in a manner which relates to and adversely affects the administration of his office and adversely affects the rights and interests of the public; and that Georgia Secretary of State, Brad Raffensperger is guilty of a failure to perform duties prescribed by law because he willfully neglected or failed to procure ballot marking devices that were voter verifiable and readable for use in the state's elections, as required by state law.

Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature <u>Ginger D. Kindred</u> Printed Name <u>Ginger D. Kindred</u>	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>1725 Lazy River Lane</u> City <u>Atlanta, GA 30350</u>	County of Residence <u>Fulton</u>
2	Signature <u>[Signature]</u> Printed Name <u>Paula Sims</u>	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>1715 Lazy River Lane</u> City <u>Atlanta, GA 30350</u>	County of Residence <u>Fulton</u>
3	Signature <u>[Signature]</u> Printed Name <u>Paula B. Sims</u>	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>1715 Lazy River Lane</u> City <u>Atlanta GA 30350</u>	County of Residence <u>Fulton</u>
4	Signature <u>[Signature]</u> Printed Name <u>Greg Kindred</u>	Date Signed <u>9/28/21</u>	Residence Address (Number and street or route) <u>1725 Lazy River Lane</u> City <u>Atlanta</u>	County of Residence <u>Fulton</u>
5	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
6	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
7	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
8	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
9	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
10	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia

County of Cobb

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Raffensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

[Handwritten Signature]

Signature of Circulator

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell GA 30075

City

[Handwritten Signature]

Signature of Petition Chairperson

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell, GA 30075

City

Subscribed and sworn to before me this

1 day of October

21
Jennifer Rowland

Notary Public

Marietta, Georgia

My commission expires on the 24
day of June, 20 23



RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

on the basis that he or she has, while holding public office, conducted himself or herself in a manner which relates to and adversely affects the administration of his or her office and adversely affects the rights and interest of the public. The specific statutory ground or grounds for recall is/are that the above-named official (Mark each ground that is applicable):

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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

1	Signature: <u>[Handwritten Signature]</u> Printed Name: <u>Ralph Jane Kremer</u>	Date Signed: <u>1 October 2021</u>	Residence Address (Number and street or route): <u>1308 N Smoke Ridge Ct NE Roswell, GA 30075</u>	County of Residence: <u>Colo</u>
2	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
3	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
4	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
5	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
6	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
7	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
8	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
9	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____
10	Signature: _____ Printed Name: _____	Date Signed: _____	Residence Address (Number and street or route): _____ City: _____	County of Residence: _____

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia

County of COBB

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Raffensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

[Handwritten Signature]

Signature of Circulator

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell, GA 30075

City

[Handwritten Signature]

Signature of Petition Chairperson

4308 N. Smoke Ridge Ct

Residence Address (Number and Street or Route)

Roswell, GA 30075

City

Subscribed and sworn to before me this

1 day of October

21
Jennifer Rowland

Notary Public,

Marietta, Georgia

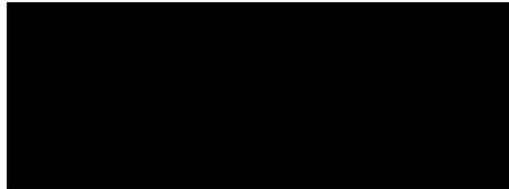
My commission expires on the 24
day of June, 20 23



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State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

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Name of Petition Chairperson: Amy Kremer

OFFICIAL SPONSORS

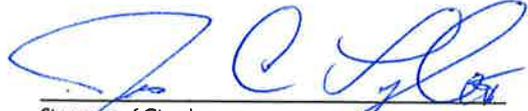
1	Signature <i>[Signature]</i> Printed Name ROBERT W. KUCHENBECKER	Date Signed 9-28-21	Residence Address (Number and street or route) 8220 GROGAN'S FERRY City SANDY SPRINGS	County of Residence FULTON
2	Signature <i>[Signature]</i> Printed Name PATRICIA E. KUCHENBECKER	Date Signed 9-28-21	Residence Address (Number and street or route) 8220 GROGAN'S FERRY RD City SANDY SPRINGS	County of Residence FULTON
3	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
4	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
5	Signature Printed Name	Date Signed	Residence Address (Number and street or route) City	County of Residence
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AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

State of Georgia

County of Cobb

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Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City



Signature of Petition Chairperson

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this

1 day of October

2021

Jennifer Rowland
Notary Public

Marietta, Georgia



My commission expires on the 24

day of June, 2023

RECALL APPLICATION

State of Georgia

TO: Georgia Secretary of State



We, the sponsors of this application for a recall petition, demand the recall of:
Brad Raffensperger, Secretary of State

(Name and Office)

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Name of Petition Chairperson: Amy Keemer

OFFICIAL SPONSORS

1	Signature 	Date Signed <u>Oct 1, 2020</u>	Residence Address (Number and street or route) <u>4308 N. Smoke Ridge</u> City <u>ROSWELL</u>	County of Residence <u>Cobb</u>
	Printed Name <u>JAMES Kyle</u>			
2	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
3	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	
4	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
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	Printed Name		City	
10	Signature	Date Signed	Residence Address (Number and street or route)	County of Residence
	Printed Name		City	

AFFIDAVIT OF CIRCULATOR AND
PETITION CHAIRPERSON

RECEIVED
State of Georgia
21 OCT County of AN

SECRETARY OF STATE
ELECTORAL PETITION

Under the penalty of a violation of Code Section 16-10-71 of the Official Code of Georgia Annotated, relating to false swearing, punishable by a fine not to exceed \$1,000.00 or by imprisonment of not less than one nor more than five years, or both, we the undersigned do depose and say that each person sponsoring or signing the recall application of Brad Raffensperger is an elector of the electoral district of the officer sought to be recalled and further depose and say that the fact or facts upon which the grounds or grounds for recall are based are true.

Lyle James Gremer
Signature of Circulator

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

[Signature]
Signature of Petition Chairperson

4308 N. Smoke Ridge Ct
Residence Address (Number and Street or Route)

Roswell, GA 30075
City

Subscribed and sworn to before me this
1 day of October

20 21
Jennifer Rowland
Notary Public

Marietta, Georgia

My commission expires on the 24
day of June, 20 22



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Lindell, Michael J.

(b) County of Residence of First Listed Plaintiff Carver (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) (see attachment) Alec J. Beck Barnes & Thornburg LLP 225 South Sixth St., Ste. 2800 Minneapolis, MN 55402

DEFENDANTS

US Dominion, Inc., Dominion Voting Systems, Inc., Dominion Voting Systems Corporation, Smartmatic USA Corp., Smartmatic International Holding B.V., and SGO Corporation Limited

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 18 USC § 1962, 42 USC §§ 1983, 1985

Brief description of cause: Abuse of process, defamation, civil rights, conspiracy.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ +75,000 CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE Patrick Schiltz DOCKET NUMBER 0:21-cv-01015-PJS/DTS

DATE 6/3/2021 SIGNATURE OF ATTORNEY OF RECORD s/Alec J. Beck

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE GA-SOS-22-0172-A-000145

ATTACHMENT TO CIVIL COVER SHEET

Plaintiff's Counsel:

Douglas A. Daniels (pro hac vice pending)
Texas State Bar No. 00793579
Heath A. Novosad (*pro hac vice pending*)
Texas State Bar No. 24037199
Daniels & Tredennick, PLLC
6363 Woodway Drive, Suite 700
Houston, TX 77057
T: (713) 917-0024
F: (713) 917-0026
doug.daniels@dtlawyers.com
heath@dtlawyers.com

United States District Court
District of Minnesota

MICHAEL J. LINDELL,

Case No. _____

Plaintiff,

v.

**US DOMINION, INC.,
DOMINION VOTING SYSTEMS, INC.,
DOMINION VOTING SYSTEMS
CORPORATION, SMARTMATIC USA
CORP., SMARTMATIC
INTERNATIONAL HOLDING B.V., and
SGO CORPORATION LIMITED,**

COMPLAINT

Defendants.

Jury Trial Demanded

I. OVERVIEW

“We can only spread our knowledge outwards from individual to individual, generation after generation. In the face of the Thought Police, there is no other way.”

- George Orwell, *1984*

1. Mike Lindell brings this lawsuit to stop electronic voting machine companies from weaponizing the litigation process to silence political dissent and suppress evidence showing voting machines were manipulated to affect outcomes in the November 2020 general election.

2. Fact: Electronic voting machines and software can be hacked through a cyber attack, thereby allowing data flowing through those devices to be manipulated, stolen, or altered.

3. Fact: It is indisputable that the electronic voting machines and software manufactured and sold by Dominion¹ and Smartmatic² are vulnerable to cyberattacks before, during, and after an election, and in a manner that could easily alter election outcomes. Election security expert and University of Michigan science and engineering professor, J. Alex Halderman, and others have given sworn testimony of this fact:³



¹ “Dominion Defendants” refers collectively to Defendants US Dominion, Inc., Dominion Voting Systems, Inc., and Dominion Voting Systems Corporation. Unless otherwise noted, “Dominion” refers to Defendant Dominion Voting Systems, Inc.

² “Smartmatic Defendants” refers collectively to Defendants Smartmatic USA Corp., Smartmatic International Holding B.V., and SGO Corporation Limited. Unless otherwise noted, “Smartmatic” refers to Defendant Smartmatic USA Corp.

³ See <https://www.youtube.com/watch?v=AmivIHUAy8Q>

Now-Vice President Kamala Harris, along with other Democratic senators, said the same thing during a senate hearing prior to the November 2020 general election:⁴



4. Fact: Direct and circumstantial evidence demonstrates that, during the 2020 General Election, electronic voting machines like those manufactured and sold by Dominion were manipulated and hacked in a manner that caused votes for one candidate to be tallied for the opposing candidate.

5. Fact: Voting machine companies like Dominion are state actors by virtue of their roles running elections in the United States—an essential state function.

6. Fact: The First Amendment guarantees the right of citizens such as Mike Lindell to express political dissent and espouse beliefs without fear of intimidation,

⁴ See <https://www.worldviewweekend.com/tv/video/mike-lindell-presents-absolutely-9-0>, beginning at the 22:56 minute mark.

suppression, or punishment from state actors like voting machine companies that provide election equipment and run elections for government agencies.

7. Fact: Following the 2020 General Election, Mike Lindell gathered and publicly shared information from various sources demonstrating that voting machines were, in fact, the target of cyberattacks in the November 2020 general election. Such evidence includes Dr. Douglas Frank's analysis showing conclusively that an algorithm was employed to manipulate votes in the 2020 General Election and evidence of hacking of electronic voting machines by China and other nation-state actors—including twenty such hacks, primarily by actors in China that alone changed the outcomes in the presidential race in the 2020 General Election.

8. Fact: In response to Mike Lindell's public statements about the evidence he had gathered, Dominion Voting Systems and its lawyers at Clare Locke, LLP ("Clare Locke") threatened Mike Lindell with financial ruin if he did not cease his public expression of his political speech regarding the debacle that was the use of electronic voting machines in the 2020 General Election.

9. Fact: When Mike Lindell refused to be intimidated into giving up his First Amendment right to political free speech, Dominion sued him for \$1.3 billion in federal court in Washington, D.C.—a jurisdiction where neither Lindell nor Dominion reside, and outside the jurisdiction where Lindell made the vast majority of the statements Dominion complains about.

10. Fact: Dominion has weaponized the legal process and intimidated witnesses to election fraud by suing or threatening to sue over 150 private individuals or

organizations, including dozens of citizen volunteer poll watchers, with baseless defamation lawsuits or “cease and desist” letters from Dominion’s lawyers at Clare Locke. Dominion further publicly boasts of doing so—merely because those citizens signed affidavits regarding fraudulent or illegal activities they personally observed during the November 2020 general election. Dozens of those citizens *never mentioned* Dominion or issues with any electronic voting machines. Yet, Dominion and Clare Locke still threatened these witnesses—citizen volunteers performing a public service—with ruinous litigation and onerous demands that they preserve even private communications.

11. Fact: Smartmatic has engaged in similar weaponization of the court system to attack other individuals and news outlets, merely for publicly sharing information they have gathered regarding vulnerabilities in, and attacks on, electronic voting machines in the 2020 General Election.

12. Fact: A full forensic audit of the vote in the fourth most populous county in the United States—Maricopa County, Arizona—is currently being conducted. That audit includes an audit of Dominion’s voting machines used in that county, as ordered by the Arizona Senate “to restore integrity to the election process.” The Maricopa County Board of Supervisors and various Democrat-affiliated groups have spent months attempting to thwart or obstruct the audit—efforts that have been repeatedly rebuffed in Court. This includes refusing to turn over routers to which the Dominion machines were connected and which will show details regarding the Dominion machines’ connectivity to the internet. The Maricopa County officials have also admitted they do not possess the administrative passwords to the Dominion voting machines—meaning Dominion employees had control

over the election. Dominion joined the Democrat-led chorus to smear the audit and has refused to cooperate with the auditors, including refusing to turn over the administrator passwords to the voting machines.

13. Fact: Forensic audits and investigations of the November 2020 election and the role of voting machines and electronic voting systems are currently underway either by court order or by direction of state legislatures or attorneys general in Arizona, Georgia, Michigan, Wisconsin, and New Hampshire.

14. Conclusion: Dominion, Smartmatic, and others are desperate to cover up gross security flaws in their electronic voting systems—and information showing cyber attacks and hacking in the November 2020 election—by uniting in a common purpose to use the litigation process to attempt to suppress the revelation and public discussion of these truths.

15. This new, fledgling era of “lawfare”⁵ must be stopped before it is allowed to gain a toehold of acceptance in the U.S. judiciary and the courts become yet another weapon for wealthy corporations and the powerful politicians they support to silence speech and ideas they deem unacceptable to their narrative.

II. PARTIES

16. Plaintiff Michael J. Lindell (“Plaintiff” or “Lindell”) is an individual citizen of the State of Minnesota.

⁵ Lawsuit Warfare = Lawsuit + Warefare = Lawfare. *See* <https://en.wikipedia.org/wiki/Lawfare>

17. Defendant US Dominion, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Denver, Colorado. It may be served with process by delivering the summons and complaint to its Chief Executive Officer, John Poulos, at its principal place of business, 1201 18th Street, Suite 210, Denver, Colorado 80202.

18. Defendant Dominion Voting Systems, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Denver, Colorado. It may be served with process through its registered agent for service of process in Minnesota, Cogency Global, Inc., 6160 Summit Drive N., Suite 205, Brooklyn Center, Minnesota 55430.

19. Defendant Dominion Voting Systems Corporation is a corporation organized and existing under the laws of the Province of Ontario, Canada with its principal place of business in Toronto, Ontario, Canada. It may be served with process in accordance with the terms of the Hague Convention.

20. Defendant Smartmatic USA Corp. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Boca Raton, Florida. It may be served with process by delivering the summons and complaint to its Director, James Long, at its principal place of business, 1001 Broken Sount Parkway, Suite D, Boca Raton, Florida 33487.

21. Defendant Smartmatic International Holding B.V. is a corporation organized and existing under the laws of the Netherlands, with its principal place of business in

Amsterdam, Netherlands. It may be served with process in accordance with the terms of the Hauge Convention.

22. Defendant SGO Corporation Limited is a corporation organized and existing under the laws of the United Kingdom with its principal place of business located in London, United Kingdom. It may be served with process in accordance with the terms of the Hague Conention.

III. JURISDICTION AND VENUE

23. This Court has jurisdiction over the subject matter of this dispute pursuant to 28 U.S.C. § 1331, in that one or more of Plaintiff's causes of action arises under the Constitution or laws of the United States. Specifically, Plaintiff alleges causes of action under 42 U.S.C. § 1983, 42 U.S.C. § 1985(3), and 18 U.S.C § 1964.

24. This Court also has jurisdiction over the subject matter of this dispute pursuant to 28 U.S.C. § 1332, in that the matter in controversy exceeds \$75,000, exclusive of interest and costs, and is between citizens of different states or citizens of a State and citizens or subjects of a foreign state. Specifically, Lindell is a citizen of Minnesota, while Defendants are citizens of Delaware, Colorado, Florida, Canada, the Netherlands, and the United Kingdom.

25. This Court has *in personam* jurisdiction over Defendants in that Defendants have minimum contacts with the State of Minnesota, having purposefully availed themselves of the privilege of doing business here. Moreover, this Court's assertion of personal jurisdiction over Defendants comports with traditional notions of fair play and substantial justice.

26. Venue is proper in this District under 28 U.S.C. § 1391 in that Defendants are subject to personal jurisdiction in this District, as set out above.

IV. FACTUAL ALLEGATIONS

“Power is in tearing human minds to pieces and putting them together again in new shapes of your own choosing.”

- George Orwell, *1984*

27. Lindell will prove that the Dominion Defendants, acting in concert and as part of an unlawful enterprise alongside the Smartmatic Defendants, have weaponized the court system and the litigation process in an attempt to silence Lindell’s and others’ political speech about election fraud and the role of electronic voting machines in it. In the specific context of political speech about something as vital to a republican form of government as election integrity, no litigant should be permitted to use the courts and the litigation process as a bludgeon to suppress and stifle dissent. But that is what the Dominion Defendants and Smartmatic Defendants have done. Many of their victims lack the resources to fight back and expose the defendants’ scheme for what it is—an authoritarian abuse of state power fueled by the virtually unlimited resources from their ideological comrades. But Mike Lindell has the resources and the will to fight back, albeit at great personal and financial cost; Mike Lindell believes the future of the American republic depends on fighting back against censorship of information concerning the fundamental aspect of our republic—fair and secure elections. So Mike Lindell brings this suit to bring a stop to the defendants’ abuses of the legal system and protect Americans’ right to speak freely on matters of the utmost public concern.

A. The Rise of the Machines

“You talk as if a god had made the Machine ... I believe that you pray to it when you are unhappy. Men made it, do not forget that.”

- E.M. Forster, *The Machine Stops*

28. Prior to 2002, states conducted their elections overwhelmingly using relatively secure and auditable paper-based systems. However, following passage of the Help America Vote Act in 2002,⁶ billions of federal dollars were spent to move from such paper-based systems to electronic, computer-based systems.

29. As a result, by 2020, most elections in the United States were conducted using one of only a small handful of available private election management systems. These systems are provided by a small number of private companies having little to no transparency to the public, producing results that are far more difficult to audit than paper-based systems, and lacking any meaningful federal standards or security requirements beyond what individual states may choose to certify.⁷

30. This small cadre of private companies supply the hardware and software for the election management systems and electronic voting machines, in some cases manage the voter registration rolls, maintain the voter records, partially manage the elections, program the vote counting, and report the election results to the relevant government authorities.

⁶ 52 U.S.C. § 20901 *et seq.*

⁷ Dominion touts its certification by the United States Election Assistance Commission (“EAC”). But as of November 2020, the EAC did not test or certify electronic voting systems for security against cyberattacks.

31. A total of five (5) companies conduct and administer elections for more than ninety percent (90%) of counties in the United States: (1) Election Systems & Software, (2) Dominion Voting Systems, (3) Smartmatic USA Corp., (4) Hart InterCivic, and (5) Tenex. All these providers' electronic voting machines and election management systems are vulnerable to hacking, as has been published and presented to various congressional committees. All can be, and at various steps in the voting, counting, tabulation, and/or reporting process are designed to be, connected to the internet directly or indirectly.

32. After votes are tabulated at the county level using one of the handful of available election management systems, they are then uploaded over the internet to one of a small handful of election night reporting systems. Those systems are owned and controlled by Scytl, GCR, VR Systems, and Arikkan. For its part, the Clarity system, used in 28 states, is wholly owned by Scytl, a multi-national company headquartered in Barcelona, Spain that reportedly stores its election vote data on servers in Frankfurt, Germany.

33. In short, over the last two decades, the United States has transitioned from a safe, secure, auditable paper-based system (paper voter rolls, hand-marked paper ballots, etc.) to an inherently vulnerable, internet-exposed electronic voting machine-based system. And not surprisingly, that transition to increased reliance on electronic systems and computer technology has brought with it the very real spectre of hacking, election tampering, and electronic voting fraud.

34. As previously noted, Dominion and Smartmatic manufacture, distribute, and maintain voting hardware and software. Dominion executes software updates, fixes, and

patches for its voting machines, including as late as the night before election day, and it pushes out such software through means selected at its own discretion, including via the internet.

35. Dominion designs public election processes with its hardware and software products at the center and provides administrative services for public elections. While polls are open, Dominion employees stand by to provide troubleshooting and support when voting machines malfunction, among other election services. Dominion audits the performance of the machines and elections.

36. Increasingly, jurisdictions have chosen to outsource election operations and programming to private contractors. By the time of the 2020 election, at least 3,143 counties across the United States had outsourced responsibility for programming and administering elections to private contractors. For the 2020 election, Dominion provided its voting machines and services in more than half of the United States from its U.S. base of operations in Colorado. Many of these states, such as Arizona, Nevada, Wisconsin, Michigan, Georgia, Florida, and Pennsylvania, have been referred to as battleground or swing states because their voters are equally divided (or nearly equally divided) in their degree of support for the two primary political parties. Dominion has contracts with over 1,300 governmental jurisdictions around the United States to administer elections.

37. By its own account Dominion provides an “End-To-End Election Management System” that “[d]rives the entire election project through a single

comprehensive database.”⁸ Its tools “build the election project,” and its technology provides “solutions” for “voting & tabulation,” and “tallying & reporting,” and “auditing the election.” The products sold by Dominion include ballot marking machines, tabulation machines, and central tabulation machines, among others. By contracting with governmental jurisdictions to provide comprehensive voting solutions for public elections, Dominion is a governmental actor. As a result of Dominion’s contracts with government entities, it is delegated responsibility to administer public elections, including the election of individuals to serve in constitutionally prescribed offices—a core governmental function. In at least one jurisdiction in the November 2020 election, Maricopa County, Arizona, county officials did not even possess the administrator passwords to the Dominion voting machines—meaning only Dominion could program and operate the machines on behalf of the county.

38. Dominion’s involvement in running elections amounts to state action. Dominion willfully participates in joint activity with the state during voting, including by supplying its products and services coextensively with election officials to carry out the election. There is pervasive entwinement between Dominion and the state.

⁸ DEMOCRACY SUITE® ELECTION MANAGEMENT SYSTEM, <https://www.dominionvoting.com/democracy-suite-ems/> (last visited Apr. 18, 2021).

B. Strange Bedfellows

“Misery acquaints a man with strange bedfellows.”

- William Shakespeare, *The Tempest*

39. Dominion and Smartmatic both manufacture, distribute, and maintain voting hardware and software. They both also execute software updates, fixes, and patches for their voting machines and election management systems. On the surface, Dominion and Smartmatic appear as competitors in the market for electronic voting systems. But in reality, they share many things in common—including an intertwined corporate history and a shared “DNA” of election management system software and hardware. They also share a common purpose of using litigation and “lawfare” to silence any who would publicly criticize the security flaws in their voting machines and systems or attempt to inform the public about the role of those flaws in undermining the integrity of the 2020 presidential election.

40. According to its website,⁹ Dominion was founded in 2003, and provides electronic voting machines and systems in 28 different states and Puerto Rico, including “9 of the top 20 counties” and “4 of the top 10 counties” in the United States. Its machines and systems range from the “election event designer”—software that creates the ballots voters will mark while voting, as well as programing the tabulators of those votes—to the devices on which voters mark their votes (“ballot marking devices,” or “BMDs”), to the machines that tabulate the votes at the precinct level, to the machines that receive and tabulate the various precinct results (“centralized tabulation”), to the systems and options

⁹ <https://www.dominionvoting.com>

for transmitting those results from the BMD to the precinct tabulator to the central tabulator to, ultimately, the official government authority responsible for certifying the election results. In a very real sense, then, Dominion controls the administration and conduct of the elections in those jurisdictions where its systems are deployed, and any vulnerabilities or weaknesses in Dominion's systems undermine—or at the very least, call into legitimate question—the integrity and reliability of all election results coming from those jurisdictions.

41. According to its website,¹⁰ Smartmatic was founded in 2000 in Palm Beach County, Florida, and developed its first electronic voting machine in 2003. However, it finds its true beginnings in Venezuela back in 1997, when three Venezuelan engineers—Antonio Mugica, Alfredo Jose Anzola, and Roger Piñate founded Tecnologia Smartmatic de Venezuela, C.A. It was not until April 2000 that the founders created Smartmatic Voting Systems in Delaware, with headquarters in Boca Raton, Florida. But Smartmatic's ties to Venezuela remained strong. In early 2004, a Venezuelan government financing agency invested more than US \$200,000 in a technology company, Bitza, owned by the same owners as Smartmatic. Also in 2004, Smartmatic was contracted by the Venezuelan National Electoral Council to provide e-voting technology for the 2004 Venezuelan national elections. That same year, Smartmatic moved its headquarters to Amsterdam, the Netherlands.

¹⁰ <https://www.smartmatic.com/us/about/our-history/>

42. In 2005, Smartmatic opened its research and development center in Taipei, Taiwan, and also began to offer its electronic voting services in the United States. Between 2007 and 2008, Smartmatic expanded its offerings to numerous foreign jurisdictions, including Curaçao, the Phillipines, Argentina, and Brazil, while continuing its close relationship as a contractor for the Hugo Chavez-controlled government of Venezuela. By 2011, Smartmatic had expanded its operations to Mexico, Haiti, Panama, and India. In 2012, Smartmatic moved its headquarters to London. In 2014, Smartmatic created the Centre for Excellence in Estonia with the goal of advancing internet voting. By 2015 and 2016, Smartmatic was offering its electronic voting services in such far-away jurisdictions as Sierra Leone, Kyrgyzstan, Uganda, and Oman. In 2018, Smartmatic became a member of the United States Department of Homeland Security’s fledgling Sector Coordinating Council for the Election Infrastructure Sector¹¹—a prime example of “the fox guarding the henhouse.”

43. The histories of Dominion and Smartmatic are inextricably intertwined, which helps to explain their coordinated actions at issue in this lawsuit. Some background is important to understand this point.

44. From roughly 2002 to 2009, two voting machine vendors dominated electronic voting in United States elections: Diebold Election Systems (re-branded to Premier Election Solutions, Inc. in 2007) and Election Systems & Software (“ES&S”).

¹¹ See <https://www.smartmatic.com/us/media/article/smartmatic-founding-member-of-the-dhs-council-to-protect-election-integrity-and-security/>

ES&S was acquired by American Information Systems (“AIS”), a company formed in Nebraska by the Urosevich brothers, descendants of Serbian immigrants.¹² Following that acquisition, AIS changed its name and began doing business as ES&S. From 2002 to 2009, ES&S served approximately 45% of precincts in the United States, while Diebold (operating under the Premier name) served approximately 23% of U.S. precincts. The remaining precincts were served by Sequoia Voting Systems (18%), Hart InterCivic (9%), and Dominion (founded in 2003) (5%).

45. In 2005, Smartmatic (flush with cash from its 2004 efforts on behalf of the Hugo Chavez government in Venezuela) acquired Sequoia for \$16 million and, with it, its 18% U.S. electronic voting market share. Smartmatic worked quickly to replace Sequoia’s inferior technology with Smartmatic’s own systems and personnel, which was followed by two years of rapid growth and solid revenue. Then, concerns arose about the ties between Smartmatic/Sequoia and the government of Venezuela. Specifically, in or around May 2006, Congresswoman Carolyn Maloney (D. NY) asked the U.S. Treasury Department to investigate Smartmatic’s acquisition of Sequoia. Around the same time, concerns arose in connection with Smartmatic’s efforts to implement its systems for the City of Chicago, when observers noticed that Smartmatic was flying in developers from Venezuela to

¹² Dominion’s ties to Serbia run far deeper than the ancestry of AIS’s founders. In May 2016, Dominion’s then Vice President, Goran Obradovic, gave an interview in which he stated that Dominion’s office in Belgrade was opened in 2005 and had grown by 2016 into a team of 50 engineers. “The products such as Democracy Suite Election Management System, ImageCast Evolution and ImageCase X **are completely developed in Belgrade.**” https://ekonomijaibiznis.mk/ControlPanel/Upload/Free_Editions/wZ0X5bz60KCgpcvFcEBvA/maj%202016%20ENG/mobile/index.html#p=33 (emphasis added).

resolve issues and assist with the implementation. By the time those concerns emerged publicly in the U.S. media, Sequoia/Smartmatic had voting equipment located in 17 U.S. states and the District of Columbia.

46. Concerned for the integrity of their elections and voting system, the Committee on Foreign Investment in the United States (“CFIUS”) ordered an audit to determine if any Foreign Investment Act rules had been broken. However, rather than undergoing that audit, Smartmatic developed a plan to divest (sell) Sequoia to its U.S.-based management, and establish Smartmatic as a U.S.-based provider of global election systems. To that end, in late 2007 or early 2008, Smartmatic and Sequoia management formed a new company, SVS Holdings, which became the new owner of Sequoia. However, Smartmatic continued to hold a promissory note from SVS secured by \$2 million worth of shares, along with a percentage “earn-out” from future SVS revenues. Moreover, Smartmatic’s technology continued to be used in SVS/Sequoia machines.

47. In 2009, ES&S acquired Premier, creating a market behemoth with nearly 70% of the market share for electronic voting systems in the United States. Not long after the acquisition anti-trust concerns led to ES&S being forced to divest itself of Premier. In May 2010, ES&S sold Premier to Dominion, then a Canadian company with only 5% of the United States market for electronic voting systems. According to Dominion’s press release at the time, the acquisition included “the primary assets of Premier, including all intellectual property, software, firmware and hardware for Premier’s current and legacy optical scan, central scan, and touch screen voting systems, and all versions of the GEMS election management system.”

48. In June 2010, under continued pressure from authorities due to the ongoing financial and technological control by Smartmatic, SVS was forced to sell Sequoia and its Smartmatic-heavy technology. The buyer? None other than the upstart Canadian company, Dominion. Dominion thereby acquired Sequoia, including the rights to the Smartmatic technology still used in SVS/Sequoia machines following the Sequoia divestiture from Smartmatic in or around 2005. After the acquisition of Sequoia, Dominion held roughly 50% of the private electoral market for electronic voting in the U.S., with only two remaining competitors—ES&S, with 40%, and Hart InterCivic, with 10%. At the time, Dominion spokesman Chris Rigall claimed that “Smartmatic’s intellectual property was not included in the Sequoia transaction because Sequoia did not own it.” But according to a 2017 report published by the *Huffington Post*, “The ‘intellectual property’ of the voting systems (of Sequoia, acquired by Dominion) remains the property of the company linked to the Venezuelan president (Smartmatic and Hugo Chavez), despite the rather misleading statement” issued by Dominion in 2010. In fact, the *Huffington Post* investigation revealed that the intellectual property “of most/almost all of Sequoia’s voting systems was actually secretly owned by the firm Smartmatic.” It was later discovered that Smartmatic still held interests in Sequoia, even controlling the company’s intellectual property through rights it had reserved to negotiate by means of non-compete agreements abroad.

49. The historically intertwined relationship between Dominion and Smartmatic extends beyond the mere acquisition of legacy hardware and software technologies. For example, in 2009, Dominion and Smartmatic entered into a license agreement whereby

Smartmatic leased from Dominion certain precinct count optical scan technology, including “the right to market, make, use and sell PCOS voting systems using the Dominion technology,” as well as “the applicable hardware, software and firmware loaded on the hardware and election management system (‘EMS’) software designed to be used with such version of the PCOS system.”

50. Even more telling is the cross-pollenization of former Smartmatic employees and inventors who found their way to Dominion in the Sequoia acquisition. With Dominion’s acquisition of Sequoia in June 2010, came Eric Coomer, Vice President for Engineering at Smartmatic, and Frederico Arnao, Venezuelan-born “Usability Architect” for Smartmatic and Senior Software Developer for Smartmatic-affiliated Bizta Voting Systems. Importantly, Arnao and Coomer are named as inventors on a pair of patent applications filed on April 22, 2011, dealing with electronic voting systems, claiming priority to patents filed in 2009, while they were still employed by Smartmatic. (For his part, Coomer is listed as an inventor on an additional four such patents, one of which traces back to a patent filing in 2008.) By way of further example, public internet searches identify at least four additional employees who are shown as employees of Dominion Voting Systems at Smartmatic’s Boca Raton, Florida business address, with @smartmatic email addresses:

Name	Title	Company	E-mail	Address	Web Domain
Babic, Paul	Vice President Marketing	Dominion Voting Systems Corp, Boca Raton, Florida	Paul.babic@smartmatic.com	1001 Broken Sound Pkwy NW, Boca Raton, FL 33487	Dominionvoting.com
Cook, Jason	U.S. Sales	Dominion Voting Systems Corp, Boca Raton, Florida	Jason.cook@smartmatic.com	1001 Broken Sound Pkwy NW, Boca Raton, FL 33487	Dominionvoting.com
Scott, Jeffrey	Senior Technical Sales Engineer	Dominion Voting Systems Corp, Boca Raton, Florida	Jeff.scott@smartmatic.com	1001 Broken Sound Pkwy NW, Boca Raton, FL 33487	Dominionvoting.com
Vasquez, Jorge M.	Vice President Operations	Dominion Voting Systems Corp, Boca Raton, Florida	jvasquez@smartmatic.com	1001 Broken Sound Pkwy NW, Boca Raton, FL 33487	Dominionvoting.com

51. Legislators have long raised questions about the murky picture of who exactly owns and controls electronic voting machine companies like Dominion. In December 2019, United States Senators Elizabeth Warren (D-Mass.), Amy Klobuchar (D-Minn.), Ron Wyden (D-Or.), and Congressman Mark Pocan (D-Wis.) wrote to Stephen D. Owens and Hootan Yaghoobzadeh, Managing Directors of Staple Street Capital, LLC, a private equity firm, which acquired Dominion in 2018. After recognizing that Dominion was “one of three election technology vendors responsible for developing, manufacturing and maintaining the vast majority of voting machines and software in the United States, the four Democratic congressional leaders raised a number of serious concerns regarding “the spread and effect of private equity investment in many sectors of the economy, including the election technology industry—an integral part of our nation’s democratic process.” Those concerns included:

- a. “[T]hat secretive and ‘trouble-plagued companies,’ owned by private equity firms and responsible for manufacturing and maintaining voting machines and other election administration equipment, ‘have long skimmed on security in favor of convenience,’ leaving voting systems across the country ‘prone to security problems.’”
- b. “[T]hree large vendors—Election Systems & Software, Dominion, and Hart InteCivic—collectively provide voting machines and software that facilitate voting for over 90% of all eligible voters in the United States.”
- c. “Election security experts have noted for years that our nation’s election systems and infrastructure are under serious threat.”
- d. “[V]oting machines are reportedly falling apart across the country, as vendors neglect to innovate and improve important voting systems, putting our elections at avoidable and increased risk.”
- e. “[R]esearchers recently uncovered previously undisclosed vulnerabilities in ‘nearly three dozen backend election systems in 10 states.’”
- f. “These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.”

The congressional leaders’ letter followed these concerns with a request for seven specific categories of information “[i]n order to help us understand your firm’s role in this sector.”

52. The congressional leaders’ concerns were not unfounded. In 2018, Dominion was acquired by a private equity firm, Staple Street Capital, whose largest shareholder, David Mark Rubenstein, is a co-founder of The Carlyle Group. The Carlyle Group is a global investment firm with longstanding and enormous investments in China. In 2020, mere months before the election, Staple Street Capital (owner of Dominion) received a \$400 million investment from UBS Securities, LLC. UBS Securities LLC owns 24.99% of UBS Securities Co. LTD, a Chinese investment bank. The remaining 75% of UBS Securities Co. LTD is owned by the Chinese government or various arms of it. At

the time of the November 2020 election, the two UBS Securities affiliates shared three common directors: (1) Ye Xiang (Board Chairman of UBS Beijing until his resignation in December 2020, also Secretary of Peoples Bank of China and ex-director of Bank of China International); (2) Mu Lina (Director of Fund Management and Head of Fund Operations for UBS Beijing); and (3) Luo Qiang.

53. Nor do the connections between Dominion, Smartmatic, and China end with the \$400 million investment in Dominion's parent. Five years earlier, beginning in 2015, Smartmatic began using the Chinese company Shenzhen Zhongjian Nanfang Testing Co., Ltd. to conduct in-depth testing, studies, and certifications of its voting machine hardware and software. This relationship continued until at least 2020, just prior to the election. In that role, the Chinese company had complete access to all facets of Smartmatic's devices and software—which shared the same “DNA” as the Dominion systems going back to the Diebold-Premier-Sequoia acquisitions. Worse still, in or around September 2019, Dominion pledged as many as eighteen of its patents as collateral with Hong Kong Shanghai Banking Corporation (HSBC), a large Chinese bank.

54. In other words, by the time of the 2020 election, Chinese government-related entities, Chinese technology companies, and powerful Chinese financial interests had direct or indirect ownership of and near-total access to Dominion's and Smartmatic's voting machine technology. Small wonder that by then congressional leaders had serious concerns regarding “the spread and effect of private equity investment in many sectors of the economy, including the election technology industry.”

C. Ghosts in the Machines

“But you can’t make people listen. They have to come round in their own time, wondering what happened and why the world blew up around them. It can’t last.”

- Ray Bradbury, *Fahrenheit 451*

55. As a result of systemic and well-documented vulnerabilities in Dominion’s software and hardware, widespread claims have been lodged that during the 2020 election significant numbers of votes across the country were altered.

56. Lindell was not the first to sound the alarm that electronic voting machines posed grave threats to U.S. election integrity. Indeed, voices from the political left had been protesting the use and vulnerability of electronic voting machines for years prior to the 2020 Presidential election.

57. Evidence of problems with electronic voting systems, including Dominion’s system, has been accumulating for over a decade, and the 2020 election cycle only accelerated this trend. Prior to 2020, it was well-established that these systems were wide-open to hacking. Evidence that Dominion’s voting systems actually were hacked in the 2020 election continues to accumulate.

58. Some states, like Texas, rejected Dominion voting systems after examining their vulnerability to hacking. Others, like Arizona, have found cause to order post-election forensic audits of electronic voting systems—including Dominion’s voting machines—to attempt to “restore integrity to the election process.”¹³ Recently, the New Hampshire

¹³ Press Release, Ariz. Senate Republicans, Senate chooses qualified auditing firm to conduct forensic audit of Maricopa County election results (Jan. 29, 2021)

Senate voted 24-0 to conduct a complete examination of Dominion-owned voting machines after suspicious shorting of votes was discovered.¹⁴ Litigation involving Dominion’s voting machines in Antrim County, Michigan, initiated after approximately 6,000 votes were discovered to have been wrongly switched between Presidential candidates—ostensibly due to a so-called “glitch”¹⁵—proved Dominion’s machines could be manipulated and hacked to generate this “glitch.”

59. During a December 30, 2020 live-streamed hearing held by the Georgia Senate Judiciary Subcommittee on Elections, a testifying expert hacked into a Dominion polling pad during a live broadcast to the world.¹⁶ And, at the same hearing, legislators were shown replays of real-time news reports showing that tens of thousands of votes were switched from President Trump to former Vice President Biden in several counties in Georgia. For example, in Bibb county, Trump was reported to have 29,391 votes at 9:11 pm EST while simultaneously former Vice President Biden was reported to have 17,218

<https://www.azsenaterepublicans.com/post/senate-chooses-qualified-auditing-firm-to-conduct-forensic-audit-of-maricopa-county-election-results>.

¹⁴ Chad Groenig, *Dominion gets caught shorting GOP candidates*, One News Now, Mar. 5, 2021,

<https://onenewsnow.com/politics-govt/2021/03/05/dominion-gets-caught-shorting-gop-candidates>.

¹⁵ Tom Pappert, *VIDEO: Michigan County Discovers ‘Glitch’ That Gave 6,000 Trump Votes to Biden*, National File, Nov. 6, 2020, <https://nationalfile.com/video-michigan-county-discovers-glitch-that-gave-6000-trump-votes-to-biden/>; Jack Windsor, *Votes for Trump Went to Biden in Antrim County, Michigan*, The Michigan Star, Nov. 7, 2020, <https://themichiganstar.com/2020/11/07/votes-for-trump-went-to-biden-in-antrim-county-michigan/>.

¹⁶ Ski, *Dominion machines hacked LIVE during Georgia election hearing*, Blue White Illustrated (Dec. 30, 2020, 10:31 AM), <https://bwi.forums.rivals.com/threads/dominion-machines-hacked-live-during-georgia-election-hearing.286325/>.

votes. A minute later at the next update, these vote numbers switched, with Trump now having 17,218 votes and Biden having 29,391—a 12,173-vote switch in Biden’s favor. YouTube—owned by Google, Inc.—removed this news video after this switch was revealed.¹⁷ No rational explanation has ever been offered showing a legitimate reason for this switch in the vote tally.

60. For many years serious security and technology problems have dogged Dominion’s election machines and systems.

61. As noted, Dominion purchased Premier (formerly Diebold) from ES&S in 2010, thereby acquiring all intellectual property, software, and firmware and hardware for Premier’s voting systems and all versions of Premier’s Global Election Management System (GEMS).¹⁸

62. Premier had been owned by Diebold, but Diebold changed its name to Preimier in 2007 after a series of studies publicized its unreliable security and accuracy, and technical problems sullied its reputation. The name change was motivated by the desire to create a fresh public image.¹⁹ Diebold sold Premier to ES&S for \$5 million in September

¹⁷ <https://epochtimes.today/georgia-data-shows-24658-of-trumps-votes-removed-another-12713-switched-to-biden-data-scientists/>.

¹⁸ “Dominion Voting Systems, Inc. Acquires Premier Election Solutions Assets from ES&S” (May 20, 2010), available at <https://www.benzinga.com/press-releases/10/05/b292647/dominion-voting-systems-inc-acquires-premier-election-solutions-assets->.

¹⁹ Allison St. John, *Diebold Voting Machine Company Changes Name to Improve Image*, KPBS (Aug. 21, 2007) available at <https://www.kpbs.org/news/2007/aug/21/diebold-voting-machine-company-changes-name-to/>.

2009, reporting a \$45 million loss,²⁰ and nine months later, in May 2010, ES&S sold Premier to Dominion.

63. The Diebold technology Dominion obtained when it acquired Premier has a long and troubled track record.

- a. In 2003, it was discovered that Diebold had left approximately 40,000 files that made up its foundational e-voting security software code, GEMS, entirely unprotected on a publicly accessible website.²¹
- b. Following the discovery that the GEMS code was publicly available, computer programmers around the world began probing and testing it. In 2012, a Harper's Magazine article titled "How to Rig an Election" summarized, "GEMS turned out to be a vote rigger's dream. According to [one investigator's] analysis, it could be hacked, remotely or on-site, using any off-the-shelf version of Microsoft Access, and password protection was missing for supervisor functions. Not only could multiple users gain access to the system after only one had logged in, but unencrypted audit logs allowed any trace of vote rigging to be wiped from the record."²²

²⁰ Ryan Paul, *Diebold impeaches e-voting unit, sells it off for \$5 million*, ARS TECHNICA (Sept. 4, 2009), available at <https://arstechnica.com/tech-policy/2009/09/diebold-elects-to-get-out-of-the-voting-machine-business/>.

²¹ Victoria Collier, *How to Rig an Election*, HARPER'S MAGAZINE (Nov. 2012), available at <https://harpers.org/archive/2012/11/how-to-rig-an-election/>.

²² *Id.*

- c. In 2004, a team of computer scientists from Johns Hopkins University and Rice University concluded about the GEMS code: “this voting system is far below even the most minimal security standards applicable in other contexts [It] is unsuitable for use in a general election.”²³ More broadly, the team wrote, “The model where individual vendors write proprietary code to run our elections appears to be unreliable, and if we do not change the process of designing our voting systems, we will have no confidence that our election results will reflect the will of the electorate. We owe it to ourselves and to our future to have robust, well-designed election systems to preserve the bedrock of our democracy.”
- d. In 2006, a team of computer scientists at Princeton University analyzed the security of the Diebold AccuVote-TS voting machine, then one of the most widely-deployed electronic voting platforms in the United States. They found, “Malicious software running on a single voting machine can steal votes with little risk of detection. The malicious software can modify all of the records, audit logs, and counters kept by the voting machine, so that even careful forensic examination of these records will find nothing amiss. . . . Anyone who has physical access to a voting machine, or to a memory card that will later be inserted into a machine, can install said malicious software

²³ Takayoshi Kohno, Adam Stubblefield, Aviel D. Rubin, and Dan S. Wallach, *Analysis of an Electronic Voting System*, IEEE Symposium on Security and Privacy and Privacy 2004, IEEE COMPUTER SOCIETY PRESS, May 2004, available at <https://avirubin.com/vote.pdf> (Ex. 1).

using a simple method that takes as little as one minute. . . . AccuVote-TS machines are susceptible to voting machine viruses – computer viruses that can spread malicious software automatically and invisibly from machine to machine during normal pre- and post-election activity.”²⁴

- e. The Princeton team prepared a video demonstration showing how malware could shift votes cast for one candidate to another.²⁵ In the video, mock election votes were cast in favor of George Washington by a 4 to 1 margin, but the paper print-out that reported the results showed Benedict Arnold prevailing by a margin of 3 to 2. Malicious vote-stealing malware was the sole reason for reallocation of votes from Washington to Arnold, and the malware deleted itself after the election, leaving no evidence that the voting machine was ever hijacked or any votes stolen.²⁶

64. Despite these security weaknesses, Dominion incorporated GEMS into its voting machines after acquiring the technology in 2010. By 2011, Dominion Voting Systems was selling voting systems that had updated GEMS software at the core of their DNA.²⁷

²⁴ Ariel J. Feldman, J. Alex Halderman, and Edward W. Felten, *Security Analysis of the Diebold AccuVote-TS Voting Machine*, USENIX (Sep. 13, 2006), https://www.usenix.org/legacy/event/evt07/tech/full_papers/feldman/feldman_html/index.html (Ex. 2).

²⁵ See *Security Demonstration of DieBold AccuVote-TS Electronic Voting Machine*, YOUTUBE (Nov. 30, 2016) <https://www.youtube.com/watch?v=B8TXuRA4IQM&t=20s>.

²⁶ See *id.*

²⁷ Ken Detzner, *Voting System Qualification Test Report Dominion Voting Systems, Inc. GEMS Release 1.21.6, Version 1*, FLA. DEP'T OF STATE (Mar. 2012),

65. Vote integrity issues with Dominion’s voting systems predated its acquisition and incorporation of GEMS, both in the U.S. and abroad. In 2009, during a New York congressional election, Dominion’s software allowed voters to vote for more than one candidate, and its faulty machines froze during operation due to insufficient memory.²⁸ In the 2010 general election in the Philippines, allegations of technical problems and offers of vote manipulation were rampant.²⁹ In that election, where Dominion’s products were in more than 2,200 local municipalities, a Dominion “glitch” caused voting machines to incorrectly read ballots, while poll machines supplied by Smartmatic had wrongly configured flash cards affecting the automated count.³⁰ A Product Manager of Dominion indicated that more than 76,000 compact flash cards had to be configured just days before the election.

66. Dominion continued selling and leasing the troubled AccuVote voting machine as recently as 2017.³¹

<https://files.floridados.gov/media/697908/dominion-gems-release-1216-version-1-test-report.pdf> (Ex. 3).

²⁸ *Dominion also handled 2009 NY congressional poll*, ABS-CBN News, May 7, 2010, <https://news.abs-cbn.com/nation/05/07/10/dominion-also-handled-2009-ny-congressional-poll>.

²⁹ *See, e.g.*, Reuters, “Aquino unfazed by Philippine poll fraud allegations,” May 27, 2010, <https://www.reuters.com/article/idINIndia-48840420100527>

³⁰ Ina Reformina, *Source code firm Dominion sheds light on voting glitch*, ABS-CBN News, May 7, 2010, <https://news.abs-cbn.com/nation/05/07/10/source-code-firm-dominion-sheds-light-voting-glitch>.

³¹ *See, e.g.*, *Notice of Contract: Contract No. 071B7700117*, State of Michigan Enterprise Procurement: Department of Technology, Management, and Budget, 48 (2017), https://www.michigan.gov/documents/sos/071B7700117_Dominion_555356_7.pdf.

67. Dominion voting systems reliant on GEMS were used in the 2020 general election.

68. Following the 2016 general election, a left-leaning advocacy organization and individual voters filed an action in the United States District Court for the Northern District of Georgia, seeking to set aside the results of a 2016 Congressional race in which the Republican candidate had prevailed. The *Curling v. Raffensperger* plaintiffs alleged “sophisticated hackers – whether Russian or otherwise – had the capability and intent to manipulate elections in the United States.”³² They later asked the court to enter a preliminary injunction barring Georgia in the 2020 general election from using Dominion’s ballot marking devices from its Democracy Suite 5.5-A voting system. *See Curling v. Raffensperger*, 493 F.Supp.2d 1264, 1267 (N.D. Ga. 2020).

69. On October 11, 2020, just three weeks before the 2020 general election, Judge Amy Totenberg³³ issued an order regarding the Dominion voting system’s security risks and the potential for fraud or irregularities.³⁴ Judge Totenberg found substantial evidence that the Dominion system was plagued by security risks and the potential for votes to be improperly rejected or misallocated. She wrote, “The Plaintiffs’ national security experts convincingly present evidence that this is not a question of ‘might this actually ever

³² Amended Complaint, Doc. 15, N.D. Ga. No. 2017CV292233 (Ex. 4).

³³ Given the hyper-partisan nature of the allegations and assertions set forth in Dominion’s Complaints against Lindell and others, it is worth noting that Judge Totenberg was nominated to the federal bench by President Obama in January of 2011.

³⁴ *Curling v. Raffensperger*, No. 493 F.Supp.d 1264, 1267 (N.D. Ga. 2020) (Ex. 5).

happen?’ – but ‘when it will happen,’ especially if further protective measures are not taken.”³⁵

70. Judge Totenberg’s findings reflected many of the same issues which had existed more than ten years earlier with the predicate Diebold GEMS system, ultimately purchased by Dominion:

- “[H]uge volume of significant evidence regarding the security risks and deficits in the [Dominion] system as implemented . . .”
- “Evidence presented in this case overall indicates the possibility generally of hacking or malware attacks occurring in voting systems and this particular system through a variety of routes – whether through physical access and use of a USB flash drive or another form of mini-computer, or connection with the internet.”
- “[E]vidence credibly explaining how malware can mask itself when inserted in voting software systems or QR codes, erase the malware’s tracks, alter data, or create system disruption.”
- “Defendants [including Dominion] do not appear to actually dispute that cybersecurity risks are significant in the electoral sphere.”
- Dominion’s Director of Product Strategy and Security “acknowledged the potential for compromise of the [Dominion] operating system, by exploiting a vulnerability, that could allow a hacker to take over the Voting machine and compromise the security of the voting system software.”
- “[F]ormidable amount of evidence that casts serious doubt on the validity of the use of the [risk-limiting audit statistical method for auditing election outcomes] with the current [Dominion] system.”³⁶

71. Although Judge Totenberg declined the *Curling* plaintiffs’ request for injunctive relief requiring paper ballots—because she felt bound by Eleventh Circuit

³⁵ *Id.* at 1342.

³⁶ *Id.* at 1278, 1280, 1281, 1283, 1287, 1306.

precedent and because there was insufficient time to implement the requested relief prior to the election—she nevertheless expressed profound concern regarding the Dominion voting system and Dominion’s less than transparent actions:

The Court’s Order has delved deep into the true risks posed by the new [Dominion] voting system as well as its manner of implementation. These risks are neither hypothetical nor remote under the current circumstances. The insularity of the Defendants’ and Dominion’s stance here in evaluation and management of the security and vulnerability of the BMD system does not benefit the public or citizens’ confident exercise of the franchise. The stealth vote alteration or operational interference risks posed by malware that can be effectively invisible to detection, whether intentionally seeded or not, are high once implanted.

The Plaintiffs’ national cybersecurity experts convincingly present evidence that this is not a question of ‘might this actually ever happen?’ — but ‘when it will happen,’ especially if further protective measures are not taken. Given the masking nature of malware and the current systems described here, if the State and Dominion simply stand by and say, “we have never seen it,” the future does not bode well.³⁷

72. In addition to her December 2019 letter to Dominion’s parent company, Staple Street Capital, Senator Warren noted how Dominion kept their operations under a cloak of secrecy: “These vendors make little to no information publicly available on how much money they dedicate to research and development, or to maintenance of their voting systems and technology. They also share little or no information regarding annual profits or executive compensation for their owners.”³⁸

³⁷ *Id.* at 1341-42.

³⁸ *Warren, Klobuchar, Wyden, and Pocan Investigate Vulnerabilities and Shortcomings of Election Technology Industry with Ties to Private Equity*, Elizabeth Warren: United States Senator for MA (Dec. 10, 2019), <https://www.warren.senate.gov/oversight/letters/warren-klobuchar-wyden-and-pocan-investigate-vulnerabilities-and-shortcomings-of-election-technology-industry-with-ties-to-private-equity>.

73. In August 2018, Senator Klobuchar stated on nationally broadcast television, Meet the Press, “I’m very concerned you could have a hack that finally went through. You have 21 states that were hacked into, they didn’t find out about it for a year.”³⁹

74. Senator Wyden, also in the lead up to the 2020 election, explained during an interview, “[T]oday, you can have a voting machine with an open connection to the internet, which is the equivalent of stashing American ballots in the Kremlin. . . . [As] of today, what we see in terms of foreign interference in 2020 is going to make 2016 look like small potatoes. This is a national security issue! . . . The total lack of cybersecurity standards is especially troubling . . . But the lack of cybersecurity standards leads local officials to unwittingly buy overpriced, insecure junk. Insecure junk guarantees three things: a big payday for the election-tech companies, long lines on Election Day, and other hostile foreign governments can influence the outcome of elections through hacks.”⁴⁰

75. After failing certification in Texas in January 2019, on October 2 and 3, 2019, Dominion again presented its Democracy Suite 5.5-A voting system in Texas for examination and certification.⁴¹ It failed the second time as well.

³⁹ NBC News, Amy Klobuchar: Concerned That A 2018 Election Hack Could Succeed (Full) | Meet The Press | NBC News, YouTube (Aug. 5, 2018), <https://www.youtube.com/watch?v=9wtUxqqLh6U>.

⁴⁰ Mark Sullivan, *Senator Ron Wyden: The GOP is ‘making a mockery’ of election security*, FAST COMPANY (Feb. 19, 2020), available at <https://www.fastcompany.com/90465001/senator-ron-wyden-the-gop-is-making-a-mockery-of-election-security>.

⁴¹ Jose A. Esparza, *Report of Review of Dominion Voting Systems Democracy Suite 5.5A*, Tex. Sec’y of State (Jan. 24, 2020), available at <https://www.sos.texas.gov/elections/forms/sysexam/dominion-d-suite-5.5-a.pdf> (Ex. 6).

76. “The examiner reports identified multiple hardware and software issues . . . Specifically, the examiner reports raise concerns about whether the Democracy Suite 5.5-A system is suitable for its intended purpose; operates efficiently and accurately; and is safe from fraudulent or unauthorized manipulation.”⁴²

77. On January 24, 2020, the Texas Secretary of State denied certification of the system for use in Texas elections. Texas’s designated experts who evaluated Democracy Suite 5.5-A flagged risk from the system’s connectivity to the internet despite “vendor claims” that the system is “protected by hardening of data and IP address features.”^{43, 44} “[T]he machines could be vulnerable to a rogue operator on a machine if the election LAN is not confined to just the machines used for the election . . . The ethernet port is active on the ICX BMD during an election. . . . This is an unnecessary open port during the voting period and could be used as an attack vector.”⁴⁵ Other security vulnerabilities found by Texas include use of a “rack mounted server” which “would typically be in a room other than a room used for the central count” and would present a security risk “since it is out of sight.”⁴⁶

⁴² *Id.*

⁴³ Letter from Brandon Hurley to Keith Ingram (Feb. 19, 2019) (Ex. 7).

⁴⁴ James Sneeringer, Ph.D., *Voting System Examination: Dominion Voting Systems Democracy Suite 5.5-A* 2, 5 (TX Sec. of State Elections Div.), available at <https://www.sos.texas.gov/elections/forms/sysexam/oct2019-sneeringer.pdf>.

⁴⁵ Tom Watson, *Democracy Suite 5.5A* 4-5 (TX Sec. of State Elections Div.), available at <https://www.sos.texas.gov/elections/forms/sysexam/oct2019-watson.pdf>.

⁴⁶ *Id.*

78. Texas Attorney General Ken Paxton later explained, “We have not approved these voting systems based on repeated software and hardware issues. It was determined they were not accurate and that they failed — they had a vulnerability to fraud and unauthorized manipulation.”⁴⁷

79. Election officials and voting system manufacturers, including Dominion’s CEO, have publicly denied that voting machines are connected to the internet and, therefore, not susceptible to attack via the internet.⁴⁸ Dominion’s CEO, John Poulos, testified in December 2020 that Dominion’s voting systems are “closed systems that are not networked meaning they **are not connected to the internet.**”⁴⁹ This is false.

80. For example, in his May 2016 interview, Dominion Vice President Obradovic stated, “All devices of the ImageCast series have additional options such as modems for wireless and wired transfer of results from the very polling place....”⁵⁰

81. Dominion has even tried to hide its systems’ internet connectivity from the election officials who are ostensibly in charge of running the elections where Dominion’s systems are used. *Vice* reported in 2019, “[A] group of election security experts have found

⁴⁷ Brad Johnson, *Texas Rejected Use of Dominion Voting System Software Due to Efficiency Issues*, *The Texan*, Nov. 19, 2020, <https://thetexan.news/texas-rejected-use-of-dominion-voting-system-software-due-to-efficiency-issues/>.

⁴⁸ Kim Zetter, *Exclusive: Critical U.S. Election Systems Have Been Left Exposed Online Despite Official Denials*, *Vice* (Aug. 8, 2019), available at <https://www.vice.com/en/article/3kxzk9/exclusive-critical-us-election-systems-have-been-left-exposed-online-despite-official-denials>.

⁴⁹ See <https://danfromsquirlhill.wordpress.com/2020/12/31/oomb/> (emphasis added). Again, Google’s YouTube deleted this video shortly after it began to gain circulation.

⁵⁰https://ekonomijaibiznis.mk/ControlPanel/Upload/Free_Editions/wZ0X5bz60KCgpcvFcEBvA/maj%202016%20ENG/mobile/index.html#p=33

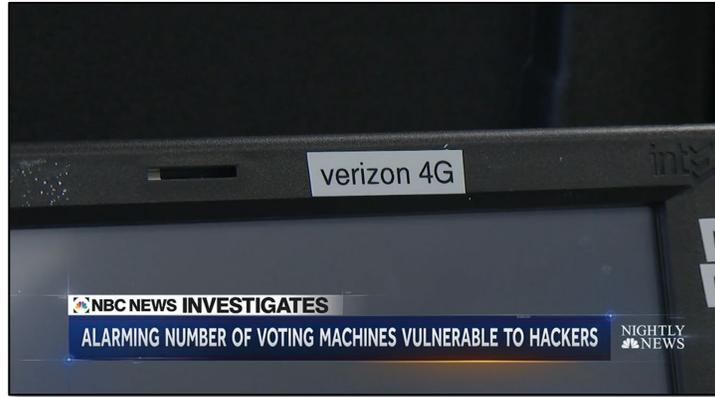
what they believe to be nearly three dozen backend election systems in 10 states connected to the internet over the last year, including some in critical swing states. These include systems in nine Wisconsin counties, in four Michigan counties, and in seven Florida counties. . . . [A]t least some jurisdictions were not aware that their systems were online[.] . . . **Election officials were publicly saying that their systems were never connected to the internet because they didn't know differently.**"⁵¹ In 2020, a team of election security experts found more than 35 voting systems were online.⁵²

82. In 2020, NBC reported that voting machines were in fact connected to the internet, making them susceptible to hacking, and "The three largest voting manufacturing companies — Election Systems & Software, Dominion Voting Systems and Hart InterCivic — have acknowledged they all put modems in some of their tabulators and scanners. . . . Those modems connect to cell phone networks, which, in turn, are connected to the internet 'Once a hacker starts talking to the voting machine through the modem . . . they can hack the software in the voting machine and make it cheat in future elections,' [a Princeton computer science professor and expert on elections] said."⁵³

⁵¹ *Id.* (emphasis added).

⁵² Kevin Monahan, Cynthia McFadden, and Didi Martinez, 'Online and Vulnerable': Experts find nearly three dozen U.S. voting systems connected to internet, NBC News, Jan. 10, 2020, available at <https://www.nbcnews.com/politics/elections/online-vulnerable-experts-find-nearly-three-dozen-u-s-voting-n1112436>.

⁵³ *Id.*

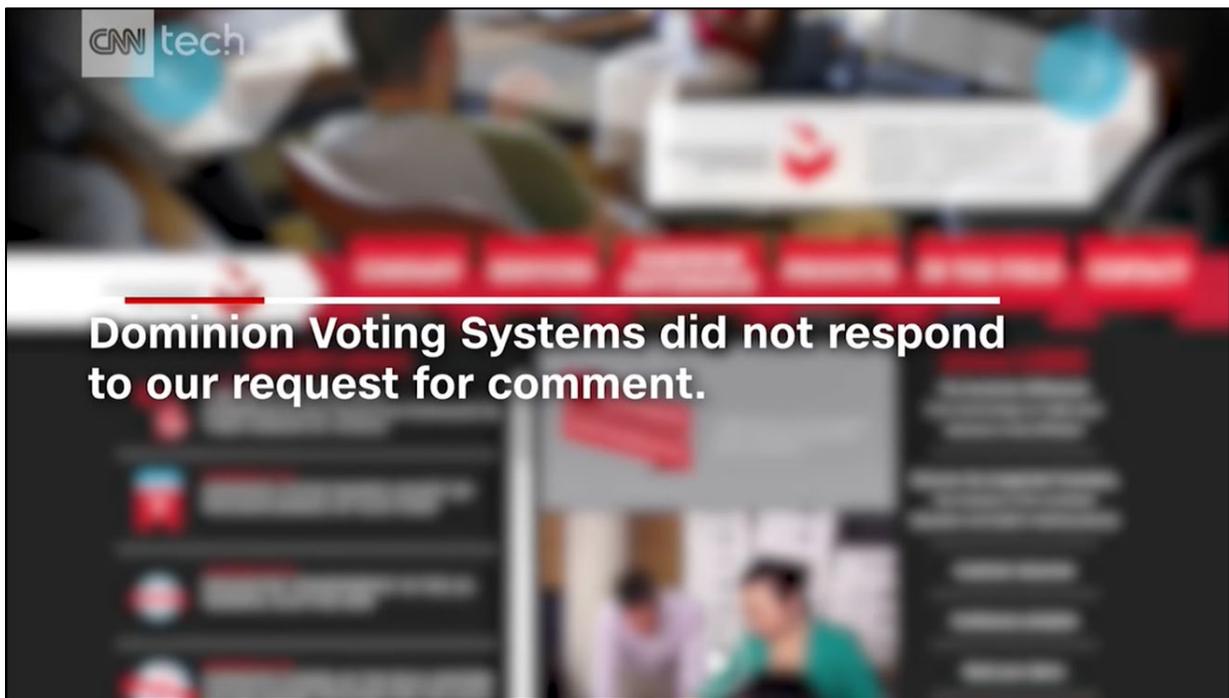


83. In a 2019 story about the DEF CON hacking conference, NBC News reported that Dominion avoided participation in the conference; that hackers can target voting systems with ease; and that Dominion's voting machines are connected to the internet.⁵⁴



⁵⁴ NBC News, *How Hackers Can Target Voting Machines* | NBC News Now, YouTube (Aug. 12, 2019), <https://www.youtube.com/watch?v=QtWP0KDx2hA>.

84. In 2017, Dominion refused to respond to CNNTech’s request for comment about its hackable voting machines.⁵⁵ CNNTech also asked Jake Braun, a former security advisor for the Obama administration and organizer of the DEF CON hacking conference, “Do you believe that right now, we are in a position where the 2020 election will be hacked?” He answered, “Oh, without question. I mean the 2020 election will be hacked no matter what we do. . . .”⁵⁶



85. The Congressional Task Force on Election Security’s Final Report in January 2018 identified the vulnerability of U.S. elections to foreign interference:⁵⁷ “According to DHS, Russian agents targeted election systems in at least 21 states, stealing personal voter

⁵⁵ CNN Business, *We watched hackers break into voting machines*, YouTube (Aug. 11, 2017), <https://www.youtube.com/watch?v=HA2DWMHgLnc>.

⁵⁶ *Id.*

⁵⁷ CONGRESSIONAL TASK FORCE ON ELECTION SECURITY, FINAL REPORT (2018) (Ex. 8).

records and positioning themselves to carry out future attacks. . . media also reported that the Russians accessed at least one U.S. voting software supplier . . . in most of the targeted states officials saw only preparations for hacking . . . [but] in Arizona and Illinois, voter registration databases were reportedly breached. . . If 2016 was all about preparation, what more can they do and when will they strike? . . . [W]hen asked in March about the prospects for future interference by Russia, then-FBI Director James Comey testified before Congress that: “[T]hey’ll be back. They’ll be back in 2020. They may be back in 2018.”⁵⁸

86. The Congressional Task Force on Election Security report also stated that “many jurisdictions are using voting machines that are highly vulnerable to an outside attack,” in part because “many machines have foreign-made internal parts.” Therefore, “a hacker’s point-of-entry into an entire make or model of voting machine could happen well before that voting machine rolls off the production line.”⁵⁹

87. In 2016, “Russian agents probed voting systems in all 50 states, and successfully breached the voter registration systems of Arizona and Illinois.”⁶⁰ The Robert Mueller report and a previous indictment of twelve Russian agents confirmed that Russian hackers had targeted vendors that provide election software, and Russian intelligence

⁵⁸ *Id.* at 6-7.

⁵⁹ *Id.* at 25 (citing Matt Blaze, *et al.*, *DEFCON 25 Voting Machine Hacking Village: Report on Cyber Vulnerabilities in U.S. Election Equipment, Databases, and Infrastructure*, 16 (2017) available at <https://www.defcon.org/images/defcon-25/DEF%20CON%2025%20voting%20village%20report.pdf>).

⁶⁰ Jordan Wilkie, ‘They think they are above the law’: the firms that own America’s voting system, *THE GUARDIAN*, Apr. 23, 2019, <https://www.theguardian.com/us-news/2019/apr/22/us-voting-machine-private-companies-voter-registration>.

officers “targeted employees of [REDACTED], a voting technology company that developed software used by numerous U.S. counties to manage voter rolls, and installed malware on the company network.”⁶¹

88. A 2015 report issued by the Brennan Center for Justice listed two and a half-pages of instances of issues with voting machines, including a 2014 post-election investigation into machine crashes in Virginia which found “voters in Virginia Beach observed that when they selected one candidate, the machine would register their selection for a different candidate.”⁶² The investigation also found that the Advanced Voting Solutions WINVote machine, which is Wi-Fi-enabled, “had serious security vulnerabilities” because wireless cards on the system could allow “an external party to access the [machine] and modify the data [on the machine] without notice from a nearby location,” and “an attacker could join the wireless ad-hoc network, record voting data or inject malicious [data.]”⁶³

89. HBO’s documentary *Kill Chain: The Cyber War on America’s Elections*,⁶⁴ details the vulnerability of election voting machines, including Dominion’s. Harri Hursti,

⁶¹ Report On The Investigation Into Russian Interference In The 2016 Presidential Election, p. 50, available at <https://www.justice.gov/archives/sco/file/1373816/download>.

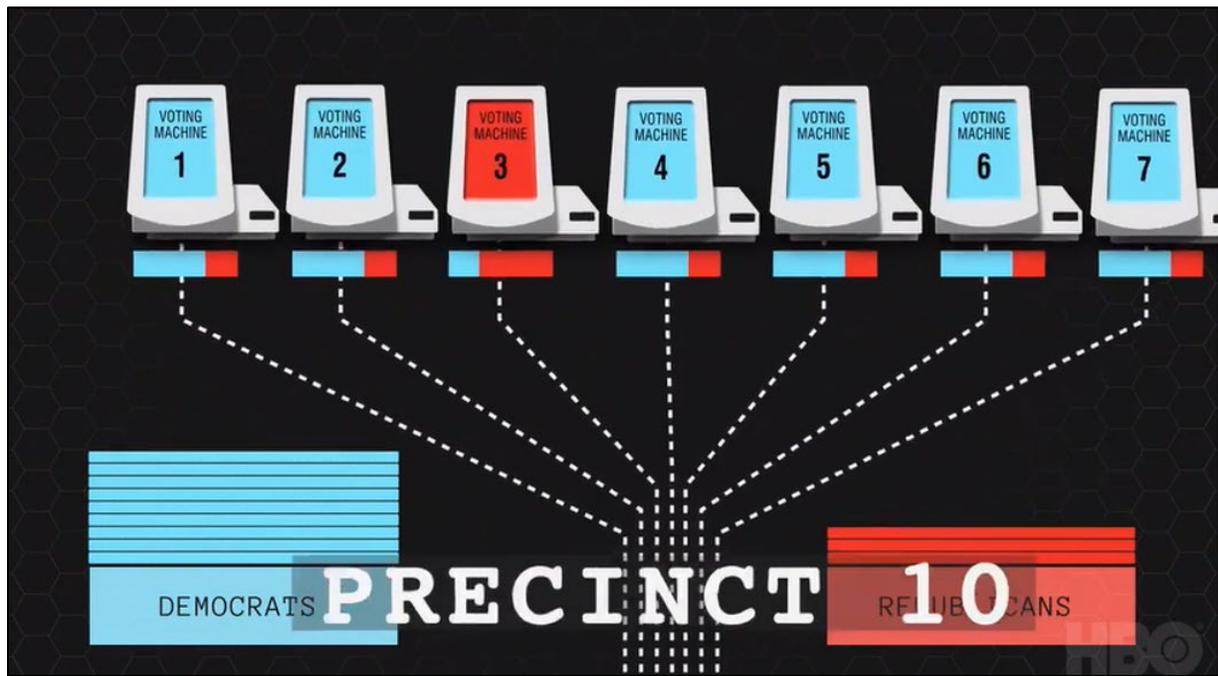
⁶² Lawrence Norden and Christopher Famighetti, *AMERICA'S VOTING MACHINES AT RISK*, Brennan Ctr. for Just., 13 (Sep. 15, 2014), available at https://www.brennancenter.org/sites/default/files/2019-08/Report_Americas_Voting_Machines_At_Risk.pdf (Ex. 9).

⁶³ *Id.*

⁶⁴ Simon Ardizzone, Russell Michaels, and Sarah Teale, *Kill Chain: The Cyber War on America’s Elections*, HBO (Mar. 26, 2020), available at <https://play.hbomax.com/feature/urn:hbo:feature:GXk7d3QAJHI7CZgEAACa0?reentered=true&userProfileType=liteUserProfile>.

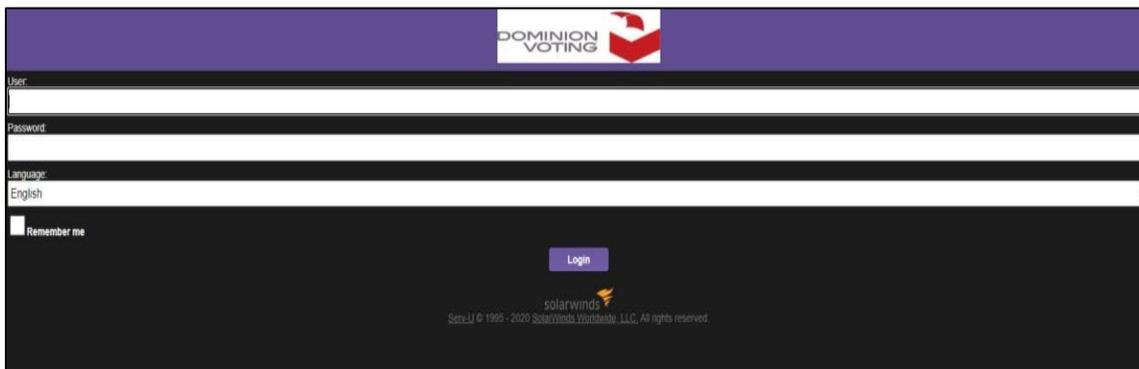
a world-renowned data security expert, showed that he hacked digital voting machines to *change votes* in 2005. According to Hursti, the same Dominion machine that he hacked in 2005 was slated for use in 20 states for the 2020 election.

90. In the documentary, Marilyn Marks, Executive Director of Coalition of Good Governance (one of the Plaintiffs in *Curling*), stated, “In Georgia, we ended up seeing the strangest thing. In a heavily Democratic precinct, there was one machine out of a seven-machine precinct that showed heavy Republican wins, while the precinct itself and all of the other machines were showing heavy Democratic wins.” Dr. Kellie Ottoboni, Department of Statistics, UC Berkeley, stated the likelihood of this happening is “an astronomically small chance.” It was less than one in a million.⁶⁵



⁶⁵ Screenshot from <https://www.facebook.com/KillChainDoc/videos/2715244992032273/>.

91. In December 2020, the Department of Homeland Security’s Cybersecurity & Infrastructure Agency (“CISA”) revealed that hackers infiltrated SolarWinds software.⁶⁶ Despite CEO Poulos’s claim that Dominion had never used SolarWinds, an archival screenshot of Dominion’s website shows a now-erased SolarWinds logo (screenshot below). Dominion in fact did use SolarWinds.



92. Dominion refuses to provide access to experts to forensically investigate its “proprietary” software, machines, and systems, to further establish that its machines have been hacked. This is telling in and of itself. Dominion denies the public access to the evidence to substantiate that it has been hacked. It silences anyone who makes this claim while simultaneously denying access to the key information one way or the other.

⁶⁶ Zachary Stieber, *Dominion Voting Systems Uses Firm That Was Hacked*, THE EPOCH TIMES, Dec. 14, 2020, https://www.theepochtimes.com/mkt_app/dominion-voting-systems-uses-firm-that-was-hacked_3617507.html.

D. Gaslighting: The REAL Big Lie

“And if all others accepted the lie which the Party imposed—if all records told the same tale—then the lie passed into history and became truth. ‘Who controls the past,’ ran the Party slogan, ‘controls the future: who controls the present controls the past.’”

- George Orwell, *1984*

93. In the wake of the 2020 presidential election and amidst a growing wave of public concern that the election results had been interfered with, tampered with, or manipulated to such a degree as to impact the outcome against Donald Trump and in favor of Joe Biden, Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (“CISA”) publicly claimed the 2020 election was the “most secure in American history.” Dominion proudly touted that claim as vindication of its role in an election many claimed was stolen, and even continues to cite CISA’s claim in support of its allegation that Mike Lindell’s cries of election fraud are a “Big Lie.” The real Big Lie is, in fact, CISA’s claim that the 2020 election was the “most secure in American history.”

94. For starters, what neither CISA nor Dominion nor Smartmatic bothered to tell the American people is that Dominion itself is a member of CISA’s Election Infrastructure Sector Coordinating Council, and so wielded self-serving influence over CISA’s proclamations that the 2020 election was historically unprecedented in its security. And, there is ample evidence that the 2020 presidential election was the furthest thing from secure—let alone “the most secure in American history.”

95. On Monday, November 2, 2020, the night before the 2020 general election, Dominion forced unplanned and unannounced software uploads into its machines. In some counties in Georgia, Dominion’s irregular software update caused voting machines to crash

the next day during the election. The supervisor of one County Board of Elections stated that Dominion “uploaded something last night, which is not normal, and it caused a glitch,” and “[t]hat is something that they don’t ever do. I’ve never seen them update anything the day before the election.”⁶⁷ Notably, Dominion had earlier *publicly denied* that any such updates just prior to election day were made and that its machines were connected to the internet—both of which were false statements.⁶⁸

96. During the 2020 general election Dominion machines across the country were connected to the internet when they should not have been. A Dominion representative assigned to Wayne County, Michigan reported numerous irregularities with the election process and Dominion’s machines, including that the voting machines were connected to the internet and that the machines had scanning issues.

97. In Wisconsin, Dominion machines that were not supposed to be connected to the internet were in fact connected to a “hidden” Wi-Fi network during voting.⁶⁹ Michael Spitzer-Rubenstein, a democrat political operative, was given internet access to a hidden Wi-Fi network at the Wisconsin election center where votes were being counted.⁷⁰

⁶⁷ Kim Zetter, *Cause of Election Day glitch in Georgia counties still unexplained*, POLITICO, Nov. 4, 2020, <https://www.politico.com/news/2020/11/04/georgia-election-machine-glitch-434065>.

⁶⁸ https://www.theepochtimes.com/mkt_app/dominion-voting-machines-were-updated-before-election-georgia-official-confirms_3604668.html

⁶⁹ M.D. Kittle, *EMAILS: GREEN BAY’S ‘HIDDEN’ ELECTION NETWORKS*, WISCONSIN SPOTLIGHT, Mar. 21, 2021, <https://wisconsinspotlight.com/emails-green-bays-hidden-election-networks/>.

⁷⁰ M.D. Kittle, *Democrats’ Operative Got Secret Internet Connection at Wisconsin Election Center, Emails Show*, DAILY SIGNAL, Mar. 23, 2021, available at <https://www.dailysignal.com/2021/03/23/democrats-operative-got-secret-internet-connection-at-wisconsin-election-center-emails-show/>.

Spitzer-Rubenstein received an email from Trent James, director of event technology at Green Bay’s Central Count location, which stated, “One SSID [for a Wi-Fi network] will be hidden and it’s: 2020vote. There will be no passwords or splash page for this one and it should only be used for the sensitive machines that need to be connected to the internet.” Four other individuals were copied on the email.

98. Attorneys representing a Democratic candidate who lost in 2020 filed a brief raising Dominion machine errors and election issues, arguing, “discrepancies between the number of votes cast and the number of votes tabulated have been pervasive in the counting of ballots for this race . . . In addition to the table-to-machine count discrepancies of which the parties are aware, there have also been procedural inconsistencies that question the integrity of the process . . . [T]he audit results revealed ‘unexplained discrepancies’ but failed to provide any explanation . . . what caused those discrepancies or if they were ever resolved . . . In this case, there is reason to believe that voting tabulation machines misread *hundreds* if not *thousands* of valid votes as undervotes . . .”⁷¹

99. Following the 2020 election, state lawmakers initiated investigations and audits of the results, often directing particular attention to Dominion’s voting systems.

- a. Congressman Paul Gosar called for a special session of the Arizona legislature to investigate the accuracy and reliability of the Dominion ballot software.⁷² On January 27, 2021, the Maricopa County, Arizona Board of

⁷¹ Oswego County, Index No. ECF 2020-1376, dated February 1, 2021 at 2.

⁷² Hannah Bleau, *Rep. Paul Gosar Calls on Arizona Officials to ‘Investigate the Accuracy’ of the Dominion Ballot Software After Reports of ‘Glitches,’* BREITBART, Nov. 7,

Supervisors voted unanimously to approve an audit of the 2020 election results and a forensic audit of Dominion’s voting machines.⁷³ The Arizona senate hired a team of forensic auditors consisting of four companies to review Maricopa’s election process.⁷⁴ A week later, attorneys sent each of those four companies a threatening cease-and-desist letter, improperly attempting to influence the reviews.⁷⁵ The audit began in April 2021 and, despite nearly-continuous efforts by left-minded litigants and certain Maricopa County officials to thwart it, is scheduled and on track to conclude on May 14, 2021.

- b. In the Michigan case of *Bailey v. Antrim County*, Cyber Ninjas and CyFir have found Dominion voting machines are connected to the internet, either by Wi-Fi or a LAN wire; there are multiple ways election results could be modified and leave no trace; and the same problems have been around for 10 years or more.⁷⁶

2020, <https://www.breitbart.com/politics/2020/11/07/rep-gosar-calls-on-az-officials-investigate-the-accuracy-of-the-dominion-ballot-software-after-reports-of-glitches/>.

⁷³ AUDITING ELECTIONS EQUIPMENT IN MARICOPA COUNTY, <https://www.maricopa.gov/5681/Elections-Equipment-Audit> (last visited Apr. 18, 2021).

⁷⁴ Press Release, Arizona State Senate, Arizona Senate hires auditor to review 2020 election in Maricopa County (Mar. 31, 2021) (on file with author) (Ex. 10).

⁷⁵ Letter from Sara Chimene-Weiss, James E. Barton II, Roopali H. Desai, and Sarah R. Gonski to Cyber Ninjas, CyFir, Digital Discovery, and Wake Technology Services (Apr. 6, 2021) (Ex. 11).

⁷⁶ Pl.’s Collective Resp. to Defs.’ and Non-Party Counties’ Mots. to Quash and for Protective Orders at Exs. 7-8 (April 9, 2021), *Bailey v. Antrim County* (No. 20-9238).

- c. In that same case, forensic analysts gained access to the Dominion voting machines used in the November 2020 election and determined the following:
- i. “The system intentionally generates an enormously high number of ballot errors ... The intentional errors lead to bulk adjudication of ballots with no oversight, no transparency, and no audit trail.”
 - ii. “[T]he computer system shows vote adjudication logs for prior years; but all adjudication log entries for the 2020 election cycle are missing ... Removal of these files violates state law.”
 - iii. “[A]ll” server security logs prior to 11:03 pm on November 4, 2020 are missing. This means that all security logs for the day after the election, on election day, and prior to election day are gone ... Other server logs before November 4, 2020 are present; therefore, there is no reasonable explanation for the security logs to be missing.”⁷⁷
- d. On April 12, 2021, New Hampshire Governor Christopher Sununu announced he had signed legislation appointing an audit of a Rockingham County race that relied upon Dominion voting machines after suspicious uniform shorting of vote tallies for four candidates was uncovered.

⁷⁷ Allied Security Operations Group Revised Preliminary Summary v.2, Antrim Michigan Forensics Report, 12/13/2020, available at https://www.depernolaw.com/uploads/2/7/0/2/27029178/ex_8-9.pdf.

- e. On March 23, 2020 the Wisconsin Assembly ordered an investigation into the 2020 election. Wisconsin uses Dominion voting machines.⁷⁸
- f. Investigations into election irregularities are also ongoing in Pennsylvania and Georgia, states which also use Dominion voting machines.

Even the Biden administration has recently sanctioned Russia for election interference and hacking.⁷⁹

100. In early 2021, a data scientist, Douglas G. Frank, PhD, uncovered an algorithm or “key”—a sixth degree polynomial—that operates in the electronic voting machines in a number of states to determine the ballots cast. These algorithms are unique to each particular state. In other words, the algorithm used in Minnesota does not work next door in Wisconsin. Likewise, the algorithm in Ohio does not work in Michigan or in Pennsylvania. That fact further demonstrates an algorithm is at work and the voter results are not random. Each algorithm is determined at the state level to shift votes based on the particular and peculiar demographics of each state. The examples below are from counties in Minnesota, but Dr. Frank has done the same analysis in a number of other states, including Michigan, Ohio, Pennsylvania, North Carolina, Washington, Colorado, and Florida, and reached the same results and conclusions.

⁷⁸ Scott Bauer, *Wisconsin Assembly OKs investigation into 2020 election*, FOX6 NEWS MILWAUKEE, Mar. 23, 2020, <https://www.fox6now.com/news/wisconsin-assembly-approves-election-investigation>.

⁷⁹ See, e.g., Truak, Natasha and Amanda Macias, “Biden administration slaps new sanctions on Russia for cyberattacks, election interference,” Apr. 14, 2021, <https://www.cnbc.com/2021/04/15/biden-administration-sanctions-russia-for-cyber-attacks-election-interference.html>.

101. Specifically, the algorithm is a mathematical computation of the actual registrations compared to the actual ballots cast. When applied to the 2019 census data and the registration data, that algorithm enables the prediction of the number of ballots cast *for each voter age group* in any given county in a state with near 100% certainty—without seeing the actual results. The key for each state applies with 100% certainty or near 100% certainty for every county within that state. And, as stated above, each state has a unique key. That does not happen in a random world.

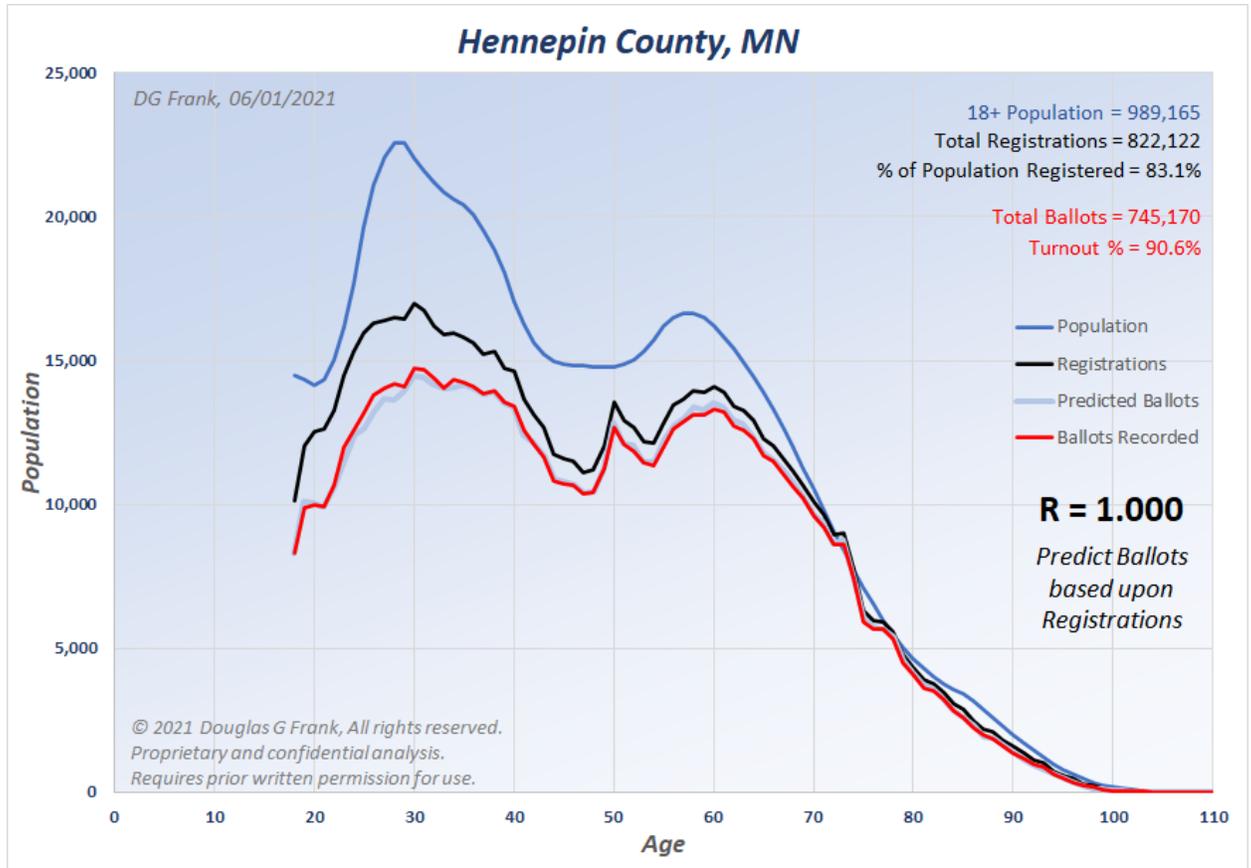
102. Specifically, with respect to the charts for the respective Minnesota counties below:

- a. The data is shown in graphs and compiled from three different databases:

BLUE CURVE. Population data extracted from the 2019 U.S. census at census.gov. This is the blue curve on each chart for the counties examined, which shows the census data per age group.

BLACK LINE. The state registration database for used in the November 3, 2020 election. This is the black line on each chart.

RED LINE. The state voter database with recorded results after the election. This is the red line on each chart.

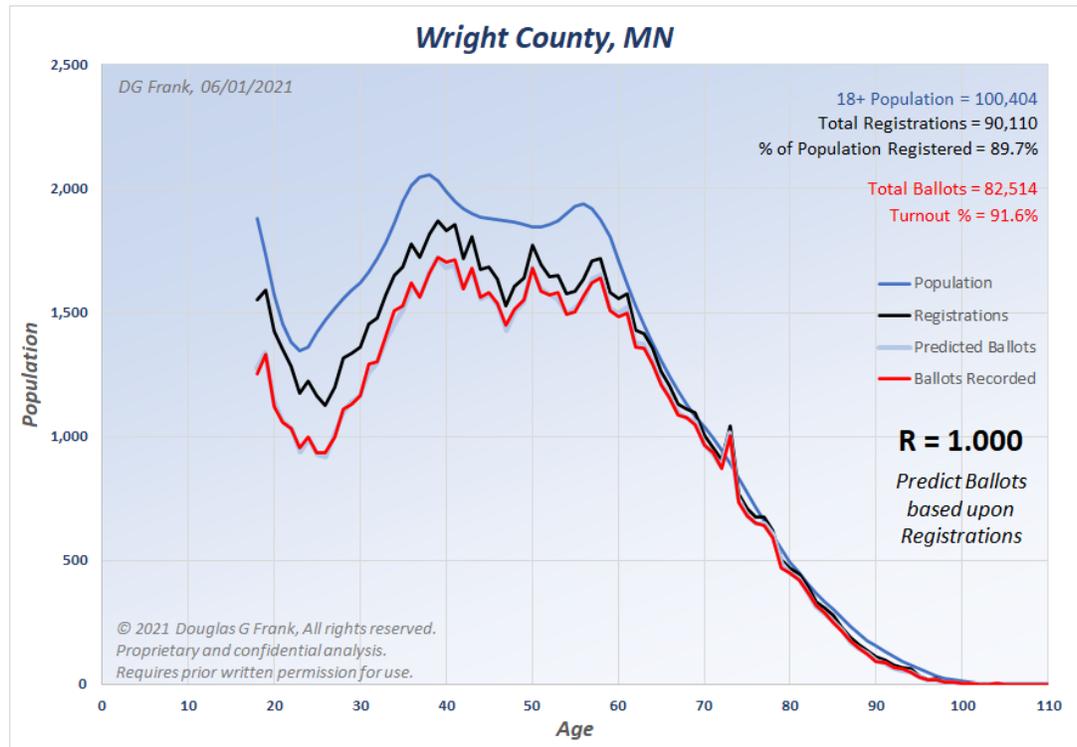


b. The blue, black, and red lines on the graphs are data. They are not speculative or calculated. They are comprised of 100% data. The algorithm itself, a sixth degree polynomial, is a mathematical computation of the actual registrations on each graph (black line) compared to the actual ballots cast (red line). The polynomial can be described as a “key” because it works in every county in a state e.g. Minnesota. The algorithm is regulating voter turnout by age as shown by the fact that voter turnout by age is in the exact same relative proportion to registered voters in each county in any given state. What happens in one county happens in all counties in a given state. The almost-

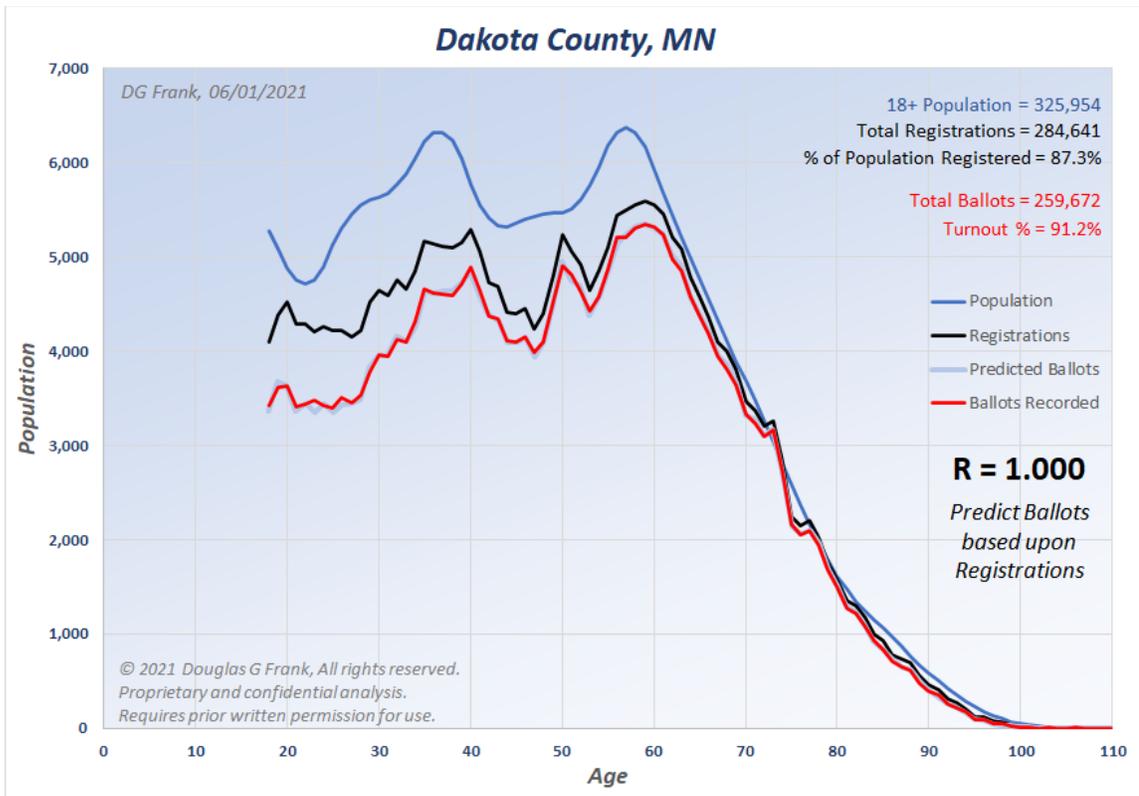
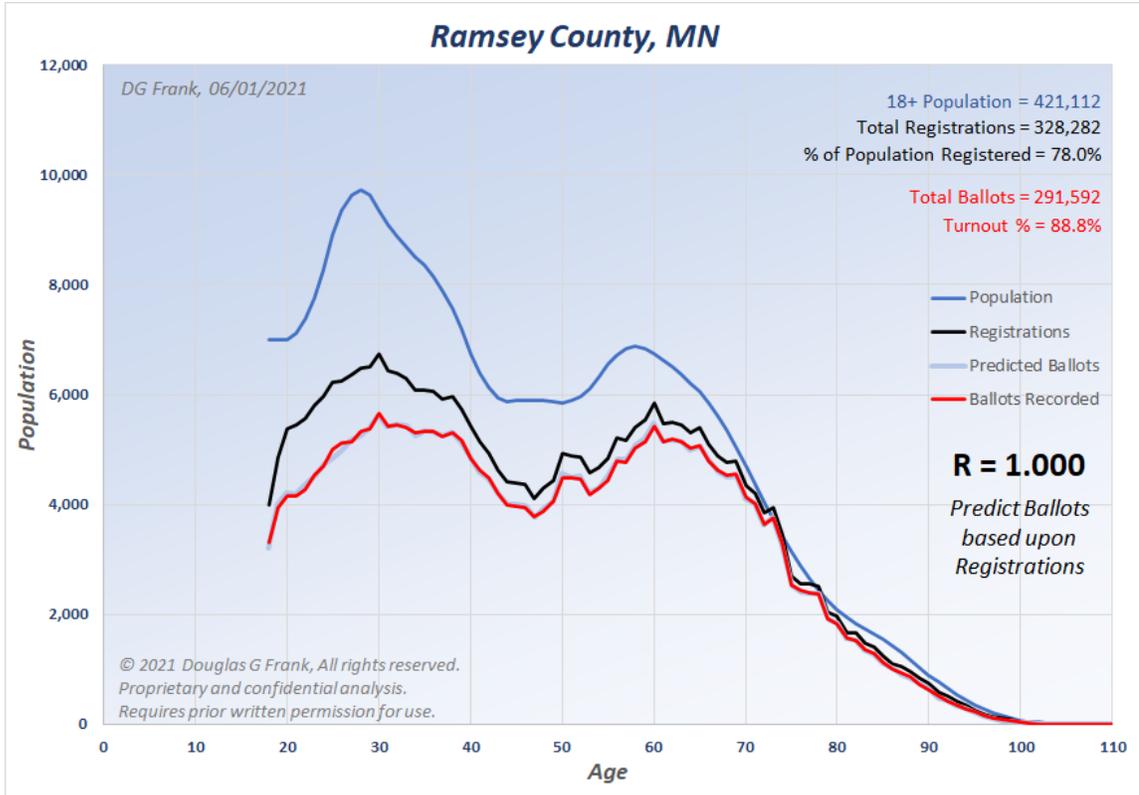
perfect correlation also means that by taking the census data and the registration data and then applying the algorithm, the number of ballots cast in a county can be predicted with virtually perfect certainty without even seeing the results.

- c. To discover the key, Dr. Frank first charted the total voting population that could be registered (dark blue line). Dr. Frank then layered in the registered voters (black line). Next, Dr. Frank included the actual ballots cast (red line). When all of the bumps in the black line (registrations) are compared to those in the red line (ballots), they look very familiar. The red line is almost a direct image of the black line, but just lower on the graph. Simply graphing the ratio between the black and the red creates the polynomial. The polynomial becomes the key. The key is then used and works in every county in a given state. When the key is applied, it generates the light blue line (predicted ballots).
- d. Dr. Frank applied the algorithm (a sixth degree polynomial) and predicted the number of ballots cast per age group in each county. This is represented by the light blue line (predicted ballots). The red line (actual ballots cast) tracks almost identically with the ballots predicted by the key. The light blue line (predicted ballots, using the “key”) also tracks with the black line (registrations). Those curves also follow the shape of the census (*i.e.*, the population).

e. As found for several other states, in Minnesota, Dr. Frank’s algorithm consistently predicted voter participation demographics to remarkably unnatural precision, with nearly every correlation coefficient equal or greater than 0.990. In Minnesota alone, he predicted 13 counties with $R = 1.000$, 33 counties with $R = 0.999$, 22 counties with $R = 0.998$, and all the rest greater than 0.994 except for three, the worst of which was $R = 0.976$ —still impossibly high to be a random event.⁸⁰ Three such counties are depicted in the charts below:



⁸⁰ All of the county charts can be viewed at <https://www.youtube.com/watch?v=xkY2LRA1ijQ>



- f. The analysis of the data shows an ability to predict ballot demographics with a degree of precision approaching 100%—a level of accuracy that would be impossible without the activity of a regulating algorithm. And, the degree of precision observed confirms that algorithms had real-time access to voting databases and voting activity before, during, and following the November 3, 2020 election.

103. Dr. Frank also found such a key in all 88 counties in Ohio, all 64 counties in Colorado, in all 14 counties evaluated in Florida, and in all 14 counties evaluated in Pennsylvania. Elections should not function like this in a normal statistical way. That is why Dr. Frank concludes that someone is deciding what this key is before the election and then making every county fit this key. And the key is able to be used to determine elections because the electronic voting machines are computers—computers highly vulnerable to hacking, tampering, and cyberattacks.⁸¹

104. In addition, Exhibit 12 shows a subset of 20 documented successful hacks through the election management system in the states of Michigan, Pennsylvania, Georgia, Wisconsin, and Arizona resulting in a total 555,864 votes switched from President Trump to candidate Vice President Biden in the 2020 general election. These hacks came primarily from within China and are identified by the date, location, and the network from which the hack originated and the location and network that was the target of the hack. The network

⁸¹ Dr. Frank's analysis for these states (and others) is viewable at https://www.youtube.com/channel/UC57eE4MaR0oIwTinM__WQSg.

packets of information flowing from these hacks was captured and recorded in real time as discussed in the documentary, “Absolute 9-0.”⁸²

105. In short, every mainstream media “reporter” and social media pundit continues to label the fact of tampering and interference in the 2020 election as “baseless,” “false,” “debunked,” or some similarly approved newspeak. But “baseless,” “false,” “debunked,” and similar adjectives are not synonyms for “disputed.” The media and big-tech orthodoxy may *dispute* the sources, methodologies, or conclusions that lead many to question the 2020 election, but they are beyond disingenuous to claim such questions have no basis or have been conclusively or objectively answered in favor of their view. They are ignoring the cacophony of complaints from the political left prior to November 3, 2020. And they are literally asking Americans to ignore open and obvious evidence—evidence of events *they themselves predicted would occur*—and instead yield meekly to their campaign of enforced doublethink.

E. Shut Up Or Else

“Being in a minority, even a minority of one, did not make you mad. There was truth and there was untruth, and if you clung to the truth even against the whole world, you were not mad.”

- George Orwell, *1984*

106. Lindell has spoken out personally about Dominion, about electronic voting machines more generally, and the importance of election integrity. And, Lindell has spoken accurately about these issues of great public concern. He has presented evidence backed

⁸² See <https://www.worldviewweekend.com/tv/video/mike-lindell-presents-absolutely-9-0>, beginning of the documentary through the 16 minute mark.

by expert analysis to raise public awareness of election integrity issues—particularly relating to the hacking of electronic voting machines like Dominion’s machines. For those actions Dominion sued him, baselessly alleging defamation and seeking a headline grabbing, fictitious \$1.3 billion in damages.⁸³

107. However, Dominion’s true purpose is not simply to silence Lindell, but to silence anyone else who might speak out on election fraud. Thus, Dominion also sued the company Mike Lindell founded and owns. MyPillow made no statements about Dominion. Instead, by suing MyPillow, Dominion seeks to punish Lindell for *his* statements by damaging his reputation, his finances, and his business. More fundamentally, Dominion—in cahoots with Smartmatic—also seeks to send a message to others: “Shut up or else.”

108. That is why Dominion’s campaign also included bragging publicly about having its lawyers at Clare Locke send threatening letters to over 150 individuals demanding they cease and desist from commenting on the election or Dominion.⁸⁴ Among the recipients of these shotgun-style attack letters are dozens of everyday citizens—not public figures—who volunteered as poll watchers in the 2020 election and signed sworn statements about election irregularities they witnessed. Dominion found out who they were and dispatched its lawyers to send them threatening cease-and-desist letters, falsely

⁸³ See Case No. 1:21-cv-00445-CJN; *US Dominion, Inc., et al. v. My Pillow, Inc. and Michael J. Lindell*; in the United States District Court for the District of Columbia (“the D.C. Lawsuit”).

⁸⁴ Hannah Knowles and Emma Brown, *Dominion threatens MyPillow CEO Mike Lindell with lawsuit over ‘false and conspiratorial’ claims*, Washington Post, Jan. 18, 2021, <https://www.washingtonpost.com/politics/2021/01/18/dominion-mike-lindell-mypillow/>.

claiming they had defamed Dominion when these private citizens never mentioned Dominion. Dominion then illegally demanded these private citizens preserve all communications, emails, texts—private or otherwise—and a host of other materials. Dominion’s and Clare Locke’s threats constitute witness intimidation.

109. However, Dominion did not stop there. To give its letters further intimidating weight, Dominion’s public campaign extended to suing news networks, like Fox News, and individuals for billions of dollars. These lawsuits were amplified by a high-powered, well-orchestrated publicity campaign designed to spread their allegations to as many people as possible. Dominion intends for its media blitz to inflict a crippling fear of becoming the next target for destruction if one dares to raise any question about the use and integrity of voting machines during elections.

110. Through aggressive litigation, threats of litigation, and publicization of these activities, Dominion seeks to intimidate those who might dare to come forward with evidence of election fraud, stop criticism of election voting machines, and suppress information about how its machines have been hacked in American elections. This campaign of lawfare is intended to stifle *any* and *all* public debate about the reliability of the election results, whether such speech is related to Dominion or not.

111. Dominion has filed a \$1.3 billion lawsuit against Sidney Powell. Dominion has filed a \$1.3 billion lawsuit against Rudy Giuliani. Dominion has filed a \$1.6 billion lawsuit against Fox News. Dominion has filed a \$1.3 billion lawsuit against MyPillow and

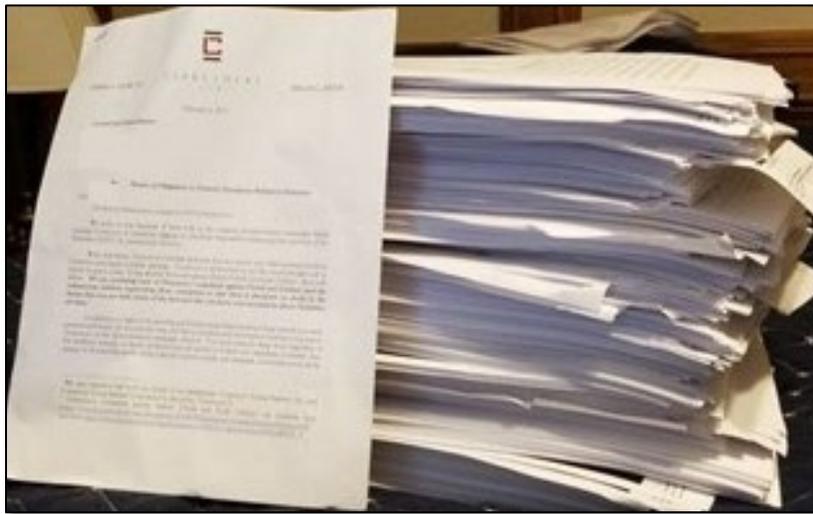
its CEO. Yet Dominion's annual revenues are only about \$90 million.⁸⁵ Dominion's exaggerated lawsuits are not about any damages it has suffered; they are designed to intimidate those who exercise their right to free speech about the election.

112. Dominion amplifies the effect of its exaggerated lawsuits with threatening letters and a publicity campaign.

- a. Dominion has sent at least 150 attorney letters, threatening the recipients with legal action. Some of these letters include copies of Dominion's legal papers in its lawsuits. The clear message of these letters is that anyone who comments publicly about Dominion will be ruined.
- b. Dominion sent threatening letters to numerous individuals who signed sworn affidavits that were used in litigation about the election process. In many cases, the poll watchers' affidavits did not include any statement about Dominion or the election. But Dominion's campaign is total; it seeks to deter *any public expression* questioning the election. Dominion's clear threats that it will sue witnesses who testify about election irregularities or fraud does not threaten just the individual witnesses; it threatens the integrity of the justice system as a whole. Exhibits 13 and 14 are representative of the

⁸⁵ "The entire sector generates only about \$300 million in revenue annually, according to Harvard professor Stephen Ansolabehere, who studies elections and formerly directed the Caltech/MIT Voting Technology Project," and "Dominion, [] has about 30% of the market." <https://www.propublica.org/article/the-market-for-voting-machines-is-broken-this-company-has-thrived-in-it>.

- d. Another individual, an actuary, performed statistical analyses, inquiring whether the presence of Dominion voting machines affected election outcomes. He found nonrandom differences in counties that used Dominion machines. Dominion mailed him a box, pictured below, full of legal papers, which included lawsuits filed against other citizens along with a threatening cease and desist letter. As a result of speaking out, the actuary lost business.



113. To further amplify the impact of its legal letters and exaggerated lawsuits, Dominion has bragged about and widely publicized them, seeking to ensure that everyone – not just the recipients of its attorney letters – knows they will be punished if they speak against Dominion, and anyone could be the next victim of a Dominion billion-dollar lawsuit. For example:

- a. In a nationally televised interview, Dominion CEO John Poulos announced, **“Our legal team is looking at frankly everyone, and we’re not ruling**

anybody out.” He said Dominion’s previous lawsuit was “definitely not the last lawsuit” it would be filing.



- b. Dominion’s website prominently displays its lawsuits, even ahead of its own products, and statements from its attorneys. The website boasts, “Dominion has sent preservation request letters to Powell, Giuliani, Fox, OAN, and Newsmax, as well as more than 150 other individuals and news organizations. Stay tuned to this page for updates.”

114. The substantial expense of litigation in defamation lawsuits brought by governmental actors (like Dominion) against their critics has an enormous chilling effect on speech. Dominion has issued a general threat to all (“Our legal team is looking at frankly everyone, and we’re not ruling anybody out”) and sharpened that threat by delivering it to specific individuals (“litigation regarding these issues is imminent”) – sometimes accompanied by copies of lawsuits Dominion had already filed against others.

115. Dominion's use of lawfare tears at the fabric of our constitutional order. If successful, the scheme will cripple our system's ability to ferret out and stop electoral manipulation, as well as cut a wide hole in the First Amendment.

116. Dominion aggressively pushed a narrative that there should be no concern regarding the integrity of the election. Dominion took equally aggressive action to demand no criticism. In response to Lindell's exercise of his First Amendment free speech rights, Dominion launched its lawfare campaign against both Lindell and his company. Exhibits 15 through 17 are the increasingly aggressive "cease and desist" letters sent by Dominion's lawyers at Clare Locke to Lindell, seeking to silence Lindell's criticism and cherry-pick support for Dominion's self-interested denial of any wrongdoing. Dominion's and Smartmatic's scheme is wrongful because their purpose is to punish and deter important constitutionally-protected activity—free expression about a matter of public concern.

117. Dominion's co-conspirator in this campaign to suppress free speech and extort silence from dissenters is another election-runner and state actor, Smartmatic. On or about February 4, 2021, Smartmatic filed a *\$2.7 billion* lawsuit in federal court in New York City against Fox News; journalists Lou Dobbs, Maria Bartiromo, and Jeanine Pirro; and former Trump attorneys Rudy Giuliani and Sydney Powell. The defendants' alleged wrongdoing? Speaking their mind publicly, attempting to report on growing questions about the role of voting machines in 2020 election irregularities, and utilizing the legal process to expose such irregularities and prevent certification of any election results that may have resulted from a tainted process. But Smartmatic's true motive is as obvious as Dominion's: to enforce the orthodoxy of Democrats, the mainstream media, and Big Tech

and quash any and all suggestions that President Joe Biden might not have been the victor in an election conducted fairly and untainted by fraud. And Smartmatic’s weapon of choice? The litigation process—an expensive, slow, notoriously inefficient arena in which only a very few can afford to wage battle on the scale Smartmatic and Dominion attempt to impose on those who question the integrity of their systems. Under the auspices of “defending election integrity”—a lofty goal far better served by fixing their notoriously and demonstrably insecure voting machines than by waging lawsuit warfare on private citizens—Smartmatic and Dominion have embarked on a concerted, collective enterprise to extort silence from their dissenters or bring financial ruin on any and all who persist in speaking their minds.⁸⁶

118. Lindell is a victim of this conspiracy and enterprise by Dominion and Smartmatic to attempt to silence him by abusing the litigation process and, as state actors, punish him for his support and advocacy of certain political views or candidates. Specifically, he has suffered reputational harm from being called the perpetrator of the “Big Lie”—a Hitler-coined term⁸⁷—and publicly vilified as a liar, conspiracy theorist, and purveyor of “basless” or “false” information regarding the 2020 election. Moreover, Lindell has received numerous threats against his person and even his life since speaking out about evidence of election fraud. Obviously, he has suffered individually as a result of the damage done to his business, MyPillow, as a result of the Dominion- and Smartmatic-

⁸⁶ <https://www.businessinsider.com/everyone-dominion-smartmatic-suing-defamation-election-conspiracy-theories-2021-2>

⁸⁷ ADOLF HITLER, *MEIN KAMPF* vol. I, ch. X (James Murphy trans., Hurst and Blackett Ltd. 1939) (1925) available at <http://gutenberg.net.au/ebooks02/0200601.txt>.

led “cancel culture” aimed at Lindell. And the Dominion lawfare campaign against Lindell has interfered with plans to take Lindell’s on-line store, MyStore, public in an initial public offering. Moreover, he has incurred and is incurring hundreds of thousands of dollars to defend himself against Dominion’s \$1.3 billion lawsuit simply because Dominion wants to use the litigation process to silence him—even as it tolerated a decade or more of criticism of its machines’ security from those on the political left. Lindell is entitled to recover his actual and special damages from Dominion and Smartmatic for their collective role in their conspiracy and enterprise to harm him—damages which presently are estimated to exceed \$2 billion.

119. In the context of election integrity—so crucial to the functioning and survival of a republican form of government—no litigant should be able to weaponize the courts and the litigation process while hiding behind legal doctrines originally intended and developed to *protect* constitutional rights, such as the right to petition the government, and the right to a full and fair opportunity to be heard in a court of law. No doubt, the Dominion Defendants and the Smartmatic Defendants will attempt to hide behind such doctrines (like the *Noerr-Pennington* doctrine or the “absolute privilege” protecting statements made in the course of judicial proceedings) to *deprive* Lindell and other litigants of their sacrosanct right of freedom of speech. Through their joint enterprise to suppress political dissent, the Dominion Defendants and the Smartmatic Defendants have placed in tension the right to petition the government against the right to free speech. In doing so, one set of litigants (the Dominion and Smartmatic Defendants) have abused the right to petition the government in an effort to suppress Mike Lindell’s and others’ lawful and proper exercise

of their freedom of speech. Plaintiff Lindell has been harmed as a result and brings this suit to recover for that harm and bring an end once and for all to the defendants' reign of litigation terror and conspiracy to deprive Lindell and others of their constitutionally protected freedom of political expression.

120. In short, Plaintiff Lindell brings this lawsuit to put an end to Dominion's and Smartmatics' campaign of "lawfare" against those who criticize their electronic voting machines, or who question their role in the indisputably suspect conduct of the 2020 President Election. Lindell's claims rise above any protections the defendants may assert to wage their lawfare campaign, because those protections do not and should not immunize state actors from weaponizing the judicial system and the litigation process to silence dissent, unpopular beliefs, or facts inconveniently out-of-line with mainstream groupthink.

VI. CAUSES OF ACTION

"Freedom is the freedom to say that two plus two make four. If that is granted, all else follows."

- George Orwell, *1984*

121. The facts alleged above and to be proven at trial demonstrate that Plaintiff is entitled to recover damages and other relief against the various defendants in this case on one or more theories and causes of action as set out below.

COUNT ONE: ABUSE OF PROCESS **(as to the Dominion Defendants)**

122. Plaintiff incorporates the foregoing paragraphs as if fully set forth verbatim below.

123. The facts set forth herein and to be proven at trial demonstrate that Plaintiff is entitled to recovery against the Dominion Defendants, jointly and severally, for the common law tort of abuse of process.

124. Under Minnesota law, the elements of a tort cause of action for abuse of process are (a) the existence of an ulterior purpose, and (b) the act of using the process to accomplish a result not within the scope of the proceeding in which it was issued, whether such result might otherwise be lawfully obtained or not. *See Young v. Klass*, 776 F.Supp.2d 916, 924 (D. Minn. 2011), *quoting Hoppe v. Klapperich*, 224 Minn. 224, 28 N.W.2d 780, 786 (1947). Abuse of process does not require the plaintiff to prove either favorable termination of the underlying litigation or malice on the part of the defendant.

125. The facts alleged above and to be proven at trial will establish each of these elements. As detailed above, the Dominion Defendants brought suit against Lindell as part of a widespread “lawfare” campaign designed not to compensate for any harm to Dominion caused by the public statements by Lindell and others, but to weaponize the judicial system in order to quash political dissent and silence those who would have the citizens of the United States (and the world, for that matter) know the truth about the grave flaws in Dominion’s voting machines (as well as the voting machines of others). To that end, the Dominion Defendants have willfully plead gross mischaracterizations and outright lies about their voting machines, about the public statements Lindell has made about them, and about Lindell personally. In addition, the Dominion Defendants have alleged a quantum of damages—\$1.3 *billion*—that not only bears no conceivable connection to any possible harm suffered from the public exposé of their flawed machines, but also is many multiples

of the Dominion Defendants' revenues from their voting machines that were the subject of Lindell's public statements. Such allegations, having no basis in fact, are instead meant only to intimidate and silence. For these and other reasons, the Dominion Defendants' judicial claims against Lindell are devoid of factual support and were instead made for the primary purpose of intimidating Lindell into silence and a public retraction of his previous public statements.

126. As a result of the Dominion Defendants' abuse of the judicial process, Plaintiff has suffered damages to his business interests and his reputation, has suffered threats to his personal safety and life, and has incurred and continues to incur costs to defend the abusive litigation those defendants have brought against him, for which he is entitled to recovery against those defendants, jointly and severally, and for which he now brings this suit.

COUNT TWO: DEFAMATION
(as to the Dominion Defendants)

127. Plaintiff incorporates the foregoing paragraphs as if fully set forth verbatim below.

128. Pleading further and in the alternative, the facts set forth herein and to be proven at trial demonstrate that Plaintiff is entitled to recovery against the Dominion Defendants, jointly and severally, for the common law tort of defamation.

129. Under Minnesota law, a statement is actionable in defamation if it is: (1) false; (2) was communicated to a third party; and (3) tended to harm the plaintiff's reputation or to lower that person in the estimation of the community. *Church v. City of*

St. Michael, 205 F.Supp.3d 1014, 1043 (D. Minn. 2016). Defamation that affects a plaintiff in its “business, trade, profession, office or calling” is defamation *per se* and is “actionable without any proof of actual damages.” *Id.* at 1045 n.19.

130. The Dominion Defendants have defamed Plaintiff Lindell *per se* by calling him a “liar” and a purveyor of “the Big Lie” in the D.C. Lawsuit. In fact, everything Lindell has publicly stated about the vulnerability of voting machines to cyberattacks and hacking (including the Dominion Defendants’ voting machines) is substantively true, and the Dominion Defendants know it.

131. Labeling a private citizen a “liar” or purveyor of lies is defamation *per se*, and therefore Lindell is entitled to monetary relief even in the absence of proof of economic loss or special damages. To the extent such proof is required, Plaintiff will show that the Dominion Defendants’ published lies about him have caused him economic losses and special damages, for which he is entitled to recovery against those defendants, jointly and severally, and for which he now brings this suit.

**COUNT THREE: VIOLATIONS OF THE RACKETEER INFLUENCED AND
CORRUPT ORGANIZATION ACT, 18 U.S.C. § 1962**
(as to Dominion Defendants and Smartmatic Defendants)

132. Plaintiff incorporates the foregoing paragraphs as if fully set forth verbatim below.

133. Pleading further and in the alternative, the facts set forth herein and to be proven at trial demonstrate that Plaintiff is entitled to recovery under 18 U.S.C. § 1964

against the Dominion Defendants and the Smartmatic Defendants, jointly and severally, for violations of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1962.

134. To establish a civil RICO claim, the plaintiff must show that the defendant engaged in (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity, and that he (5) sustained an injury to business or property (6) that was caused by the RICO violation.

135. An “enterprise” includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity. An “association-in-fact” enterprise does not require a formal structure such as a hierarchical chain-of-command, fixed roles for members, a name, regular meetings, or established rules and regulations. To establish an enterprise, the plaintiff must show (1) a common purpose, (2) relationships among those associated with the enterprise, and (3) longevity sufficient to permit those associates to pursue the enterprise’s purpose.

136. The facts alleged above and to be proven at trial demonstrate that the Dominion Defendants and the Smartmatic Defendants, with the assistance and participation of non-party co-conspirator Clare Locke, LLP, constituted an association-in-fact enterprise (“the Dominion/Smartmatic Enterprise”) having the common purpose of suppressing dissent to the use of electronic voting machines and suppressing demands for investigations into the possible use of electronic voting machines to artificially manipulate voting, vote tabulations, and election results reporting in the 2020 Presidential Election. A relationship exists between the Dominion Defendants and the Smartmatic Defendants in

that the Dominion Defendants’ voting machines utilize Smartmatic software (or software previously designed, created, modified, and sold by Smartmatic), and the Dominion Defendants and Smartmatic Defendants share common employees or contractors, co-working space, and historical and functional connections to Sequoia and other legacy voting systems. This relationship has existed for over ten years and continues to this day.

137. The facts alleged above and to be proven at trial demonstrate that the Dominion/Smartmatic Enterprise was at all relevant times engaged in the production, distribution, or acquisition of goods or services in interstate commerce. Specifically, the Dominion Defendants’ principal place of business is in Colorado, but Dominion provides voting machines to twenty-eight different states, and has issued written threats to those speaking out against electronic voting machines and their vulnerability to vote manipulation in numerous states beyond the borders of the State of Colorado, and has filed suit against Plaintiff Lindell in the District of Columbia as part of the “lawfare” campaign of the Dominion/Smartmatic Enterprise. Likewise, Smartmatic has its principal place of business in Florida, but has likewise sold its goods and services—which it too seeks to protect through the joint “lawfare” campaign as part of the Dominion/Smartmatic Enterprise—to numerous jurisdictions outside of Florida and throughout the United States.

138. The facts alleged above and to be proven at trial further demonstrate that the Dominion/Smartmatic Enterprise has engaged in numerous related acts of racketeering activity that amount to or pose a threat of continued criminal activity. Specifically, the Dominion/Smartmatic Enterprise has issued—according to Dominion’s own boasting on its website—over 150 “cease and desist” letters threatening companies and individuals

(including family members of those who have spoken publicly against the voting machines, who have not themselves spoken publicly about them). Those letters threaten the recipients with ruinous litigation unless the recipients recant their previous statements and cease further public expression regarding questions or evidence of fraudulent manipulation of voting machines or their use in tampering with and altering the outcome of the 2020 Presidential Election in certain jurisdictions. These threats constitute extortion for purposes of establishing the requisite “predicate acts” for a civil RICO claim. These threats constitute a “pattern” for purposes of a civil RICO claim because the Dominion/Smartmatic Enterprise has made them continuously since shortly after the 2020 Presidential Election, and it continues to issue new extortionate threats to additional recipients to this day, with no apparent end in sight to the pattern of racketeering activity.

139. Plaintiff has suffered actual injury as a result of the Dominion/Smartmatic Enterprise’s actions in furtherance of its racketeering conspiracy and activities, for which he is entitled to recovery against those defendants, jointly and severally, together with treble damages as allowed by law, as well as attorney’s fees, and for which he now brings this suit.

COUNT FOUR: VIOLATIONS OF THE “SUPPORT AND ADVOCACY”
CLAUSE OF 42 U.S.C. § 1985(3)
(as to Dominion Defendants and Smartmatic Defendants)

140. Plaintiff incorporates the foregoing paragraphs as if fully set forth verbatim below.

141. Pleading further and in the alternative, the facts set forth herein and to be proven at trial demonstrate that Plaintiff is entitled to recovery under 42 U.S.C. § 1985(3) against the Dominion Defendants and Smartmatic Defendants, jointly and severally, for violation of Plaintiff's rights under the Support and Advocacy clause of that statute.

142. The "Support and Advocacy" clause of 42 U.S.C. § 1985(3) provides as follows:

[I]f two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President ...; or to injure any citizen in person or property on account of such support or advocacy; ... if any one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived shall have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

Id.

143. A cause of action under the Support and Advocacy clause therefore requires a showing of the following elements: (1) two or more persons; (2) who conspire to either (a) prevent by force, intimidation, or threat a citizen lawfully entitled to vote from giving support or advocacy in a legal manner toward or in favor of the election of a lawfully qualified elector for President or Vice President, or (b) injure any citizen in person or property on account of her support or advocacy toward or in favor of the election of a lawfully qualified elector for President or Vice President; (3) one or more acts in furtherance of the object of such conspiracy; (4) whereby plaintiff suffers either (a) injury in her person or property, or (b) deprivation of having and exercising any right or privilege

of a citizen of the United States. *Id.*; *see also*, Note, “The Support and Advocacy Clause of § 1985(3), HARVARD LAW REVIEW 133:1382, 1384-86 (2020).

144. The facts set out above and to be proven at trial demonstrate that the Dominion Defendants and the Smartmatic Defendants, with the assistance and participation of non-party co-conspirator Clare Locke, LLP, had a meeting of the minds to agree on the common purpose of silencing dissent and opposition to the use of electronic voting machines in the 2020 Presidential Election and the exposure of such machines’ vulnerability to cyber attacks and election tampering. The real purpose of the conspiracy was to silence those like Lindell who supported President Donald J. Trump and advocated for investigations into voting machine fraud (and other types of election fraud) in an effort to determine the legitimate votes cast for each Presidential candidate in each of the key swing states, in light of the numerically improbable overnight lead change from Trump to Biden in those states in the wee hours of November 4, 2020. The Dominion Defendants and the Smartmatic Defendants determined to carry out this conspiracy through a coordinated campaign of lawfare—weaponizing the court system and litigation process to threaten, intimidate, and force private citizens like Lindell into silence and retract their public statements regarding opposition to the use of electronic voting machines and their vulnerabilities, and the significant potential that such vulnerabilities were exploited in certain jurisdictions to artificially cost President Trump the election in key swing states. To that end, the Dominion Defendants first threatened Lindell with ruinous litigation, then filed an abusive, sham defamation lawsuit against Lindell seeking a \$1.3 *billion* recovery with no basis in fact or law. The Dominion Defendants’ lawsuit has injured Lindell in his

person (reputationally and physically due to threats on his life) and his property (through business losses and the cost of defending against the sham litigation) and has further deprived Lindell of having and exercising his rights as a United States citizen to freedoms of speech and of expression.

145. The Dominion and Smartmatic Defendants' violation of the Support and Advocacy clause of 42 U.S.C. § 1985(3) has caused Plaintiff Lindell actual damages, for which he is entitled to recovery against those defendants, jointly and severally, and for which he now brings this suit.

146. Separately, a conspiracy for purposes of this claim is shown by the actions of the Dominion Defendants and their lawyers at Clare Locke, LLP who together conspired to send out over 150 baseless cease and desist letters—including to Lindell—with the express purpose of threatening and intimidating Lindell and others who brought forth evidence of election fraud in the November 2020 general election as part of their support and advocacy for President Trump.

COUNT FIVE: 42 U.S.C. § 1983 DEPRIVATION OF CIVIL RIGHTS BY
ACTIONS UNDER COLOR OF STATE LAW
(as to Dominion Defendants)

147. Plaintiff incorporates the foregoing paragraphs as if fully set forth verbatim below.

148. Pleading further and in the alternative, the facts set forth herein and to be proven at trial demonstrate that Plaintiff is entitled to recovery under 42 U.S.C. § 1983

against the Dominion Defendants, jointly and severally, for violation of Plaintiff's rights under the Equal Protection Clause of the United States Constitution and under the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution.

149. The Dominion Defendants were at all relevant times acting under color of state law in connection with the 2020 Presidential Election. Specifically, a private party is acting under color of state law when the state has delegated to that private party a function traditionally exclusively reserved to the State. Administering elections of public officials is one such function, and the facts alleged above and to be proven at trial will demonstrate that the Dominion Defendants were administering elections in numerous jurisdictions throughout and across the United States, the results of whose local 2020 presidential voting significantly and materially impacted the outcome of the 2020 Presidential Election nationally.

150. To establish a Section 1983 claim, a plaintiff must show that (1) he has Article III standing to bring the claim, (2) a right secured by the Constitution or laws of the United States was violated, and (3) the alleged violation was committed by a person acting under the color of state law. *Parratt v. Taylor*, 451 U.S. 527, 535 (1981), *overruled in part on other grounds* by *Daniels v. Williams*, 474 U.S. 327, 330–31 (1986).

151. To establish a violation of the Equal Protection Clause under 42 U.S.C. § 1983, the plaintiff must show state action that inherently favors or disfavors a particular group of voters. The facts alleged above and to be proven at trial will demonstrate that the Dominion Defendants acted under color of state law to engage in invidious discrimination or intentional misconduct to the detriment of Lindell and others of his same class of voter.

Specifically, the Dominion Defendants, acting under color of state law as a private corporation authorized and employed by various states to perform the essential state function of administering and conducting the 2020 Presidential Election, have attempted through the use of the courts and the litigation process to suppress Lindell's freedom of speech and his right to disseminate information and data regarding the role of Dominion voting machines in election fraud and election tampering. In doing so, Dominion disfavored the conservative political viewpoint of Plaintiff Lindell over those of left-leaning or Democrat-supporting individuals *who also publicized the role of Dominion voting machines in election fraud and election tampering*. A state actor like the Dominion Defendants cannot engage in viewpoint-based discrimination in attempting to suppress a private citizen's exercise of its First Amendment right to free speech, and in doing so, the Dominion Defendants unlawfully deprived Plaintiff Lindell of a legally protected interest in violation of 42 U.S.C. § 1983.

152. To establish a substantive due process violation under 42 U.S.C. § 1983, the plaintiff must demonstrate that a fundamental right was violated and that the conduct shocks the conscience. Freedom of speech—and in particular, freedom of political speech—is, indisputably, a right of the most fundamental significance under our constitutional structure. The facts alleged above and to be proven at trial will demonstrate that the Dominion Defendants acted under color of state law to engage in conduct that shocks the conscious because it was so disproportionate to the need presented, and so inspired by malice or sadism rather than a merely careless or unwise excess of zeal, that it amounted to brutal and inhumane abuse of official power literally shocking to the

conscience. Specifically, the Dominion Defendants, acting under color of state law, misused the courts and the litigation process to suppress Lindell's freedom of speech and to deprive him of a substantive right under the First Amendment. Such wrongdoing violates 42 U.S.C. §1983 and has caused Plaintiff Lindell harm, for which he now brings this suit.

COUNT SIX: CIVIL CONSPIRACY
(as to All Defendants)

153. Plaintiff incorporates the foregoing paragraphs as if fully set forth verbatim below.

154. Pleading further and in the alternative, the facts set forth herein and to be proven at trial demonstrate that Plaintiff is entitled to recovery for common law civil conspiracy against all Defendants, jointly and severally, for their collusion and agreement to the common objective or course of action, acting under color of state law, to deprive Plaintiff Lindell of his constitutional rights under the First Amendment, and their overt acts in connection with that common purpose.

155. To establish a civil conspiracy, plaintiffs must show five elements: (1) two or more persons; (2) an object to be accomplished; (3) a meeting of the minds on the object or course of action to be taken; (4) the commission of one or more unlawful overt acts; and (5) damages as the proximate result of the conspiracy. *See ECTG Ltd., Trustwater, Ltd. v. O'Shaughnessy*, No. CIV. 14-960 DSD/JJK, 2014 WL 6684982, at *4 (D. Minn. Nov. 25, 2014), *citing In re TMJ Implants Prods. Liab. Litig.*, 113 F.3d 1484, 1498 (8th Cir.1997).

156. The facts set out above and to be proven at trial will establish that Defendants collectively, with the assistance and participation of non-party co-conspirator Clare Locke, LLP, had a meeting of the minds on the object or course of action of depriving Plaintiff of his constitutional rights under the First Amendment, while acting under color of state law. The facts will further establish that Defendants committed one or more wrongful overt acts, including but not limited to the following, in furtherance of this common objective or course of action:

- a. Engaging in a campaign of abuse of process to bring suit against Plaintiff not for the purpose of vindicating any legitimate right or grievance but for the sole purposes of intimidating Lindell into silencing his political speech and opposition to Defendants' point of view.
- b. Defaming Plaintiff by publishing false and defamatory statements, including but not limited to calling him a "liar" and the purveyor of "the Big Lie," when Defendants were aware that Plaintiff's statements were substantively true.
- c. Attempting to extort Plaintiff by first threatening him with ruinous litigation, then actually bringing such litigation in a sham or frivolous manner, if he refused to silence his views on the reliability of voting machines and their use to alter election outcomes in certain jurisdictions, or to retract his prior statements to that effect.
- d. Violating Plaintiff's rights under the "Support and Advocacy" clause of 42 U.S.C. § 1985(3) by attempting first to intimidate him into silencing his political speech, then punishing him for continuing to exercise his right to

speak, regarding the vulnerability of voting machines to, and their use in, election fraud in the 2020 Presidential Election.

- e. As a state actor, and acting under color of state law, depriving Plaintiff of his rights of equal protection and due process by bringing sham and potentially ruinous litigation against Plaintiff purely out of discrimination against his political viewpoint, in violation of 42 U.S.C. § 1983.

The facts will further establish that Plaintiff has suffered actual damages as a proximate cause of Defendants' agreement and wrongful overt acts.

VII. DAMAGES AND OTHER RELIEF

157. Plaintiff incorporates the foregoing paragraphs as if fully set forth verbatim below.

158. The facts set out above and to be proven at trial will demonstrate that Plaintiff is entitled to recover against Defendants, jointly and severally, the following:

- a. Actual and special damages as allowed by law, in an amount to be proven at trial, including but not limited to the following:
 - a. Special damages in the form of attorneys fees and expenses incurred in defending against Dominion's lawsuit;
 - b. Damages for defamation *per se* for Dominion's public attacks on his honesty and integrity; and,
 - c. Damages to be determined by the trier of fact suffered as a result of the deprivation of his rights under the First Amendment to the U.S.

Constitution and under the “support and advocacy” clause of 42 U.S.C. § 1985(3); together with,

- b. Three times actual damages for violations of 18 U.S.C. § 1862;
- c. Punitive damages as allowed by law, in an amount to be determined by the trier of fact;
- d. Reasonable and necessary attorney’s fees, as allowed by law; and,
- e. Costs of suit.

VIII. CONDITIONS PRECEDENT

159. All conditions precedent to Plaintiff bringing and maintaining this action have been satisfied or waived.

IX. JURY DEMAND

160. Plaintiff respectfully requests trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks that Defendants be cited to answer and appear herein and that, after trial or other hearing on the merits, Plaintiff have and recover against the Defendants, jointly and severally, the relief requested herein, together with all writs and processes necessary to the enforcement of same, and all other relief to which he may show himself justly entitled.

Respectfully submitted,

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Attorneys for Plaintiff

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

ANNIE LOIS GRANT; QUENTIN T.
HOWELL; ELROY TOLBERT; THERON
BROWN; TRIANA ARNOLD JAMES;
EUNICE SYKES; ELBERT SOLOMON;
and DEXTER WIMBISH;

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as the Georgia Secretary of State;
SARA TINDALL GHAZAL, in her
official capacity as a member of the State
Election Board; ANH LE, in her official
capacity as a member of the State Election
Board; EDWARD LINDSEY, in his
official capacity as a member of the State
Election Board; and MATTHEW
MASHBURN, in his official capacity as a
member of the State Election Board,

Defendants.

CIVIL ACTION FILE
NO. _____

COMPLAINT

1. Plaintiffs bring this action to challenge the Georgia Senate Redistricting Act of 2021 (“SB 1EX”) and the Georgia House of Representatives Redistricting Act of 2021 (“HB 1EX”) on the ground that they violate Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301.

2. In undertaking the latest round of redistricting following the 2020 decennial census, the Georgia General Assembly diluted the growing electoral strength of the state’s Black voters and other communities of color. Faced with Georgia’s changing demographics, the General Assembly has ensured that the growth of the state’s Black population will not translate to increased political influence in the Georgia State Senate and Georgia House of Representatives.

3. The 2020 census data make clear that minority voters in Georgia are sufficiently numerous and geographically compact to form a majority of eligible voters—which is to say, a majority of the voting age population¹—in multiple legislative districts throughout the state, including two additional majority-Black State Senate districts in the southern Atlanta metropolitan area, one additional majority-Black State Senate district in the central Georgia Black Belt region, two

¹ The phrases “majority of eligible voters” and “majority of the voting age population” have been used by courts interchangeably when discussing the threshold requirements of a vote-dilution claim under Section 2 of the Voting Rights Act. Compare, e.g., *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006) (“[T]he first *Gingles* precondition . . . ‘requires only a simple *majority of eligible voters* in a single-member district.’” (emphasis added) (quoting *Dickinson v. Ind. State Election Bd.*, 933 F.2d 497, 503 (7th Cir. 1991))), with *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009) (plurality op.) (“[T]he majority-minority rule relies on an objective, numerical test: Do minorities make up *more than 50 percent of the voting-age population* in the relevant geographic area?” (emphasis added)). The phrase “majority of eligible voters” when used in this Complaint shall also refer to the “majority of the voting age population.”

additional majority-Black House districts in the southern Atlanta metropolitan area, one additional majority-Black House district in the western Atlanta metropolitan area, and two additional majority-Black House districts anchored in Bibb County. These additional majority-Black legislative districts can be drawn without reducing the total number of districts in the region and statewide in which Black and other minority voters are able to elect their candidates of choice.

4. Rather than draw these State Senate and House districts as those in which Georgians of color would have the opportunity to elect their preferred candidates, the General Assembly instead chose to “pack” some Black voters into limited districts in these areas and “crack” other Black voters among rural-reaching, predominantly white districts.

5. Section 2 of the Voting Rights Act prohibits this result and requires the General Assembly to draw additional legislative districts in which Black voters have opportunities to elect their candidates of choice.

6. By failing to create such districts, the General Assembly’s response to Georgia’s changing demographics has had the effect of diluting minority voting strength throughout the state.

7. Accordingly, Plaintiffs seek an order (i) declaring that SB 1EX and HB 1EX violate Section 2 of the Voting Rights Act; (ii) enjoining Defendants from

conducting future elections under SB 1EX and HB 1EX; (iii) requiring adoption of valid plans for new State Senate and House districts in Georgia that comport with Section 2 of the Voting Rights Act; and (iv) providing any and such additional relief as is appropriate.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 42 U.S.C. §§ 1983 and 1988 and 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 1357.

9. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

10. Venue is proper under 28 U.S.C. § 1391(b) because “a substantial part of the events or omissions giving rise to the claim occurred” in this district.

PARTIES

11. Plaintiff Annie Lois Grant is a Black citizen of the United States and the State of Georgia. Ms. Grant is a registered voter and intends to vote in future legislative elections. She is a resident of Greene County and located in Senate District 24 and House District 124 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia State Senate despite strong electoral support for those candidates from other Black voters in her community. Ms. Grant resides in a region where the Black community is sufficiently large and

geographically compact to constitute a majority of eligible voters in a newly drawn State Senate district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Grant and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

12. Plaintiff Quentin T. Howell is a Black citizen of the United States and the State of Georgia. Mr. Howell is a registered voter and intends to vote in future legislative elections. He is a resident of Baldwin County and located in Senate District 25 and House District 133 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Howell resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Howell and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

13. Plaintiff Elroy Tolbert is a Black citizen of the United States and the State of Georgia. Mr. Tolbert is a registered voter and intends to vote in future legislative elections. He is a resident of Bibb County and located in Senate District 18 and House District 144 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Tolbert resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Tolbert and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

14. Plaintiff Theron Brown is a Black citizen of the United States and the State of Georgia. Ms. Brown is a registered voter and intends to vote in future legislative elections. She is a resident of Houston County and located in Senate District 26 and House District 145 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Brown resides in a region where the Black community is sufficiently large and

geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Brown and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

15. Plaintiff Triana Arnold James is a Black citizen of the United States and the State of Georgia. Ms. James is a registered voter and intends to vote in future legislative elections. She is a resident of Douglas County and located in Senate District 30 and House District 64 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. James resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. James and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

16. Plaintiff Eunice Sykes is a Black citizen of the United States and the State of Georgia. Ms. Sykes is a registered voter and intends to vote in future

legislative elections. She is a resident of Henry County and located in Senate District 25 and House District 117 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Sykes resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Sykes and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

17. Plaintiff Elbert Solomon is a Black citizen of the United States and the State of Georgia. Mr. Solomon is a registered voter and intends to vote in future legislative elections. He is a resident of Spalding County and located in Senate District 16 and House District 117 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Solomon resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority

of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Solomon and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

18. Plaintiff Dexter Wimbish is a Black citizen of the United States and the State of Georgia. Mr. Wimbish is a registered voter and intends to vote in future legislative elections. He is a resident of Spalding County and located in Senate District 16 and House District 74 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Wimbish resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Wimbish and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

19. Defendant Brad Raffensperger is the Georgia Secretary of State and is named in his official capacity. Secretary Raffensperger is Georgia’s chief election official and is responsible for administering the state’s elections and implementing election laws and regulations, including Georgia’s legislative redistricting plans. *See* O.C.G.A. § 21-2-50; Ga. Comp. R. & Regs. 590-1-1-.01–.02 (specifying, among other things, that Secretary of State’s office must provide “maps of Congressional, State Senatorial and House Districts” when requested). Secretary Raffensperger is also an ex officio nonvoting member of the State Election Board, which is 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. §§ 21-2-30(d), -31(2).

20. Defendant Sara Tindall Ghazal is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

21. Defendant Anh Le is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

22. Defendant Edward Lindsey is a member of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

23. Defendant Matthew Mashburn is a member of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

LEGAL BACKGROUND

24. Section 2 of the Voting Rights Act prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a). Thus, in addition to prohibiting practices that deny the exercise of the right to vote, Section 2 prohibits vote dilution.

25. A violation of Section 2 is established if “it is shown that the political processes leading to nomination or election” in the jurisdiction “are not equally open to participation by members of a [minority group] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 10301(b).

26. Such a violation might be achieved by “cracking” or “packing” minority voters. To illustrate, the dilution of Black voting strength “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters”—cracking—“or from the concentration of blacks into districts where they constitute an excessive majority”—packing. *Thornburg v. Gingles*, 478 U.S. 30, 46 n.11 (1986).

27. In *Thornburg v. Gingles*, the U.S. Supreme Court identified three necessary preconditions for a claim of vote dilution under Section 2: (i) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (ii) the minority group must be “politically cohesive”; and (iii) the majority must vote “sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Id.* at 50–51.

28. Once all three preconditions are established, Section 2 directs courts to consider whether, “based on the totality of circumstances,” members of a racial minority “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b).

29. The Senate Report on the 1982 amendments to the Voting Rights Act identified several non-exclusive factors that courts should consider when

determining if, under the totality of circumstances in a jurisdiction, the operation of the challenged electoral device results in a violation of Section 2. *See Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1288–89 (11th Cir. 2020). These “Senate Factors” include:

- a. the history of official voting-related discrimination in the state or political subdivision;
 - b. the extent to which voting in the elections of the state or political subdivision is racially polarized;
 - c. the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, or prohibitions against bullet-voting;
 - d. the exclusion of members of the minority group from candidate-slating processes;
 - e. the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;
 - f. the use of overt or subtle racial appeals in political campaigns;
- and

g. the extent to which members of the minority group have been elected to public office in the jurisdiction.

30. The Senate Report itself and the cases interpreting it have made clear that “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1566 n.33 (11th Cir. 1984) (quoting S. Rep. No. 97-417, at 29 (1982)); *see also id.* at 1566 (“The statute explicitly calls for a ‘totality-of-the-circumstances’ approach and the Senate Report indicates that no particular factor is an indispensable element of a dilution claim.”).

FACTUAL BACKGROUND

The 2020 Census

31. Between 2010 and 2020, Georgia’s population increased by more than 1 million people.

32. The population growth during this period is entirely attributable to the increase in Georgia’s minority population. The 2020 census results indicate that Georgia’s Black population grew by over 15 percent and now comprises 33 percent of Georgia’s total population. Meanwhile, Georgia’s white population *decreased* by 4 percent over the past decade. In total, Georgia’s minority population now comprises just under 50 percent of the state’s total population.

The 2021 Legislative Redistricting Plan

33. In enacting Georgia's new State Senate and House maps, the Republican-controlled General Assembly diluted the political power of the state's minority voters.

34. On November 9, 2021, the Georgia State Senate passed SB 1EX, which revised that chamber's district boundaries. The House passed SB 1EX on November 15.

35. On November 10, 2021, the Georgia House of Representatives passed HB 1EX, which revised that chamber's district boundaries; the State Senate passed HB 1EX on November 12.

36. On December 30, 2021, Governor Kemp signed SB 1EX and HB 1EX into law.

37. Democratic and minority legislators were largely excluded from the redistricting process and repeatedly decried the lack of transparency. Moreover, lawmakers and activists from across the political spectrum questioned the speed with which the General Assembly undertook its redistricting efforts, observing that the haste resulted in unnecessary divisions of communities and municipalities.

38. The Republican majority's refusal to draw districts that reflected the past decade's growth in the state's minority communities was noted by lawmakers.

Commenting on the new State Senate map, Senator Michelle Au observed, “It’s our responsibility to ensure the people in this room are a good reflection of the people in this state. This map before us does not represent the Georgia of today. It does not see Georgia for who we have become.” Senator Elena Parent remarked, “This map is designed to shore up the shrinking political power of the majority. As proposed, it fails to fairly reflect Georgians[’] diversity.”

39. Minority lawmakers in the House also objected to their chamber’s new map, noting that it packed minority voters and diluted their voting strength.

40. Rather than create additional State Senate and House districts in which Georgia’s growing minority populations would have the opportunity to elect candidates of their choice, the General Assembly did just the opposite: it packed and cracked Georgia’s minority voters to dilute their influence.

41. SB 1EX packs some Black voters into the southern Atlanta metropolitan area and cracks others into rural-reaching, predominantly white State Senate districts. Specifically, Black voters in the southwestern Atlanta metropolitan area are packed into Senate Districts 34 and 35 and cracked into Senate Districts 16, 28, and 30. In the southeastern Atlanta metropolitan area, Black voters are packed into Senate Districts 10 and 44 and cracked into Senate Districts 17 and 25. Two additional majority-Black State Senate districts could be drawn in the southern

Atlanta metropolitan area without reducing the total number of minority-opportunity districts in the enacted map.

42. SB 1EX also cracks Black voters in the Black Belt among Senate Districts 23, 24, and 25. An additional majority-Black State Senate district could be drawn in this area without reducing the total number of minority-opportunity districts in the enacted map.

43. HB 1EX packs some Black voters into the southern and western Atlanta metropolitan area and cracks others into rural-reaching, predominantly white districts. Specifically, Black voters in the western Atlanta metropolitan area are packed into House District 61 and cracked into House District 64. In the southern Atlanta metropolitan area, Black voters are packed into House Districts 69, 75, and 78 and cracked into House Districts 74 and 117. Two additional majority-Black House districts could be drawn in the southern Atlanta metropolitan area, and one additional majority-Black House district in the western Atlanta metropolitan area, without reducing the total number of minority-opportunity districts in the enacted map.

44. HB 1EX further packs Black voters into two House districts anchored in Bibb County—House Districts 142 and 143—even though two additional majority-Black House districts could be drawn in this area by uncracking House

Districts 133, 144, 145, 147, and 149, without reducing the total number of minority-opportunity districts in the enacted map.

45. This combination of cracking and packing dilutes the political power of Black voters in the Atlanta metropolitan area and central Georgia. The General Assembly could have instead created additional, compact State Senate and House districts in which Black voters, including Plaintiffs, comprise a majority of eligible voters and have the opportunity to elect their preferred candidates, as required by Section 2 of the Voting Rights Act. Significantly, this could have been done without reducing the number of other districts in which Black voters have the opportunity to elect candidates of their choice.

46. Unless enjoined, SB 1EX and HB 1EX will deny Black voters throughout the state the opportunity to elect candidates of their choice.

47. The relevant factors and considerations readily require the creation of majority-Black districts under Section 2.

Racial Polarization

48. This Court has recognized that “voting in Georgia is highly racially polarized.” *Ga. State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018) (three-judge panel).

49. “Districts with large black populations are likely to vote Democratic.”

Id. Indeed, during competitive statewide elections over the past decade—from the 2012 presidential election through the 2021 U.S. Senate runoff elections—an average of 97 percent of Black Georgians supported the Democratic candidate.

50. White voters, by striking contrast, overwhelmingly vote Republican. An average of only 13 percent of white Georgians supported the Democratic candidate in competitive statewide elections over the past decade.

51. Georgia’s white majority usually votes as a bloc to defeat minority voters’ candidates of choice, including in the areas where Plaintiffs live and the Black population could be united to create a new majority-Black district.

History of Discrimination

52. Georgia’s past discrimination against its Black citizens, including its numerous attempts to deny Black voters an equal opportunity to participate in the political process, is extensive and well documented. This prejudice is not confined to history books; the legacy of discrimination manifests itself today in state and local elections marked by racial appeals and undertones. And the consequences of the state’s historic discrimination persist to this day, as Black Georgians continue to experience socioeconomic hardship and marginalization.

53. This history dates back to the post-Civil War era, when Black Georgians first gained the right to vote and voted in their first election in April 1868. Soon after this historic election, a *quarter* of the state’s Black legislators were either jailed, threatened, beaten, or killed. In 1871, the General Assembly passed a resolution that expelled 25 Black representatives and three senators but permitted the four mixed-race members who did not “look” Black to keep their seats. The General Assembly’s resolution was based on the theory that Black Georgians’ right of suffrage did not give them the right to hold office, and that they were thus “ineligible” to serve under Georgia’s post-Civil War state constitution.

54. After being denied the right to hold office, Black Georgians who attempted to vote also encountered intense and frequently violent opposition. The Ku Klux Klan and other white mobs engaged in a campaign of political terrorism aimed at deterring Black political participation. Their reigns of terror in Georgia included, for instance, attacking a Black political rally in Mitchell County in 1868, killing and wounding many of the participants; warning the Black residents of Wrightsville that “blood would flow” if they exercised their right to vote in an upcoming election; and attacking and beating a Black man in his own home to prevent him from voting in an upcoming congressional election.

55. In the General Assembly, fierce resistance to Black voting rights led to more discriminatory legislation. In 1871, Georgia became the first state to enact a poll tax. At the state’s 1877 constitutional convention, the General Assembly made the poll tax permanent and cumulative, requiring citizens to pay all back taxes before being permitted to vote. The poll tax reduced turnout among Black voters in Georgia by half and has been described as the single most effective disenfranchisement law ever enacted. The poll tax was not abolished until 1945—after it had been in effect for almost 75 years.

56. After the repeal of the poll tax in 1945, voter registration among Black Georgians significantly increased. However, as a result of the state’s purposeful voter suppression tactics, not a *single* Black lawmaker served in the General Assembly between 1908 and 1962.

57. Georgia’s history of voter discrimination is far from ancient history. As recently as 1962, 17 municipalities and 48 counties in Georgia required segregated polling places. When the U.S. Department of Justice filed suit to end this practice, a local Macon leader declared that the federal government was ruining “every vestige of the local government.”

58. Other means of disenfranchising Georgia’s Black citizens followed. The state adopted virtually every one of the “traditional” methods to obstruct the

exercise of the franchise by Black voters, including literacy and understanding tests, strict residency requirements, onerous registration procedures, voter challenges and purges, the deliberate slowing down of voting by election officials so that Black voters would be left waiting in line when the polls closed, and the adoption of “white primaries.”

59. Attempts to minimize Black political influence in Georgia have also tainted redistricting efforts. During the 1981 congressional redistricting process, in opposing a bill that would maintain a majority-Black district, Joe Mack Wilson—a Democratic state representative and chair of the House Reapportionment Committee—openly used racial epithets to describe the district; following a meeting with officials of the U.S. Department of Justice, he complained that “the Justice Department is trying to make us draw [n*****] districts and I don’t want to draw [n*****] districts.” Speaker of the House Tom Murphy objected to creating a district where a Black representative would certainly be elected and refused to appoint any Black lawmakers to the conference committee, fearing that they would support a plan to allow Black voters to elect a candidate of their choice. Several senators also expressed concern about being perceived as supporting a majority-Black congressional district.

60. Indeed, federal courts have invalidated Georgia’s redistricting plans for voting rights violations numerous times. In *Georgia v. United States*, the U.S. Supreme Court affirmed a three-judge panel’s decision that Georgia’s 1972 reapportionment plan violated Section 5 of the Voting Rights Act, at least in part because it diluted the Black vote in an Atlanta-based congressional district in order to ensure the election of a white candidate. *See* 411 U.S. 526, 541 (1973); *see also* *Busbee v. Smith*, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge panel) (denying preclearance based on evidence that Georgia’s redistricting plan was product of purposeful discrimination in violation of Voting Rights Act), *aff’d*, 459 U.S. 1166 (1983); *Larios v. Cox*, 300 F. Supp. 2d 1320 (N.D. Ga. 2004) (per curiam) (three-judge panel) (invalidating legislative plans that reduced number of majority-minority districts).

61. Due to its lengthy history of discrimination against racial minorities, Georgia became a “covered jurisdiction” under Section 5 of the Voting Rights Act upon its enactment in 1965, prohibiting any changes to Georgia’s election practices or procedures (including the enactment of new redistricting plans) until either the U.S. Department of Justice or a federal court determined that the change did not result in backsliding, or “retrogression,” of minority voting rights.

62. Accordingly, between 1965 and 2013—at which time the U.S. Supreme Court effectively barred enforcement of the Section 5 preclearance requirement in *Shelby County v. Holder*, 570 U.S. 529 (2013)—Georgia received more than 170 preclearance objection letters from the U.S. Department of Justice.

63. Georgia’s history of racial discrimination in voting, here only briefly recounted, has been thoroughly documented by historians and scholars. Indeed, “[t]he history of the state[’s] segregation practice and laws at all levels has been rehashed so many times that the Court can all but take judicial notice thereof.” *Brooks v. State Bd. of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994); *see also*, e.g., *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, slip op. at 41 (N.D. Ga. Nov. 15, 2021), ECF No. 636 (taking judicial notice of fact that “prior to the 1990s, Georgia had a long sad history of racist policies in a number of areas including voting”).

64. Ultimately, as this Court has noted, “Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather than the exception.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*,

950 F. Supp. 2d 1294, 1314 (N.D. Ga. 2013) (quoting *Brooks*, 848 F. Supp. at 1560), *aff'd in part, rev'd in part on other grounds*, 775 F.3d 1336 (11th Cir. 2015).

Use of Racial Appeals in Political Campaigns

65. In addition to Georgia's history of discrimination against minorities in voting, political campaigns in the state have often relied on both overt and subtle racial appeals—both historically *and* during recent elections.

66. In 2016, Tom Worthan, former Republican Chair of the Douglas County Board of Commissioners, was caught on video making racist comments aimed at discrediting his Black opponent, Romona Jackson-Jones, and a Black candidate for sheriff, Tim Pounds. During the recorded conversation with a Douglas County voter, Worthan asked, “Do you know of another government that’s more black that’s successful? They bankrupt you.” Worthan also stated, in reference to Pounds, “I’d be afraid he’d put his black brothers in positions that maybe they’re not qualified to be in.”

67. In the 2017 special election for Georgia's Sixth Congressional District—a majority-white district that had over the previous three decades been represented by white Republicans Newt Gingrich, Johnny Isakson, and Tom Price—the husband of the eventual Republican victor, Karen Handel, shared an image over social media that urged voters to “[f]ree the black slaves from the Democratic

plantation.” The image also stated, “Criticizing black kids for obeying the law, studying in school, and being ambitious as ‘acting white’ is a trick the Democrats play on Black people to keep them poor, ignorant and dependent.” The image was then shared widely by local and national media outlets.

68. During that same election, Jere Wood—the Republican Mayor of Roswell, Georgia’s eighth-largest city—insinuated that voters in the Sixth Congressional District would not vote for Democratic candidate Jon Ossoff because he has an “ethnic-sounding” name. When describing voters in that district, Wood said, “If you just say ‘Ossoff,’ some folks are gonna think, ‘Is he Muslim? Is he Lebanese? Is he Indian?’ It’s an ethnic-sounding name, even though he may be a white guy, from Scotland or wherever.”²

69. On a separate occasion, State Senator Fran Millar alluded to the fact that the Sixth Congressional District was gerrymandered in such a way that it would not support candidate Ossoff—specifically, because he was formerly an aide to a Black member of Congress. State Senator Millar said, “I’ll be very blunt. These lines

² In actuality, now-U.S. Senator Ossoff’s paternal forebears were Ashkenazi Jewish immigrants who fled pogroms during the early 20th century. *See* Etan Nechin, *Jon Ossoff Tells Haaretz How His Jewish Upbringing Taught Him to Fight for Justice*, Haaretz (Dec. 20, 2020), <https://www.haaretz.com/us-news/.premium-jon-ossoff-tells-haaretz-how-his-jewish-upbringing-taught-him-to-fight-for-justice-1.9386302>.

were not drawn to get Hank Johnson’s protégé to be my representative. And you didn’t hear that. They were not drawn for that purpose, OK? They were not drawn for that purpose.”

70. Earlier in 2017, Tommy Hunter, a member of the board of commissioners in Gwinnett County—the second-most populous county in the state—called the late Black Congressman John Lewis a “racist pig” and suggested that his reelection to the U.S. House of Representatives was “illegitimate” because he represented a majority-minority district.

71. Racist robocalls targeted the Democratic candidate for governor in 2018, referring to Stacey Abrams as “Negress Stacey Abrams” and “a poor man’s Aunt Jemima.” The Republican candidate, now-Governor Kemp, posted a statement on Twitter on the eve of the election alleging that the Black Panther Party supported Ms. Abrams’s candidacy.

72. Governor Kemp also ran a controversial television advertisement during the primary campaign asserting that he owned “a big truck, just in case [he] need[s] to round up criminal illegals and take ‘em home [him]self.”

73. The 2020 campaigns for Georgia’s two U.S. Senate seats were also rife with racial appeals. In one race, Republican incumbent Kelly Loeffler ran a paid advertisement on Facebook that artificially darkened the skin of her Democratic

opponent, now-Senator Raphael Warnock. In the other race, Republican incumbent David Perdue ran an advertisement against Democratic nominee Ossoff that employed a classic anti-Semitic trope by artificially enlarging now-Senator Ossoff's nose.

74. Senator Perdue later mispronounced and mocked the pronunciation of then-Senator Kamala Harris's first name during a campaign rally, even though the two had been colleagues in the Senate since 2017.

75. Racial appeals were apparent during local elections in Fulton County even within the last few months. City council candidates in Johns Creek and Sandy Springs pointed to Atlanta crime and protests that turned violent to try to sway voters, publicly urging residents to vote for them or risk seeing their cities become home to chaos and lawlessness. *The Atlanta Journal-Constitution* quoted Emory University political scientist Dr. Andra Gillespie, who explained that although the term "law and order" is racially neutral, the issue becomes infused with present-day cultural meaning and thoughts about crime and violence and thus carries racial undertones.

76. These are just a few—and, indeed, only among the more recent—examples of the types of racially charged political campaigns that have tainted elections in Georgia throughout the state's history.

Ongoing Effects of Georgia’s History of Discrimination

77. State-sponsored segregation under Georgia’s Jim Crow laws permeated all aspects of daily life and relegated Black citizens to second-class status. State lawmakers segregated everything from public schools to hospitals and graveyards. Black Georgians were also precluded from sitting on juries, which effectively denied Black litigants equal justice under the law. Moreover, Black Georgians were excluded from the most desirable manufacturing jobs, which limited their employment opportunities to primarily unskilled, low-paying labor. And in times of economic hardship, Black employees were the first to lose their jobs.

78. Decades of Jim Crow and other forms of state-sponsored discrimination—followed by continued segregation of public facilities well into the latter half of the 20th century, in defiance of federal law—resulted in persistent socioeconomic disparities between Black and white Georgians. These disparities hinder the ability of voters in each of these groups to participate effectively in the political process.

79. Black Georgians, for instance, have higher poverty rates than white Georgians. According to the U.S. Census Bureau’s 2019 American Community Survey (“ACS”) 1-Year Estimate, 18.8 percent of Black Georgians have lived below the poverty line in the past 12 months, compared to 9 percent of white Georgians.

80. Relatedly, Black Georgians have lower per capita incomes than white Georgians. The 2019 ACS 1-Year Estimate shows that white Georgians had an average per capita income of \$40,348 over the past 12 months, compared to \$23,748 for Black Georgians.

81. Black Georgians also have lower homeownership rates than white Georgians. The 2019 ACS 1-Year Estimate shows that 52.6 percent of Black Georgians live in renter-occupied housing, compared to 24.9 percent of white Georgians. And Black Georgians also spend a higher percentage of their income on rent than white Georgians. The 2019 ACS 1-Year Estimate shows that in Georgia, the percent of income spent on rent is a staggering 54.9 percent for Black Georgians, compared to 40.6 percent for white Georgians.

82. Black Georgians also have lower levels of educational attainment than their white counterparts and are less likely to earn degrees. According to the 2019 ACS 1-Year Estimate, only 25 percent of Black Georgians have obtained a bachelor's degree or higher, compared to 37 percent of white Georgians.

83. These disparities impose hurdles to voter participation, including working multiple jobs, working during polling place hours, lack of access to childcare, lack of access to transportation, and higher rates of illness and disability.

All of these hurdles make it more difficult for poor and low-income voters to participate effectively in the political process.

CAUSES OF ACTION

COUNT I:

SB 1EX Violates Section 2 of the Voting Rights Act

84. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

85. Section 2 of the Voting Rights Act prohibits the enforcement of any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or” membership in a language minority group. 52 U.S.C. § 10301(a).

86. The Georgia State Senate district boundaries, as currently drawn, crack and pack minority populations with the effect of diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

87. Black Georgians in the southern Atlanta metropolitan area and the central Georgia Black Belt region are sufficiently numerous and geographically compact to constitute a majority of eligible voters in three additional State Senate districts, without reducing the number of minority-opportunity districts already included in the enacted map.

88. Under Section 2 of the Voting Rights Act, the General Assembly was required to create three additional State Senate districts in which Black voters in these areas would have the opportunity to elect their candidates of choice.

89. Black voters in Georgia, particularly in and around these areas, are politically cohesive. Elections in these areas reveal a clear pattern of racially polarized voting that allows blocs of white voters usually to defeat Black voters' preferred candidates.

90. The totality of the circumstances establishes that the current State Senate map has the effect of denying Black voters an equal opportunity to participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act.

91. By engaging in the acts and omissions alleged herein, Defendants have acted and continue to act to deny Plaintiffs' rights guaranteed by Section 2 of the Voting Rights Act. Defendants will continue to violate those rights absent relief granted by this Court.

COUNT II:
HB 1EX Violates Section 2 of the Voting Rights Act

92. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

93. The Georgia House of Representative district boundaries, as currently drawn, crack and pack minority populations with the effect of diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

94. Black Georgians in the southern and western Atlanta metropolitan area and central Georgia are sufficiently numerous and geographically compact to constitute a majority of eligible voters in five additional House districts, without reducing the number of minority-opportunity districts already included in the enacted map.

95. Under Section 2 of the Voting Rights Act, the General Assembly was required to create five additional House districts in which Black voters in these areas would have the opportunity to elect their candidates of choice.

96. Black voters in Georgia, particularly in and around these areas, are politically cohesive. Elections in these areas reveal a clear pattern of racially polarized voting that allows blocs of white voters usually to defeat Black voters' preferred candidates.

97. The totality of the circumstances establishes that the current House map has the effect of denying Black voters an equal opportunity to participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act.

98. By engaging in the acts and omissions alleged herein, Defendants have acted and continue to act to deny Plaintiffs' rights guaranteed by Section 2 of the Voting Rights Act. Defendants will continue to violate those rights absent relief granted by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

A. Declare that SB 1EX and HB 1EX violate Section 2 of the Voting Rights Act;

B. Enjoin Defendants, as well as their agents and successors in office, from enforcing or giving any effect to the boundaries of the Georgia State Senate districts as drawn in SB 1EX and the boundaries of the Georgia House of Representatives districts as drawn in HB 1EX, including an injunction barring Defendants from conducting any further legislative elections under the current maps;

C. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to order the adoption of a valid legislative redistricting plan that includes three additional Georgia State Senate districts and five additional Georgia House of Representatives districts in which Black voters would have opportunities to elect their preferred candidates, as required by

Section 2 of the Voting Rights Act, without reducing the number of minority-opportunity districts currently in SB 1EX and HB 1EX;

D. Grant such other or further relief the Court deems appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

Dated: January 11, 2022

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**Pro hac vice application forthcoming*

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-14813
Non-Argument Calendar

D.C. Docket No. 1:20-cv-05155-TCB

L. LIN WOOD,

Plaintiff-Appellant,

versus

BRAD RAFFENSPERGER, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

(August 6, 2021)

Before MARTIN, JORDAN, and GRANT, Circuit Judges.

PER CURIAM:

L. Lin Wood, Jr. appeals the district court's dismissal of his lawsuit against various Georgia state election officials. After careful consideration, we affirm the

district court's ruling because Wood is without Article III standing to make the claims he asserts in this action.

I

The district court described this case as “the latest in a series of cases associated with Wood that seek to challenge aspects of the 2020 election cycle.” On December 18, 2020, Wood, then a registered Georgia voter, sued Brad Raffensperger, Georgia's Secretary of State, along with members of the Georgia State Election Board in their official capacities (“Defendants”). Wood sought declaratory relief and an injunction “halting” Georgia's January 5, 2021, runoff election because he alleged the election was proceeding in a manner contrary to Georgia's election laws and the U.S. Constitution.

Wood alleged that Defendants authorized four unlawful procedures for use in the election: (1) the signature verification process for absentee ballots, (2) the processing of absentee ballots prior to election day, (3) the use of drop boxes for absentee ballots, and (4) the use of Dominion Voting Systems Corporation's voting machines. Based on these allegations, Wood brought three claims. First, he alleged the procedures violated his equal protection and voting rights, as he said he planned to vote in person in the election, and these procedures would dilute his vote and cause his vote to be treated differently. Second, Wood alleged the procedures violated his due process rights because the procedures were “defective

and unlawful” and affected the “integrity of the election.” Last, he alleged the procedures violated the Guarantee Clause of the Constitution, which says the United States “shall guarantee to every State in this Union a Republican Form of Government.” U.S. Const. Art. IV, § 4. In Wood’s view, the procedures he identified violated the Guarantee Clause because they did “not provide for the certainty of a free and fair election.”

The district court dismissed Wood’s lawsuit for lack of jurisdiction, as the court found Wood did not have Article III standing to sue. With regard to the equal protection and due process claims, the district court found that Wood failed to demonstrate a particularized injury. The court noted other deficiencies for these claims as well. The district court then found that Wood lacked standing to bring his Guarantee Clause claim because the Guarantee Clause makes a guarantee of republican government only to the states and thus does not confer any rights on individuals. This is Wood’s appeal.¹

¹ Two issues arose while this appeal was pending. First, this Court directed the parties to address whether this appeal is moot, and thus whether we lack jurisdiction, “given that the January 5, 2021, election with respect to which Wood seeks relief has already occurred.” In response, Wood says the appeal is not moot because the controversy is capable of repetition yet evading review and because he seeks nominal damages. Defendants argue that the appeal is moot because the election has “come and gone” and none of the exceptions to the mootness doctrine applies. Because we hold Wood lacked Article III standing to sue, we need not reach the question of whether the appeal is moot. See Sinochem Int’l Co. v. Malay. Int’l Shipping Corp., 549 U.S. 422, 431, 127 S. Ct. 1184, 1191 (2007) (“[T]here is no mandatory ‘sequencing of jurisdictional issues.’”).

Second, Defendants moved for leave to supplement the appellate record with material showing Wood did not actually vote in the election, which Defendants say “establishes beyond

II

On appeal, Wood says the district court erred in dismissing his lawsuit for lack of Article III standing. We review de novo whether a plaintiff has Article III standing. See Wood v. Raffensperger, 981 F.3d 1307, 1313–16 (11th Cir. 2020). To show he has standing, a plaintiff must demonstrate he suffered an injury in fact that is fairly traceable to the defendant’s actions and likely to be redressed by a favorable decision. Id. at 1314 (citing Jacobson v. Fla. Sec’y of State, 974 F.3d 1236, 1245 (11th Cir. 2020)). An injury in fact is one that is concrete, particularized, and either actual or imminent. Id. (citing Trichell v. Midland Credit Mgmt., Inc., 964 F.3d 990, 996 (11th Cir. 2020)). The burden is on the plaintiff to demonstrate these requirements for each claim. See JW ex rel. Williams v. Birmingham Bd. of Educ., 904 F.3d 1248, 1264 (11th Cir. 2018) (per curiam). Here, we look to the particularized-injury requirement. A particularized injury is one that “affects the plaintiff in a personal and individual way.” Wood, 981 F.3d at 1314 (quoting Spokeo, Inc. v. Robins, 578 U.S. ___, 136 S. Ct. 1540, 1548 (2016)) (quotation marks omitted and alteration adopted). That means the plaintiff

any doubt” that Wood lacked Article III standing and that the appeal is moot. Wood, in turn, moved to strike Defendants’ motion to supplement the appellate record. Because we conclude Wood lacked standing without reference to any supplemental material, Defendants’ motion to supplement the appellate record and Wood’s motion to strike are **DENIED AS MOOT**.

must show more than a generalized grievance that is “undifferentiated and common to all members of the public.” Id. at 1314 (quotation marks omitted).

In a recent case involving similar claims brought by Wood, our Court applied this framework to hold that Wood lacked standing to bring his claims. In that case, Wood alleged that Georgia’s absentee-ballot and recount procedures used in the 2020 election violated his constitutional rights. Id. at 1310. He therefore sought to “enjoin certification of the general election results, to secure a new recount under different rules, and to establish new rules for an upcoming runoff election.” Id. The Court noted that Wood’s alleged “injury to the right ‘to require that the government be administered according to the law’” was an insufficient generalized grievance. Id. at 1314 (quoting Chiles v. Thornburgh, 865 F.2d 1197, 1205–06 (11th Cir. 1989)). And although Wood argued that “the inclusion of unlawfully processed absentee ballots diluted the weight of his vote” and that Georgia “valued” and “favored” in-person votes less than absentee votes, the Court held that neither injury was particularized and thus could not support standing. Id. at 1314–15 (alteration adopted). While the Court recognized vote dilution can be a particularized injury, Wood’s claim of vote dilution was an insufficient generalized grievance because any vote dilution had a proportional effect on every vote and thus “no single voter [was] specifically disadvantaged.” Id. at 1314–15 (quotation marks omitted). And Wood’s assertion that Georgia

“valued” and “favored” in-person votes less than absentee votes was also only a generalized grievance because any harm did “not affect Wood as an individual—it [was] instead shared identically by the four million or so Georgians who voted in person this November.” Id. at 1315 (alteration adopted).

Here, just like in his recent case, Wood lacked Article III standing to bring each of his three claims. Beginning with his equal protection claim, Wood argues he had standing because the challenged procedures diluted in-person votes and valued in-person votes less than absentee votes. However, Wood does not explain how his particular in-person vote, as opposed to all in-person votes more generally, was diluted or devalued. With respect to his argument that the procedures diluted in-person votes, Wood fails to show the procedures “specifically disadvantaged” his vote rather than impacting the proportional effect of every vote. Id. at 1314–15 (quotation marks omitted). As for his argument that the procedures valued in-person votes less than absentee votes, Wood fails to show that harm “affect[ed] Wood as an individual.” Id. at 1315. At most, Wood’s asserted injuries were “shared identically by [all] Georgians who voted in person.” Id. Wood therefore has shown nothing more than a textbook generalized grievance that is insufficient for Article III standing. See id. at 1314–15. And to the extent Wood argues in passing that he had standing because he believes the procedures were “unlawful,” “illegal,” and “unconstitutional,” the injury to his right that the government be

administered according to the law is likewise an insufficient generalized grievance. See id. at 1314; see also, e.g., Lance v. Coffman, 549 U.S. 437, 439–42, 127 S. Ct. 1194, 1196–98 (2007) (per curiam) (collecting cases) (stating an allegation “that the law . . . has not been followed” is “precisely the kind of undifferentiated, generalized grievance” that is insufficient to support standing).

Turning to Wood’s due process and Guarantee Clause claims, we note that he has failed to raise any arguments in support of his standing to bring those claims. Rather, all of his arguments in support of standing address his equal protection claim. Under our precedent, he has therefore abandoned his due process and Guarantee Clause claims on appeal. See Wilding v. DNC Servs. Corp., 941 F.3d 1116, 1124 n.1 (11th Cir. 2019) (holding that plaintiffs abandoned a claim when they failed to challenge the district court’s dismissal of the claim for lack of Article III standing).

But even if his claims were not abandoned, Wood lacked standing to bring them. For his due process claim, Wood alleged the procedures violated his due process rights because the procedures were “defective and unlawful” and affected the “integrity of the election.” However, this grievance is common to all members of the public, so it is not particularized and thus not enough for Article III standing. See Wood, 981 F.3d at 1314; see also Dillard v. Chilton Cnty. Comm’n, 495 F.3d 1324, 1333 (11th Cir. 2007) (per curiam) (noting that “an asserted interest in being

free of an allegedly illegal electoral system” is not a particularized injury).

Wood’s Guarantee Clause claim fails for the same reason. He alleged the procedures violated the Guarantee Clause because they did “not provide for the certainty of a free and fair election.” This grievance is also common to all members of the public and therefore insufficient for Article III standing.

See Wood, 981 F.3d at 1314; see also Democratic Party of Wis. v. Vos, 966 F.3d 581, 589 (7th Cir. 2020) (observing that “the Guarantee Clause makes the guarantee of a republican form of government to the states; the bare language of the Clause does not directly confer any rights on individuals [vis-à-vis] the states” (quoting Largess v. Supreme Jud. Ct. for the State of Mass., 373 F.3d 219, 224 n.5 (1st Cir. 2004) (per curiam) (quotation marks omitted)).

AFFIRMED.

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

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

THIRD AMENDED COMPLAINT

Plaintiffs Donna Curling, Donna Price, and Jeffrey Schoenberg hereby allege and plead for their Third Amended Complaint as follows:

PRELIMINARY STATEMENT

1. The right to vote is the most fundamental and sacrosanct of all of the rights conferred on U.S. citizens by the Constitution as well as by the Georgia Constitution and Georgia state law. It is the foundation of our democracy. As the Supreme Court has set out in unambiguous terms, “[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.” *Wesberry v. Sanders*, [376 U.S. 1, 17](#) (1964). *See also Wexler v. Anderson*, [452 F.3d 1226, 1232](#) (III) (11th Cir. 2006)

(“The right to vote is fundamental, forming the bedrock of our democracy.”). The Georgia Constitution as well reflects the drafters’ recognition of the vital role that the right to vote plays in the management of the State’s affairs by explicitly providing that “[e]lections by the people shall be by secret ballot and shall be conducted in accordance with procedures provided by law.” Ga. Const. Art. II § 1, ¶ 1.

2. In reaction to the profound challenges that emerged from the 2000 Bush-Gore presidential election, many states, Georgia among them, turned to paperless electronic voting systems in the expectation that this technology would prevent a reprise of that election’s problems. Plaintiffs raise no questions regarding the intent behind that change. However, over the years, it has been increasingly apparent that paperless electronic voting systems have not, and could not, live up to expectations. Indeed, the system is now known to be so vulnerable to intrusion and manipulation that the nation’s leading cybersecurity experts have been going to great lengths to educate both the states and Congress about the perils inherent in those systems, and to urge the return to paper ballots.

3. Despite the inclination to put great faith in the wonders of technology, it is decidedly not the answer when it comes to voting systems. The Direct Recording Equipment (“DRE”) voting system (“DRE Voting System”) used in

Georgia is a prime illustration of the regrettable incompatibility between the functioning of the current electronic voting system and the voters' right to cast a ballot and have that vote accurately counted. Because of such concerns, states across the country, in increasing numbers, have been returning to the safety of paper ballots, with only five states remaining, like Georgia, using all electronic voting.

4. The inherent vulnerabilities of DREs tremendously compromise the rights of voters in any jurisdiction. Furthermore, the integrity of Georgia's DRE Voting System was significantly eroded as a consequence of the misfeasance and malfeasance of the Defendants: The central server used both to store voters' personal identifying data and to program every electronic voting machine in Georgia was readily accessible in the many months (and possibly years) leading up to the 2016 Presidential election, and subsequent 2017 elections -- and accessible not merely to cybersecurity experts, but to anyone with a modicum of familiarity with computer use. The central server was wide open for anyone to enter the system and readily access personal data of Georgia voters. Furthermore, such an intruder could also easily manipulate the server's data and voter registration software, and thereby render legitimate voters ineligible, add fictitious voters to the

list, and switch votes so as to increase the numbers for the candidate of the intruder's choosing.

5. The gross abrogation of the Constitutional and statutory obligations to protect the franchise rights of Georgia voters did not stop there. Instead, when the security failure was discovered by a local cybersecurity expert and brought to the attention of two of the Defendants, the expert was warned to drop the issue. And it was not only the warnings from this cybersecurity expert that these Defendants ignored. Later, they would turn a blind eye to other critical warnings from more than twenty leading cybersecurity and voting system experts, from the Department of Homeland Security ("DHS"), from the Federal Bureau of Investigation ("FBI"), and from the Election Assistance Commission ("EAC").

6. Indeed, Georgia's Secretary of State ("GA SOS") not only ignored each of these warnings, but also refused the offers of assistance in remedying the problems that the DHS and the FBI urged it to accept. Rather, GA SOS publicized completely unfounded allegations of an attempted takeover of Georgia's electoral system by the federal government.

7. Even under the very best of circumstances – with the current voting systems properly installed, programmed, and operated – the inherent flaws in the DREs render it not possible for the state to comply with the election law or to

protect the rights of Georgia voters. Yet, these are not the best of circumstances; far from it. Rather, there is compelling evidence that the rights of Georgia voters guaranteed by Georgia statute and the U.S. and Georgia constitutions to have their votes counted accurately, have been flagrantly and repeatedly breached by Defendants' conduct.

8. This case is not merely about a technical violation or a theoretical risk. It is about forcing voters to choose between totally relinquishing their right to vote and acquiescing to cast their vote despite very real risks: the risk that their vote will not be properly counted; the risk that the declared results will be contrary to the will of voters; and furthermore, the risk that there will be no way to verify the validity of the election.

9. Any question of convenience of Defendants and their commitment to a woefully flawed and wholly indefensible voting system must not be permitted to take priority over the statutory and Constitutional rights of Georgia voters.

10. This complaint sets forth the violations of law and the other serious irregularities that occurred during the November 8, 2016 General Election, ("2016 General Election"), the April 18, 2017, 6th Congressional District Special Election ("Special Election"), the June 20, 2017, 6th Congressional District Runoff Election ("Runoff"), and the May 2018 and November 2018 General Elections

(collectively, the “Relevant Previous Elections”) causing the results of such elections to be indeterminable.

11. This complaint also sets forth violations of law resulting from Defendants’ continued failure to implement a constitutionally-acceptable election system. Despite warnings from cybersecurity experts, government officials, and even this Court, Defendants still intend to utilize their flawed DRE Voting System in upcoming elections during Fall 2019. Additionally, while Defendants are implementing a paper ballot system for certain 2020 elections, they have chosen to force all of Georgia’s voters to use ballot-marking devices (“BMDs”) which suffer from the same security vulnerabilities as Defendants’ flawed DRE Voting System.

12. For these reasons and those demonstrated below, Plaintiffs respectfully ask the Court: (1) to hold Defendants liable for the violations of Georgia voters’ rights in connection with the Relevant Previous Elections, and to ensure that those rights are protected in connection with the scheduled Fall 2019 and all future elections, (collectively, the “Relevant Pending Elections”) and (2) to enter an order providing such relief as is necessary and appropriate to protect Georgia’s voters from such future, irreparable harm.

PLAINTIFFS

13. Plaintiffs are electors who are residents of Georgia as well as electors of the State of Georgia who are concerned about the integrity, credibility, security, and reliability of the electoral process. All Plaintiffs have cast ballots in one or more of the Relevant Previous Elections, and all have cast ballots on the DRE Voting System in one or more of the Relevant Previous Elections.

14. DONNA CURLING (“Curling”) is an elector of the State of Georgia and a resident of Fulton County. Curling voted in the Relevant Previous Elections, and intends to vote in all future elections for which she is eligible.

15. Due to concerns over the integrity of prior Georgia elections, Curling requested that GA SOS reexamine Georgia’s DRE Voting System. Curling also chose to exercise her right to cast her vote using a verifiable paper ballot in the Runoff, so as to ensure that her vote would be permanently recorded on an independent record. To do so, Curling persisted through considerable inconvenience – only to be incorrectly told by GA SOS and the Fulton County Board of Registration and Elections that she had not, in fact, cast a ballot, creating irreparable harm that her ballot was not counted. Without the intervention of this Court, Curling will be compelled to choose between relinquishing her right to vote and acquiescing to cast her vote under a system that violates Georgians’ rights and

cannot reliably determine election outcomes that can be legally certified. As such, Curling has standing to bring her claims.

16. Plaintiff DONNA PRICE (“Price”) is an elector of the State of Georgia and a resident of DeKalb County. Due to concerns over the integrity of prior Georgia elections, prior to the Runoff, Price joined the group of 13 other electors who exercised their right under [O.C.G.A § 21-2-379.2\(a\)](#) to request that GA SOS reexamine Georgia’s DRE Voting System – a request GA SOS effectively denied, abridging her rights to assure that future elections would be conducted on compliant systems. She cast her vote on a DRE in the 2016 General Election, and intends to vote in all future elections for which she is eligible. Without the intervention of this Court, Price will be compelled to choose between relinquishing her right to vote and acquiescing to cast her vote under a system that violates her right to vote and to have her vote accurately counted. As such, Price has standing to bring her claims.

17. Plaintiff JEFFREY SCHOENBERG (“Schoenberg”) is an elector of the State of Georgia and a resident of DeKalb County. He cast his ballot on DRE machines in all the Relevant Previous Elections and intends to vote in all future elections for which he is eligible. In casting his ballot in a voting system that abridged his right to participate in a legally conducted election with a determinable

and certifiable result, Schoenberg suffered irreparable harm. Without the intervention of this Court, Schoenberg will be compelled to choose between relinquishing his right to vote and acquiescing to cast his vote under a system that violates his right to vote and to have his vote accurately counted. As such, Schoenberg has standing to bring his claims.

DEFENDANTS

18. Defendant BRAD RAFFENSPERGER (“Secretary Raffensperger”) is the Secretary of State of Georgia and, in that role, also serves as Chair of the State Election Board. Secretary Raffensperger’s predecessor, current Georgia Governor Brian P. Kemp, was responsible for the Relevant Previous Elections, and Secretary Raffensperger is responsible for the orderly and accurate administration of Georgia’s electoral processes and the Relevant Pending Elections. This responsibility includes the duty to ensure that legally compliant voting systems are in place, and to conduct any reexaminations of Georgia’s DRE Voting System currently in use, upon request or at his own discretion.

19. Defendants DAVID J. WORLEY, REBECCA N. SULLIVAN, ANH LEE, and SETH HARP (“State Election Board Members”) are members of the State Election Board in Georgia. As such, for the Relevant Previous Elections, and, for the Relevant Pending Elections, they were responsible and continue to be

responsible for (1) promulgating rules and regulations to ensure the legality and purity of all elections, (2) investigating fraud and irregularities in elections, and (3) reporting election law violations to the Attorney General or appropriate district attorney.

20. Defendants MARY CAROLE COONEY, VERNETTA NURIDDIN, KATHLEEN D. RUTH, MARK WINGATE, and AARON JOHNSON (“County Election Board Members”) are members of the Fulton County Board of Registration and Elections who were, for the Relevant Previous Elections, and, for the Relevant Pending Elections, continue to be, responsible for conducting the elections in Fulton County.

21. All Defendants are sued only in their official capacities.

I. JURISDICTION AND VENUE

22. On August 8, 2017, Defendants consented to jurisdiction when they removed this action on the basis of Federal Question jurisdiction under 28 U.S.C. § 1331. Dkt. No. 1-14.

23. Further, this Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, 1367, 2201, and 2202.

24. Venue lies in this court pursuant to [28 U.S.C. § 1391\(b\)](#) because all reside in the district and a substantial part of the events or omissions giving rise to the Plaintiffs' claims occurred in this judicial district.

II. FACTUAL BACKGROUND

A. Georgia's DRE Voting System is Fundamentally Flawed and Vulnerable

25. Georgia's DRE Voting System relies primarily of the use of DRE voting computers, which, by design, directly record an elector's vote on an electronic medium. *See* [O.C.G.A. §§ 21-2-379.1 to -379.12](#); *see also* [Ga. Comp. R. & Regs. 183-1-12.01](#). The DREs used in Georgia provide no method through which voters can be assured that their vote has been accurately recorded, in contrast with an anonymous paper ballot which the voter marks and reviews before he casts his ballot. DREs produce neither a paper trail nor any other means by which the records of votes cast can be audited.

26. These inherent problems are exacerbated by the fact that Georgia uses DREs that run on antiquated software that is programmed by and downloaded from one central location, the Center for Elections Systems ("CES"), formerly located at Kennesaw State University ("KSU"), and now located within GA SOS's office. Relying on a single site renders Georgia's DRE Voting System far more vulnerable than systems that are managed through numerous sites at the county level across

the state. In Georgia, only one server needs to be compromised in order for an intruder to exploit it, making Georgia elections a tempting target.

27. The Georgia Global Election Management System (“GEMS”) is beset by vulnerabilities.

28. Defendants have publicly represented that because Georgia’s GEMS database was unique and confidential, hackers could not design malware compatible with that database. In reality, however, the Georgia GEMS database is structured identically to databases that have been available on the internet since 2002. Therefore, by Defendants’ own admission, the GEMS system is critically vulnerable.

29. Compounding these concerns is the fact that Georgia has not updated or provided patches to its GEMS database software since approximately 2005.

30. Despite these vulnerabilities, Georgia has not collected all of the approximately 50,000 DRE memory cards employed by Georgia during elections for testing or reformatting since 2013 or 2015. Similarly, Georgia has never tested or otherwise checked the internal memory of its DRE voting machines.

31. In addition to the problems associated with the DRE Voting System in general, and the added vulnerabilities created by Georgia’s antiquated software and

single point of entry, Georgia's DRE Voting System has long been at further risk because of gross mismanagement.

32. For example, CES Director Michael Barnes transfers data directly from the GEMS central server using a USB drive to a public computer that is connected to the internet. After being exposed to the internet, this USB drive is then reinserted back into the GEMS server. Notably, while Barnes maintains this USB drive in a locked desk drawer, he leaves the key to this drawer unlocked in the same desk.

33. Additionally, outside contractors working from their own homes on their own personal computers, construct the GEMS database used for Georgia's elections.

B. The Exposure and Breaches of Georgia's DRE Voting System Have Been Undeniably Established

34. In August of 2016, a professional cybersecurity expert residing in Georgia, Logan Lamb ("Lamb"), who was interested in the state's election system, accessed CES's public website. Shockingly, Lamb was able to access key components of Georgia's electronic election infrastructure, without so much as entering a password. It should be noted that these actions were in accordance with both the law and the general standards followed by most professionals in the cybersecurity industry.

35. In accessing these election system files, Lamb found a startling amount of private information, including: driver license numbers, birthdates, and the last four digits of social security numbers for over six-and-a-half million Georgia voters; the passwords given to polling place supervisors on election day to control the opening and closing of the DREs and to make administrative corrections in the event a DRE encountered a problem; and executable programs that could be used to implant malware and vote stealing programs in the system.

36. This publicly available information easily found by Lamb provided everything a bad actor would need to interfere with an election and to manipulate its outcome – while likely avoiding detection.

C. The Defendants’ Unwillingness to Recognize and Respond to the Problems

37. Lamb immediately alerted Merle King (“King”), the Georgia official responsible for overseeing, managing, and securing Georgia’s electronic election infrastructure, to the serious security vulnerabilities he had discovered. In response, Lamb was cautioned by King that if he talked about it, he would be “crushed by the politicians downtown.”

38. Upon information and belief, not only did Georgia fail to take remedial action when alerted to the problem Lamb raised, it failed to act even in the face of the detailed information on the cybersecurity threats facing the nation’s

election systems, and the recommended specific steps to reduce the risk, which were disseminated by the FBI, the DHS, and the EAC. The press reported that Georgia was the only state to refuse all federal assistance to help ensure the security of its election infrastructure. Neither did the state officials respond to a letter that had been drafted by a group of over twenty voting system and cybersecurity experts expressing their heightened concerns about Georgia's DRE Voting System.

D. The Consequences of Georgia's Failure to Act

39. In February 2017, a cybersecurity colleague of Lamb's, Chris Grayson ("Grayson"), was able to repeat what Lamb had done seven months earlier. Around that same time, Lamb also found that, not only could he still easily access and download the same information as he had previously done, he discovered additional and updated information, including more recent database files and passwords.

40. Upon information and belief, Grayson notified a colleague and a faculty member at KSU of his findings. This colleague then notified KSU's University Information Technology Services ("UITS") Information Security Office, which in turn notified King. The day after Grayson's notification, the KSU

UITS Information Security Office seized CES's server. Two days after Grayson's notification, the FBI had been alerted and took possession of the server.

41. On at least two occasions prior to the seizure by the FBI, King and CES were made aware of this data breach. KSU issued a press release as to this data breach on March 1, 2017, and press accounts report that GA SOS was aware of this breach by March 3, 2017.

42. In a separate incident, on April 15, 2017, four electronic pollbooks and memory cards containing the PII of voters in Cobb County were stolen. Press accounts have quoted Cobb County election officials as stating that these pollbooks contained state-wide voter information.

43. Upon information and belief, Defendants failed to notify the consumer reporting agencies and the 6.5 million Georgia voters whose personal identifying information had been compromised by the CES system, as required by O.C.G.A. § 10-1-912. Their failure to do so exposed those voters to substantially greater risk of their personal data being misused in ways that would harm them. And even after the occurrence of an actual security breach in April 2017 – the theft of electronic pollbooks containing statewide voter registration database and software to program voter access cards – no action was taken to properly report either security breach of voter data.

44. The DRE Voting System did not, and cannot ever, meet Georgia's constitutional statutory requirements, and caused each of the Relevant Previous Elections to generate indeterminable results, abridging numerous state and federal rights of the Plaintiffs and all other Georgia voters.

E. Georgia's Own Experts Have Confirmed These Vulnerabilities

45. GA SOS engaged cybersecurity experts Fortalice to conduct assessments of their cybersecurity infrastructure. Notably, GA SOS did not engage Fortalice to conduct any assessment of its *election* cybersecurity, include its DREs or the GEMS database and servers, despite Fortalice's ability to conduct such analysis.

46. Fortalice identified significant cybersecurity deficiencies with GA SOS's network.

47. For example, in an October 2017 assessment, Fortalice identified twenty-two cybersecurity risks within GA SOS's IT operations, categorizing most of these risks as significant.

48. One of these risks was widespread local administrative rights, meaning that all GA SOS users who had any level of log-in credentials also were granted administrative rights on their work stations. This increased the likelihood that malware or a malicious actor could successfully compromise a user's work

station through email, web, or removal media. GA SOS's experts found that the problem was particularly acute because not only did users have administrative rights on their own work stations, but they also had administrative rights on all work stations. This meant that if an attacker gained access to a single work station, they could quickly access any other work station, gain administrative rights, and spread malware, install remote access tools, or access sensitive data.

49. Another risk identified by Fortalice in their October 2017 assessment was a lack of two-factor authentication for remote access. This meant that GA SOS users were able to remotely access the GA SOS network using only a user name and a password. According to Fortalice, this level of security was insufficient, particularly given the possibility of phishing attacks or the potential theft of GA SOS credentials.

50. Fortalice also expressed an overarching concern for the lack of control and oversight GA SOS was able to maintain over its voter registration database. Indeed, GA SOS employees informed Fortalice that the voter registration database represented GA SOS's greatest cybersecurity vulnerability.

51. As part of its October 2017 assessment, Fortalice conducted a penetration test of GA SOS's networks. Fortalice was able to successfully penetrate GA SOS's network and gain administration rights to that network.

52. In February 2018, Fortalice conducted an additional cybersecurity assessment, focusing on the independent vendor that Georgia retained to manage its voter registration database. Fortalice identified fifteen additional security risks involving Georgia's voter registration database. For example, Fortalice found that the contract between GA SOS and the independent vendor did not contain any cybersecurity requirements. Fortalice found that the vendor was relying on outdated software that was known to contain critical security vulnerabilities. Fortalice noted that an attacker with sufficient time and resources could exploit those vulnerabilities. Fortalice also identified certain remote access vulnerabilities. Specifically, the vendor did not block VPN connections from the IP addresses of known threats or foreign countries. Additionally, Fortalice identified a number of missing critical operating system patches, unsupported software, and vulnerable third-party software.

53. In November 2018, Fortalice conducted a third assessment of GA SOS's cybersecurity. As part of this assessment, Fortalice made an additional twenty recommendations to GA SOS to improve its cybersecurity.

54. Notably, of the twenty-two risks identified by Fortalice in October 2017, only three had been remediated as of November 30, 2018, just weeks after the November 2018 midterm elections.

55. Based on this assessment, on a scale of zero to one hundred, Fortalice graded GA SOS' cybersecurity as a 53.98.

56. Despite the fact that Fortalice had identified significant cybersecurity vulnerabilities with Georgia's voter registration database in its October 2017 and February 2018 assessments, GA SOS instructed Fortalice not to review the voter registration database in November 2018.

57. Notwithstanding Fortalice's warnings, in November 2018, on the eve of an election, it was publicly revealed that Georgia's voter registration database had serious, remotely-exploitable vulnerabilities.

58. Another expert retained by GA SOS, Dr. Michael Shamos, has repeatedly criticized GA SOS's election cybersecurity practices.

59. For example, while Dr. Shamos believes that Georgia should test each memory card before it places it into a DRE machine, upon information and belief, Georgia does not do so.

60. Similarly, while Dr. Shamos believes that Georgia should conduct comparative and forensic analyses to determine whether its DRE machines and software are properly functioning, upon information and belief, Georgia does not do so.

61. Additionally, while Dr. Shamos believes that Georgia should conduct parallel testing on its DRE machines, by selecting at least one machine to test in every single county, upon information and belief, Georgia does not conduct parallel testing in this manner. Instead, Georgia tests only a single machine out of the approximately 27,000 machines used in Georgia elections. Dr. Shamos, Defendants' own expert, does not have confidence in Georgia's testing procedures, which test only one machine out of approximately 27,000.

F. Georgia Failed to Act Despite Growing Threats to U.S. Election Security

62. Georgia's stubborn failure to address these critical security vulnerabilities comes amidst revelations that Russia and other foreign nations are increasingly targeting U.S. election systems with increasing sophistication.

63. The Mueller Report revealed that "[t]he Russian government interfered in the 2016 presidential election in sweeping and systematic fashion." Notably, evidence of Russian interference "began to surface in mid-2016."

64. In July 2018, Special Counsel Robert Mueller released an indictment that confirmed that Georgia was specifically targeted by a Russian operative.

65. The Senate Intelligence Committee confirmed these findings in a bipartisan report. According to the Senate Intelligence Committee, hackers likely tried to access election systems in all fifty states during the 2016 elections. Russia

“directed extensive activity, beginning in at least 2014 and carrying into at least 2017, against U.S. election infrastructure at the state and local level.” The report specifically found that “[s]tate election officials, who have primacy in running elections, were not sufficiently warned or prepared to handle an attack from a hostile nation-state actor.”

66. The Senate Intelligence Committee noted that Russian operatives engaged in operations to scan the election-related state infrastructure of all fifty states, conducting research on election-related web pages, voter ID information, election system software, and election service companies.

67. Further, Robert Mueller confirmed during his July 2019 testimony to Congress that Russia’s interference in our elections continues to this day. And, as he testified, “[m]any more countries are developing the capability to replicate what the Russians have done.”

68. Given this extensive risk, cybersecurity experts and government officials have instructed that states implement paper ballot systems with optical scanners that include a voter-verified paper trail.

69. Georgia has ignored this guidance.

G. Georgia’s Proposed Election System Remains Unconstitutional

70. In April 2019, Georgia passed H.B. 316, which provided for the use of a paper ballot system to be marked by BMDs. In July 2019, Georgia confirmed that it had awarded the contract for this new system to Dominion Voting Systems, Inc. (“Dominion”).

71. The system described in Georgia’s contract with Dominion calls for in-precinct scanners/tabulators for 2D barcodes generated by BMDs (the “Proposed Election System”). The BMDs, identified as Image Cast X models, are also capable of producing a text summary, as opposed to an image of the actual ballot, of an elector’s candidate selections. The ballot scanners tabulate votes from each ballot based on the 2D barcode generated by the BMD and not based on the written text summary of a voter’s selections. Therefore, no elector can visually review and confirm whether the bar code accurately conveys their intended selections.

72. The Proposed Election System will not be substantially safer than the current system because BMDs remain susceptible to manipulation, and the proposed system does not provide a meaningful way for a voter to audit their vote.

73. The 2D barcode produced by the BMD is not readable by a voter, but is relied upon by the precinct scanner to tabulate votes in each precinct. The

legible written summary of a voter's choice is not relied upon by the precinct scanner at all.

74. Therefore, while the Proposed Election System purports to provide a voter with an auditable voting record, the voter is only able to audit the written text summary and not the actual barcode on the ballot used to tabulate votes.

75. In other words, despite the fact that cybersecurity experts and government officials recommended a voting system that included a voter-verified paper trail, the Proposed Election System will rely on a non-voter-verified barcode as the elector's actual vote.

76. Further, these BMD systems have the same demonstrated security vulnerabilities as those that plague Georgia's DREs.

77. Like any computer, a BMD is vulnerable to intentional forms of manipulation (such as hacking, installation of malware, or alteration of installed software), as well as unintentional forms of manipulation (such as bugs and misconfiguration).

78. Indeed, specific vulnerabilities have already been identified with Dominion's election software and hardware.

79. Dominion’s election system was certified under a 14-year old standard (Voluntary Voting System Guidelines (“VVSG”) 1.0) rather than the more recent VVSG 1.1 or VVSG 2.0 standards.

80. In February 2019, Texas voting systems examiners refused to certify Dominion’s election management system based upon several problems with the software. According to these examiners, “several of the problems did not appear to have ready-made or simple solutions.” These problems included:

- (a) The ability of Dominion’s hardware to be connected to the internet;
- (b) If the printer tray became ajar during the voting process the system would wipe out all selections and require a voter to start over, therefore requiring poll worker intervention and slowing down the voting process;
- (c) The audit trail stored voter selections in sequential order, which would permit the secrecy of the ballot box to be compromised;
- (d) Portions of the power cord connections are easily accessible and may be unplugged by anyone;
- (e) The paths for import of election data into the election management program revealed multiple opportunities for mistakes

and during testing required three separate restarts of the adjudication process.

81. During the 2019 DEFCON Voting Village,¹ Dominion's precinct scanners were made available to participating hackers. These hackers identified twenty vulnerabilities. One vulnerability was the ability of remote attackers to implement a DNS attack. Another vulnerability was the existence of an exposed flash card containing an .xml file that, if manipulated, would allow for scanned votes to be redirected to a different candidate.

82. Additionally, the ImageCast X BMDs rely on software released in February 2015, which has not received security updates since March 2018.

83. These many vulnerabilities could cause the BMD to print votes to the 2D barcode that do not match what the voter entered, or could cause a precinct scanner to improperly tabulate votes.

84. Moreover, these vulnerabilities are not alleviated by the text summary available to an elector, because the 2D barcode actually relied upon to tabulate the vote may not necessarily match the text summary.

¹ DEFCON is a hacking conference held annually since its founding in 1993. Since 2017, DEFCON has featured a Voting Machine Hacking Village, in which hackers attempt to infiltrate U.S. election infrastructure such as voting machines, registration databases, and election office networks, to highlight potential cybersecurity vulnerabilities.

85. Further, even if the 2D barcode is identical to the text summary, research has demonstrated that most voters are unlikely to review these summaries even when specifically directed to do so.

86. Additionally, polling place exit interviews of voters who do choose to review a text summary of their vote reveal that some are unable to recall details of the ballots they cast even moments before. Voters fail to recognize errors in ballots presented to them for verification, or fail to recognize that the ballots presented to them for verification were not the ones they actually cast.

87. On those occasions where a voter does notice a discrepancy in a 2D barcode, research suggests that they are far more likely to attribute the discrepancy to their own mistake. Therefore, they are unlikely to raise concerns about a systemic attack on an election.

88. Even Dr. Shamos, the expert retained by GA SOS with respect to its election cybersecurity testified that if a BMD is going to be used, the more reliable approach is to use a BMD that produces a ballot readable by a human voter, rather than a bar code.

89. Georgia's Proposed Election System is also susceptible to manipulation because Georgia has not committed to risk-limiting audits for its

upcoming elections.² The limited assurance offered by the Proposed Election System's barcode verification is undermined by the absence of any commitment to actually auditing those barcodes.

90. For these reasons, Georgia's Proposed Election System provides Georgia's voters with no greater guarantee than the current system that their votes will be accurately recorded and tabulated.

III. CLAIMS

COUNT I: VIOLATION OF FUNDAMENTAL RIGHT TO VOTE UNDER THE DUE PROCESS CLAUSE OF THE 14TH AMENDMENT AND OF 42 U.S.C. § 1983

(All Plaintiffs against All Defendants in their Official Capacities)

91. Plaintiffs incorporate the allegations of paragraphs 1 through 90 above as if expressly realleged herein.

92. The right to vote is a fundamental right protected by the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.

93. The fundamental right to vote encompasses the right to have that vote counted accurately, and it is protected by the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.

² For example, the National Academies of Sciences, Engineering, and Medicine's September 2018 report regarding voting system integrity recommended the use of risk-limiting audits, in which individual randomly selected paper ballots are examined until sufficient statistical assurance as to the integrity of an election is achieved.

94. Defendants violated Plaintiffs' fundamental right to vote by deploying a DRE voting equipment system that by its design and management by

Defendants:

- (a) Failed to provide reasonable and adequate protection against the real and substantial threat of electronic and other intrusion and manipulation by individuals and entities without authorization to do so;
- (b) Failed to include the minimal and legally required steps to ensure that such equipment could not be operated without authorization; to provide the minimal and legally required protection for such equipment to secure against unauthorized tampering; to test, inspect, and seal, as required by law, the equipment to ensure that each DRE unit would count all votes cast and that no votes that were not properly cast would not be counted; and to ensure that all such equipment, firmware, and software is reliable, accurate, and capable of secure operation as required by law;
- (c) Failed to provide a reasonable and adequate method for voting by which Georgia electors' votes would be accurately counted.

95. By choosing to move forward in using the non-compliant system, Defendants willfully and negligently abrogated their statutory duties and abused their discretion, subjecting voters to cast votes on an illegal and unreliable system—a system that must be presumed to be compromised and incapable of producing verifiable results.

96. Upon information and belief, despite their knowledge that the DRE Voting System does not comply and cannot be made to comply with the Election Code, these Defendants willfully and knowingly plan to continue to use this non-compliant system in the Relevant Pending Elections.

97. Upon information and belief, Plaintiffs received no notice that their votes under the DRE Voting System could not be counted accurately due to Defendants' material non-compliance with the Election Code.

98. Defendants' violation of the Due Process Clause is patently and fundamentally unfair and therefore relief under [42 U.S.C. § 1983](#) is warranted. Accordingly, Plaintiffs ask this Court to (a) declare that these Defendants violated the Due Process Clause of the Fourteenth Amendment; (b) enjoin Defendants' use of Georgia's DRE Voting System for future elections; and (c) award attorneys' fees and costs for Defendants' causation of concrete injury to Plaintiffs, whose fundamental right to have their vote counted as cast was thwarted.

**COUNT II: VIOLATION OF FUNDAMENTAL RIGHT TO VOTE
UNDER THE EQUAL PROTECTION CLAUSE
OF THE 14TH AMENDMENT AND OF 42 U.S.C. § 1983**

(All Plaintiffs against All Defendants in their Official Capacities)

99. Plaintiffs incorporate the allegations of paragraphs 1 through 90 above as if expressly realleged herein.

100. The Equal Protection Clause of the Fourteenth Amendment mandates that “[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV § 1.

101. The Equal Protection Clause protects the manner of the exercise of the right to vote, and a state may not value one person’s vote over that of another. U.S. Const. amend. XIV § 1.

102. Upon information and belief, GA SOS and the County Election Board Members allowed electors to vote in the Relevant Previous Elections using two different methods: (a) voting using the DRE Voting System and (b) voting using paper ballots (available to provisional and absentee voters).

103. Upon information and belief, absentee paper ballots are verifiable, recountable ballots, which can be counted, reviewed, and discrepancies corrected under the supervision of a court.

104. DRE ballots are counted electronically and cannot reliably prevent or detect errors or reliably determine the election results. The DRE Voting System:

- (a) Produces only an electronic representation of a vote, with no independent reference document, and cannot therefore provide for a means by which the accuracy of the recording of DRE ballots can be tested or verified;
- (b) Does not provide reasonable and adequate protection, as required by the Georgia Election Code, against the real and substantial threat of electronic and other intrusion and manipulation by individuals and entities without authorization to do so; or
- (c) Provide a reasonable and adequate method for voting by which Georgia electors' votes would be accurately counted.

105. The injuries suffered by Georgia electors were compounded dramatically by Defendants' failure to include the minimal and legally required steps to ensure that such equipment could not be manipulated or operated without authorization; to provide the minimal and legally required protection for such equipment to secure against unauthorized tampering; to test, inspect, and seal as required by law the equipment to ensure that the DRE Voting System would properly count all cast votes and discount any improperly cast votes; and to ensure

that all such equipment, firmware, and software is reliable, accurate, and capable of secure operation as required by law, and properly certified to comply with Georgia Election Code and Election Rules.

106. Upon information and belief, these Defendants failed to take such steps to attempt to mitigate the security failures, and conduct an election on a system that could comply with the Georgia Election Code. Instead, they continued to rely on the DRE Voting System knowing that this voting system was unsecured, breached, and compromised, could not be presumed to be safe, and was materially non-compliant with applicable Election Code statutes and governing regulations.

107. By choosing to move forward in using the non-compliant system, Defendants willfully and negligently abrogated their statutory duties and abused their discretion, subjecting voters to cast votes on an illegal and unreliable system—a system that must be presumed to be compromised and incapable of producing verifiable results.

108. The voters of the respective ballots have not been treated equally in that the votes of those who voted by DRE cannot be meaningfully recounted, reviewed against an independent record to verify, or have discrepancies detected and corrected. DRE votes are unequally weighted, with greater weight given to those who vote by absentee paper ballot, whose votes can be verified as to voter

intent, can be accurately recounted, and can have processing errors identified and corrected, while votes cast by DRE, whose votes do not share those essential advantages.

109. The rights of Georgia electors using DRE voting equipment to cast their ballots in the Relevant Previous Elections were also not treated equally by virtue of the egregious security failures in the CES election management server. Although the CES security failures put all voting system components at risk, the majority of the security failures could be mitigated for paper ballot votes, but not for DRE votes. In an election contest, the paper ballots could be counted manually and voter intent and accurate tabulation determined, regardless of security failures that may impact DRE Voting System tabulations. DRE Voting System failures cannot be so mitigated nor the impact determined, creating unequal weighting between the two types of ballots cast.

110. The Plaintiffs who voted in Relevant Previous Elections using the DRE Voting System are all similarly situated to other registered electors in the same elections who voted using the DRE Voting System. All Plaintiffs are eligible to vote in the Relevant Pending Elections which may employ the improper DRE Voting System.

111. Defendants' conduct described herein violated the Fourteenth Amendment right of these Plaintiffs to enjoy equal protection of the law.

112. Accordingly, Plaintiffs ask this Court to (a) declare that these Defendants violated the Equal Protection Clause of the Fourteenth Amendment; (b) enjoin Defendants' use of Georgia's DRE Voting System for future elections; and (c) award attorneys' fees and costs for Defendants' causation of concrete injury to Plaintiffs, whose fundamental right to have their vote counted as cast was unequally burdened.

**COUNT III: VIOLATION OF FUNDAMENTAL RIGHT
TO VOTE UNDER THE DUE PROCESS CLAUSE
OF THE 14TH AMENDMENT AND OF 42 U.S.C. § 1983**

(All Plaintiffs against All Defendants in their Official Capacities)

113. Plaintiffs incorporate the allegations of paragraphs 1 through 90 above as if expressly realleged herein.

114. The right to vote is a fundamental right protected by the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.

115. The fundamental right to vote encompasses the right to have that vote counted accurately, and it is protected by the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.

116. Defendants threaten to violate Plaintiffs' fundamental right to vote by deploying the Proposed Election System that by its design:

- (a) Fails to provide reasonable and adequate protection against the real and substantial threat of electronic and other intrusion and manipulation by individuals and entities without authorization to do so;
- (b) Fails to include the minimal and legally required steps to ensure that such equipment cannot be operated without authorization; to provide the minimal and legally required protection for such equipment to secure against unauthorized tampering; to test, inspect, and seal, as required by law, the equipment to ensure that all properly cast votes are counted and that votes improperly cast are not counted; and to ensure that all such equipment, firmware, and software is reliable, accurate, and capable of secure operation as required by law;
- (c) Fails to provide a reasonable and adequate method for voting by which Georgia electors' votes will be accurately counted.

117. By choosing to move forward with the Proposed Election System, Defendants willfully and negligently abrogated their statutory duties and abused their discretion, subjecting voters to cast votes on an illegal and unreliable

system—a system that must be presumed to be compromised and incapable of producing verifiable results.

118. Upon information and belief, despite their knowledge that the Proposed Election System does not comply and cannot be made to comply with the Election Code, these Defendants willfully and knowingly plan to use this system in the Relevant Pending Elections.

119. Defendants' violation of the Due Process Clause is patently and fundamentally unfair and therefore relief under [42 U.S.C. § 1983](#) is warranted. Accordingly, Plaintiffs ask this Court to (a) declare that Defendants' Proposed Election System violates the Due Process Clause of the Fourteenth Amendment; (b) enjoin Defendants' use of the Proposed Election System for future elections; and (c) award attorneys' fees and costs for Defendants' causation of concrete injury to Plaintiffs, whose fundamental right to have their vote counted as cast will be thwarted.

**COUNT IV: VIOLATION OF FUNDAMENTAL RIGHT TO VOTE
UNDER THE EQUAL PROTECTION CLAUSE
OF THE 14TH AMENDMENT AND OF [42 U.S.C. § 1983](#)**

(All Plaintiffs against All Defendants in their Official Capacities)

120. Plaintiffs incorporate the allegations of paragraphs 1 through 90 above as if expressly realleged herein.

121. The Equal Protection Clause of the Fourteenth Amendment mandates that “[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV § 1.

122. The Equal Protection Clause protects the manner of the exercise of the right to vote, and a state may not value one person’s vote over that of another. U.S. Const. amend. XIV § 1.

123. Upon information and belief, GA SOS and the County Election Board Board Members plan on allowing electors to vote in the Relevant Pending Elections using two different methods: (a) voting using the Proposed Election System and (b) voting using paper ballots (available to provisional and absentee voters).

124. Upon information and belief, absentee paper ballots are verifiable, recountable ballots, which can be counted, reviewed, and discrepancies corrected under the supervision of a court.

125. The Proposed Election System, particularly its BMD system which generates an unreadable 2D barcode, cannot reliably prevent or detect errors or reliably determine the election results. The Proposed Election System:

- (a) Produces an unreadable 2D barcode to generate vote totals, and cannot therefore provide for a means by which its accuracy can be tested or verified;
- (b) Does not provide reasonable and adequate protection, as required by the Georgia Election Code, against the real and substantial threat of electronic and other intrusion and manipulation by individuals and entities without authorization to do so; and
- (c) Does not provide a reasonable and adequate method for voting by which Georgia electors' votes would be accurately counted.

126. The injuries likely to be suffered by Georgia electors will be compounded dramatically by Defendants' failure to include the minimal and legally required steps to ensure that such equipment cannot be manipulated or operated without authorization; to provide the minimal and legally required protection for such equipment to secure against unauthorized tampering; to test, inspect, and seal, as required by law, the equipment to ensure that the Proposed Election System will count all votes cast and that no votes that were not properly cast for that election would be counted; and to ensure that all such equipment, firmware, and software is reliable, accurate, and capable of secure operation as

required by law, and properly certified to comply with Georgia Election Code and Election Rules.

127. Upon information and belief, these Defendants failed to take such steps to attempt to mitigate the security failures, and conduct an election on a system that could comply with the Georgia Election Code. Instead, they intend to rely on the Proposed Election System knowing that this system is unsecured, could be breached and compromised, cannot be presumed to be safe, and is materially non-compliant with applicable Election Code statutes and governing regulations.

128. By choosing to move forward in using the proposed non-compliant system, Defendants willfully and negligently abrogated their statutory duties and abused their discretion, subjecting voters to cast votes on an illegal and unreliable system—a system that must be presumed to be compromised and incapable of producing verifiable results.

129. The voters of the respective ballots have not been treated equally in that the votes of those who will vote using the Proposed Election System cannot be meaningfully recounted, reviewed against an independent record to verify, or have discrepancies detected and corrected. These votes are unequally weighted, with greater weight given to those who vote by absentee paper ballot, whose votes can be verified as to voter intent, can be accurately recounted, and can have processing

errors identified and corrected, while votes cast under the Proposed Election System, whose votes do not share those essential advantages.

130. The Plaintiffs who intend to vote in the Relevant Pending Elections using the Proposed Election System are all similarly situated to other registered electors in the same elections who will vote using the Proposed Election System. All Plaintiffs are eligible to vote in the Relevant Pending Elections which may utilize the Proposed Election System.

131. Defendants' conduct described herein violates the Fourteenth Amendment right of these Plaintiffs to enjoy equal protection of the law.

132. Accordingly, Plaintiffs ask this Court to (a) declare that the Proposed Election System violates the Equal Protection Clause of the Fourteenth Amendment; (b) enjoin Defendants' use of the Proposed Election System for future elections; and (c) award attorneys' fees and costs for Defendants' causation of concrete injury to Plaintiffs, whose fundamental right to have their vote counted as cast will be unequally burdened.

COUNT V: DECLARATORY JUDGMENT

**Declaring that the Proposed Election System Violates Act No. 24, H.B. 316
(All Plaintiffs Against All Defendants In Their Official Capacities)**

133. Plaintiffs incorporate the allegations of paragraphs 1 through 90 above as if expressly realleged herein.

134. Act No. 24, House Bill No. 316 provides that “[a]s soon as possible . . . all federal, state, and county general primaries and general elections as well as special primaries and special elections in the State of Georgia shall be conducted with the use of scanning ballots marked by electronic ballot markers.” The law further provides “that such electronic ballot markers shall produce paper ballots which are marked with the elector’s choices in a format readable by the elector.”

135. “Scanning ballot” is defined, in relevant part, as “a printed paper ballot designed to be marked by an elector with a ballot marking device or electronic marker or a blank sheet of paper designed to be used in a ballot marking device or electronic ballot marker, which is then inserted for casting into a ballot scanner.”

136. “Electronic ballot marker” is defined, in relevant part, as “an electronic device that . . . uses electronic technology to independently and privately mark a paper ballot at the direction of an elector . . . and print an elector verifiable paper ballot.”

137. The Proposed Election System violates the clear mandates of Act No. 24, H.B. 316.

138. Instead of producing “paper ballots which are marked with the elector’s choices in a format readable by the elector,” the Proposed Election System’s BMDs produce an illegible and unverifiable 2D barcode along with a text summary of an elector’s choices.

139. Similarly, the proposed BMDs do not print an “elector verifiable paper ballot.” Instead, the proposed BMDs produce a 2D barcode purportedly constituting an elector’s paper ballot that is unverifiable by that elector.

140. Accordingly, Plaintiffs request that the Court declare that the Proposed Election System violates Act No. 24, H.B. 316.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this court:

141. To grant declaratory relief deeming that Defendants have violated the Georgia Constitution, the Fourteenth Amendment to the U.S. Constitution, [42 U.S.C. § 1983](#), and Georgia election law, including Georgia’s system certification regulations and safety and security provisions;

142. To grant injunctive relief prohibiting Defendants from using any system or devices for voting, including, but not limited to, the DRE Voting System and the Proposed Election System, that does not fully satisfy the obligations of the Defendants under Georgia Code Sections 21-2-322, 21-2-379.1(8), 21-2-379.2 (a),

21-2-379.2 (b), 21-2-379.2 (c), 21-2-379.6 (a), 21-2-379.6 (c), 21-2-379.7 (b), 21-2-379.7 (c), 21-2-379.7 (d)(3), 21-2-379.9 (b), 21-2-379.22(6), 21-2-379.22(8), 21-2-379.23(d), 21-2-379.24, and 21-2-379.26; Georgia Rule and Regulation Section 590-8-1-.01(a)(3); and Georgia Constitution Article II, Section 1, Paragraph 1 that protect the rights of Georgia electors under Georgia law and under the Fourteenth Amendment to the U.S. Constitution and [42 U.S.C. § 1983](#).

143. To grant an Order directing Defendants to submit to the Court within thirty days of entry of the Court's Order a plan providing in sufficient detail for the Court to evaluate the specific steps they intend to take to comply with the terms of the Court's Order.

144. To award attorneys' fees and costs for the deprivation of civil rights arising from alleged Defendants' patent and fundamental unfairness in conducting elections on Georgia's Voting System, causing [42 U.S.C. § 1983](#) violations; and

145. To grant all other relief this Court deems proper.

Dated: August 16, 2019

Respectfully submitted,

/s/ David D. Cross

David D. Cross
(admitted *pro hac vice*)

John P. Carlin
(admitted *pro hac vice*)

Robert W. Manoso
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Jane P. Bentrott
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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRIAN RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ David D. Cross
David D. Cross

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

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRIAN RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2019, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ David D. Cross
David D. Cross

DEPOSITION ERRATA SHEET

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Page No. 9 Line No. 5 Change to: NOT

A PARTICULAR TERM

Reason for change: INACCURATE "FORM"

Page No. 13 Line No. 13 Change to: DIRECTOR

(NOT BRACKET)

Reason for change: INACCURATE "BRACKET"

Page No. 22 Line No. 17 Change to: "BROAD

SWATH OF RESPONSIBILITIES

Reason for change: "SWAD" IS INACCURATE

Page No. 24 Line No. 18 Change to: _____

RACHELLE

Reason for change: "RUCHELLE" IS MISSPELLED

Page No. 27 Line No. 25 Change to: _____

JOHN "HALLMAN"

Reason for change: "WHO MAN" IS INACCURATE

Page No. 40 Line No. 22 Change to: _____

GEORGIA CODE

Reason for change: "LOOK" IS INACCURATE

Page No. 51 Line No. 2 Change to: 202

Reason for change: "20" IS INACCURATE

SIGNATURE: Chris Harvey DATE: 06-06-21

CHRISTOPHER HARVEY

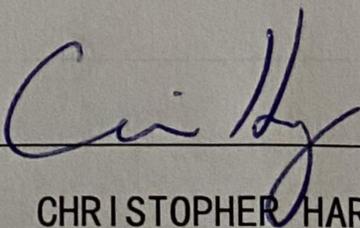
DEPOSITION ERRATA SHEET

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DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the 06 day of JUNE, 2021


CHRISTOPHER HARVEY

AMERICAN OVERSIGHT

DEPOSITION ERRATA SHEET

Page No. 106 Line No. 22 Change to: GWINNETT

Reason for change: "GUINETT" IS MISPELLED

Page No. 114 Line No. 24 Change to: _____

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Reason for change: _____

Page No. 122 Line No. 22 Change to: _____

DEPARTMENT OF VITAL RECORDS

Reason for change: "AVTO" IS INACCURATE

Page No. 145 Line No. 25 Change to: _____

"SHE'S THE REGISTRATION SYSTEM

Reason for change: "ACCOUNTING" IS INACCURATE

Page No. 198 Line No. 11 Change to: _____

I THINK "LIES" IS INACCURATE

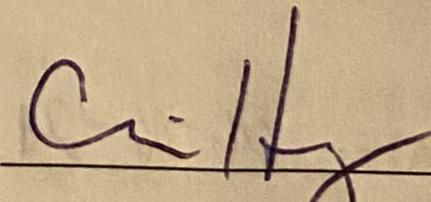
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SIGNATURE:  DATE: 06-06-21

CHRISTOPHER HARVEY



Office of the Secretary of State

Brad Raffensperger
SECRETARY OF STATE

C. Ryan Germany
GENERAL COUNSEL

November 30, 2021

VIA ELECTRONIC MAIL

Amy Kremer
4308 N. Smoke Ridge Ct.
Roswell, Georgia 30075
amykremer@gmail.com

RE: Recall Application APP-04-2021-BR

Dear Ms. Kremer:

Our office received the above referenced recall application on November 19, 2021. As permitted for in O.C.G.A. § 21-4-6(a), the officer sought to be recalled has filed a petition in Fulton County Superior Court for a review of the sufficiency of the grounds for the recall and the facts upon which the grounds are based. See *Raffensperger v. Kremer, et al., Fulton County Sup. Ct., 2021CV357213*.

O.C.G.A. § 21-4-6(g) provides that "[d]uring the pendency of the review by the superior court, all other recall proceedings shall be suspended." As such, until the conclusion of the Superior Court's review, we cannot determine the legal sufficiency of the application or issue a recall petition until the review by the Superior Court is complete.

Sincerely,

C. Ryan Germany

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

THE NEW GEORGIA PROJECT, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his
official capacity as the Georgia
Secretary of State, *et al.*,

Defendants.

CIVIL ACTION

FILE NO. 1:21-CV-01229-JPB

**BRIEF IN SUPPORT OF STATE DEFENDANTS' MOTION TO
DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT**

INTRODUCTION

After reviewing Defendants’ first motion to dismiss, Plaintiffs decided to modify their claims. But they did not modify their extreme rhetoric about a law that is within the mainstream of other states, continuing to attack it as “burdensome,” “discriminatory,” and “unjustified.” [Doc. 39, ¶¶ 10–11].

So what changed with the Amended Complaint? Plaintiffs added a few individuals as Plaintiffs and added some counties and officials as Defendants. They added an intentional-discrimination claim, challenges to several timeline updates made by SB 202, and a First Amendment claim about food and water against a subset of new Defendants. And they added a Civil Rights Act claim about the processing of absentee ballots.

What has not changed is New Georgia Project’s (NGP) effort to impose its policy preference through litigation, just like it did before it knew the results of the 2020 elections. *See, e.g., New Ga. Project v. Raffensperger*, 484 F. Supp. 3d 1265, 1279 (N.D. Ga. 2020), stayed by *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1284 (11th Cir. 2020) (*New Ga. Project I*). And despite modifying portions of their Complaint, Plaintiffs still have not cured their standing problem.

Despite Plaintiffs’ protestations, SB 202 is designed “to address the lack of elector confidence in the election system on all sides of the political spectrum,

to reduce the burden on election officials, and to streamline the process of conducting elections in Georgia by promoting uniformity in voting.” Ex. A¹ at 4:79-82. Plaintiffs now claim this explanation is just “pretextual,” and darkly intone that the legislature had a more nefarious purpose—“burden[ing] voters (including, specifically, Black voters) and jurisdictions deemed to be unfavorable to the legislators who advanced [SB 202].” [Doc. 39, ¶¶ 117, 127]. But the truth contains far less intrigue, as the legislative history and surrounding circumstances of the law’s passage clearly show SB 202 was a reasonable, nondiscriminatory update to Georgia’s election rules in response to lessons learned from voting during a pandemic.

This Court should “follow the law as written and leave the policy decisions for others.” *Ga. Ass’n of Latino Elected Officials, Inc. v. Gwinnett Cty. Bd. of Reg. & Elections*, No. 1:20-CV-01587-WMR, 2020 U.S. Dist. LEXIS 211736, at *4 (N.D. Ga. Oct. 5, 2020) (“GALEO”); *see also New Ga. Project I*, 976 F.3d at 1284. Plaintiffs’ First Amended Complaint should be dismissed.

ARGUMENT AND CITATION OF AUTHORITY

Where a motion to dismiss is brought pursuant to Fed. R. Civ. P. 12(b)(1), the Court is not limited to the four corners of the Complaint to adequately

¹ A copy of the enacted version of SB 202 is attached as Ex. A. Citations are to the page and line number of the bill.

satisfy itself of jurisdiction over the matter. *Eaton v. Dorchester Dev., Inc.*, 692 F.2d 727, 732 n.9 (11th Cir. 1982). In evaluating a 12(b)(1) motion, “no presumptive truthfulness attaches to plaintiff’s allegations.” *Id.*

To survive a motion to dismiss under Fed. R. Civ. P. 12(b)(6), a complaint must “state a claim to relief that is plausible on its face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007), and demonstrate “more than a sheer possibility that a defendant has acted unlawfully.” *Ashcroft v. Iqbal*, 556 U.S. 662, 677 (2009). While this Court must assume the veracity of well-pleaded factual allegations, it is not required to accept legal conclusions when they are “couched as [] factual allegation[s].” *Id.* at 678-79. This Court may also consider any matters appropriate for judicial notice. *See Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007).

I. Plaintiffs do not have standing.

As the Eleventh Circuit explained recently, the “[f]ederal courts are not ‘constituted as free-wheeling enforcers of the Constitution and laws.’” *Wood v. Raffensperger*, 981 F.3d 1307, 1313 (11th Cir. 2020) (quoting *Initiative & Referendum Inst. v. Walker*, 450 F.3d 1082, 1087 (10th Cir. 2006)). Accordingly, Plaintiffs must establish Article III standing which, at this stage of the litigation, requires them to plausibly allege “(1) an injury in fact that (2) is fairly traceable to the challenged action of the defendant and (3) is likely to

be redressed by a favorable decision.” *Jacobson v. Fla. Sec’y of State*, 974 F.3d 1236, 1245 (11th Cir. 2020). The party invoking federal jurisdiction bears the burden of establishing standing at the start of the lawsuit and at each phase of the litigation. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561, 570 n.5 (1992); *see also Johnson v. Bd. of Regents*, 263 F.3d 1234, 1267 (11th Cir. 2001). Within the “injury-in-fact” prong are several elements, including “an invasion of a legally protected interest that is both concrete and particularized and actual or imminent, not conjectural or hypothetical.” *Wood*, 981 F.3d at 1314 (citing *Trichell v. Midland Credit Mgmt., Inc.*, 964 F.3d 990, 996 (11th Cir. 2020)). And the imminence prong demands that there be either a substantial risk of an alleged future injury or that such injury is “certainly impending.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 401 (2013) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990)). Plaintiffs have failed to satisfy these requirements.

A. Organizational Plaintiffs’ standing.

1. Diversion of resources.

For a plaintiff to have standing under a diversion-of-resources theory, it must demonstrate that “a defendant’s illegal acts impair the organization’s ability to engage in its own projects by forcing the organization to divert resources in response.” *Arcia v. Sec’y of Fla.*, 772 F.3d 1335, 1341 (11th Cir.

2014). As the Seventh Circuit recently explained, organizations cannot support a claim of standing “based solely on the baseline work they are already doing.” *Common Cause Ind. v. Lawson*, 937 F.3d 944, 955 (7th Cir. 2019). Further, organizations “cannot convert ordinary program costs into an injury in fact. The question is what additional or new burdens are created by the law the organization is challenging.” *Id.* (cleaned up). Put differently, organizations must demonstrate that the challenged law’s effect “goes far beyond ‘business as usual’” through “concrete evidence showing that [the law] is already disrupting their operations, and ... will likely require them to significantly change or expand their activities.” *Id.*

In contrast, Plaintiffs in this case allege that they can show a diversion of resources through a much-more-lenient standard of “spending more money” or “expending additional effort.” NGP, for example, alleges it “will ... be forced to divert resources from its day-to-day activities in order to combat the suppressive effects of [SB 202], which also threatens to undermine its mission.” [Doc. 39, ¶ 20]. Similarly, Black Voters Matter Fund (BVMF) alleges that SB 202 “threatens to undermine the organization’s mission,” and that they “must divert scarce resources away from its organizational development and training programs, as well as its traditional voter education and turnout programs toward efforts to ensure that voters, and communities of color in particular,

can navigate the restrictions to their voting options imposed by [SB 202].” *Id.* at ¶ 22. Rise, Inc. claims that SB 202 harms their organization “by making it more difficult for Georgia students who have joined the Rise movement to vote.” *Id.* at ¶ 24. Further, Rise claims the law “forces the organization to divert resources, as well as shift the focus of its day-to-day activities.” *Id.* Rise also guesses that it will have to divert resources from its “college affordability, hunger, and homelessness advocacy programs.” *Id.* But Rise does not claim it has actually diverted resources.

While the Seventh Circuit has more clearly stated that an organization “cannot convert ordinary program costs into an injury in fact,” this is really just a restatement of the Eleventh Circuit’s holding in *Jacobson*. There, the Eleventh Circuit required not only that organizational plaintiffs explain what they are purportedly diverting resources *to* as a result of the challenged law, but also what they are diverting resources *from*. *Jacobson*, 974 F.3d at 1250. Taken together, this two-part requirement of resource diversion shows that an organization must be forced to go *beyond* merely executing its existing mission in a more deliberate way. Otherwise, simply alleging what resources are diverted *to* would be more than sufficient, and all that would be required for organizations to invoke federal-court jurisdiction is to move money within the organization in some documented process.

After the Eleventh Circuit’s holding in *Jacobson*, at least one district court agreed with this approach. In *GALEO*, plaintiffs claimed that failing to send Spanish-language election materials violated federal law. 2020 U.S. Dist. LEXIS 211736 (N.D. Ga. October 5, 2020).² *GALEO* alleged in its complaint that it had standing because it was forced to divert resources “from getting out the vote and voter education to ‘reach out to and educate [limited English proficiency voters] about how to navigate the mail voting process... as well as other aspects of the electoral process.’” *Id.* at *17. But it also alleged that its mission as an organization was, among other things, “organizing voter education, civic engagement, [and] voter empowerment.” *Id.*

Despite these allegations, the district court dismissed the case and found “there is no indication that *GALEO* would in fact be diverting any resources *away from* the core activities it already engages in by continuing to educate and inform Latino voters.” *Id.* (emphasis added). Allegations contained in the complaint of ostensibly new or additional efforts were “precisely of the same nature as those that *GALEO* engaged in before...” *Id.*

This holding supports the reading that *Jacobson* requires more than a formulaic recitation of an accounting maneuver—like moving money from one

² Plaintiffs appealed the dismissal and that appeal is currently pending at the Eleventh Circuit.

activity to another—because there is an additional step in the analysis. Courts must also determine whether the alleged diversion is one that actually is *inconsistent* with the organizational mission. In *GALEO*, the court found the plaintiffs fell short of this second step of the analysis.

The reasoning that compelled the district court in *GALEO* to deny standing is equally applicable here. None of the organizational plaintiffs is alleging it must divert resources in a way that hinders or is inconsistent with its mission. NGP, for example, makes only the vague claim that SB 202 will *eventually* make it “divert resources from its day-to-day voter-registration activities to educate voters about and otherwise combat [its] suppressive effects...” [Doc. 39, ¶ 20]. But NGP also alleges that its mission is to “register and civically engage all eligible citizens of color in Georgia.” *Id.* at ¶ 18. Plaintiffs’ Amended Complaint does not explain how educating voters about SB 202 and engaging them to be able to navigate both new and old voting rules is in any way inconsistent with this mission. In fact, it seems that such activity *is* its mission. NGP’s rote recitation of diversion of resources would give it standing to challenge *any* change to election administration that does not match its own policy agenda. But the requirements of Article III surely could not countenance such a result.

Similarly, BVMF claims its goal is to “increase power in communities of

color.” *Id.* at ¶ 21. And it accomplishes this by “increasing voter registration and turnout, advocating for policies to expand voting rights and equity, and conducting organizational development and training.” *Id.* While this mission is vague, nothing in SB 202 causes BVMF to depart from these goals.

Finally, Rise claims to have diverted resources because passage of SB 202 will force it to divert attention from its “college affordability, hunger, and homelessness advocacy programs...” *Id.* at ¶ 24. But Rise acknowledges that, in addition to advocating for free college, its mission also includes quite a few voting-related initiatives. *See id.* at ¶ 23. Rise does not explain how SB 202 will hinder that mission, or how diverting resources from generic voting-access initiatives to other, more-specific, SB 202-related voting-access initiatives they might create is inconsistent with that mission.

In short, the purported plight of the Organizational Plaintiffs here mirrors that faced by the organization in *GALEO*. This Circuit requires more before Article III standing can be established. Without this limitation, organizations would *always* have standing to challenge any government action—including in situations where *no* individual would have standing—because they could simply allege they will alter their message.³

³ For example, Plaintiffs’ theory of diversion would have allowed individual plaintiffs suing in the aftermath of the 2020 election to avoid dismissal on

For these reasons, the organizational plaintiffs in this case have failed to establish Article III standing under a diversion-of-resources theory.

2. *The alleged injuries are too speculative to establish Article III standing.*

In any event, the purported injury faced by Plaintiffs is far too speculative to amount to injury-in-fact sufficient to accord standing. Where, as here, an alleged injury is based on some future harm, that alleged injury must be “imminent” or “certainly impending.” *Clapper*, 568 U.S. at 398. *Clapper* remains the primary case analyzing the imminence prong of standing, and the Court made clear that allegations of mere “possible future injury are not sufficient.” *Id.* at 409 (emphasis in original).

The Eleventh Circuit recently “discussed *Clapper*’s ‘high standard for the risk-of-harm analysis’ in the context of speculative allegations...” *Tsao v. Captiva MVP Rest. Partners, LLC.*, 986 F.3d 1332, 1339 (11th Cir. 2021) (quoting *Muransky v. Godiva Chocolatier, Inc.*, 979 F.3d 917, 931 (11th Cir. 2020) (en banc)). The *Muransky* plaintiffs alleged they were more susceptible

standing merely by incorporating—one can easily imagine a new organization called “Kraken Action, Inc.”—and then claiming plans to spend some time or effort differently. *See Wood*, 981 F.3d at 1314 (no concrete injury to individual voter); *Bognet v. Sec’y Pa.*, 980 F.3d 336, 356 (3d Cir. 2020) (same); *Bowyer v. Ducey*, No. CV-20-02321-PHX-DJH, 2020 U.S. Dist. LEXIS 231093, at *15 (D. Ariz. Dec. 9, 2020) (same); *Gohmert v. Pence*, No. 6:20-cv-660-JDK, 2021 U.S. Dist. LEXIS 3, at *11 (E.D. Tex. Jan. 1, 2021) (same).

to identity theft because bad actors could observe extra credit-card digits on receipts. But the Eleventh Circuit found the plaintiff’s “naked allegations that he and the [proposed] class were exposed to an ‘elevated risk’ of identity theft – but not that he and the class were ever *actually* the victims of identity theft – were not enough to confer standing.” *Tsao*, 986 F.3d at 1339 (citing *Muransky*, 979 F.3d at 933) (emphasis added).

In essence, *Tsao* and *Muransky* stand for the proposition that some triggering event beyond a subjective fear of some abstract vulnerability is necessary to support standing. And other courts in this District found similar fears did not support jurisdiction in the elections context where plaintiffs sued because they believed, for example, that long lines would occur at the polls. *See Anderson v. Raffensperger*, No. 1:20-cv-03263, 2020 U.S. Dist. LEXIS 188677, at *11 n.3 (N.D. Ga. Oct. 13, 2020). Like these cases, Plaintiffs’ claims of “voter suppression” with respect to SB 202 are entirely based on a political narrative rather than concrete demonstrations of harm affecting the organizations themselves or any of their members.

NGP claims that, as a result of SB 202, it “will also be forced to divert resources,” indicating that any diversion of resources will occur at some point

in the future.⁴ [Doc. 39, ¶ 20]. Similarly, BVMF claims SB 202 “threatens to undermine the organization’s mission,” and that BVMF “must divert scarce resources.” *Id.* at ¶¶ 12–22. But neither NGP nor BVMF alleges it has *actually* diverted any resources. Finally, Rise states that it “and its student organizers will be forced to divert resources” as a result of SB 202, which also must be at some future date. *Id.* at ¶ 23.

In short, even if this Court were to determine the Organizational Plaintiffs’ alleged resource diversions constitute an injury, that diversion is based solely on a speculative *future* injury and one that it is dependent on the occurrence of a “highly attenuated chain of possibilities.” *Clapper*, 568 U.S. at 410. This does not satisfy the requirements of organizational standing.

3. *Associational standing.*

Only NGP and Rise allege associational standing in any meaningful sense. *See* [Doc. 39, ¶¶ 20, 24]. But for the same reasons the purported injuries are too speculative for the organizations, any alleged injuries are also too

⁴ Any diversion had to take place in the future because Plaintiffs filed this case the same day the Governor signed SB 202. [Doc. 1]. But Plaintiffs also immediately began fundraising off of this lawsuit. *See* <https://twitter.com/marceelias/status/1377118411411529728> (Mar. 31, 2021).; <https://twitter.com/NewGAPProject/status/1379443734367109124> (Apr. 6, 2021); <https://twitter.com/BlackVotersMtr/status/1387092953492082692> (Apr. 27, 2021); <https://twitter.com/RiseFreeOrg> (bio includes “Support our lawsuit challenging #SB202” with an arrow to a link).

speculative as to any of their members, and Plaintiffs have failed to establish standing on an associational basis.

B. Individual Plaintiffs' standing.

As with the members of Plaintiff Organizations, the claimed harms by the newly added Individual Plaintiffs [Doc. 39, ¶¶ 26–29] do not satisfy the immediacy or concreteness aspects of standing. Instead, Individual Plaintiffs' claimed injuries are a fear of waiting in line or hypothetical concerns about particular methods of voting. For example, Elbert Solomon would prefer to vote via dropbox and is worried that identification requirements for voting in this way will somehow affect or inhibit his ability to do so. *Id.* at ¶ 27. Fannie Marie Jackson Gibbs likewise has a generalized fear that, if she votes in person, she will have to “wait in line,” as she has in the past. *Id.* at ¶ 28. Jauan Durbin claims he would only suffer an injury depending on his future schedule during an election. *See, id.* at ¶ 29.

None of the Plaintiffs allege *how* SB 202 will in fact make it more difficult for them to vote, but make only conclusory and speculative allegations that this Court is not required to accept as true. *Ashcroft*, 556 U.S. at 677. Further, any possible injury from believing a voter will wait in line is not a sufficient injury. *See Anderson*, 2020 U.S. Dist. LEXIS 188677, at *11 n.3. Finally, the Individual Plaintiffs will only be injured if there is a “speculative chain of

[events]” that is barred by *Clapper* as a basis for standing. 568 U.S. at 414. The Amended Complaint should be dismissed.

II. Plaintiffs fail to state a claim on which relief can be granted.

Even if they have sufficiently alleged standing, Plaintiffs’ claims must be dismissed in any event because they have not stated a claim for relief.

A. Legal standards.

1. Fundamental right to vote claim (Count I).

Plaintiffs first challenge ten provisions of SB 202 as undue burdens on the right to vote. [Doc. 39, ¶¶ 4, 159-163]. These challenges are apparently facial—which “must fail where the statute has a plainly legitimate sweep.” *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449 (2008). Challenges to election practices weigh the alleged burden on the right to vote against the interests of government. *See Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). “Regulations imposing severe burdens on the plaintiffs’ rights must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review, and a state’s ‘important regulatory interests’ will usually be enough to justify ‘reasonable, nondiscriminatory restrictions.’” *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997) (quoting *Burdick v. Takushi*, 504 U.S. 428, 434 (1992)). Lesser burdens impose no burden of proof or evidentiary showing on states. *See Common*

Cause, 554 F.3d at 1353. To establish the requisite severe burden in voting cases under *Anderson/Burdick*, one must show that the burden imposed was a direct result of a State’s laws and policies, not “arising from life’s vagaries.” *Crawford*, 553 U.S. at 197-98.

2. *Section 2 claim (intent and effect) (Count II)*

Section 2 of the Voting Rights Act prohibits jurisdictions from “impos[ing] or appl[y]ing” any “voting qualification or prerequisite to voting or standard, practice, or procedure ... which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color[.]” 52 U.S.C. § 10301(a). Plaintiffs must allege first that “the State’s decision or act had a discriminatory purpose and effect. ... If Plaintiffs are unable to establish both intent *and* effect, their [intentional discrimination] claims fail.” *Greater Birmingham Min. v. Sec’y of State for Ala.*, 992 F.3d 1299, 1321 (11th Cir. 2021) (*GBM*) (cleaned up). Claims of intentional discrimination require the use the multi-factor approach of *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977), to assess intent and effect.⁵ See *Askew v. City of Rome*, 127 F.3d 1355, 1373 (11th Cir. 1997). Only if Plaintiffs establish that the State’s act had a discriminatory intent and effect does “the

⁵ The Eleventh Circuit summarized these factors in *GBM*, 992 F.3d at 1322, and Plaintiffs have failed to adequately allege these factors exist as to SB 202.

burden shift[] to the law’s defenders to demonstrate that the law would have been enacted without this [racial-discrimination] factor.” *GBM*, 992 F.3d at 1321, 1329 (quoting *Hunter v. Underwood*, 471 U.S. 222, 228 (1985)); see also *Johnson v. Gov. of Fla.*, 405 F.3d 1214, 1222 (11th Cir. 2005). To make out a valid vote-denial⁶ claim, the Eleventh Circuit requires (1) proof of disparate impact (a denial or abridgement) and (2) that the disparate impact is *caused* by racial bias. See *GBM*, 992 F.3d at 1328-29; see also *Dem. Nat’l Comm. v. Hobbs*, 948 F.3d 989, 1012 (9th Cir. 2020); *Ohio Dem. Party v. Husted*, 834 F.3d 620, 631 (6th Cir. 2016); *Lee v. Va. State Bd. of Elec.*, 843 F.3d 592, 600-01 (4th Cir. 2016); *Frank v. Walker*, 768 F.3d 744, 753 (7th Cir. 2014).

3. First Amendment claim (Count III).

Plaintiffs challenge all of SB 202 as somehow limiting their free speech rights in casting ballots. [Doc. 39, ¶¶ 178-184]. But the Supreme Court has “extended First Amendment protection *only* to conduct that is *inherently expressive*.” *Rumsfeld v. Forum for Acad. & Institutional Rights, Inc.*, 547 U.S. 47, 66 (2006) (emphases added). If the conduct prohibited by SB 202 related to elections is not expressive—and casting a secret ballot by nature cannot be, see

⁶ While vote-dilution claims challenge district maps, vote-denial claims challenge specific practices. See *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 239 (4th Cir. 2014); *Veasey v. Abbott*, 830 F.3d 216, 244 (5th Cir. 2016).

Timmons, 520 U.S. at 363 (“Ballots serve primarily to elect candidates, not as forums for political expression”)—then either the First Amendment does not apply, or the appropriate analysis is *Anderson/Burdick*—the same as for Count I. See *Burdick*, 504 U.S. at 438; *Jacobson*, 974 F.3d at 1261. For this reason alone, all of Count III must be dismissed.

B. Application to challenged practices.

1. Absentee ballot identification numbers.

First, Plaintiffs take issue with the use of an identification number for absentee-ballot applications and ballots. [Doc. 39, ¶¶ 68, 159]. The General Assembly explained that the prior signature-matching process was subjective and challenged by Democratic⁷ and Republican groups. Ex. A at 4:73-75. The reformed process in SB 202 is objective. Ex. A at 38:949-39:956; 51:1297-52:1305. Although Plaintiffs allege it has a disproportionate impact on minority voters [Doc. 39, ¶¶ 69-73], there is no unconstitutional burden on the right to vote by requiring photo identification, nor does it violate Section 2.⁸ See *Crawford*, 553 U.S. at 181; *GBM*, 992 F.3d at 1320. Thus, even if there is

⁷ The plaintiffs in *Dem. Party of Georgia v. Raffensperger*, Case No. 1:19-cv-05028-WMR (N.D. Ga.) were represented by the same counsel as Plaintiffs.

⁸ Also, at least six other states utilize identification with absentee-ballot applications or ballots. See Code of Ala. § 17-9-30(b); A.C.A. § 7-5-412(a)(2)(B) (Arkansas); K.S.A. § 25-1122(c) (Kansas); Minn. Stat. Ann. § 203B.07(3); Ohio Rev. Code Ann. § 3509.03(B), .04(B); Wis. Stat. § 6.87(1).

a slight burden, it is more than justified by the State’s regulatory interests and is permissible under Section 2.⁹

2. *Changes to dates for distributing absentee ballots.*

Second, Plaintiffs challenge the dates for distributing absentee ballots. [Doc. 39, ¶¶ 76, 159]. As the Georgia legislature explained, “Creating a definite period of absentee voting will assist electors in understanding the election process while also ensuring that opportunities to vote are not diminished.” Ex. A at 5:107-110. After SB 202, Georgia is still well within the mainstream of other states in issuing absentee ballots: at least 14 States, including Colorado, Hawaii, and Massachusetts,¹⁰ issue absentee ballots on the same or a tighter timeframe than the one set by SB 202. While Plaintiffs claim this change will burden voters (including that Black voters will require more time to obtain ID, [Doc. 39, ¶ 77]), there is no right to vote in any particular manner, *see Burdick*, 504 U.S. at 433, and changes to some pieces of voting access, while retaining others, is a minimal burden at best, *see Husted*, 834 F.3d at 630.¹¹ Further,

⁹ The verification requirement in SB 202 also closely matches the identification requirements of federal law when registering to vote by mail. *See* 52 U.S.C. § 21083(b)(2).

¹⁰ NCSL, *Table 7: When States Mail Out Absentee Ballots* (Sept. 4, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-7-when-states-mail-out-absentee-ballots.aspx>

¹¹ Moreover, where, as here a voter can select from multiple options, the right to vote may not be implicated. *See, e.g., New Ga. Project I*, 976 F.3d at 1281.

Plaintiffs’ Section 2 claim fails because the only causal connection is the relative usage rates of absentee voting in the 2020-2021 elections, which is not sufficient when other methods of voting exist. *See GBM*, 992 F.3d at 1320.

3. *Changes to drop boxes.*

Third, Plaintiffs challenge alleged “restrictions” on outdoor drop boxes, [Doc. 39, ¶¶ 85, 159]—an option that did not even exist in Georgia before SB 202 and was only optional in 2020 under an emergency rule that was intended as a temporary measure because of health risks posed by COVID-19. Ex. A at 5:113-118; Ga. Comp. R. & Regs. R. 183-1-14-0.8-.14; 183-1-14-0.10-.16; 183-1-14-.08-.14; *see also* O.C.G.A. § 50-13-4(b). Yet SB 202 *requires*¹² every county to have at least one drop box and allows them to be moved outside during emergencies. Ex. A at 47:1172-1174, 1188-1191. There is no right to vote in any particular manner, *see Burdick*, 504 U.S. at 433; *Anderson*, 460 U.S. at 788; *New Georgia Project I*, 976 F.3d at 1284-85 (Lagoa, J., concurring), and there are multiple options a Georgia voter can select from. *See New Ga. Project I*, 976 F.3d at 1281. Plaintiffs fail to show that the State’s first-ever statutory authorization of drop boxes places any burden whatsoever on the right to vote—the fact that SB 202 arguably may not be as expansive as a temporary

¹² The emergency rules adopted by the State Election Board merely *permitted* a county to establish drop boxes but did not *require* that they have one.

emergency rule (which expired *before* the 2022 election cycle commences) is more than justified by the State’s regulatory interests. *See Common Cause*, 554 F.3d at 1354; *Gwinnett Cty. NAACP v. Gwinnett Cty. Bd. of Registration & Elections*, 446 F. Supp. 3d 1111, 1124 (N.D. Ga. 2020). Further, while Plaintiffs allege that Black adults “are more likely to work multiple jobs” and had mail-in absentee ballots rejected for being late [Doc. 39, ¶¶ 88, 94], the speculation that they would therefore be burdened by fewer dropboxes that they did not use in prior cycles fails to allege a sufficient causal connection—particularly when other methods of voting exist, including returning ballots by mail, *see GBM*, 992 F.3d at 1320; O.C.G.A. § 21-2-385(a).

4. *Limitations on assistance for absentee ballots.*

Fourth, Plaintiffs challenge changes made to absentee-ballot applications and ballots. [Doc. 39, ¶¶ 95, 159]. SB 202 updated the process after significant voter confusion in 2020 surrounding absentee ballots, including applications sent by third-party groups. Ex. A at 5:102-112. Plaintiffs’ only allegation of a burden is that Black voters used absentee voting at a higher rate and therefore are burdened, which is insufficient under Section 2. [Doc. 39, ¶ 79, 95]; *GBM*, 992 F.3d at 1320. When voters “must simply take reasonable steps and exert some effort to ensure that their ballots are submitted on time,” “no one is ‘disenfranchised.’” *New Ga. Project I*, 976 F.3d

at 1282. Given the extremely light burden imposed by changes to absentee applications, the State's strong regulatory interests in protecting voters and mitigating risk of potential intimidation more than justify any burden. *See Common Cause*, 554 F.3d at 1354.

5. *Changes to mobile-voting units.*

Fifth, Plaintiffs attack limitations on mobile-voting units, which were utilized by one county for the first time in the 2020 elections to mitigate the effects of the COVID-19 pandemic. [Doc. 39, ¶¶ 82-84, 160]. These limitations are consistent with other provisions of the bill that require specific notice of the location of a precinct, not a bus traveling around the county. Ex. A at 30:741-757, 60:1525-1535. Other than a conclusory allegation that limiting two non-majority-minority counties from using mobile units in the future (which insufficiently pleads a Section 2 violation), [Doc. 39, ¶¶ 83-84], Plaintiffs do not identify *any* burden imposed by limiting an *optional* system used once by one county, and thus the State does not even need to demonstrate SB 202 advances its regulatory interests. *See Common Cause*, 554 F.3d at 1354; *Gwinnett Cty. NAACP*, 446 F. Supp. 3d at 1124.

6. *Changes to out-of-precinct provisional ballots.*

Sixth, Plaintiffs challenge the limitations placed on out-of-precinct ballots. [Doc. 39, ¶¶ 101-105, 160]. Almost half of the States do not count a

provisional ballot cast out of precinct at all.¹³ Georgia legislators explained that voters who vote out of precinct “add to the burden on election officials and lines for other electors because of the length of time it takes to process a provisional ballot in a precinct,” and that not voting in the proper precinct prevents voters from voting “in all elections for which they are eligible.” Ex. A at 6:135-138. The statutory provision also explicitly permits the counting of out-of-precinct ballots for voters who arrive at the wrong precinct after 5:00 P.M. and cannot get to their home precinct before 7:00 P.M. *Id.* at 75:1914-1919. Plaintiffs allege that moving within the county is more likely to lead to appearing at the wrong precinct [Doc. 39, ¶ 102], but the voter must be *directed* to his or her correct precinct if it is before 5:00 P.M. Ex. A at 74:1902-75:1907. Further, Plaintiffs claim that polling-place closures or lines will create confusion [Doc. 39, ¶ 103], but neither of these is traceable to State Defendants, *Fair Fight Action v. Raffensperger*, Case No. 1:18-cv-05391-SCJ (Doc. 617) (Mar. 31, 2021); *Anderson*, 2020 U.S. Dist. LEXIS 188677 at *64, and Plaintiffs have not sufficiently alleged a disparate impact. Moreover, Georgia provides voters with opportunities to vote before Election Day and after 5:00 P.M. out of precinct on Election Day, so any burden is minimal at best and is justified by the State’s

¹³ *Provisional Ballots*, NCSL <https://www.ncsl.org/research/elections-and-campaigns/provisional-ballots.aspx#partial> (September 17, 2020).

interests. *See Husted*, 834 F.3d at 630; *GBM*, 992 F.3d at 1320.

7. *Restrictions on approaching voters in line.*

Seventh, Plaintiffs challenge the prohibition on third parties giving anything of value to voters in line. [Doc. 39, ¶¶ 96-100, 161]. The General Assembly explained that “many groups” approached voters in line during the 2020 elections and updated rules to protect “electors from improper interference, political pressure, or intimidation while waiting in line to vote.” Ex. A at 6:126-129. This is not unusual—New York has a similar prohibition on providing food or drink to voters, NY CLS Elec § 17-140, and campaign speech can be restricted near polling locations, *see Minn. Voters Alliance v. Mansky*, 138 S. Ct. 1879, 1886 (2018); *Burson v. Freeman*, 504 U.S. 191, 193-94 (1992). Most States have “buffer zones” around polling places.¹⁴ The important regulatory interests of the State—averting “fraud, voter intimidation, confusion, and general disorder,” *Mansky*, 138 S. Ct. at 1886—are more than enough to justify the minimal burden¹⁵ on a voter not being approached in line with an offer of food from a third party. *Common Cause*,

¹⁴ *Electioneering Prohibitions*, NCSL, <https://www.ncsl.org/research/elections-and-campaigns/electioneering.aspx> (April 1, 2021).

¹⁵ Voters can still receive water within the buffer and SB 202 requires officials to make changes to avoid long lines. Ex. A at 74:1887-1889; 29:721-734. If Plaintiffs challenge lines, [Doc. 39, ¶ 97], long lines are not traceable to State Defendants. *See Anderson*, 2020 U.S. Dist. LEXIS 188677 at *64.

554 F.3d at 1354; *Gwinnett Cty. NAACP*, 446 F. Supp. 3d at 1124.

8. *Minor changes to voter-challenge rules.*

Eighth, Plaintiffs contest minor clarifications to Georgia’s existing voter-challenge law. [Doc. 39, ¶¶ 106-107, 162]. SB 202 clarified that (1) there was no limit on challenges, which was a reasonable reading of existing law; and (2) that challenges must be resolved quickly. Ex. A at 23:575-24:581, 25:622-623. Neither of these requirements is facially unconstitutional—even Plaintiffs acknowledge that no injury can occur if challenges are not filed by “fellow citizens.” [Doc. 39, ¶ 106]. And any burden on the right to vote is minimal at best, given the discretion for local officials to weed out the “indiscriminate challenges” that Plaintiffs fear, *id.* at ¶ 107, especially when compared to the regulatory interest in up-to-date voter rolls. Plaintiffs do not allege there is any racially disparate impact, dooming their Section 2 claim.

9. *Changes to runoff election timelines.*

Ninth, Plaintiffs challenge the shortening of time for runoff elections. [Doc. 39, ¶¶ 108-109, 163]. Four weeks was used for all runoffs in Georgia before a change in 2014 resulting from a federal-court decision, and state offices still used a four-week runoff.¹⁶ O.C.G.A. § 21-2-501(a)(3) and (4) (2020).

¹⁶ Extended runoffs were required for federal offices due to requirements for overseas and military voters. *See U.S. v. Georgia*, 892 F. Supp. 2d 1367, 1375

Plaintiffs’ only complaint about this change is that it shortens the early-voting period and eliminates weekend voting for runoffs, [Doc. 39, ¶ 109]. But there is no right to early voting and any changes are only minimally burdensome. *See Husted*, 834 F.3d at 631. As a result, the State’s interests in reducing burdens on election officials and voters, Ex. A at 5:119-6:122, more than justify the changes SB 202 made to runoff elections and the mere allegation that Black voters use weekend voting more is insufficient for Plaintiffs’ Section 2 claim.

10. Materiality of date of birth.

Plaintiffs’ last challenge is to requiring voters to provide a birth date on an absentee-ballot envelope. [Doc. 39, ¶ 191-196]. While denying the right to vote based on nonmaterial¹⁷ issues is prohibited, *see* 52 U.S.C. § 10101(a)(2)(B), SB 202 requires notice and an opportunity to cure the defect if the election official is unable to identify the individual. Ex. A at 63:1599-1612. As a result, this requirement is not a violation of the Civil Rights Act.

CONCLUSION

For all the foregoing reasons, this Court should allow the General Assembly to set Georgia’s election policy and dismiss this case.

(N.D. Ga. 2012). SB 202 uses the Alabama system to avoid the 45-day period. *See* Code of Ala. §§ 17-13-8.1; 17-13-18.

¹⁷ There are times when a date of birth *is* material—for example, when two voters share the same name and address.

Respectfully submitted this 1st day of June, 2021.

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Election Board members Rebecca
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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Brief in Support of State Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

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

ALPHA PHI ALPHA FRATERNITY
INC., *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER,

Defendant.

CIVIL ACTION

FILE NO. 1:21-CV-05337-SCJ

COAKLEY PENDERGRASS, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

CIVIL ACTION

FILE NO. 1:21-CV-05339-SCJ

GEORGIA STATE CONF. OF THE
NAACP, *et al.*,

Plaintiffs,

v.

STATE OF GEORGIA, *et al.*,

Defendants.

CIVIL ACTION

FILE NO. 1:21-CV-05338-SCJ

COMMON CAUSE, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

CIVIL ACTION

FILE NO. 1:22-CV-0090-SCJ

DEFENDANTS' STATUS REPORT

Defendants Brian Kemp, in his official capacity as Governor of Georgia; Brad Raffensperger, in his official capacity as Secretary of State of Georgia; Sara Tindall Ghazal, Anh Le, Edward Lindsey,¹ and Matthew Mashburn, in their official capacities as members of the State Election Board; and the State of Georgia² (collectively “Defendants”) provide this status report in response to the Court’s January 8, 2022 Orders [*Alpha Phi Alpha* Doc. 6; *Pendergrass* Doc. 15; *Ga. NAACP* Doc. 9], as modified by its January 10, 2022 orders on the three issues outlined.

¹ On January 7, 2022, Mr. Lindsey was appointed to the State Election Board to replace Rebecca Sullivan. Because Ms. Sullivan was sued in her official capacity as a member of the State Election Board, Mr. Lindsey is automatically substituted in her place. *See* Fed. R. Civ. P. 25(d).

² The undersigned does not yet represent Chairs John Kennedy and Bonnie Rich, who are named as Defendants in the *Common Cause* case (1:22-cv-0090-SCJ), but the Attorney General typically represents legislative-branch defendants if requested to do so by Legislative Counsel.

**DEFENDANTS' POSITION ON
THE ISSUES REQUESTED BY THE COURT**

On Sunday, January 9, 2022, the parties in the first three cases conferred as required by the Court's order. On the morning of Tuesday, January 11, 2022, still basking in the victory of the University of Georgia in the College Football Playoff National Championship, Defendants conferred with plaintiffs in the *Common Cause* case. On those calls, the parties discussed the issues, but did not reach agreement on any of them. Defendants outline their positions on the issues requested by the Court:

1. Whether Alpha Phi Alpha and/or Pendergrass may and should be consolidated with Georgia State Conference of the NAACP under Federal Rule of Civil Procedure 42(a) for the purpose of conducting all proceedings, including discovery and hearings in connection with any request(s) in those cases for preliminary injunctive relief. When the parties evaluate their positions as to this issue, they should assume that each set of plaintiffs would be afforded the opportunity to file its own briefs and present its own case (including its own evidentiary submissions), during consolidated proceedings, if such proceedings occur.

Defendants support consolidation of all four of the actions because they all challenge redistricting plans that are to be used in the 2022 elections in Georgia and present common issues of law and fact. All four complaints contain allegations of violations of Section 2 of the Voting Rights Act, and the constitutional claims in *Georgia NAACP* and *Common Cause* will involve largely the same evidence required in the Section 2-only cases, which will focus primarily on expert testimony and statistical analysis. There is no prejudice to plaintiffs if they are able to file their own briefs and present their own cases, but there is a significant benefit to the proceedings and to Defendants if discovery happens once, rather than on four separate tracks, in order to avoid duplication of effort, unnecessary cost, and delay. Further, as explained below, all four cases require a three-judge panel, so consolidation is appropriate to promote efficiency and conserve judicial resources.

2. What schedule would be suitable for the proceedings, including any preliminary injunction proceedings that may occur. This part of each party's filings should take the form of a proposed scheduling order that is specific to each case, and not a consolidated action. Each proposed scheduling order should propose deadlines for filing expert reports, completion of discovery, filing of all motions (including summary judgment), and filing pretrial stipulations. Each

proposed scheduling order must further state a date by which the parties will be ready for a final hearing on the merits, if such a hearing is necessary. Because the three cases are similar, the schedule should take into consideration projected timelines for the proceedings in Georgia State Conference of the NAACP and Pendergrass.

A. General issues related to timeline.

Administration of the 2022 election cycle in Georgia is already underway. A calendar of relevant dates for the 2022 election cycle from the Secretary of State is attached as Ex. A to this status report. The timeline for redistricting was already compressed due to the delay in the final 2020 Census data from the U.S. Census Bureau caused by the COVID-19 pandemic.

The 2022 election cycle effectively begins on January 13, 2022, when candidates and their supporters can begin circulating nomination petitions. O.C.G.A. § 21-2-170(e). Changing district boundaries after that date could mean that individuals who signed a nominating petition may have been “entitled to vote in the next election for the filling of the office sought by the candidate,” O.C.G.A. § 21-2-170(c), when they signed, but may no longer be eligible if district boundaries are later changed.

County elections officials are also already in the process of redistricting based on the maps passed by the General Assembly ~~reallocating voters to their~~

~~appropriate districts~~, which is a time-consuming process that can take weeks. Within one county, there can be a number of different combinations of Congressional, state Senate, state House, and local election districts. Each of these combinations must be built into the election management database before qualifying so candidate names can be added and ballots can be generated for voters.³ The Secretary of State's office has instructed counties to complete the reallocation process for voters no later than February 18, 2022. See Letter from B. Evans, attached as Ex. B. The February 18, 2022 deadline is necessary to allow the Secretary of State's office sufficient time to build the ballots so absentee ballots can be prepared, reviewed, and printed for distribution to voters on April 5, 2022. O.C.G.A. § 21-2-384(a)(2).

Further, candidate qualifying begins on March 7, 2022, O.C.G.A. § 21-2-153(c)(1)(A), and candidates must have final districts in which to qualify for the 2022 elections. And as the Secretary of State's letter to counties indicates, failure to complete all changes in the voter-registration system by February

³ Defendants provide this information for the Court's reference for purposes of this status report. Declarations and/or testimony attesting to these points will be offered at an appropriate time.

18, 2022 “will cause difficulty with qualifying and other election preparation for the May 24, 2022 Primary.”⁴ *Id.*

Accordingly, if this Court were to enjoin the use of any or all of the challenged redistricting plans, new districts should be in place by January 13. Further, because of the primacy of legislatures in creating districting plans, the Supreme Court requires that, where practicable, federal courts should give a “reasonable opportunity for the legislature to meet constitutional requirements by adopting a substitute measure rather than for the federal court to devise and order into effect its own plan.” *Wise v. Lipscomb*, 437 U.S. 535, 540, 98 S. Ct. 2493, 2497 (1978). Even using an extremely accelerated timeline, it is impossible to finish briefing a complex case, hold a hearing, rule, allow the legislature to create a remedial plan, and either consider the legislature’s remedial plan or create a court-drawn plan in time for the applicable deadlines in 2022.

All of this emphasizes that “elections are complex to administer, and the public interest [is] not . . . served by a chaotic, last-minute reordering of . . . districts. It is best for candidates and voters to know significantly in advance

⁴ Georgia’s primary was moved to May (with qualifying in March) after the 2012 elections because of the requirements of federal law. *United States v. Georgia*, 952 F. Supp. 2d 1318, 1333 (N.D. Ga. 2013)

of the petition period who may run where.” *Favors v. Cuomo*, 881 F. Supp. 2d 356, 371 (E.D.N.Y. 2012) (three-judge court) (citing *Diaz v. Silver*, 932 F. Supp. 462, 466-68 (E.D.N.Y. 1996) (three-judge court)). That is why “[t]he Supreme Court has held that an injunction may be inappropriate even when a redistricting plan has actually been found unconstitutional because of the great difficulty of unwinding and reworking a state’s entire electoral process.” *Id.* (citing *Reynolds v. Sims*, 377 U.S. 533, 585 (1964); *Roman v. Sincock*, 377 U.S. 695, 709-10 (1964)).

B. Other courts considering redistricting plans.

At least one other court considering redistricting plans during this cycle established an almost six-week process to reach a preliminary injunction hearing. In Alabama, where the relevant complaint challenging districts was filed on November 4, 2021, the district court gave parties two weeks to create stipulated facts, a week to file a preliminary-injunction motion, a week for a response, and five days for a reply. *Caster v. Merrill*, Case No. 2:21-cv-01536-AMM (N.D. Ala.). Even with such an aggressive timeline, the total time from the scheduling order to preliminary-injunction hearing was six weeks. *Id.* Even if the Court used that accelerated timeline here, six weeks from the Court’s status conference in this case ends five days after the Secretary’s February 18

deadline for updating the voter-registration database and only 12 days before qualifying begins.

Further, in a straightforward Voting Rights Act case in this district that involved no question of potential remedy, discovery and briefing on motions for summary judgment (without substantive extensions) still took six months. *Rose v. Raffensperger*, Case No. 1:20-cv-2921-SDG (N.D. Ga.) (answer filed on January 26, 2021; completed summary-judgment briefing on July 30, 2021).

C. Proposed scheduling order for all cases.

As Plaintiffs noted in their civil cover pages, these cases are complex. If any motions for preliminary injunction are denied as too late because the elections are too close, discovery can proceed on a normal track after jurisdictional questions are resolved (as discussed below). Defendants recognize the Court's request for separate scheduling orders but believe that all cases can follow the same schedule and thus submit one proposed schedule for all cases instead of submitting the same schedule four times.

PROPOSED SCHEDULE

Deadline for filing Motions for Preliminary Injunction	January 14, 2022
Responses to Preliminary Injunction	January 24, 2022
Reply to Preliminary Injunction	January 25, 2022
Hearing on Preliminary Injunction	Week of January 24, 2022
Motions to Dismiss (filed)	January 25, 2022

Responses to Motions to Dismiss	February 8, 2022
Replies to Motions to Dismiss	February 22, 2022
Ruling on Motions to Dismiss (for purposes of remaining dates)	March 22, 2022
Discovery Begins	April 22, 2022
Plaintiffs' Expert Disclosures (reports)	June 6, 2022
Defendant's Expert Disclosures (reports)	July 6, 2022
Plaintiffs' Rebuttal Expert Disclosures (reports)	July 20, 2022
Close of Discovery	September 1, 2022
Dispositive Motions (filed)	September 12, 2022
Dispositive Motions (response)	October 10, 2022
Dispositive Motions (reply)	October 24, 2022
Last Day for Daubert Motions	On last day to submit Pretrial Order
Last Day to Submit a Pretrial Order	30 days after entry of the Court's ruling on summary judgment
Trial readiness	Early 2023

3. If any parties are seeking or intend to seek preliminary injunctive relief, how many days the parties expect would be necessary for the conduct of a fair and expeditious preliminary injunction hearing. This part of the parties' filings should also be specific to each case, and not a consolidated proceeding. As stated above, because the three are similar, the timeline for a hearing should take into consideration preliminary injunctive relief that may be requested in either Georgia State Conference of the NAACP or Pendergrass.

Given the scope of the filings in *Alpha Phi Alpha* (so far), Defendants anticipate that a preliminary-injunction hearing would have to be at least three to five days in length. During the call with counsel for the first three cases on January 9, 2022, Plaintiffs largely agreed with the estimated length.

Because Defendants are not aware how much evidence would be filed with a preliminary-injunction motion in *Pendergrass*, *Georgia NAACP*, or *Common Cause*, estimating a hearing length is more difficult, but Defendants anticipate that the timeline would be similar for additional witnesses and evidence in each of those cases.

ADDITIONAL JURISDICTIONAL ISSUE

As the Court considers the timeline and issues in this case, Defendants also notify the Court that they plan to file motions to dismiss the *Pendergrass* and *Alpha Phi Alpha* cases because of the plaintiffs' failure to seek a three-judge panel as required by statute and the local rules. These jurisdictional claims will also be part of the opposition to the *Alpha Phi Alpha* motion for preliminary injunction.

The statutory language of the Three-Judge Court Act, 28 U.S.C. § 2284(a) (the "Act"), is clear that a three-judge panel is required for these cases. It provides, in pertinent part, that a three-judge panel is to be convened "when an action is filed challenging the constitutionality of the apportionment of

congressional districts *or the apportionment of any statewide legislative body.*” (Emphasis added). And while it is true that neither *Pendergrass* nor *Alpha Phi Alpha* challenge Georgia’s redistricting plans on a constitutional basis, a three-judge panel is still required. There are at least three reasons why this Court should require the appointment of a three-judge panel, which will be further outlined in the forthcoming motions to dismiss.

First, from a strictly textual perspective, as to *Alpha Phi Alpha*, the Act requires a three-judge panel whenever a federal “action is filed challenging . . . the apportionment of any statewide legislative body.” This is because, as written, the prepositive modifier requiring a challenge be “constitutional” in nature in order to trigger the three-judge panel is interrupted by a determiner, which cabins this requirement only to challenges to congressional districts. In this case, the determiner is the “the” following the word “or” in Section 2284(a). See, e.g., ANTONIN SCALIA & BRYAN GARNER, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 148 (2012) (“The typical way in which syntax would suggest no carryover modification is that a determiner (*a, the, some, etc.*) will be repeated before the second element”). Accordingly, the constitutional element needed in congressional districting challenges is *not* required in the context of actions filed challenging statewide legislative apportionment.

This makes sense when considered in the context of Congressional reports filed in conjunction with the most recent amendment to the Act. “[T]he legislative history of the 1976 revisions to 28 U.S.C. § 2284 clearly demonstrates that Congress was concerned less with the source of the law on which an apportionment challenge was based than on the unique importance of apportionment cases generally.” *Page v. Bartels*, 248 F.3d 175, 190 (3rd Cir. 2001).

Second, as to all cases, federalism concerns also counsel in favor of this reading. “[C]hallenges to apportionment are the kinds of claims requiring what has been described as the ‘special and extraordinary procedure represented by the convening of a three-judge court.’” *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 155 (1963).

Finally, even if the Court were to find a requirement of a constitutional challenge with respect to congressional districts and/or purely statewide apportionment actions, the unique language and nature of the Voting Rights Act makes it a suitable vehicle for a three-judge panel under the Act. The Voting Rights Act is unique—and as noted in *City of Mobile*, the underlying language of Section 2 of Voting Rights Act and the Fifteenth Amendment are essentially identical. *See City of Mobile v. Bolden*, 446 U.S. 55, 61 (1980). As the Supreme Court there pointed out, “it is apparent that the language of § 2

no more than elaborates upon that of the Fifteenth Amendment.” *Id.* And though § 2 of the VRA has since been amended, the thrust of the argument that the VRA remains a direct exercise of the enforcement power of Congress under the Fourteenth and Fifteenth Amendments remains unchanged. *See City of Boerne v. Flores*, 521 U.S. 507, 518 (1997) (“We have also concluded that . . . measures protecting voting rights are within Congress’ power to enforce the Fourteenth and Fifteenth Amendments, despite the burdens those measures placed on the States.”); *Lewis v. Governor of Ala.*, 896 F.3d 1282, 1293 (11th Cir. 2018), *vacated and rehearing en banc granted by* 914 F.3d 1291 (11th Cir. Jan. 30, 2019) (“The Voting Rights Act . . . ‘is designed to implement the Fifteenth Amendment and, in some respects, the Fourteenth Amendment.’”) (Wilson, J.). Thus, a challenge under the Voting Rights Act is a challenge that is seeking to enforce constitutional provisions.

For these reasons, a single-judge court has no jurisdiction to hear any of the Section 2-only cases now before it.

CONCLUSION

As outlined above, there is no time for the challenged redistricting plans to be enjoined prior to the 2022 elections and this Court should set the schedule accordingly. This case should proceed on a non-emergency basis.

This 11th day of January, 2022.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned certifies that the foregoing Status Report has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Miscellaneous Case No. 21-mc-00164-RM

DONNA CURLING, DONNA PRICE, and JEFFREY SCHONBERG,

Petitioners,

v.

DOMINION VOTING SYSTEMS, INC.,

Respondent.

**DECLARATION OF NICOLE NOLLETTE IN SUPPORT OF
RESPONSE TO MOTION TO COMPEL DISCOVERY FROM
NON-PARTY DOMINION VOTING SYSTEMS, INC.**

I, Nicole Nollette, hereby declare under penalty of perjury, as follows:

1. I am over the age of 18 years. I have personal knowledge of the facts set forth below, and if called upon to do so, I could and would competently testify thereto.
2. I am the Executive Vice President of Operations at Dominion Voting Systems, Inc. and Dominion Voting Systems Corporation (collectively, “Dominion”) and have been in this role for 5 years and 3 months. Prior to Dominion, I held various operational and financial advisor positions for nearly 20 years. This experience includes my military service as an Officer in the United States Navy stationed overseas during Operation Enduring Freedom.
3. I have a Bachelors of Science Degree from the United States Naval Academy and a Masters in Business Administration from the Massachusetts Institute of Technology.
4. I have reviewed Petitioners Donna Curling, Donna Price, and Jeffrey Schonberg’s (“Petitioners”) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action to Dominion Voting Systems, Inc. (the “Subpoena”).
5. Based on my experience as Executive Vice President of Operations at Dominion, the following is true as to the requests in the Subpoena.
6. Subpoena Requests Nos. 1 and 7 ask for information that is either not in existence or not in a final form.
7. Subpoena Request No. 1 asks for: “A complete forensic image of one D-Suite EMS server, including all hard disk storage of all server and client computers and network-

attached storage devices, configured in the same way that Dominion configured the EMS server most recently used in, or if different currently in use in, Fulton County, Georgia.” However, a complete forensic image of the “D-Suite EMS server” does not exist and nor does Dominion keep such a copy in the normal course of business. Dominion does not have access to Fulton County’s or the State of Georgia’s EMS servers. Rather, to comply with this request, Dominion would have to ask Fulton County and the State of Georgia for permission to access the EMS server, copy a new forensic image of this server that does not already exist, and produce the forensic image within approximately one week. Assuming Dominion could get authorization, which could take significant time, Dominion estimates it would take a product specialist approximately a week to travel, work with governmental authorities, create an image of the “D-Suite EMS Server,” and produce it, and that it would cost approximately \$5,000, plus opportunity costs.

8. Similarly, in Request No. 7, Petitioners seek “[a] copy of any software compatible with Dominion BMDs and scanners used in Georgia that does not use bar codes or QR codes for vote tabulation, together with any necessary documentation, installation tools, and passwords or security keys.” Dominion is currently developing this software and therefore it has not been certified or implemented in any manner. It would be speculative at this point as to what software Dominion might eventually supply the State of Georgia. Moreover, all information concerning the software Dominion is currently developing is highly sensitive and proprietary intellectual property. Dominion intends to protect its trade secrets.

9. The Subpoena also includes requests that ask for in whole or in part numerous documents, communications, and intellectual property that are, sometimes exclusively, in the possession of the defendants in the underlying litigation in the Northern District of Georgia entitled *Curling v. Raffensperger*, No. 1:17-cv-2989-AT (N.D. Ga.) (“*Curling*”), or that may be obtained from public sources such as open records requests.

10. Subpoena Request No. 2 asks for “[d]ocumentation of procedures for pre-election and post-election equipment testing, including logic and accuracy testing, acceptance testing, and hash and/or digital signature verification, including procedures drafted or provided by the Office of the Secretary of State of Georgia.” The Georgia Secretary of State is a defendant in *Curling*, and thus Dominion assumes he possesses the procedures drafted and provided by its office. Most, if not all, of the rest of the responsive documents are likely accessible as public records. To the extent Petitioners are seeking in Request No. 2 “documentation of procedures” for using Dominion’s equipment and software drafted or revised by or sent to or from Dominion that are not available from these other sources, Dominion is willing to produce them if it is provided a reasonable time to collect them. Dominion estimates it will take approximately two weeks to identify, review, and produce any such documents.

11. Likewise, a significant number of the other requests in the Subpoena ask for documents and intellectual property that can be obtained from the *Curling* defendants or through other public records, which makes sense considering that states and counties, not Dominion, administer elections. Among others, they include:

- a. Copies of the installation media for the D-Suite EMS currently deployed in Georgia, which are requested in Request No. 4;

- b. Copies of installation files or the software update installed in 2020 on ballot marking devices in Georgia, which are requested in Request No. 5;
- c. Copies of software updates for Election System equipment made available in Georgia, which are requested in Request No. 6; and
- d. Copies of procedures, mechanisms, practices, steps, and policies to protect the integrity and security of Election Projects in Georgia, which are requested in Request No. 14.

12. Separately, a number of requests in the Subpoena also ask for Dominion’s highly sensitive and proprietary information and intellectual property. They include:

- a. Request No. 1, which asks for highly sensitive and proprietary intellectual property;
- b. Request No. 2, which may be asking for this type of information;
- c. Request No. 3, which asks for copies of electronic information used to extract software or firmware on Election System equipment in Georgia. Dominion’s electronic information used to extract software or firmware on Election System equipment is highly sensitive and proprietary information;
- d. Request Nos. 4 through 6, all of which ask for existing highly sensitive and proprietary intellectual property;
- e. Request No. 7, which asks for highly sensitive and proprietary intellectual property that is currently in development; and
- f. Request No. 14, which asks for some materials that may be highly sensitive and proprietary intellectual property.

13. As for Request No. 11, which asks for Dominion’s communications, including those with “Election Project programming contractors,” reflecting whether its equipment used in Georgia has ever been connected to the internet or an external network, it should be noted that not only does Dominion not have any such contractors but that its equipment is not configured or certified to be connected to the internet or an external network.

14. Significantly, it would be incredibly burdensome to Dominion to collect copies of all the requested internal communications and communications between Dominion, the Georgia Secretary of State’s office, and the various county offices, among others, as requested in Request Nos. 8 through 17. Through these requests, Petitioners are seeking communications on a wide variety of topics potentially regarding just about everything related to Dominion’s voting systems used in Georgia and potentially around the country. The requests are so vague and ambiguous that Dominion does not understand the full scope of what Petitioners are requesting.

15. A large percentage of internal communications and communications with third-party outside counsel also likely would require a privilege review, and may be protected under

attorney-client privilege or the work product doctrine. It would take weeks to identify the privileged individuals with whom Dominion communicated and several months to review the communications for privilege.

16. Further, these requests are vague and ambiguous to the extent they seek communications between Dominion and various “third parties.” It would take weeks to months to identify the hundreds, if not thousands, of relevant individuals with whom Dominion communicated and several more months to review the communications. Dominion does not have the time or resources to respond to such burdensome requests concerning essentially every communication it has had for the past two years.

17. Dominion also estimates it would take at least a week to identify the more than sixty custodians relevant to each request, and an additional several months to review potentially relevant information and produce responsive documents.

18. While Dominion cannot give a more precise estimate of time and expense given that it had less than two weeks to respond to Respondent’s Motion to Compel, in light of the challenges mentioned above, Dominion anticipates that it would take at least 5-6 weeks and cost over \$45,000 plus attorneys’ fees and lost opportunity costs to comply with the Subpoena. Complying in any shorter amount of time would cause Dominion to severely curtail operations.

19. Dominion therefore is unable to provide documents in response to this Subpoena in accordance with the discovery deadline in the underlying *Curling* case, which Dominion understands is approximately one week from the date of this declaration.

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

Executed on this 9th day of August, 2021.



Nicole Nollette

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Miscellaneous Case No. 21-mc-00164-RM

DONNA CURLING, DONNA PRICE, and JEFFREY SCHONBERG,

Petitioners,

v.

DOMINION VOTING SYSTEMS, INC.,

Respondent.

**RESPONSE TO MOTION TO COMPEL DISCOVERY FROM NON-PARTY
DOMINION VOTING SYSTEMS, INC.**

Respondent Dominion Voting Systems, Inc. (“Respondent”), by and through its undersigned counsel, Brownstein Hyatt Farber Schreck, LLP, hereby files its Response to Petitioners’ Motion to Compel Discovery from Non-Party Dominion Voting Systems, Inc. (the “Motion”), and states as follows.

I. INTRODUCTION

Petitioners’ attempt to compel Respondent to respond to extensive, unduly burdensome, and expensive third-party discovery at the eleventh hour must be denied. Petitioners opened this matter to enforce a subpoena containing 17 requests for production of documents against Respondent,¹ a non-party to the underlying litigation in the Northern District of Georgia entitled *Curling v. Raffensperger*, No. 1:17-cv-2989-AT (N.D. Ga.) (“*Curling*”). Rather than obtain the

¹ Petitioners’ Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action to Dominion Voting Systems, Inc. (the “Subpoena”) is attached as Exhibit 2 to the Motion.

requested discovery from any of the *Curling* defendants, who have objected to many of the same requests, Petitioners are trying to weaponize Rule 45 and have Respondent do their work for them. Petitioners further requested an expedited briefing schedule and days for Respondent to respond to the Subpoena but failed to provide notice of the Court’s Minute Order to Respondent that set forth the briefing schedule. The Federal Rules of Civil Procedure do not permit such unreasonable actions.

Making matters worse, Petitioners are among the growing list of litigants seeking discovery against Respondent related to the voting systems it provided for the 2020 election. Petitioners assert that their lawsuit is distinct from and unaffiliated with the tsunami of 2020 election fraud lawsuits—almost all of which have been quickly dismissed²—because they are not trying to overturn the election results. But they, like the plaintiffs in many of the 2020 election fraud lawsuits, allege that their fundamental right to vote has been denied because of alleged vulnerabilities in the voting systems used in various jurisdictions. The plaintiffs in these lawsuits—ignoring the extensive legitimate post-election audits, including thousands of hand-count audits and recounts (including the hand-count audit and machine recount in Georgia), that have conclusively confirmed the accuracy of Respondent’s machines’ tallies in the 2020 election—often seek from Respondent similarly burdensome discovery and request sensitive business information and trade secrets, regardless of whether Respondent is a party.

Not only do these election lawsuits without any justification sow greater distrust in the validity of elections, but they have almost uniformly been dismissed for lack of standing.

² Recently, Judge Neureiter dismissed a similar lawsuit against Dominion and other defendants—*O’Rourke v. Dominion Voting Sys. Inc.*, 20-CV-03747-NRN, 2021 WL 1662742 (D. Colo. Apr. 28, 2021)—and subsequently sanctioned the lawyers.

Curling should be no exception. In the aftermath of the Eleventh Circuit’s decision in *Wood v. Raffensperger*, 981 F.3d 1307 (11th Cir. 2020), which affirmed the dismissal of similar claims because they were generalized grievances against the government and thus failed to meet the elements of Article III standing, the court in *Curling* has ordered briefing on the threshold standing issue. Respondent, a non-party, should not be compelled to respond to extensive and burdensome discovery requests when subject matter jurisdiction has yet to have been resolved. The alternative is untenable: Respondent would be inundated with subpoenas every election cycle irrespective of whether the plaintiffs have standing to assert their claims or whether Respondent is a named party—and in complete disregard of the state-approved procedures for auditing election results.

On the eve of a discovery deadline, Petitioners demand this discovery from Respondent on an expedited schedule, despite that their case has been pending for several years, that they have previously obtained discovery from Respondent, that they now seek extensive discovery of Respondent’s highly sensitive and proprietary business information that will unduly burden Respondent and cause it considerable expense, and that it remains highly unlikely that they even have standing in the underlying case. Given these important considerations, the Motion should be denied and the Subpoena quashed.

II. NATURE OF UNDERLYING CASE

Petitioners overlook several key aspects of *Curling* that are relevant to the Motion. Principally, *Curling* is an election case brought by three voters from the State of Georgia against Georgia’s Secretary of State, Georgia’s Election Board Members, and members of Fulton County’s Board of Registration and Elections. Rather than engage in the legislative process or

lobby to alter the Secretary of State's election procedures, Petitioners brought a lawsuit hoping that a judge will order Georgia to alter its voting systems under the premise that the state's electronic voting system impeded their fundamental right to vote. Since Petitioners first brought the lawsuit, the State of Georgia changed its voting system statewide, to create a fully auditable paper ballot system. Petitioners, in response, changed course to criticize some aspects of that system, even though that system creates a paper ballot for every single vote cast. Petitioners want a return to purely paper-based voting, with no electronic component to the ballot casting process whatsoever. They have an agenda.

Although Respondent provided Georgia voting systems for the 2020 election, it is not a defendant in *Curling*. States and counties administer elections. Respondent is a government contractor that provided voting systems used in Georgia for the 2020 election. It does not decide which voting systems Georgia uses or otherwise play any role in Georgia's decisions regarding how to administer elections on Election Day. Petitioners' dispute is therefore with the defendants in *Curling*, not Respondent. And yet, despite all of this, Petitioners want extensive discovery from Respondent, much of which it could obtain directly from the defendants in *Curling* or through an open records request to the relevant custodians with the State of Georgia. The Motion is therefore an improper attempt by Petitioners to obtain discovery without resolving its pending discovery disputes with the defendants in *Curling* and unduly burden Respondent in the process. Indeed, Petitioners are demanding that Respondent produce documents before the close of discovery in roughly one week. *See* Mot., Ex. 5, at 6 (Amended Scheduling Order).

III. LEGAL STANDARD

“In determining whether to grant a motion to compel non-party production under Rule 45, courts ‘consider the burden on the nonparty, relevance, the requesting party’s need for the documents, the breadth of the document request, and the time period covered by the request.’” *Al Muderis v. Hernandez*, 1:20-MC-00090-RM, 2021 WL 119348, at *2 (D. Colo. Jan. 13, 2021) (quoting *Premier Election Sols., Inc.*, 2009 WL 3075597, at *3 (citation omitted)). While the federal rules permit discovery of non-parties by subpoena, non-parties have a different set of expectations when it comes to what is permitted discovery. “It is generally recognized that a non-party involuntarily embroiled in civil litigation should not be subjected to undue burden or significant expense merely by virtue of having received a subpoena.” *W. Convenience Stores, Inc. v. Suncor Energy (U.S.A.) Inc.*, 11-CV-01611-MSK-CBS, 2014 WL 1257762, at *21 (D. Colo. Mar. 27, 2014). “A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena” and “[t]he court for the district where compliance is required must enforce this duty.” Fed. R. Civ. P. 45(d)(1). Courts will not permit a plaintiff to engage in a “fishing expedition” in the hopes of supporting his claim. *See McGee v. Hayes*, 43 F. App’x 214, 217 (10th Cir. 2002).

A subpoena served on a non-party under Rule 45 of the Federal Rules of Civil Procedure is subject to the same standards in Rule 26(b)(1)—“it must seek relevant information and be proportional to the needs of the case.” *Infinity Home Collection v. Coleman*, No. 17-MC-00200-MSK-MEH, 2018 WL 1733262, at *2 (D. Colo. Apr. 10, 2018). However, “[t]he court may also consider the fact that the discovery sought is directed at a nonparty, and in such a case, the ordinary burden imposed under Rule 26 is generally greater.” *Charles Schwab & Co. v.*

Highwater Wealth Mgmt., LLC, No. 17-CV-00803-CMA-NYW, 2017 WL 4278494, at *3 (D. Colo. Sept. 27, 2017) (citing *Echostar Commc 'ns Corp. v. News Corp.*, 180 F.R.D. 391, 394 (D. Colo. 1998)). “The fact that discovery is sought from a non-party is one factor which the Court may weigh in determining whether [a party] is entitled to an order which requires the production of the materials or information.” *Echostar*, 180 F.R.D. at 394 (citing *Katz v. Batavia Marine & Sporting Supplies, Inc.*, 984 F.2d 422, 424 (Fed. Cir. 1993)). Thus, “[c]ourts are required to balance the need for discovery against the burden imposed when parties are ordered to produce information or materials, and the status of a person or entity as a non-party is a factor which weighs against disclosure.” *Spacecon Specialty Contractors, LLC v. Bensinger*, No. 09-CV-02080-REB-KLM, 2010 WL 3927783, at *3 (D. Colo. Oct. 1, 2010) (internal citations omitted).

IV. ARGUMENT

Against this backdrop, Petitioners’ 17 requests for production of documents to a non-party are more than a mere inconvenience. As demonstrated below, the requests are unduly burdensome and exceedingly expensive, and request irrelevant documents and some of Respondent’s most sensitive business information. Moreover, when Petitioners’ requests actually ask for relevant documents, most of the corresponding responsive documents are in the possession—and sometimes solely in the possession—of the *Curling* defendants and the State of Georgia. These 17 requests were not carefully drafted to avoid burdening Respondent. Instead, they are part of a fishing expedition exhibiting Petitioners’ ignorance of voting systems and disregard for Respondent.³

³ Petitioners argue that Respondent’s lack of specificity in its objections amount to a waiver. Not so; Respondent’s objections to the subpoena were specific and track its arguments in this Response. *See* Mot., Ex. 3. Moreover, not only do Petitioners fail to cite to any controlling precedent, but they overlook that this Response is Petitioner’s first filing with this Court, and that less specificity is demanded of non-parties.

A. Several of Petitioners' Requests Fall Outside the Scope of Permissible Discovery under Rule 45.

The scope of discovery under Rule 45 of the Federal Rules of Civil Procedure is limited; courts have a duty to “closely regulate[]” non-party discovery. *Echostar*, 180 F.R.D. at 396. Rule 45 permits a party to serve a subpoena that commands a nonparty to “produce documents, electronically stored information [ESI], or tangible things.” Fed. R. Civ. P. 45(a)(1)(C); *see also* Fed. R. Civ. P. 45(a)(1)(A) (specifying that non-party discovery is limited to information “in that person’s possession, custody, or control”). In contrast, Rule 45 does not permit discovery requiring a nonparty to create new documents or tangible things not already in existence or within a nonparty’s control. *See Georgacarakos v. Wiley*, No. 07-cv-1712, 2009 WL 924434, at *2 (D. Colo. Apr. 3, 2009) (reasoning that a subpoenaed person has no obligation to produce documents that do not exist); *see also* Fed. R. Civ. P. 34 (pertaining to production of documents that already exist). Therefore, a non-party should not be required to produce documents and related items that were not already created at the time of the request or are not within its control.

In Request No. 1, Petitioners request: “A complete forensic image of one D-Suite EMS server, including all hard disk storage of all server and client computers and network-attached storage devices, configured in the same way that Dominion configured the EMS server most recently used in, or if different currently in use in, Fulton County, Georgia.” In other words, Petitioners want Respondent to request from Fulton County and the State of Georgia access to its EMS server, which Respondent does not have unilateral access to, copy a new forensic image of this server that does not already exist, and produce the forensic image within a week or so. *See Ex. A*, Decl. of Nicole Nollette, ¶ 7. Not only is this request overly burdensome in what it requires and the time frame for compliance, but it falls outside permitted discovery under Rule

45. Petitioners should have requested this information from the State of Georgia or Fulton County, in addition to trying to obtain it from the defendants in *Curling*.⁴

Relatedly, Request No. 7 asks for “[a] copy of any software compatible with Dominion BMDs and scanners used in Georgia that does not use bar codes or QR codes for vote tabulation, together with any necessary documentation, installation tools, and passwords or security keys.” As Petitioners are undoubtedly aware by now, this request seeks a copy of software that Respondent is currently developing and may not eventually provide to Georgia. *See Ex. A*, ¶ 8. This software has not been certified. *Id.* Therefore, this request is premature, as it asks for intellectual property that is not finalized and only may be eventually utilized.

B. Petitioners Can Obtain Most of the Documents They Seek from the *Curling* Defendants or Through Open Records Requests.

Although there is no absolute rule prohibiting a party from seeking to obtain the same documents from a non-party as can be obtained from a party, and there can be good reasons in specific cases for permitting such discovery, “[c]ourts may refuse discovery requests aimed at nonparties in cases where the same testimony or documents could instead be obtained from a party to the action.” *Al Muderis*, 2021 WL 119348, at *2 (quoting *Landry v. Swire Oilfield Servs., L.L.C.*, 323 F.R.D. 360, 397 (D.N.M. 2018)).⁵

⁴ This Request seeks documents in this request that are the subject of a pending discovery dispute between the parties in *Curling*. *See, e.g.*, Mot., Ex. 6.

⁵ Rule 26 of the Federal Rules of Civil Procedure also states that “the court must limit the frequency or extent of discovery otherwise allowed by these rules or by local rule if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive.” Fed. R. Civ. P. 26(b)(2)(C). Similarly, Rule 45 states “[a] party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.” Fed. R. Civ. P. 45(d)(1).

Here, documents and information sought in numerous requests can be obtained from a party or another source with more connection to the litigation and at less burden. In addition to Request No. 1, several other requests ask for documents that are in the possession of, and thus may be obtained from, the *Curling* defendants in that litigation or from the State of Georgia and its counties through open records requests. For example, Request No. 2 specifically asks for “procedures drafted or provided by the Office of the Secretary of State of Georgia,” a defendant in *Curling*, as well as other documents that are public records. Other requests that fall within this category are: (i) Request No. 3,⁶ which asks for copies of electronic information used to extract software or firmware on Election System equipment used in Georgia⁷; (ii) Request No. 4, which requests a copy of installation media for the D-Suite EMS currently deployed in Georgia;⁸ (iii) Request No. 5, which asks for a copy of the installation files for the software update installed in 2020 on ballot marking devices in Georgia; (iv) Request No. 6, which requests a copy of all software updates for Election System equipment made available in Georgia, including to the Secretary of State’s office, and is something provided to the state, which then provides them to the counties; (v) Request No. 14, which asks for procedures, mechanisms, practices, steps, and policies to protect the integrity and security of Election Projects in Georgia; and (vi) Request Nos. 8-13 and 15-17, which request, in part, communications between Respondent, the Georgia Secretary of State, and other defendants in *Curling* that can clearly be obtained through open records requests. *See* **Ex. A**, ¶¶ 9–11.

⁶ Request Nos. 3 through 7 also seek documents that are the subject of a pending discovery dispute between the parties in *Curling*. *See, e.g.*, Mot., Ex. 6.

⁷ The information sought in this request is useless unless Petitioners have obtained Election System equipment.

⁸ The requested electronically stored information would not be helpful without the entire installation procedure, which demonstrates again that Petitioners do not know what they are asking for.

The fact that this information is available from other sources, such as party opponents, should not come as a surprise. States and counties run elections, not Respondent. Indeed, Petitioners do not deny in the Motion that they are seeking the very same information from these other sources. The reason Petitioners issued the Subpoena appears to be that they are in discovery disputes with these parties and thus are using the Subpoena as a work-around to obtain discovery before the discovery deadline. *See* Mot., Ex. 6 (Joint Discovery Statement). To the extent Petitioners argue that they must seek this discovery from Respondent because the *Curling* defendants have cited contractual obligations in denying requested discovery, Respondent would be happy to consider a request to consent to certain discovery served on the *Curling* defendants, but that is very different from making Respondent itself, rather than the *Curling* defendants, responsible for the production. Of course, any such request for consent would also depend on the resolution of other aspects of the current discovery disputes between Petitioners and the *Curling* defendants.

Respondent therefore should not have to comply with these requests until the *Curling* parties first resolve their discovery disputes. If Petitioners truly need this third-party discovery after these disputes are resolved, then this issue may be revisited. But Rule 45 should not be a loophole allowing Petitioners a second bite at the apple in lieu of resolving discovery disputes with opposing parties.

C. Petitioners Seek Documents and Communications that Are Irrelevant and Not Proportional to the Needs of the Case.

In the Motion, Petitioners argue that they are seeking information unique to Respondent and thus it is not true that all of the requested information is available from other sources. While it is true that Respondent's internal communications, for example, are not in the possession of

the *Curling* defendants, the documents and communications Petitioners seek that is not available from other sources is irrelevant, not proportional to the needs of the case, or both.

Petitioners specifically argue that Request Nos. 2, 3, and 8 through 17 are not available from other sources. However, as noted above, information requested in Request Nos. 2 and 3 is available from the *Curling* defendants and other public sources. To the extent that Petitioners are seeking in Request No. 2 “documentation of procedures” for using Respondent’s equipment and software drafted or revised by or sent to or from Respondent that is not available from these other sources, Respondent is willing to produce them if it is provided a reasonable time to determine what responsive documents would truly not be available from these other sources, and to collect them. *See Ex. A*, ¶ 2 (explaining that Respondent estimates that it would take approximately two weeks to identify, review, and produce any such documents). Request No. 3 is different because it asks for highly sensitive and proprietary information that nevertheless is in the possession of the *Curling* defendants or the State of Georgia.⁹ *See id.*, ¶ 12.c

Request Nos. 8 through 17, in turn, principally ask for internal communications and communications with a broad and sometimes vaguely defined number of parties, including the *Curling* defendants, regarding a wide variety of topics.¹⁰ Respondent is unclear how its communications are relevant to Petitioners’ claims in *Curling*. Petitioners have never specifically explained why they need this extensive discovery, such as Respondent’s billing

⁹ Similarly, as described above, Request No. 7 asks for intellectual property that is not in a final form and thus may not end up being utilized in Georgia. *See id.*, ¶ 8. Therefore, this request seeks speculative and irrelevant information.

¹⁰ A large number of responsive communications to these requests are likely privileged and confidential attorney-client communications. In addition, Request No. 15, and potentially others, seeks communication specifically concerning this litigation. Respondent is not aware of any authority that would permit discovery of such communications that post-date the filing of the operative complaint.

records and its communications regarding anticipated changes to the Election System. Indeed, the Motion only speaks in generalities and conclusory statements that the discovery Petitioners seek is relevant. Courts have routinely held that “it is a generally accepted rule that standards for non-party discovery require a stronger showing of relevance than for party discovery.” *See, e.g., Pinehaven Plantation Prop., LLC v. Mountcastle Family LLC*, No. 1:12-CV-62, 2013 WL 6734117 (M.D. Ga. Dec. 19, 2013). Petitioners have not met their burden of showing why these requests seek relevant information and instead appear to be on a fishing expedition at Respondent’s expense.

In addition to questionable relevance, Request Nos. 8 through 17 are not proportional to the needs of the case. This is self-evident from even a cursory review of these *ten* requests. Through these requests, Petitioners are seeking communications on a wide variety of topics regarding just about everything related to Respondent’s voting systems used in Georgia and potentially around the country, regardless of the number of custodians involved and without defining the “third parties.” *See Ex. A*, ¶¶ 14, 16. The breadth and depth of these requests more than demonstrate that Petitioners did not “take reasonable steps to avoid imposing undue burden or expense” on Respondent. Respondent should not have to do Petitioners’ discovery for them, especially since Respondent is not even a party to the litigation.

D. Numerous Requests Seek Proprietary Information and Trade Secrets.

As Petitioners note in the Motion, Requests Nos. 1, 2, 4, 5, 6, 7, and 14 ask for Respondent’s highly sensitive propriety information and trade secrets. This includes proprietary software and other intellectual property, including software that is in the production phase, that would be devastating to Respondent’s business should it be disclosed to competitors. Under

Rule 45, courts “may quash or modify a subpoena that requires ‘disclosing a trade secret or other confidential research, development, or commercial information.’” *Schell v. Amendia, Inc.*, No. 21-MC-00090-PAB-STV, 2021 WL 1541712, at *3 (D. Colo. Apr. 20, 2021) (quoting Fed. R. Civ. P. 45(d)(3)(A), (B)). Although the court issued a protective order in *Curling*, (*see* Mot., Ex. 4), Respondent has concerns that Petitioners will abide by it.

E. Petitioners’ Requests Are Unduly Burdensome and Vague.

Nevertheless, if Respondent were required to comply with the subpoena, the requests would subject Respondent to undue burden. Petitioners did not carefully draft the requests and instead drafted *17 of them*, often using vague and confusing language.

A large percentage of these requests would take a considerable amount of time and expense to gather and then produce responsive documents. The principal examples are Request Nos. 8 through 17, which request an exorbitant amount of internal and external communications. These requests would require Respondent to gather communications from the over 60 relevant custodians, run search terms agreed upon with Petitioners after receiving clarity from Petitioners regarding what they actually seek,¹¹ review the communications for relevancy and privilege, and then produce them. *See Ex. A*, ¶¶ 15–17. Most of the requests also lack a relevant time limitation. The scope of this project thus is immense. While Respondent cannot give a more precise estimate of time and expense given that it had less than two weeks to respond to the

¹¹ Respondent does not understand what exactly Petitioners are requesting in the requests for communications. For example, Request No. 8 asks for “execution or operational issues or challenges,” which is a subjective determination. Likewise, Request No. 13 requests “communications, contracts, billing records, and project records relating to Your role in the process of planning, creating, and distributing Election Projects for use in the state of Georgia during 2020 and 2021.” This is a broad topic. If Petitioners could explain what they actually seek, then Respondent might be able to comply.

Motion, it anticipates that it would take at least five to six weeks and cost over \$45,000, plus attorneys' fees and lost opportunity to comply with the Subpoena. *See id.*, ¶ 18.

This burden is exacerbated by the abbreviated time frame to respond requested by Petitioners. Petitioners served the Subpoena on June 9, 2021. Although Respondent provided its responses and objections to the Subpoena on June 22, 2021, Petitioners waited until July 14th, 2021 to file the Motion and then failed to serve Respondent. In the Motion, Petitioners request that Respondent produce all of the documents by July 28, 2021—a mere two weeks later—in order to meet the discovery cut-off in approximately a week from the date of this filing. In other words, complying with the Subpoena by the discovery deadline would require Respondent to severely curtail operations and devote significant resources in a likely futile effort. *See Ex. A*, ¶ 18. Respondent will be unable to comply with Petitioners' onerous requests prior to the underlying discovery cut-off. *Id.*, ¶ 19.

F. Petitioners' Request No. 10 Appears to Derive from an Improper Motive.

In Request No. 10, Petitioners improperly request documents and communications “pertaining to vulnerabilities, security concerns, security risks, hacks, or compromises relating to [Respondent's] equipment of the type used in Georgia elections, including any such vulnerabilities, security concerns, or security risks that have come to light in connection with reviews of [Respondent's] products used in Antrim County, Michigan and Maricopa County, Arizona.” As this Court is undoubtedly aware, election conspiracy theorists have directed their attention to Antrim County and Maricopa County, and these counties have been subject to frivolous lawsuits and partisan (and improperly conducted) sham “audits.” It appears that by making this request, Petitioners are attempting to legitimize the extremely partisan Senate

sham “audit” in Maricopa County, which has been harshly criticized, and the sham “audit” in Antrim County that Petitioners’ own expert thoroughly debunked. This further begs the question of whether Petitioners are planning their own sham “audit” in Fulton County or elsewhere in Georgia and are using the Subpoena to begin the fishing expedition.

G. Request No. 11 Demonstrates Petitioners’ Lack of Understanding.

Again echoing debunked cries from election conspiracists, Petitioners ask in Request No. 11 for Respondent’s communications, including those with contractors,¹² reflecting whether its equipment used in Georgia has ever been connected to the internet or an external network. Outside interference in the 2020 election is a myth that has been thoroughly debunked. Respondent’s equipment is not configured or certified to be connected to the internet or an external network, and thus this request demonstrates a misunderstanding of the implementation of Respondent’s equipment. *See Ex. A, ¶ 13.* That Petitioners even ask for such information casts doubt on the true intent of the Subpoena.

H. Petitioners’ Likely Lack of Standing is a Relevant Factor.

In light of the above, the Petitioners’ highly questionable standing to even bring the *Curling* lawsuit is an important and relevant factor. Although the Court in *Curling* has not stayed discovery while the parties continue to brief whether Petitioners have standing, (*see* Mot., Ex. 5), subject matter jurisdiction is a threshold issue that may warrant a stay. “Questions of jurisdiction and immunity should be resolved at the earliest stages of litigation, so as to conserve the time and resources of the Court and the parties.” *Edwards v. Zenimax Media, Inc.*, No. 12-cv-00411-WYD-KLM, 2012 WL 1801981, *1–2 (D. Colo. May 17, 2012); *see also Behrens v.*

¹² Respondent does not have any “Election Project programing contractors.” *See Ex. A, ¶ 13.*

Pelletier, 516 U.S. 299, 308 & 310 (1996) (noting that discovery can be particularly disruptive when a dispositive motion regarding immunity is pending); *Castro v. Holmberg*, No. 14-cv-00791-LTB-KMT, 2014 WL 4122175, *1 (D. Colo. Aug. 21, 2014) (“Courts have routinely recognized that discovery may be inappropriate where the court’s jurisdiction is at issue”). At minimum, Petitioners’ questionable standing further illustrates the improper burden imposed on Respondent as a non-party to comply with extremely expedited and broad discovery.

Specifically, two recent cases out of the Eleventh Circuit cast significant doubt on Petitioners’ purported standing. In the first case—*Wood v. Raffensperger*, 981 F.3d 1307 (11th Cir. 2020)—L. Lin Wood Jr., a Georgia voter, “sued state election officials to enjoin certification of the general election results, to secure a new recount under different rules, and to establish new rules for an upcoming runoff election” because Georgia’s election procedures allegedly violated his federal constitutional rights. The court held that plaintiff’s injury of vote dilution based on his interest in compliance with election laws “is a ‘paradigmatic generalized grievance that cannot support standing.’” *Wood*, 981 F.3d at 1314–15 (quoting *Bognet v. Sec’y Commonwealth of Pa.*, 980 F.3d 336, 356 (3d Cir. 2020), and noting that “[a]ll Americans, whether they voted in this election or whether they reside in Georgia, could be said to share Wood’s interest in ‘ensur[ing] that [a presidential election] is properly administered”). Rather, “no single voter is specifically disadvantaged’ if a vote is counted improperly, even if the error might have a ‘mathematical impact on the final tally and thus on the proportional effect of every vote.’” *Id.* at 1314 (quoting *Bognet.*, 980 F.3d at 356). As a result, “irregularities in the tabulation of election results do not affect [a plaintiff] differently from any other person” and thus do not confer standing. *Id.* at 1315.

Similarly, in an unpublished opinion from three days ago, the Eleventh Circuit held that Mr. Wood’s latest lawsuit, alleging that Georgia’s runoff election was proceeding in a manner contrary to Georgia’s election laws and the U.S. Constitution, also failed for lack of standing. *Wood v. Raffensperger*, No. 20-14813 (11th Cir. Aug. 6, 2021) (attached as **Ex. B**). Mr. Wood had alleged that the defendants authorized four unlawful procedures, including use of Respondent’s voting machines, which, among other things, allegedly caused in-person votes to be valued less than absentee votes because of alleged vulnerabilities with the machines. **Ex. B**, at 2–3. The court nevertheless determined that these claims were generalized grievances, as Mr. Wood’s asserted injuries were shared identically by Georgians who voted in person. *Id.*, at 6–7.

Curling is no different than the *Wood* decisions or the recent decision in *O’Rourke v. Dominion Voting Sys. Inc.*, 20-CV-03747-NRN, 2021 WL 1662742 (D. Colo. Apr. 28, 2021). Like the plaintiffs in those cases, Petitioners have alleged that Respondent’s voting systems are unreliable and disadvantage in-person voters as compared to absentee voters in violation of the U.S. Constitution’s protection of the fundamental right to vote. *See generally* **Ex. C** (Third Amended Complaint). Their claims concern the tabulation of votes—claims any other in-person voter in Georgia could make—and thus are generalized grievances that should be dismissed under controlling precedent.

I. To the Extent Respondent Is Ordered to Comply, Costs Should Be Shifted to Petitioners.

Considering the undue burden, expedited time frame for compliance, and other factors explained above, Respondent respectfully requests that this Court protect Respondent from significant expense and shift costs to Petitioners should this Court order compliance with the Subpoena. *See Rhea v. Apache Corp.*, 833 F. App’x 186, 190 (10th Cir. 2020) (explaining that

under Rule 45(d)(2)(B)(ii), when a court orders compliance with a subpoena over a non-party's objection, the court must protect the non-party from significant expense resulting from compliance upon a showing by the non-party that they would incur significant expenses in responding to the subpoena); Fed. R. Civ. P. 45(d)(2)(B)(ii)) (requiring that when a non-party would be subjected to significant expense, the protection shifts as much of the compliance expense as necessary to the requestor to render the remaining expenses non-significant).

V. CONCLUSION

For the foregoing reasons, Respondent requests that this Court deny the Motion.

Dated: August 9, 2021

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 9th day of August, 2021, I electronically filed a true and correct copy of the **RESPONSE TO MOTION TO COMPEL DISCOVERY FROM NON-PARTY DOMINION VOTING SYSTEMS, INC.** with the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s Stanley L. Garnett _____

Stanley L. Garnett