U.S. Department of Justice
Office of Information Policy
441 G Street, NW
Sixth Floor
Washington, DC 20530

Telephone: (202) 514-3642

March 1, 2022

Nikhel Sus
Citizens for Responsibility and Ethics in Washington
1101 K Street, NW
Suite 201
Washington, DC 20005
nsus@citizensforethics.org

Re: FOIA-2021-01464
21-cv-2574 (D.D.C.)
VRB:TAZ:JMS

Dear Nikhel Sus:

This is an interim response to your Freedom of Information Act (FOIA) request, dated and received in this Office on June 9, 2021, in which you requested communications and records memorializing communications between White House Chief of Staff Mark Meadows and Acting Attorney General Jeffrey Rosen between November 1, 2020, and January 20, 2021.

Please be advised that this Office recently made a response in a separate action in which the FOIA request was seeking communications of specified Department of Justice officials, including Acting Attorney General Jeffrey Rosen, and the White House, from December 10, 2020, through January 20, 2021. While the search conducted and records produced in that response are broader than those you are seeking, to more efficiently provide you with documents that may be responsive to your request, we are providing you the entirety of that production. Please note that while some of the material in this production may be responsive to your request, insomuch as the other request differs in scope from yours, some of the records being provided here are not responsive to your request nor have any of these documents been deemed responsive to your request by virtue of this response.

In response to the above-referenced request involved in the separate matter, this Office determined that 237 pages were appropriate for release with certain information withheld pursuant to Exemptions 5, 6, and 7(C) of the FOIA, 5 U.S.C. § 552(b)(5), (b)(6), (b)(7)(C). Copies of those pages are enclosed. Exemption 5 pertains to certain inter- and intra-agency communications protected by civil discovery privileges. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy. Exemption 7(C) pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.

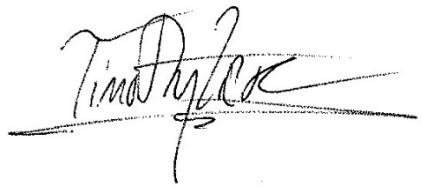
Please note that the enclosed pages also may contain records that are duplicative or were not responsive to the request. Such records were not processed and are marked accordingly. Also be advised that certain pages within this production contain solid black boxes without citation to FOIA exemptions, as well as highlighting. These black boxes and highlighting were present on these pages as located by OIP and were not made as part of our FOIA review process. Finally, please be aware that certain emails in this production display a single question mark at the beginning of the email. This is the result of a formatting issue in

the software used to obtain copies of emails for processing and was not placed by the author of the email or by OIP.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions regarding this response, please contact Amber Richer of the Department's Civil Division, Federal Programs Branch, at (202) 514-3489.

Sincerely,



Timothy Ziese
Senior Supervisory Attorney

Enclosures

Michael, Molly A. EOP/WHO

From:	Michael, Molly A. EOP/WHO
Sent:	Monday, December 14, 2020 4:57 PM
To:	Rosen, Jeffrey A. (ODAG)
Subject:	From POTUS
Attachments:	Summary Doc.docx; antrim-county-forensics-report.pdf

Allied Security Operations Group

Antrim Michigan Forensics Report

REVISED PRELIMINARY SUMMARY, v2

Report Date 12/13/2020

Client: **Bill Bailey**

Attorney: **Matthew DePerno**

A. WHO WE ARE

1. My name is Russell James Ramsland, Jr., and I am a resident of Dallas County, Texas. I hold an MBA from Harvard University, and a political science degree from Duke University. I have worked with the National Aeronautics and Space Administration (NASA) and the Massachusetts Institute of Technology (MIT), among other organizations, and have run businesses all over the world, many of which are highly technical in nature. I have served on technical government panels.

2. I am part of the management team of Allied Security Operations Group, LLC, (ASOG). ASOG is a group of globally engaged professionals who come from various disciplines to include Department of Defense, Secret Service, Department of Homeland Security, and the Central Intelligence Agency. It provides a range of security services, but has a particular emphasis on cybersecurity, open source investigation and penetration testing of networks. We employ a wide variety of cyber and cyber forensic analysts. We have patents pending in a variety of applications from novel network security applications to SCADA (Supervisory Control and Data Acquisition) protection and safe browsing solutions for the dark and deep web. For this report, I have relied on these experts and resources.

B. PURPOSE AND PRELIMINARY CONCLUSIONS

1. The purpose of this forensic audit is to test the integrity of Dominion Voting System in how it performed in Antrim County, Michigan for the 2020 election.

2. We conclude that the Dominion Voting System is intentionally and purposefully designed with inherent errors to create systemic fraud and influence election results. The system intentionally generates an enormously high number of ballot errors. The electronic ballots are then transferred for adjudication. The intentional errors lead to bulk adjudication of ballots with no oversight, no transparency, and no audit trail. This leads to voter or election fraud. Based on our study, we conclude that The Dominion Voting System should not be used in Michigan. We further conclude that the results of Antrim County should not have been certified.

3. The following is a breakdown of the votes tabulated for the 2020 election in Antrim County, showing different dates for the tabulation of the same votes.

Date	Registered Voters	Total Votes Cast	Biden	Trump	Third Party	Write-In	TOTAL VOTES for President
Nov 3	22,082	16,047	7,769	4,509	145	14	12,423
Nov 5	22,082	18,059	7,289	9,783	255	20	17,327
Nov 21	22,082	16,044	5,960	9,748	241	23	15,949

4. The Antrim County Clerk and Secretary of State Jocelyn Benson have stated that the election night error (detailed above by the vote "flip" from Trump to Biden, was the result of human error caused by the failure to update the Mancelona Township tabulator prior to election night for a down ballot race. We disagree and conclude that the vote flip occurred because of machine error built into the voting software designed to create error.

5. Secretary of State Jocelyn Benson's statement on November 6, 2020 that "[t]the correct results always were and continue to be reflected on the tabulator totals tape . . . ." was false.

6. The allowable election error rate established by the Federal Election Commission guidelines is of 1 in 250,000 ballots (.0008%). We observed an error rate of 68.05%. This demonstrated a significant and fatal error in security and election integrity.

7. The results of the Antrim County 2020 election are not certifiable. This is a result of machine and/or software error, not human error.

8. The tabulation log for the forensic examination of the server for Antrim County from December 6, 2020consists of 15,676 individual events, of which 10,667 or 68.05% of the events were recorded errors. These errors resulted in overall tabulation errors or ballots being sent to adjudication. This high error rates proves the Dominion Voting System is flawed and does not meet state or federal election laws.

9. These errors occurred after The Antrim County Clerk provided a re-provisioned CF card with uploaded software for the Central Lake Precinct on November 6, 2020. This means the statement by Secretary Benson was false. The Dominion Voting System produced systemic errors and high error rates both prior to the update and after the update; meaning the update (or lack of update) is not the cause of errors.

10. In Central Lake Township there were 1,222 ballots **reversed** out of 1,491 total ballots cast, resulting in an 81.96% rejection rate. All reversed ballots are sent to adjudication for a decision by election personnel.

11. It is critical to understand that the Dominion system classifies ballots into two categories, 1) normal ballots and 2) adjudicated ballots. Ballots sent to adjudication can be altered by administrators, and adjudication files can be moved between different Results Tally and Reporting (RTR) terminals with no audit trail of which administrator actually adjudicates (i.e. votes) the ballot batch. This demonstrated a significant and fatal error in security and election integrity because it provides no meaningful observation of the adjudication process or audit trail of which administrator actually adjudicated the ballots.

12. A staggering number of votes required adjudication. This was a 2020 issue not seen in previous election cycles still stored on the server. This is caused by intentional errors in the system. The intentional errors lead to bulk adjudication of ballots with no oversight, no transparency or audit trail. Our examination of the server logs indicates that this high error rate was incongruent with patterns from previous years. The statement attributing these issues to human error is not consistent with the forensic evaluation, which points more correctly to systemic machine and/or software errors. The systemic errors are intentionally designed to create errors in order to push a high volume of ballots to bulk adjudication.

13. The linked video demonstrates how to cheat at adjudication:

    https://mobile.twitter.com/KanekoaTheGreat/status/1336888454538428418

14. Antrim County failed to properly update its system. A purposeful lack of providing basic computer security updates in the system software and hardware demonstrates incompetence, gross negligence, bad faith, and/or willful non-compliance in providing the fundamental system security required by federal and state law. There is no way this election management system could have passed tests or have been legally certified to conduct the 2020 elections in Michigan under the current laws. According to the National Conference of State Legislatures Michigan requires full compliance with federal standards as determined by a federally accredited voting system laboratory.

15. Significantly, the computer system shows vote adjudication logs for prior years; but all adjudication log entries for the 2020 election cycle are missing. The adjudication process is the simplest way to manually manipulate votes. The lack of records prevents any form of audit accountability, and their conspicuous absence is extremely suspicious since the files exist for previous years using the same software. Removal of these files violates state law and prevents a meaningful audit, even if the Secretary wanted to conduct an audit. We must conclude that the 2020 election cycle records have been manually removed.

16. Likewise, all 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. Security logs are very important to an audit trail, forensics, and for detecting advanced persistent threats and outside attacks, especially on systems with outdated system files. These logs would contain domain controls, authentication failures, error codes, times users logged on and off, network connections to file servers between file accesses, internet connections, times, and data transfers. Other server logs before November 4, 2020 are present; therefore, there is no reasonable explanation for the security logs to be missing.

17. On November 21, 2020, an unauthorized user unsuccessfully attempted to zero out election results. This demonstrates additional tampering with data.

18. The Election Event Designer Log shows that Dominion ImageCast Precinct Cards were programmed with new ballot programming on 10/23/2020 and then again after the election on 11/05/2020. These system changes affect how ballots are read and tabulated, and our examination demonstrated a significant change in voter results using the two different programs. In accordance with the Help America Vote Act, this violates the 90-day Safe Harbor Period which prohibits changes to election systems, registries, hardware/software updates without undergoing re-certification. According to the National Conference of State Legislatures Michigan requires full compliance with federal standards as determined by a federally accredited voting system laboratory.

19. The only reason to change software after the election would be to obfuscate evidence of fraud and/or to correct program errors that would de-certify the election. Our findings show that the Central Lake Township tabulator tape totals were significantly altered by utilizing two different program versions (10/23/2020 and 11/05/2020), both of which were software changes during an election which violates election law, and not just human error associated with the **Dominion Election Management System.** This is clear evidence of software generated movement of votes. The claims made on the **Office of the Secretary of State** website are false.

20. The Dominion ImageCast Precinct (ICP) machines have the ability to be connected to the internet (see Image 11). By connecting a network scanner to the ethernet port on the ICP machine and creating Packet Capture logs from the machines we examined show the ability to connect to the network, Application Programming Interface (API) (a data exchange between two different systems) calls and web (http) connections to the Election Management System server. Best practice is to disable the network interface card to avoid connection to the internet. This demonstrated a significant and fatal error in security and election integrity. Because certain files have been deleted, we have not yet found origin or destination; but our research continues.

21. Because the intentional high error rate generates large numbers of ballots to be adjudicated by election personnel, we must deduce that bulk adjudication occurred. However, because files and adjudication logs are missing, we have not yet determined where the bulk adjudication occurred or who was responsible for it. Our research continues.

22. Research is ongoing. However, based on the preliminary results, we conclude that the errors are so significant that they call into question the integrity and legitimacy of the results in the Antrim County 2020 election to the point that the results are not certifiable. Because the same machines and software are used in 48 other counties in Michigan, this casts doubt on the integrity of the entire election in the state of Michigan.

23. DNI Responsibilities: President Obama signed Executive Order on National Critical Infrastructure on 6 January 2017, stating in Section 1. Cybersecurity of Federal Networks, "The Executive Branch operates its information technology (IT) on behalf of the American people. The President will hold heads of executive departments and agencies (agency heads) accountable for managing cybersecurity risk to their enterprises. In addition, because risk management decisions made by agency heads can affect the risk to the executive branch as a whole, and to national security, it is also the policy of the United States to manage cybersecurity risk as an executive branch enterprise." President Obama's EO further stated, effective immediately, each agency head shall use The Framework for Improving Critical Infrastructure Cybersecurity (the Framework) developed by the National Institute of Standards and Technology." Support to Critical Infrastructure at Greatest Risk. The Secretary of Homeland Security, in coordination with the Secretary of Defense, the Attorney General, the Director of National Intelligence, the Director of the Federal Bureau of Investigation, the heads of appropriate sector-specific agencies, as defined in Presidential Policy Directive 21 of February 12, 2013 (Critical Infrastructure Security and Resilience) (sector-specific agencies), and all other appropriate agency heads, as identified by the Secretary of Homeland Security, shall: (i) identify authorities and capabilities that agencies could employ to support the cybersecurity efforts of critical infrastructure entities identified pursuant to section 9 of Executive Order 13636 of February 12, 2013 (Improving Critical Infrastructure Cybersecurity), to be at greatest risk of attacks that could reasonably result in catastrophic regional or national effects on public health or safety, economic security, or national security (section 9 entities);

This is a national security imperative. **In July 2018, President Trump strengthened President Obama's Executive Order to include requirements to ensure US election systems, processes, and its people were not manipulated by foreign meddling, either through electronic or systemic manipulation, social media, or physical changes made in hardware, software, or supporting systems.** The 2018 Executive Order. Accordingly, I hereby order:

Section 1. (a) Not later than 45 days after the conclusion of a United States election, the Director of National Intelligence, in consultation with the heads of any other appropriate executive departments and agencies (agencies), shall conduct an assessment of any information indicating that a foreign government, or any person acting as an agent of or on behalf of a foreign government, has acted with the intent or purpose of interfering in that election. The assessment shall identify, to the maximum extent ascertainable, the nature of any foreign interference and any methods employed to execute it, the persons involved, and the foreign government or governments that authorized, directed, sponsored, or supported it. The Director of National Intelligence shall deliver this assessment and appropriate supporting information to the President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, and the Secretary of Homeland Security.

We recommend that an independent group should be empaneled to determine the extent of the adjudication errors throughout the State of Michigan. This is a national security issue.

24. Michigan resident Gustavo Delfino, a former professor of mathematics in Venezuela and alumni of University of Michigan, offered a compelling affidavit [Exhibit 2] recognizing the inherent vulnerabilities in the SmartMatic electronic voting machines (software which was since incorporated into Dominion Voting Systems) during the 2004 national referendum in Venezuela (see attached declaration). After 4 years of research and 3 years of undergoing intensive peer review, Professor Delfino's paper was published in the highly respected "Statistical Science" journal, November 2011 issue (Volume 26, Number 4) with title "Analysis of the 2004 Venezuela Referendum: The Official Results Versus the Petition Signatures." The intensive study used multiple mathematical approaches to ascertain the voting results found in the 2004 Venezuelan referendum. Delfino and his research partners discovered not only the algorithm used to manipulate the results, but also the precise location in the election processing sequence where vulnerability in machine processing would provide such an opportunity. According to Prof Delfino, the magnitude of the difference between the official and the true result in Venezuela estimated at 1,370,000 votes. Our investigation into the error rates and results of the Antrim County voting tally reflect the same tactics, which have also been reported in other Michigan counties as well. This demonstrates a national security issue.

C. PROCESS

We visited Antrim County twice: November 27, 2020 and December 6, 2020.

On November 27, 2020, we visited Central Lake Township, Star Township, and Mancelona Township. We examined the Dominion Voting Systems tabulators and tabulator roles.

On December 6, 2020, we visited the Antrim County Clerk's office. We inspected and performed forensic duplication of the following:

1. **Antrim County Election Management Server** running **Dominion Democracy Suite** 5.5.3-002;

2. **Compact Flash** cards used by the local precincts in their **Dominion ImageCast Precinct;**

3. **USB memory sticks** used by the **Dominion VAT** (Voter Assist Terminals); and

4. **USB memory sticks** used for the Poll Book.

Dominion voting system is a Canadian owned company with global subsidiaries. It is owned by Staple Street Capital which is in turn owned by UBS Securities LLC, of which 3 out of their 7 board members are Chinese nationals. The Dominion software is licensed from Smartmatic which is a Venezuelan owned and controlled company. Dominion Server locations have been determined to be in Serbia, Canada, the US, Spain and Germany.

D. CENTRAL LAKE TOWNSHIP

1. On November 27, 2020, part of our forensics team visited the Central Lake Township in Michigan to inspect the **Dominion ImageCast Precint** for possible hardware issues on behalf of a local lawsuit filed by Michigan attorney Matthew DePerno on behalf of William Bailey. In our conversations with the clerk of **Central Lake Township** Ms. Judith L. Kosloski, she presented to us "two separate paper totals tape" from Tabulator ID 2.

   - One dated "Poll Opened Nov. 03/2020 06:38:48" (Roll 1);

   - Another dated "Poll Opened Nov. 06/2020 09:21:58" (Roll 2).

2. We were then told by Ms. Kosloski that on November 5, 2020, Ms. Kosloski was notified by Connie Wing of the County Clerk's Office and asked to bring the tabulator and ballots to the County Clerk's office for re-tabulation. They ran the ballots and printed "Roll 2". She noticed a difference in the votes and brought it up to the clerk, but canvasing still occurred, and her objections were not addressed.

3. Our team analyzed both rolls and compared the results. Roll 1 had **1,494** total votes and Roll 2 had **1,491** votes (Roll 2 had 3 less ballots because 3 ballots were damaged in the process.)

4. "Statement of Votes Cast from Antrim" shows that only **1,491** votes were counted, and the **3** ballots that were damaged were not entered into final results.

5. Ms. Kosloski stated that she and her assistant manually refilled out the three ballots, curing them, and ran them through the ballot counting system - but the final numbers do not reflect the inclusion of those **3** damaged ballots.

6. This is the most preliminary report of serious election fraud indicators. In comparing the numbers on both rolls, *we estimate **1,474** votes changed* across the two rolls, between the first and the second time the exact same ballots were run through the County Clerk's vote counting machine - *which is almost the same number of voters that voted in total.*

   - ***742** votes were added to* **School Board Member for Central Lake Schools (3)**

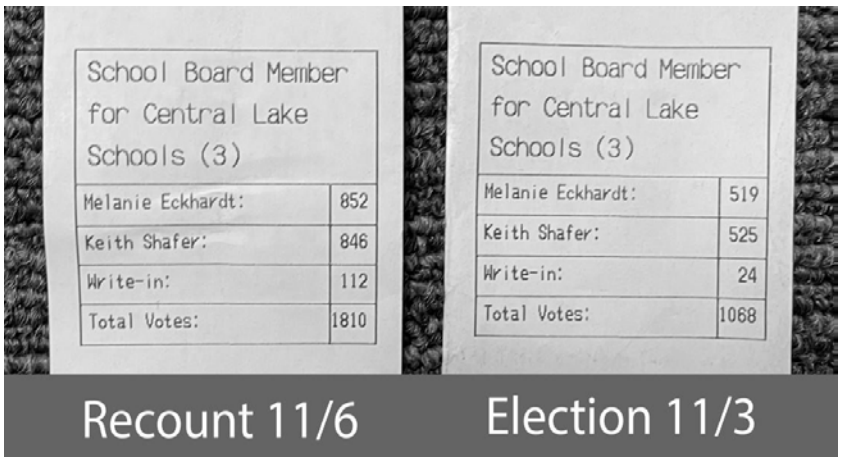
   - ***657** votes were removed from* **School Board Member for Ellsworth Schools (2)**

   - **7** votes were added to the total for **State Proposal 20-1 (1)** and out of those there were **611** votes moved between the Yes and No Categories.

7. There were incremental changes throughout the rolls with some significant adjustments between the 2 rolls that were reviewed. This demonstrates conclusively that votes can be and were changed during the second machine count after the software update. That should be impossible especially at such a high percentage to total votes cast.

8. For the **School Board Member for Central Lake Schools (3)** [Image 1] there were **742 votes** added to this vote total. Since multiple people were elected, this did not change the result of both candidates being elected, but one does see a change in who had most votes. If it were a single-person election this would have changed the outcome and demonstrates conclusively that votes can be and were changed during the second machine counting. That should be impossible.

   [Image 1]:

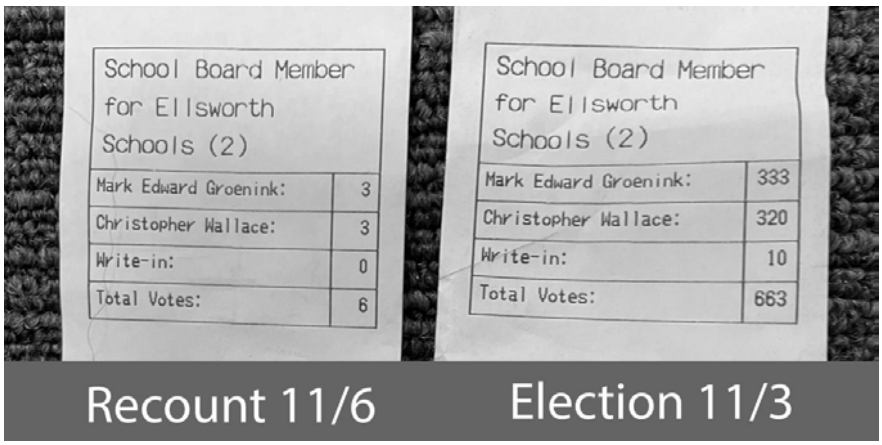


9. For the **School Board Member for Ellsworth Schools (2)** [Image 2]

- Shows ***657*** *votes being removed* from this election.
- In this case, only **3** people who were eligible to vote actually voted. Since there were **2** votes allowed for each voter to cast.
- The recount correctly shows **6** votes.

But on election night, there was a major calculation issue:

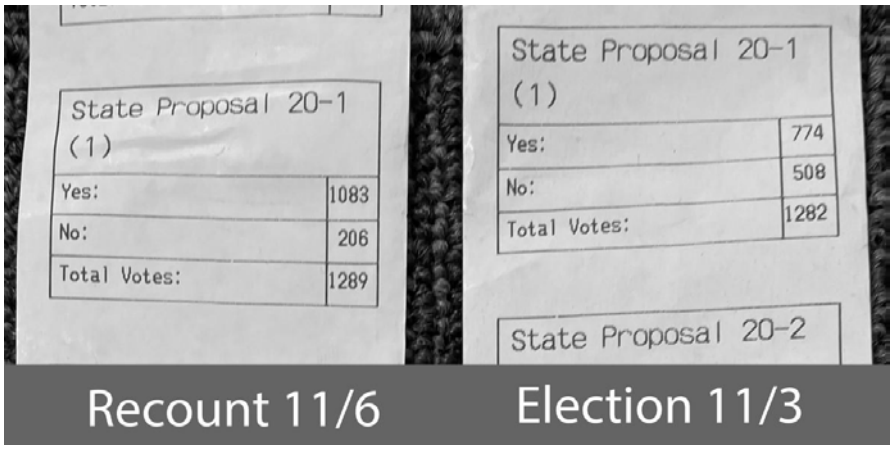
[Image 2]:



10. In **State Proposal 20-1 (1)**, [Image 3] there is a major change in votes in this category.

- There were **774 votes for YES** during the election, to **1,083 votes for YES** on the recount a change of **309 votes**.
- **7** votes were added to the total for **State Proposal 20-1 (1)** out of those there were **611** votes moved between the Yes and No Categories.

[Image 3]:



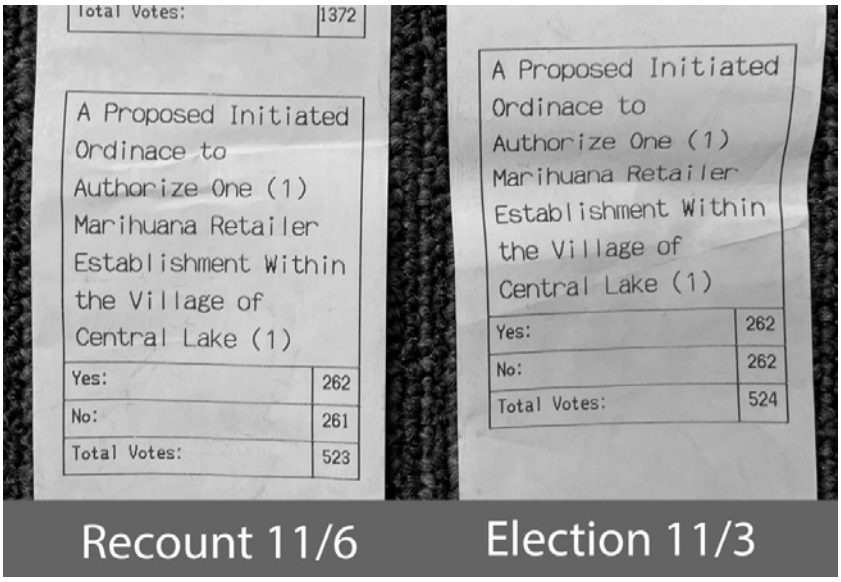
11. **State Proposal 20-1 (1)** is a fairly technical and complicated proposed amendment to the Michigan Constitution to change the disposition and allowable uses of future revenue generated from oil and gas bonuses, rentals and royalties from state-owned land. Information about the proposal: https://crcmich.org/publications/statewide-ballot- proposal-20-1-michigan-natural-resources-trust-fund

12. A Proposed Initiated **Ordinance to Authorize One (1) Marihuana (sic) Retailer Establishment Within the Village of Central Lake (1)**. [Image 4]

- On election night, it was a tie vote.
- Then, on the rerun of ballots 3 ballots were destroyed, but only one vote changed on the totals to allow the proposal to pass.

When **3 ballots were not counted** and **programming change on the tabulator was installed** the proposal **passed with 1 vote being removed from the No** vote.

[Image 4]:



13. On Sunday December 6, 2020, our forensics team visited the Antrim County Clerk. There were two USB memory sticks used, one contained the software package used to tabulate election results on November 3, 2020, and the other was programmed on November 6, 2020 with a different software package which yielded significantly different voting outcomes. The election data package is used by the **Dominion Democracy Suite** software & election management system software to upload programming information onto the Compact Flash Cards for the **Dominion ImageCast Precinct** to enable it to calculate ballot totals.

14. This software programming should be standard across all voting machines systems for the duration of the entire election if accurate tabulation is the expected outcome as required by US Election Law. This intentional difference in software programming is a design feature to alter election outcomes.

15. The election day outcomes were calculated using the original software programming on November 3, 2020. On November 5, 2020 the township clerk was asked to re-run the Central Lake Township ballots and was given no explanation for this unusual request. On November 6, 2020 the Antrim County Clerk, Sheryl Guy issued the second version of software to re-run the same Central Lake Township ballots and oversaw the process. This resulted in greater than a 60% change in voting results, inexplicably impacting every single election contest in a township with less than 1500 voters. These errors far exceed the ballot error rate standard of 1 in 250,000 ballots (.0008%) as required by federal election law.

    - The original election programming files are last dated 09/25/2020 1:24pm
    - The updated election data package files are last dated 10/22/2020 10:27 am.

16. As the tabulator tape totals prove, there were large numbers of votes switched from the November 3, 2020 tape to the November 6, 2020 tape. This was solely based on using different software versions of the operating program to calculate votes, not tabulate votes. This is evidenced by using same the Dominion System with two different software program versions contained on the two different USB Memory Devices.

17. The Help America Vote Act, Safe Harbor provides a 90-day period prior to elections where no changes can be made to election systems. To make changes would require recertification of the entire system for use in the election. The Dominion User Guide prescribes the proper procedure to test machines with test ballots to compare the results to validate machine functionality to determine if the **Dominion ImageCast Precinct** was programmed correctly. If this occurred a ballot misconfiguration would have been identified. Once the software was updated to the 10/22/2020 software the test ballots should have been re-run to validate the vote totals to confirm the machine was configured correctly.

18. The November 6, 2020 note from **The Office of the Secretary of State Jocelyn Benson** states: "The correct results always were and continue to be reflected on the tabulator totals tape and on the ballots themselves. Even if the error in the reported unofficial results had not been quickly noticed, it would have been identified during the county canvass. Boards of County Canvassers, which are composed of 2 Democrats and 2 Republicans, review the printed totals tape from each tabulator during the canvass to verify the reported vote totals are correct."

    - Source: https://www.michigan.gov/sos/0,4670,7-127-1640_9150-544676--,00.html

19. The **Secretary of State Jocelyn Benson's** statement is false. Our findings show that the tabulator tape totals were significantly altered by utilization of two different program versions, and not just the **Dominion Election Management System.** This is the opposite of the claim that the **Office of the Secretary of State** made on its website. The fact that these significant errors were not caught in ballot testing and not caught by the local county clerk shows that there are major inherent built-in vulnerabilities and process flaws in the **Dominion Election Management System**, and that other townships/precincts and the entire election have been affected.

20. On Sunday December 6, 2020, our forensics team visited the Antrim County Clerk office to perform forensic duplication of the **Antrim County Election Management Server** running **Dominion Democracy Suite** 5.5.3-002.

21. Forensic copies of the **Compact Flash** cards used by the local precincts in their **Dominion ImageCast Precinct** were inspected, **USB memory sticks** used by the **Dominion VAT** (Voter Assist Terminals) and the **USB memory sticks** used for the Poll Book were forensically duplicated.

22. We have been told that the ballot design and configuration for the **Dominion ImageCast Precinct** and VAT were provided by **ElectionSource.com** which is which is owned by MC&E, Inc of Grand Rapids, MI.

E. MANCELONA TOWNSHIP

1. In Mancelona township, problems with software versions were also known to have been present. Mancelona elections officials understood that ballot processing issued were not accurate and used the second version of software to process votes on 4 November, again an election de-certifying event, as no changes to the election system are authorized by law in the 90 days preceding elections without re-certification.

2. Once the 10/22/2020 software update was performed on the Dominion ImageCast Precinct the test ballot process should have been performed to validate the programming. There is no indication that this procedure was performed.

F. ANTRIM COUNTY CLERK'S OFFICE

1. Pursuant to a court ordered inspection, we participated in an onsite collection effort at the Antrim County Clerk's office on December 6, 2020. [Image 5]:

Among other items forensically collected, the Antrim County Election Management Server (EMS) with Democracy Suite was forensically collected. [Images 6 and 7].

The EMS (Election Management Server) was a:

Dell Precision Tower 3420.

Service Tag: 6NB0KH2

The EMS contained 2 hard drives in a RAID-1 configuration. That is the 2 drives redundantly stored the same information and the server could continue to operate if either of the 2 hard drives failed. The EMS was booted via the Linux Boot USB memory sticks and both hard drives were forensically imaged.

At the onset of the collection process we observed that the initial program thumb drive was not secured in the vault with the CF cards and other thumbdrives. We watched as the County employees, including Clerk Sheryl Guy searched throughout the office for the missing thumb drive. Eventually they found the missing thumb drive in an unsecured and unlocked desk drawer along with multiple other random thumb drives. This demonstrated a significant and fatal error in security and election integrity.

G. FORENSIC COLLECTION

We used a built for purpose Linux Boot USB memory stick to boot the EMS in a forensically sound mode. We then used Ewfacquire to make a forensic image of the 2 independent internal hard drives.

Ewfacquire created an E01 file format forensic image with built-in integrity verification via MD5 hash.

We used Ewfverify to verify the forensic image acquired was a true and accurate copy of the original disk. That was done for both forensic images.

H. ANALYSIS TOOLS

X-Ways Forensics: We used X-Ways Forensics, a commercial Computer Forensic tool, to verify the image was useable and full disk encryption was not in use. In particular we confirmed that Bit locker was not in use on the EMS.

Other tools used: PassMark OSForensics, Truxton - Forensics, Cellebrite Physical Analyzer, Blackbag-Blacklight Forensic Software, Microsoft SQL Server Management Studio, Virtual Box, and miscellaneous other tools and scripts.

I. SERVER OVERVIEW AND SUMMARY

1. Our initial audit on the computer running the Democracy Suite Software showed that standard computer security best practices were not applied. These minimum-security standards are outlined the 2002 HAVA, and FEC Voting System Standards it did not even meet the minimum standards required of a government desktop computer.

2. The election data software package USB drives (November 2020 election, and November 2020 election updated) are secured with bitlocker encryption software, but they were not stored securely on-site. At the time of our forensic examination, the election data package files were already moved to an unsecure desktop computer and were residing on an unencrypted hard drive. This demonstrated a significant and fatal error in security and election integrity. Key Findings on Desktop and Server Configuration: - There were multiple Microsoft security updates as well as Microsoft SQL Server updates which should have been deployed, however there is no evidence that these security patches were ever installed. As described below, many of the software packages were out of date and vulnerable to various methods of attack.

    a) Computer initial configuration on 10/03/2018 13:08:11:911

    b) Computer final configuration of server software on 4/10/2019

    c) Hard Drive not Encrypted at Rest

    d) Microsoft SQL Server Database not protected with password.

    e) Democracy Suite Admin Passwords are reused and share passwords.

    f) Antivirus is 4.5 years outdated

    g) Windows updates are 3.86 years out of date.

    h) When computer was last configured on 04/10/2019 the windows updates were 2.11 years out of date.

    i) User of computer uses a Super User Account.

3. The hard drive was not encrypted at rest which means that if hard drives are removed or initially booted off an external USB drive the files are susceptible to manipulation directly. An attacker is able to mount the hard drive because it is unencrypted, allowing for the manipulation and replacement of any file on the system.

4. The Microsoft SQL Server database files were not properly secured to allow modifications of the database files.

5. The Democracy Suite Software user account logins and passwords are stored in the unsecured database tables and the multiple Election System Administrator accounts share the same password, which means that there are no audit trails for vote changes, deletions, blank ballot voting, or batch vote alterations or adjudication.

6. Antivirus definition is 1666 days old on 12/11/2020. Antrim County updates its system with USB drives. USB drives are the most common vectors for injecting malware into computer systems. The failure to properly update the antivirus definition drastically increases the harm cause by malware from other machines being transmitted to the voting system.

7. Windows Server Update Services (WSUS) Offline Update is used to enable updates the computer which is a package of files normally downloaded from the internet but compiled into a program to put on a USB drive to manually update server systems.

8. Failure to properly update the voting system demonstrates a significant and fatal error in security and election integrity.

9. There are 15 additional updates that should have been installed on the server to adhere to Microsoft Standards to fix known vulnerabilities. For the 4/10/2019 install, the most updated version of the update files would have been 03/13/2019 which is 11.6.1 which is 15 updates newer than 10.9.1

   This means the updates installed were 2 years, 1 month, 13 days behind the most current update at the time. This includes security updates and fixes. This demonstrated a significant and fatal error in security and election integrity.

   - Wed 04/10/2019 10:34:33.14 - Info: Starting WSUS Offline Update (v. 10.9.1)

   - Wed 04/10/2019 10:34:33.14 - Info: Used path "D:\WSUSOFFLINE1091 2012R2 W10\cmd\" on EMSSERVER (user: EMSADMIN)

   - Wed 04/10/2019 10:34:35.55 - Info: Medium build date: 03/10/2019

- Found on c:\Windows\wsusofflineupdate.txt

- *WSUS Offline Update (v.10.9.1) was created on 01/29/2017

*WSUS information found here https://download.wsusoffline.net/

10. Super User Administrator account is the primary account used to operate the **Dominion Election Management System** which is a major security risk. The user logged in has the ability to make major changes to the system and install software which means that there is no oversight to ensure appropriate management controls i.e. anyone who has access to the shared administrator user names and passwords can make significant changes to the entire voting system. The shared usernames and passwords mean that these changes can be made in an anonymous fashion with no tracking or attribution.

J. ERROR RATES

1. We reviewed the Tabulation logs in their entirety for 11/6/2020. The election logs for Antrim County consist of 15,676 total lines or events.

   - Of the 15,676 there were a total of 10,667 critical errors/warnings or a 68.05% error rate.

   - Most of the errors were related to configuration errors that could result in overall tabulation errors or adjudication. These 11/6/2020 tabulation totals were used as the official results.

2. For examples, there were 1,222 ballots **reversed** out of 1,491 total ballots cast, thus resulting in an 81.96% rejection rate. Some of which were reversed due to "Ballot's size exceeds maximum expected ballot size".

   - According to the NCSL, Michigan requires testing by a federally accredited laboratory for voting systems. In section 4.1.1 of the Voluntary Voting Systems Guidelines (VVSG) Accuracy Requirements a. **All systems shall achieve a report total error rate of no more than one in 125,000**.

   - https://www.eac.gov/sites/default/files/eac_assets/1/28/VVSG.1.1.VOL.1.FINAL1.pdf

   - In section 4.1.3.2 Memory Stability of the VVSG it states that **Memory devices used to retain election management data shall have demonstrated error free data retention for a period of 22 months**.

   - In section 4.1.6.1 Paper-based System Processing Requirements sub-section a. of the VVSG it states "The ability of the system to produce and receive electronic signals from the scanning of the ballot, perform logical and numerical operations upon these data, and reproduce the contents of memory when required **shall** be sufficiently free of **error** to enable

satisfaction of the system-level accuracy requirement indicated in Subsection 4.1.1."

- These are not human errors; this is definitively related to the software and software configurations resulting in error rates far beyond the thresholds listed in the guidelines.

3. A high "error rate" in the election software (in this case 68.05%) reflects an algorithm used that will weight one candidate greater than another (for instance, weight a specific candidate at a 2/3 to approximately 1/3 ratio). In the logs we identified that the RCV or Ranked Choice Voting Algorithm was enabled (see image below from the Dominion manual). This allows the user to apply a weighted numerical value to candidates and change the overall result. The declaration of winners can be done on a basis of points, not votes. [Image 8]:

choice voting results are evaluated on a district per district basis and each district has a set number of points (100). Elimination and declaration of winners is done on basis of points, not votes.

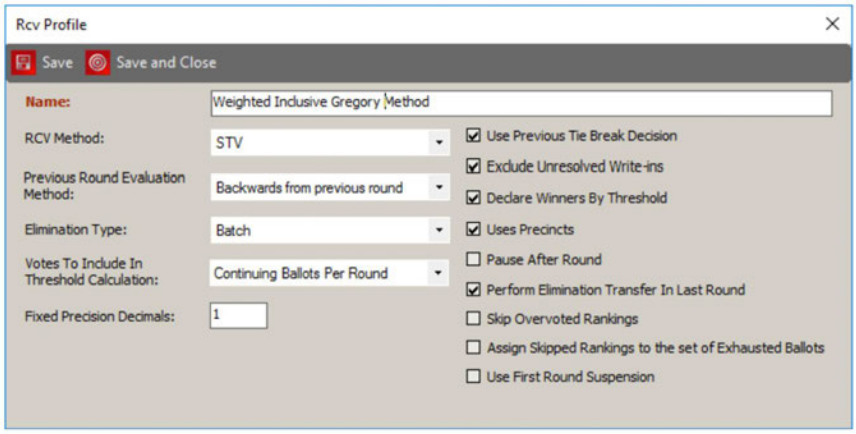


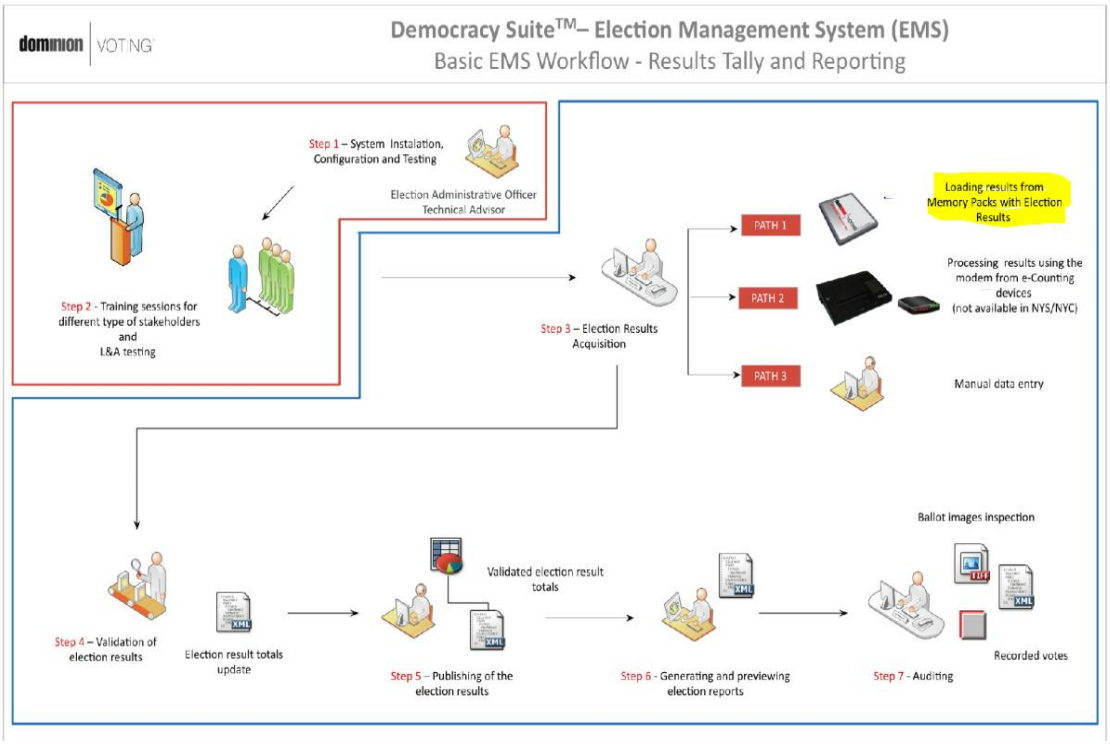
Figure 11-3: RCV Profile screen

4. The Dominion software configuration logs in the Divert Options, shows that all write-in ballots were flagged to be diverted automatically for adjudication. This means that all write-in ballots were sent for "adjudication" by a poll worker or election official to process the ballot based on voter "intent". Adjudication files allow a computer operator to decide to whom to award those votes (or to trash them).

5. In the logs all but two of the Override Options were enabled on these machines, thus allowing any operator to change those votes. [Image 9]:

6. In the logs all but two of the Override Options were enabled on these machines, thus allowing any operator to change those votes. This gives the system operators carte blanche to adjudicate ballots, in this case 81.96% of the total cast ballots with no audit trail or oversight. [Image 10]:

7. On 12/8/2020 Microsoft issued 58 security patches across 10+ products, some of which were used for the election software machine, server and programs. Of the 58 security fixes 22, were patches to remote code execution (RCE) vulnerabilities. [Image 11]:



8. We reviewed the Election Management System logs (EmsLogger) in their entirety from 9/19/2020 through 11/21/2020 for the Project: Antrim November 2020. There were configuration errors throughout the set-up, election and tabulation of results. The last error for Central Lake Township, Precinct 1 occurred on 11/21/2020 at 14:35:11 System.Xml.XmlException System.Xml.XmlException: The ' ' character, hexadecimal value 0x20, cannot be included in a name. Bottom line is that this is a calibration that rejects the vote (see picture below). [Image 12]:

Notably 42 minutes earlier on Nov 21 2020 at 13:53:09 a user attempted to zero out election results. Id:3168 EmsLogger - There is no permission to {0} - Project: User: Thread: 189. This is direct proof of an attempt to tamper with evidence.

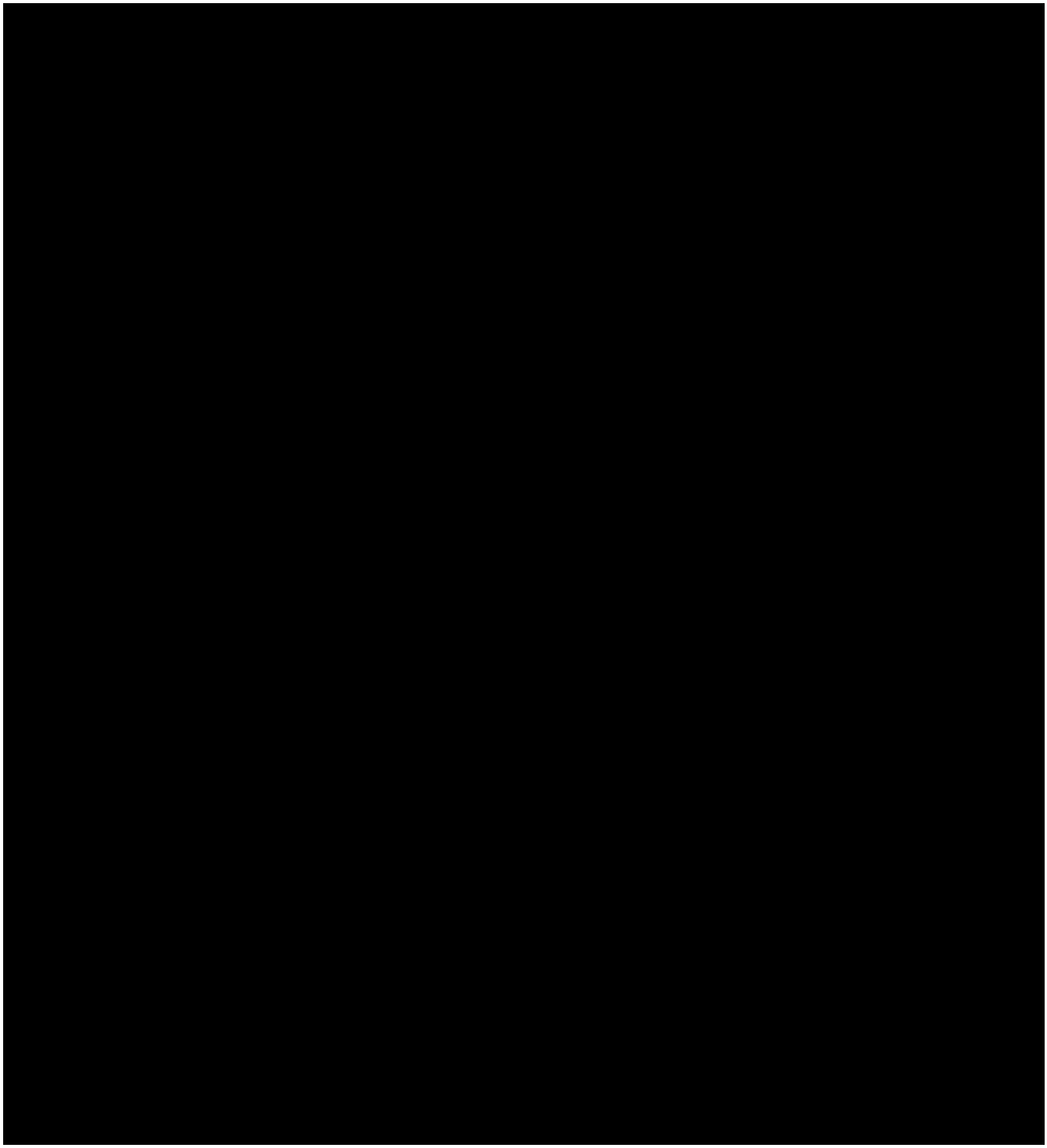
[redacted]

9. The Election Event Designer Log shows that Dominion ImageCast Precinct Cards were programmed with updated new programming on 10/23/2020 and again after the election on 11/05/2020. As previously mentioned, this violates the HAVA safe harbor period.

   Source: C:\Program Files\Dominion Voting Systems\Election Event Designer\Log\Info.txt

   - Dominion Imagecast Precinct Cards Programmed with 9/25/2020 programming on 09/29/2020, 09/30/2020, and 10/12/2020.
   - Dominion Imagecast Precinct Cards Programmed with New Ballot Programming dated 10/22/2020 on 10/23/2020 and after the election on 11/05/2020

   Excerpt from 2020-11-05 showing “ProgramMemoryCard” commands.



10. Analysis is ongoing and updated findings will be submitted as soon as possible. A summary of the information collected is provided below.

10|12/07/20 18:52:30| Indexing completed at Mon Dec 7 18:52:30 2020
12|12/07/20 18:52:30| INDEX SUMMARY
12|12/07/20 18:52:30| Files indexed: 159312

12|12/07/20 18:52:30| Files skipped: 64799
12|12/07/20 18:52:30| Files filtered: 0
12|12/07/20 18:52:30| Emails indexed: 0
12|12/07/20 18:52:30| Unique words found: 5325413
12|12/07/20 18:52:30| Variant words found: 3597634
12|12/07/20 18:52:30| Total words found: 239446085
12|12/07/20 18:52:30| Avg. unique words per page: 33.43
12|12/07/20 18:52:30| Avg. words per page: 1503
12|12/07/20 18:52:30| Peak physical memory used: 2949 MB
12|12/07/20 18:52:30| Peak virtual memory used: 8784 MB
12|12/07/20 18:52:30| Errors: 10149
12|12/07/20 18:52:30| Total bytes scanned/downloaded: 1919289906

Dated: December 13, 2020

Russell Ramsland

ANTRIM COUNTY TALKING POINTS

KEY FACTS

- **There was a 68% error rate in the votes cast – the Federal Election Committee allowable rate is 0.0008%**
- **There was an 81.96% rejection rate in the votes cast – these were sent to Adjudication**
- **The Adjudication files for 2020 were missing, which violates state law**
- **The Security records for the election software were missing - which violates state law – these also contain the internet connection records**
- **The election software was changed inside the 90-day Safe Harbor window, which is forbidden by state law – *this automatically decertifies the results***
- **Standard security protocols were not followed – software systems were out of date by years, creating a provable security risk**
- **All Counties in Michigan are required to operate with the same software to guarantee consistent treatment of voters – so errors in the Antrim County software system are determinative of identical errors across the state due to the requirement to use the same software everywhere**
- **The Secretary of State directed the County Clerks on December 1, 2020, throughout Michigan to delete all of their electronic election records for 2020 by December 8, 2020, in violation of Michigan state law MCL 168.811 requiring retention of voting records for 22 months**

TALKING POINTS - EVIDENCE OF INTENTIONAL FRAUD AND CORRUPTION OF THE VOTING MACHINES

- this is the evidence that Dominion Voting machines can and are being manipulated
- This is not human error as we have proven
- Secretary Benson lied
- Federal Law was violated – the election records were destroyed
- This is a Cover-up of voting crimes
    - **Records were missing** in violation of the legal requirements for retention
        - **These records exist in this county for previous elections, but not 2020**
    - **Security records are missing – including the record of internet access to the machines**

    - Adjudication records do not exist – there is no ability to tell who or how or to where the "Adjudicated" votes were moved
        - An Administrator reviews votes sent to Adjudication and then can vote them as the wish – no oversight, no transparency, no record, no accountability
- 68% of votes were switched in this county in error – FEC rules only allow a .0008% error rate
- 81% of the votes were voted by an Administrator – not by the VOTER
    - The Voter's choice was not voted by the voter – intervention happened and votes were moved
- The same Ballots were run it three times and produced three different results
- Laws have been Broken
- A Cover-up is Happening regarding the voting machines in Michigan
- We fought this for the Voters of Michigan whose votes were not accurately counted – we are here for the integrity of the voting process and the will of the People
- Republicans and Democrats alike had their votes manipulated – all voters were impacted and we must defend their voting rights

CONCLUSIONS

- Based on the violation of law, these election results cannot be certified in Antrim County
- The vast amount of fraud in the votes here demands a review of the votes throughout Michigan
- Security on the Dominion machines was practically non-existent – this is not a secure result
- These same Dominion machines were used throughout Michigan, and the results must be discounted until all Dominion machines can be reviewed for fraudulent vote manipulation
    - The other 48 counties have been required to use the same certified software – the error rate is a given
- Michigan cannot certify for Biden
- This is a seditious conspiracy to undermine the election process and the will of the American people

ARGUMENTS AGAINST US:

- Errors happen all the time
    - *Counter*: Not at this massive rate

    - *the software is designed to generate 68% errors, which sends the ballots to a file for bulk adjudication, and then an unknown person (or the computer itself) will mass adjudicate the ballots with no oversight*
- It wasn't significant
    - *Counter*: There was an almost 100% change of votes in one precinct alone
    - *this is an intentional design flaw to systematically create fraud*
- It was just in this one township
    - *Counter*: It's indicative of what the machines can and did do to move votes
- It didn't happen everywhere
    - *Counter*: We believe it has happened everywhere – we must review this statewide.
    - *IN fact, the constitution requires we investigate every county*
    - *the election cannot be certified*
- It didn't impact the election
    - *Counter*: It impacted offices and propositions from the President down to the School Board – every office on the ballot was impacted
- It doesn't matter
    - *Counter*: The Election Process is a vital part of the US National Critical Infrastructure – we must know that One Person One Vote is counted
- Only 3 votes for President were impacted
    - *Counter*: The vote swing between Trump and Biden moved by the 1000s
- The Forensics team was not professional
    - *Counter*: Our forensics team was led by a highly decorated military officer, who specializes in cyber security operations and data analytics, working with ta team of the highest-skilled technical cyber forensics experts

Morrall, Kimberly E. EOP/WHO

From:	Morrall, Kimberly E. EOP/WHO
Sent:	Tuesday, December 15, 2020 1:39 PM
To:	(b) (6). (ODAG)
Cc:	(b) (6) (ODAG)
Subject:	RE: Meeting TODAY with POTUS

Thank you. I just checked in with Kate Lair and she confirmed she is processing the WAVES for Mr. Donoghue.

Thank you,
Kimberly

From (b) (6) (ODAG (b) (6) >
Sent: Tuesday, December 15, 2020 1:30 PM
To: Morrall, Kimberly E. EOP/WH (b) (6)
C (b) (6) (ODAG (b) (6)
Subject: RE: Meeting TODAY with POTUS

Thank you Kimberly. We submitted Donoghue's WAVES via a link Kate Lair provided this morning.

I'll update them re testing.

Best,

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phon (b) (6)

From: Morrall, Kimberly E. EOP/WH (b) (6)
Sent: Tuesday, December 15, 2020 1:28 PM
T (b) (6) (ODAG (b) (6) (b) (6) (ODAG (b) (6)
Subject: Meeting TODAY with POTUS
Importance: High

(b) (6) an (b) (6)

I am told there is a meeting today at 2:15 PM with the President and Deputy AG Rosen and Richard Donoghue will be attending from DOJ. I know the Deputy AG does not need WAVES, but can you send the WAVES link to Mr. Donoghue? Please make sure they both arrive at least 20 min before for testing at EEOB-97, and then proceed to the Upper WW Lobby.

(b) (6)

thank you,

Kimberly Morrall

Special Assistant to the President and Senior Director
Office of Cabinet Affairs
The White House
O (b) (6) C (b) (6)

[redacted] (ODAG)

From: [redacted] (ODAG)
Sent: Tuesday, December 15, 2020 1:57 PM
To: Lair, Kate E. EOP/WHO
Subject: RE: Afternoon Meeting

Yes, Kimberly forwarded details. Thank you

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phon [redacted]

From: Lair, Kate E. EOP/WH [redacted]
Sent: Tuesday, December 15, 2020 1:55 PM
T [redacted] (ODAG [redacted]
Subject: RE: Afternoon Meeting

Did you receive instructions about covid testing?

From [redacted]. (ODAG) [redacted]
Sent: Tuesday, December 15, 2020 11:47 AM
To: Lair, Kate E. EOP/WH [redacted]
Subject: RE: Afternoon Meeting

Thank you for the notice.

Best,

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phon [redacted]

From: Lair, Kate E. EOP/WHO [redacted]
Sent: Tuesday, December 15, 2020 11:45 AM
T [redacted] (ODAG [redacted]
Subject: RE: Afternoon Meeting

[redacted] I also just heard it's getting bumped up to 2:15 pm

---

From [redacted]. (ODAG [redacted]
Sent: Tuesday, December 15, 2020 11:31 AM
To: Lair, Kate E. EOP/WH [redacted]>
Subject: RE: Afternoon Meeting

Thank you

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phone [redacted]

From: Lair, Kate E. EOP/WHO [redacted]
Sent: Tuesday, December 15, 2020 11:27 AM
T [redacted]. (ODAG [redacted]
Subject: RE: Afternoon Meeting

WAVES for 2:30 pm toda [redacted]

From [redacted] (ODAG [redacted]
Sent: Tuesday, December 15, 2020 11:22 AM
To: Lair, Kate E. EOP/WHO [redacted]
Subject: Afternoon Meeting

Hi Kate,

The DAG and PADAG are heading over for a 2:30 meeting with Cipollone. Can you please provide a WAVES link so we can get Rich cleared through?

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phon [redacted]

Valenti, Beatrice A. EOP/WHO

From: Valenti, Beatrice A. EOP/WHO
Sent: Wednesday, December 16, 2020 9:48 AM
To: (b) (6). (ODAG)
Cc: (b) (6) (ODAG)
Subject: Re: Tuesday Principals Meeting

He's been cleared. Thank you!

Sent from my iPhone

On Dec 16, 2020, at 9:35 AM (b) (6) (ODAG (b) (6) > wrote:

?
Thank you Will submit John Moran's WAVES info right away.

(b) (6)
U.S. Department of Justice
Office of the Deputy Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530
(b) (6)
(b) (6)

From: Valenti, Beatrice A. EOP/WH (b) (6) >
Sent: Wednesday, December 16, 2020 9:33 AM
T [((ODAG (b) (6)
C (b) (6) (ODAG (b) (6)
Subject: RE: Tuesday Principals Meeting

(b) (6),

Here are WAVE (b) (6)

please let me know if you have any questions.

Thank you,

Beatrice Valenti
Special Projects Manager
National Economic Council
(b) (6)
(b) (6)

From (b) (6) (ODAG (b) (6)
Sent: Wednesday, December 16, 2020 9:26 AM
To: Valenti, Beatrice A. EOP/WH (b) (6) >
C (b) (6) (ODAG) (b) (6) >
Subject: RE: Tuesday Principals Meeting

Yes, he does need WAVES. His assistant (b) (6) (cc'd)

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phone (b) (6)

From: Valenti, Beatrice A. EOP/WHO (b) (6)
Sent: Wednesday, December 16, 2020 9:17 AM
T (b) (6) (ODAG (b) (6)
Subject: RE: Tuesday Principals Meeting

Got it. Does he need WAVES? Who is his POC?

Thank you!

From (b) (6) (ODAG (b) (6)
Sent: Tuesday, December 15, 2020 8:20 PM
To: Valenti, Beatrice A. EOP/WHO (b) (6) >
Subject: Re: Tuesday Principals Meeting

Apologies for the delay, our Chief of Staff John Moran will attend tomorrow's meeting.

(b) (6)
Special Assistant
Office of the Deputy Attorney General

> On Dec 15, 2020, at 2:16 PM, Valenti, Beatrice A. EOP/WHO (b) (6) > wrote:
>
> ?
> Thank you!
>
> ---
>
> **From** (b) (6) (ODAG) (b) (6)
> **Sent:** Tuesday, December 15, 2020 1:10 PM
> **To:** Valenti, Beatrice A. EOP/WHO (b) (6)
> **Subject:** RE: Tuesday Principals Meeting
>
> Good afternoon Beatrice,
>
> DAG Rosen will actually not be able to attend at this new time. We will relay soon who from DOJ will participate.

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phone (b) (6)

From: Valenti, Beatrice A. EOP/WH (b) (6)
Sent: Tuesday, December 15, 2020 1:04 PM
T (b) (6) (ODAG (b) (6)
Subject: RE: Tuesday Principals Meeting

(b) (6)

Hope you are having a wonderful Tuesday. Confirming DAG Rosen will be present at this meeting tomorrow at 2pm.

Thank you!!

Beatrice Valenti
Special Projects Manager
National Economic Council
(b) (6)
(b) (6)

From: Valenti, Beatrice A. EOP/WHO
Sent: Monday, December 14, 2020 12:49 PM
T (b) (6) (OAG (b) (6)
C (b) (6) (ODA (b) (6)
Subject: RE: Tuesday Principals Meeting

Got it. Thank yo (b) (6) !

(b) (6),

This meeting has landed for 2pm on Wednesday. I will add you to the calendar invite.

Many thanks,

Beatrice Valenti
Special Projects Manager
National Economic Council
(b) (6)
(b) (6)

From (b) (6) (OAG (b) (6)
Sent: Monday, December 14, 2020 12:48 PM
To: Valenti, Beatrice A. EOP/WHO (b) (6) >
C (b) (6) (ODAG (b) (6)
Subject: Tuesday Principals Meeting

Hi Beatrice,

Thank you for your patience as we figured things on on the DOJ side. Unfortunately the AG is unable to attend but would like to send DAG Rosen in his stead. I have copied the DAG's assistan (b) (6), on this email. The DAG is available tomorrow between 3:30-5:30. Please let me know if there is anything else you need form our end.

Best,
(b) (6)

(b) (6)
Advisor & Director of Scheduling
Office of the Attorney General
U.S. Department of Justice
((b) (6)

Lair, Kate E. EOP/WHO

From:	Lair, Kate E. EOP/WHO
Sent:	Monday, December 21, 2020 11:34 AM
To:	(b) (6) (OAG)
Cc:	(b) (6) (ODAG); Horning, Liz A. EOP/WHO
Subject:	RE: WHCO Lunch - Monday, December 21, 2020

Pulling down the lunch at the WH today.

From (b) (6) (OAG (b) (6)
Sent: Monday, December 21, 2020 11:20 AM
To: Lair, Kate E. EOP/WH (b) (6)
C (b) (6) (ODA (b) (6) Horning, Liz A. EOP/WHO
(b) (6) >
Subject: RE: WHCO Lunch - Monday, December 21, 2020
Importance: High

AG
Large Roasted Butternut Squash Soup
Diet Iced Tea

DAG
Turkey burger with provolone cheese (no onions, tomato or lettuce), fries, and a Diet Coke.

Christopher Michel
BLT Sandwich, with Mayo
Plain Chips
Diet Coke

Thanks,
(b) (6)

From: Lair, Kate E. EOP/WH (b) (6)
Sent: Monday, December 21, 2020 11:11 AM
T (b) (6) (OA (b) (6)
C (b) (6) (OAG (b) (6) (b) (6) (ODAG (b) (6) ;
Horning, Liz A. EOP/WH (b) (6)
Subject: RE: WHCO Lunch - Monday, December 21, 2020

Sorry below

Weekly Lunch Special

Chicken Power Bowl $12.50

Adobo Grilled Chicken, Cilantro Lime Brown Rice, Avocado, Black Beans, Red Onion, Salsa Verde, Romaine Lettuce

Quinoa Stuffed Pablano Pepper $11.50

Stuffed Pablano Pepper, Quinoa, Wilted Chard, Pumpkin Cilantro Pesto

Seared Salmon w/Pumpkin Cilantro Pesto $11.50

Seared Salmon, Cilantro Brown Rice, Wilted Chard, Pumpkin Cilantro Pesto

Sandwich of the Week

Bacon Cheddar Avocado Melt $9.50

Bacon, Sharp Cheddar Cheese, Roasted Tomatoes, Herb Mayo, Hot Honey, Sourdough Bread

Soup of the Week

Roasted Butternut Squash

Spiced Crème, Pumpkin Seed Pesto

$3.50

Medium

$4.00

Large

Sides of the Week

Steamed Broccoli $2.00

Brown Rice $2.00

Wilted Chard $2.00

Salads

Caesar Salad

Romaine Lettuce, Croutons, House made Caesar Dressing

$4.50

Small

$8.00

Large

Add Ons

$3.50

Grilled Chicken

$5.00

Shrimp, Steak, Salmon

18 Acres Fruit Medley $7.50

Cantaloupe, Honeydew, Pineapple, Red and Green Grapes, Gala and Granny Smith Apples, Pears on Green Leaf Lettuce

Add Ons

$1.00

Cottage Cheese

$1.50

Tuna or Chicken Salad

Hummus Platter$8.00

Cucumber Slices, Baby Carrots, Red and Yellow Pepper Strips, Kalamata Olives and Grilled Pita Bread. Served with a Traditional and Roasted Red Pepper Hummus

Side Salad$4.00

Lettuce, Tomatoes, Red Onions, Croutons, and your Choice of Dressing

Smokehouse Chicken Salad$11.50

Mixed Greens, Smoked Chicken Breast, Mandarin Oranges, Dried Cranberries, Glazed Pecans, Blue Cheese, Balsamic Vinaigrette

From The Grill

Turkey Burger$7.00

Turkey Burger, Sesame Bun, Lettuce, Tomatoes, Onions, Pickle, Choice of Cheese

Black Bean Veggie Burger$6.50

Black Bean Burger, Multi-Grain Bun, Lettuce, Tomatoes, and Onions

Chicken Tenders$7.50

Carrot and Celery Sticks

West Wing Burger$7.00

House Blend Beef Patty, Lettuce, Tomatoes, Onions, Pickle, Choice of Cheese

Grilled Chicken Sandwich$7.00

Lettuce, Tomatoes, Onions, Pickle, Choice of Cheese on a Kaiser roll

Kosher Style Hot Dog$4.00

Stone Ground Mustard, Potato Roll, Relish

Sandwiches/Wraps

Gluten Free Bread upon request. (+ $1.50)

Turkey Sandwich$6.00

Turkey, Lettuce, Tomato, Choice of Cheese and Assorted Breads

Turkey Club$7.50

Turkey, Lettuce, Tomato, Bacon, Choice of Cheese and Assorted Breads

Tuna Salad Sandwich$6.00

Tuna Salad, Lettuce, Tomato, Pickle, Choice of Cheese and Assorted Breads

Grilled Cheese Sandwich$3.00

Choice of Cheese and Assorted Breads

Add Ons

$1.50

Ham

California Club$7.50

Turkey, Bacon, Lettuce, Tomato, Avocado, Cheddar and Assorted Breads

Chicken Salad Sandwich$6.00

Chicken Breast, Granny Smith Apples, Cranberries, Walnuts, Dill Mayo on your choice of Assorted Breads

Peanut Butter & Jelly Sandwich $3.00

On a choice of Assorted Breads and a choice of Peanut Butter, Raspberry, Strawberry, or Grape Jelly

Ham Sandwich $6.50

Deli Ham, Lettuce, Tomato, Choice of Cheese and Assorted Breads

BLT $6.00

Applewood-Smoked Bacon, Lettuce, Tomato, Choice of Cheese and Assorted Breads

Tuna Melt $7.00

Albacore Tuna Salad, Choice of Cheese and Assorted Breads

Reuben $8.00

Shaved Pastrami, Swiss Cheese, Sauerkraut, House Dressing, Grilled Rye on your choice of Assorted Breads and Cheeses

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From: Lair, Kate E. EOP/WHO
Sent: Monday, December 21, 2020 11:07 AM
To (b) (6) (OAG (b) (6)
C (b) (6) (OAG (b) (6) (b) (6) (ODAG (b) (6)
Horning, Liz A. EOP/WH (b) (6) >
Subject: RE: WHCO Lunch - Monday, December 21, 2020

Below is the menu for the lunch today at noon. Please let me know what they would like by 11:40 pm sorry for the quick turnaround!

Thank you!
Kate

Fro ((OAG (b) (6)
Sent: Friday, December 18, 2020 4:19 PM
To: Lair, Kate E. EOP/WH (b) (6)
C (b) (6) (OAG (b) (6) (b) (6). (ODAG (b) (6) >
Subject: RE: WHCO Lunch - Monday, December 21, 2020

Thank you! Have a great weekend.

From: Lair, Kate E. EOP/WH (b) (6)
Sent: Friday, December 18, 2020 4:03 PM
T (b) (6) (OAG (b) (6) >
C (b) (6) (OAG (b) (6) (b) (6) (ODAG (b) (6)
Subject: RE: WHCO Lunch - Monday, December 21, 2020

Yes I'll send the menu Monday morning.

From (b) (6) (OAG (b) (6) >

Sent: Friday, December 18, 2020 12:54 PM
To: Lair, Kate E. EOP/WH [redacted]>
C [redacted] (OAG [redacted] [redacted] (ODAG [redacted]
Subject: WHCO Lunch - Monday, December 21, 2020
Importance: High

Hey Kate: Are we confirmed for the lunch on Monday at Noon?
Thanks,

[redacted]
Office Manager & Confidential Assistant
Office of the Attorney General
U.S. Department of Justice
Offic [redacted]

[redacted] **(ODAG)**

From: [redacted]. (ODAG)
Sent: Monday, December 21, 2020 12:02 PM
To: Lair, Kate E. EOP/WHO
Subject: RE: Lunch pulled down

Noted, thank you Kate

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phon [redacted]

From: Lair, Kate E. EOP/WH [redacted]
Sent: Monday, December 21, 2020 11:58 AM
T [redacted]. (ODAG [redacted]
Subject: Lunch pulled down

[redacted] just wanted to re-confirm that the lunch today has been pulled down.

Thanks,
Kate

[redacted] **(ODAG)**

From: [redacted] ODAG)
Sent: Monday, December 28, 2020 1:25 PM
To: Thurston, Eliza C. EOP/WHO
Cc: [redacted] (ODAG)
Subject: RE: DAG Meeting

Great. Thank you Eliza!

[redacted]
Special Assistant
Office of the Deputy Attorney General

From: Thurston, Eliza C. EOP/WH [redacted]>
Sent: Monday, December 28, 2020 1:16 PM
T [redacted] (ODA [redacted]
C [redacted] (ODA [redacted]
Subject: RE: DAG Meeting

Wonderful, thank you. We're confirmed for 1:30pm.

Please use this link for WAV [redacted].

Eliza Thurston
Office of the Chief of Staff
[redacted]

Fro [redacted] (ODAG [redacted]>
Sent: Monday, December 28, 2020 12:52 PM
To: Thurston, Eliza C. EOP/WH [redacted]
C [redacted] (ODAG) [redacted]
Subject: Re: DAG Meeting

1:30 p.m. is perfect, thank you. And yes, he would like for Principal Associate DAG Rich Donoghue to accompany him so WAVES will be needed.

[redacted]
Special Assistant
Office of the Deputy Attorney General

> On Dec 28, 2020, at 12:41 PM, Thurston, Eliza C. EOP/WHO [redacted]> wrote:
>
> ? Thank [redacted]. Yes, we can do 1:30pm. If morning would be better, we could do 10:00am?
>
> Will anyone accompany DAG Rosen? Let me know if WAVEs are needed.
>
> Eliza Thurston
> Office of the Chief of Staff

(b) (6)

On Dec 28, 2020, at 11:38 AM (b) (6) . (ODAG (b) (6) > wrote:

? Tomorrow sounds great. Although, would a 1:30 p.m. start work? We'd like to give him a small buffer to get over there.

(b) (6)
Special Assistant
Office of the Deputy Attorney General

On Dec 28, 2020, at 12:30 PM, Thurston, Eliza C. EOP/WHO (b) (6) > wrote:

(b) (6),

Circling back - can we look to add this in person tomorrow? Would 1:00pm work on your end? We can be flexible if another timeframe would be better.

Eliza Thurston
Office of the Chief of Staff
(b) (6)

On Dec 28, 2020, at 8:47 AM (b) (6) (ODAG) (b) (6) > wrote:

?
Good morning Eliza,

The Deputy Attorney General Rosen had mentioned a potential meeting with Mr. Meadows sometime later today. Are you tracking that on your end?

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phon (b) (6)

[redacted] (ODAG)

From: [redacted] (ODAG)
Sent: Monday, December 28, 2020 5:04 PM
To: Thurston, Eliza C. EOP/WHO
Cc: [redacted]. (ODAG)
Subject: RE: Tracking package:

Will do.

Thank you,

From: Thurston, Eliza C. EOP/WH [redacted]
Sent: Monday, December 28, 2020 4:50 PM
T [redacted] (ODAG [redacted]
C [redacted] (ODAG [redacted]
Subject: RE: Tracking package:

[redacted],

Thanks so much for the follow up. We'll standby.

When you know more, would you mind calling me a [redacted]?

Eliza Thurston
Office of the Chief of Staff
[redacted]

Fro [redacted] (ODAG [redacted]
Sent: Monday, December 28, 2020 4:49 PM
To: Thurston, Eliza C. EOP/WH [redacted]
C [redacted]. (ODAG) [redacted]
Subject: Tracking package:

Eliza:

I spoke with General Rosen regarding the package and he stated that he is "sorting out arrangements for review." I will contact you once I have more information.

Thanks in advance,

[redacted]
U.S. Department of Justice
Office of the Deputy Attorney General
[redacted]

[redacted] (ODAG)

From: [redacted] (ODAG)
Sent: Tuesday, December 29, 2020 11:10 AM
To: Lair, Kate E. EOP/WHO
Cc: [redacted] (ODAG); Kepto, Abbie E. EOP/WHO; Horning, Liz A. EOP/WHO
Subject: RE: Monday Lunch

Thank you, Kate.

[redacted]
U.S. Department of Justice
Office of the Deputy Attorney General
[redacted]

From: Lair, Kate E. EOP/WH [redacted]>
Sent: Tuesday, December 29, 2020 11:08 AM
T [redacted] (ODAG [redacted]
C [redacted]. (ODAG [redacted]>; Kepto, Abbie E. EOP/WHO
[redacted]; Horning, Liz A. EOP/WH [redacted]
Subject: Re: Monday Lunch

[redacted],

Adding in Abbie and Liz who can let you know. I'm out today.

Kate

Sent from my iPhone

> On Dec 29, 2020, at 10:30 A [redacted] (ODAG [redacted]> wrote:
>
> ?
> Good Morning, Kate:
> Checking in to see if we are confirmed for lunch today?
>
> Thanks in advance,
>
> [redacted]
> U.S. Department of Justice
> Office of the Deputy Attorney General
> [redacted]
>
> ---
>
> **From:** Lair, Kate E. EOP/WH [redacted]
> **Sent:** Monday, December 28, 2020 10:30 AM

T (b) (6) (ODA (b) (6)
C (b) (6) (ODAG (b) (6)
Subject: RE: Monday Lunch

No worries yes I just spoke with Pat and he mentioned doing lunch tomorrow, tentatively. I will circle back to confirm.

Kate

From (b) (6) (ODAG (b) (6) >
Sent: Monday, December 28, 2020 9:52 AM
To: Lair, Kate E. EOP/WH (b) (6)
C (b) (6) (ODAG (b) (6)
Subject: RE: Monday Lunch

Apologies for the back-to-back messages, if possible we would ask to consider doing this lunch tomorrow instead of today.

Best,

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phone (b) (6)

From (b) (6) (ODAG)
Sent: Monday, December 28, 2020 9:48 AM
To: Lair, Kate E. EOP/WH (b) (6) (b) (6)
C (b) (6) (ODAG (b) (6)
Subject: RE: Monday Lunch

Good morning Kate,

I hope you had a great holiday. Just checking in on today's lunch

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phone (b) (6)

From (b) (6) (ODAG)
Sent: Wednesday, December 23, 2020 12:48 PM
To: Lair, Kate E. EOP/WHO (b) (6)) (b) (6) >
Subject: Monday Lunch

Good afternoon Kate,

Is Cipollone planning to be in the office/interested in trying to do Monday's lunch?

(b) (6)
Special Assistant
Office of the Deputy Attorney General

Phone (b) (6)

[redacted] (ODAG)

From: [redacted] (ODAG)
Sent: Tuesday, December 29, 2020 11:14 AM
To: Kepto, Abbie E. EOP/WHO; Lair, Kate E. EOP/WHO
Cc: [redacted] (ODAG)
Subject: RE: Monday Lunch

Thank you, Abbie. I [redacted]'s absence, this is my first time handling. Is there a menu to choose from?

Thanks in advance,

[redacted]
U.S. Department of Justice
Office of the Deputy Attorney General
[redacted]

From: Kepto, Abbie E. EOP/WH [redacted]
Sent: Tuesday, December 29, 2020 11:10 AM
To: Lair, Kate E. EOP/WH [redacted] (ODAG [redacted]>
C [redacted]. (ODAG [redacted]
Subject: RE: Monday Lunch

[redacted],

Yes, we are confirmed for lunch today. Please send me lunch orders.

Thanks,
Abbie

Abbie Kepto
Office of White House Counsel
O [redacted]
C [redacted]

From: Lair, Kate E. EOP/WH [redacted]
Sent: Tuesday, December 29, 2020 11:08 AM
T [redacted] (ODAG [redacted]>
C [redacted] (ODAG [redacted]>; Kepto, Abbie E. EOP/WHO [redacted]>; Horning, Liz A. EOP/WH [redacted]
Subject: Re: Monday Lunch

Duplicative Material

Michael, Molly A. EOP/WHO

From:	Michael, Molly A. EOP/WHO
Sent:	Tuesday, December 29, 2020 11:17 AM
To:	Donoghue, Richard (ODAG); Wall, Jeffrey B. (OSG); Rosen, Jeffrey A. (ODAG)
Subject:	USA v. Pennsylvania draft complaint Dec 28 2 pm.docx
Attachments:	USA v. Pennsylvania draft complaint Dec 28 2 pm.docx

Good morning,

The President asked me to send the attached draft document for your review. I have also shared with Mark Meadows and Pat Cipollone. If you'd like to discuss with POTUS, the best way to reach him in the next few days is through the operators: 202-456-1414

Thanks and Happy New Year!

Molly

Sent from my iPhone

No. , Original

In the Supreme Court of the United States

THE UNITED STATES OF AMERICA

Plaintiff,

v.

COMMONWEALTH OF PENNSYLVANIA, STATE OF STATE OF GEORGIA, STATE OF MICHIGAN, STATE OF WISCONSIN, STATE OF ARIZONA, AND STATE OF NEVADA

Defendants.

BILL OF COMPLAINT

TABLE OF CONTENTS

Pages

BILL OF COMPLAINT

Our Country is deeply divided in a manner not seen in well over a century. More than 77% of Republican voters believe that "widespread fraud" occurred in the 2020 general election while 97% of Democrats say there was not.[1] On December 7, 2020, the State of Texas filed an action with this Court, *Texas v. Pennsylvania, et al.*, alleging the same constitutional violations in connection with the 2020 general election pled herein. Within three days *eighteen* other states sought to intervene in that action or filed supporting briefs. On December 11, 2020, the Court summarily dismissed that action stating that Texas lacked standing under Article III of the Constitution. The United States therefore brings this action to ensure that the U.S. Constitution does not become simply a piece of parchment on display at the National Archives.

Two issues regarding this election are not in dispute. First, about eight months ago, a few non-legislative officials in the states of Georgia, Michigan, Wisconsin, Arizona, Nevada and the Commonwealth of Pennsylvania (collectively, "Defendant States") began using the COVID-19 pandemic as an excuse to unconstitutionally revise or violate their states' election laws. Their actions all had one effect: they uniformly weakened security measures put in place *by legislators* to protect the integrity of the vote. These

[1]https://www.courant.com/politics/hc-pol-q-poll-republicans-believe-fraud-20201210-pcie3uqqvrhyvnt7geohhsyepe-story.html

changes squarely violated the Electors Clause of Article II, Section 1, Clause 2 vesting state legislatures with plenary authority to make election law. These same government officials then flooded the Defendant States with millions of ballots to be sent through the mails, or placed in drop boxes, with little or no chain of custody.[2] Second, the evidence of illegal or fraudulent votes, with outcome changing results, is clear—and growing daily.

Since *Marbury v. Madison* this Court has, on significant occasions, had to step into the breach in a time of tumult, declare what the law is, and right the ship. This is just such an occasion. In fact, it is situations precisely like the present—when the Constitution has been cast aside unchecked—that leads us to the current precipice. As one of the Country's Founding Fathers, John Adams, once said, "You will never know how much it has cost my generation to preserve your freedom. I hope you will make a good use of it." In times such as this, it is the duty of Court duty to act as a "faithful guardian[] of the Constitution." THE FEDERALIST NO. 78, at 470 (C. Rossiter, ed. 1961) (A. Hamilton).

Against that background, the United States of America brings this action against Defendant States based on the following allegations:

NATURE OF THE ACTION

1. The United States challenges Defendant States' administration of the 2020 election under the

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[2] https://georgiastarnews.com/2020/12/05/dekalb-county-cannot-find-chain-of-custody-records-for-absentee-ballots-deposited-in-drop-boxes-it-has-not-been-determined-if-responsive-records-to-your-request-exist/

Electors Clause of Article II, Section 1, Clause 2, and the Fourteenth Amendment of the U.S. Constitution.

2. This case presents a question of law: Did Defendant States violate the Electors Clause (or, in the alternative, the Fourteenth Amendment) by taking—or allowing—non-legislative actions to change the election rules that would govern the appointment of presidential electors?

3. Those unconstitutional changes opened the door to election irregularities in various forms. The United States alleges that each of the Defendant States flagrantly violated constitutional rules governing the appointment of presidential electors. In doing so, seeds of deep distrust have been sown across the country. In *Marbury v. Madison*, 5 U.S. 137 (1803), Chief Justice Marshall described "the duty of the Judicial Department to say what the law is" because "every right, when withheld, must have a remedy, and every injury its proper redress."

4. In the spirit of *Marbury v. Madison*, this Court's attention is profoundly needed to declare what the law is and to restore public trust in this election.

5. As Justice Gorsuch observed recently, "Government is not free to disregard the [Constitution] in times of crisis. … Yet recently, during the COVID pandemic, certain States seem to have ignored these long-settled principles." *Roman Catholic Diocese of Brooklyn, New York v. Cuomo*, 592 U.S. (2020) (Gorsuch, J., concurring). This case is no different.

6. Each of Defendant States acted in a common pattern. State officials, sometimes through pending litigation (*e.g.*, settling "friendly" suits) and sometimes unilaterally by executive fiat, announced

new rules for the conduct of the 2020 election that were inconsistent with existing state statutes defining what constitutes a lawful vote.

7. Defendant States also failed to segregate ballots in a manner that would permit accurate analysis to determine which ballots were cast in conformity with the legislatively set rules and which were not. This is especially true of the mail-in ballots in these States. By waiving, lowering, and otherwise failing to follow the state statutory requirements for signature validation and other processes for ballot security, the entire body of such ballots is now constitutionally suspect and may not be legitimately used to determine allocation of the Defendant States' presidential electors.

8. The rampant lawlessness arising out of Defendant States' unconstitutional acts is described in a number of currently pending lawsuits in Defendant States or in public view including:

- *Dozens of witnesses testifying under oath about*: the physical blocking and kicking out of Republican poll challengers; thousands of the same ballots run multiple times through tabulators; mysterious late night dumps of thousands of ballots at tabulation centers; illegally backdating thousands of ballots; signature verification procedures ignored;[3]
- *Videos of*: poll workers erupting in cheers as poll challengers are removed from vote counting centers; poll watchers being blocked from entering

[3]Complaint (Doc. No. 1), *Donald J. Trump for President, Inc. v. Benson*, 1:20-cv-1083 (W.D. Mich. Nov. 11, 2020) at ¶¶ 26-55 & Doc. Nos. 1-2, 1-4.

vote counting centers—despite even having a court order to enter; suitcases full of ballots being pulled out from underneath tables after poll watchers were told to leave.

- *Facts for which no independently verified reasonable explanation yet exists*: On October 1, 2020, in Pennsylvania a laptop and several USB drives, used to program Pennsylvania's Dominion voting machines, were mysteriously stolen from a warehouse in Philadelphia. The laptop and the USB drives were the *only* items taken, and potentially could be used to alter vote tallies; In Michigan, which also employed the same Dominion voting system, on November 4, 2020, Michigan election officials have admitted that a purported "glitch" caused 6,000 votes for President Trump to be wrongly switched to Democrat Candidate Biden. A flash drive containing tens of thousands of votes was left unattended in the Milwaukee tabulations center in the early morning hours of Nov. 4, 2020, without anyone aware it was not in a proper chain of custody.

9. Nor was this Court immune from the blatant disregard for the rule of law. Pennsylvania itself played fast and loose with its promise to this Court. In a classic bait and switch, Pennsylvania used guidance from its Secretary of State to argue that this Court should not expedite review because the State would segregate potentially unlawful ballots. A court of law would reasonably rely on such a representation. Remarkably, before the ink was dry on the Court's 4-4 decision, Pennsylvania changed that guidance, breaking the State's promise to this Court. *Compare Republican Party of Pa. v. Boockvar*, No. 20-542, 2020

U.S. LEXIS 5188, at *5-6 (Oct. 28, 2020) ("we have been informed by the Pennsylvania Attorney General that the Secretary of the Commonwealth issued guidance today directing county boards of elections to segregate [late-arriving] ballots") (Alito, J., concurring) *with Republican Party v. Boockvar*, No. 20A84, 2020 U.S. LEXIS 5345, at *1 (Nov. 6, 2020) ("this Court was not informed that the guidance issued on October 28, which had an important bearing on the question whether to order special treatment of the ballots in question, had been modified") (Alito, J., Circuit Justice).

10. Expert analysis using a commonly accepted statistical test further raises serious questions as to the integrity of this election.

11. The probability of former Vice President Biden winning the popular vote in four of the Defendant States—Georgia, Michigan, Pennsylvania, and Wisconsin—independently given President Trump's early lead in those States as of 3 a.m. on November 4, 2020, is less than one in a quadrillion, or 1 in 1,000,000,000,000,000. For former Vice President Biden to win these four States collectively, the odds of that event happening decrease to less than one in a quadrillion to the fourth power (*i.e.*, 1 in 1,000,000,000,000,000[4]). *See* Decl. of Charles J. Cicchetti, Ph.D. ("Cicchetti Decl.") at ¶¶ 14-21, 30-31. *See* App. a- a.[4]

12. Mr. Biden's *underperformance* in the Top-50 urban areas in the Country relative to former Secretary Clinton's performance in the 2016 election reinforces the unusual statistical improbability of Mr.

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[4] All exhibits cited in this Complaint are in the Appendix to the United States' forthcoming motion to expedite ("App. 1a ").

Biden's vote totals in the five urban areas in these four Defendant States, where he overperformed Secretary Clinton in all but one of the five urban areas. *See* Supp. Cicchetti Decl. at ¶¶ 4-12, 20-21. (App. a- a).

13. The same less than one in a quadrillion statistical improbability of Mr. Biden winning the popular vote in these four Defendant States—Georgia, Michigan, Pennsylvania, and Wisconsin—independently exists when Mr. Biden's performance in each of those Defendant States is compared to former Secretary of State Hilary Clinton's performance in the 2016 general election and President Trump's performance in the 2016 and 2020 general elections. Again, the statistical improbability of Mr. Biden winning the popular vote in these four States collectively is 1 in 1,000,000,000,000,000[5]. *Id.* 10-13, 17-21, 30-31.

14. Put simply, there is substantial reason to doubt the voting results in the Defendant States.

15. By purporting to waive or otherwise modify the existing state law in a manner that was wholly *ultra vires* and not adopted by each state's legislature, Defendant States violated not only the Electors Clause, U.S. CONST. art. II, § 1, cl. 2, but also the Elections Clause, *id.* art. I, § 4 (to the extent that the Article I Elections Clause textually applies to the Article II process of selecting presidential electors).

16. Voters who cast lawful ballots cannot have their votes diminished by states that administered their 2020 presidential elections in a manner where it is impossible to distinguish a lawful ballot from an unlawful ballot.

17. The number of absentee and mail-in ballots that have been handled unconstitutionally in

Defendant States greatly exceeds the difference between the vote totals of the two candidates for President of the United States in each Defendant State.

18. In December 2018, the Caltech/MIT Voting Technology Project and MIT Election Data & Science Lab issued a comprehensive report addressing election integrity issues.[5] The fundamental question they sought to address was: "How do we know that the election outcomes announced by election officials are correct?"

19. The Caltech/MIT Report concluded: "Ultimately, the only way to answer a question like this is to rely on procedures that independently review the outcomes of elections, to detect and correct material mistakes that are discovered. In other words, elections need to be audited." *Id*. at iii. The Caltech/MIT Report then set forth a detailed analysis of why and how such audits should be done for the same reasons that exist today—a lack of trust in our voting systems.

20. In addition to injunctive relief sought for this election, the United States seeks declaratory relief for all presidential elections in the future. This problem is clearly capable of repetition yet evading review. The integrity of our constitutional democracy requires that states conduct presidential elections in accordance with the rule of law and federal constitutional guarantees.

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[5]Summary Report, Election Auditing, Key Issues and Perspectives attached at (the "Caltech/MIT Report") (App. a -- a).

JURISDICTION AND VENUE

21. This Court has original and exclusive jurisdiction over this action because it is a "controvers[y] between the United States and [Defendant] State[s]" under Article III, § 2, cl. 2 of the U.S. Constitution and 28 U.S.C. § 1251(b)(2) (2018).

22. In a presidential election, "the impact of the votes cast in each State is affected by the votes cast for the various candidates in other States." *Anderson v. Celebrezze*, 460 U.S. 780, 795 (1983). The constitutional failures of Defendant States injure the United States as *parens patriae* for all citizens because "'the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.'" *Bush v. Gore*, 531 U.S. 98, 105 (2000) (quoting *Reynolds v. Sims*, 377 U. S. 533, 555 (1964)) (*Bush II*). In other words, United States is acting to protect the interests of *all* citizens—including not only the citizens of Defendant States but also the citizens of their sister States—in the fair and constitutional conduct of elections used to appoint presidential electors.

23. Although the several States may lack "a judicially cognizable interest in the manner in which another State conducts its elections," *Texas v. Pennsylvania*, No. 22O155 (U.S. Dec. 11, 2020), the same is not true for the United States, which has *parens patriae* for the citizens of each State against the government apparatus of each State. *Alfred L. Snapp & Son v. Puerto Rico,* 458 U.S. 592, 610 n.16 (1982) ("it is the United States, and not the State, which represents them as *parens patriae*") (interior quotation omitted). For *Bush II*-type violations, the

United States can press this action against the Defendant States for violations of the voting rights of Defendant States' own citizens.

24. This Court's Article III decisions limit the ability of citizens to press claims under the Electors Clause. *Lance v. Coffman*, 549 U.S. 437, 442 (2007) (distinguishing citizen plaintiffs from citizen relators who sued in the name of a state); *cf. Massachusetts v. EPA,* 549 U.S. 497, 520 (2007) (courts owe states "special solicitude in standing analysis"). Moreover, redressability likely would undermine a suit against a single state officer or State because no one State's electoral votes will make a difference in the election outcome. This action against multiple State defendants is the only adequate remedy to cure the Defendant States' violations, and this Court is the only court that can accommodate such a suit.

25. As federal sovereign under the Voting Rights Act, 52 U.S.C. §§10301-10314 ("VRA"), the United States has standing to enforce its laws against, *inter alia*, giving false information as to his name, address or period of residence in the voting district for the purpose of establishing the eligibility to register or vote, conspiring for the purpose of encouraging false registration to vote or illegal voting, falsifying or concealing a material fact in any matter within the jurisdiction of an examiner or hearing officer related to an election, or voting more than once. 52 U.S.C. § 10307(c)-(e). Although the VRA channels enforcement of some VRA sections—namely, 52 U.S.C. § 10303-10304—to the U.S. District Court for the District of Columbia, the VRA does not channel actions under § 10307.

26. Individual state courts or U.S. district courts do not—and under the circumstance of contested elections in multiple states, *cannot*—offer an adequate remedy to resolve election disputes within the timeframe set by the Constitution to resolve such disputes and to appoint a President via the electoral college. No court—other than this Court—can redress constitutional injuries spanning multiple States with the sufficient number of states joined as defendants or respondents to make a difference in the Electoral College.

27. This Court is the sole forum in which to exercise the jurisdictional basis for this action.

PARTIES

28. Plaintiff is the United States of America, which is the federal sovereign.

29. Defendants are the Commonwealth of Pennsylvania and the States of Georgia, Michigan, Arizona, Nevada, and Wisconsin, which are sovereign States of the United States.

LEGAL BACKGROUND

30. Under the Supremacy Clause, the "Constitution, and the laws of the United States which shall be made in pursuance thereof … shall be the supreme law of the land." U.S. CONST. Art. VI, cl. 2.

31. "The individual citizen has no federal constitutional right to vote for electors for the President of the United States unless and until the state legislature chooses a statewide election as the means to implement its power to appoint members of the electoral college." *Bush II*, 531 U.S. at 104 (citing U.S. CONST. art. II, § 1).

32. State legislatures have plenary power to set the process for appointing presidential electors: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors." U.S. CONST. art. II, §1, cl. 2; *see also Bush II*, 531 U.S. at 104 ("[T]he state legislature's power to select the manner for appointing electors is *plenary*." (emphasis added)).

33. At the time of the Founding, most States did not appoint electors through popular statewide elections. In the first presidential election, six of the ten States that appointed electors did so by direct legislative appointment. *McPherson v. Blacker*, 146 U.S. 1, 29-30 (1892).

34. In the second presidential election, nine of the fifteen States that appointed electors did so by direct legislative appointment. *Id.* at 30.

35. In the third presidential election, nine of sixteen States that appointed electors did so by direct legislative appointment. *Id.* at 31. This practice persisted in lesser degrees through the Election of 1860. *Id.* at 32.

36. Though "[h]istory has now favored the voter," *Bush II*, 531 U.S. at 104, "there is no doubt of the right of the legislature to resume the power [of appointing presidential electors] at any time, for *it can neither be taken away nor abdicated*." *McPherson*, 146 U.S. at 35 (emphasis added); *cf.* 3 U.S.C. § 2 ("Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct.").

37. Given the State legislatures' constitutional primacy in selecting presidential electors, the ability to set rules governing the casting of ballots and counting of votes cannot be usurped by other branches of state government.

38. The Framers of the Constitution decided to select the President through the Electoral College "to afford as little opportunity as possible to tumult and disorder" and to place "every practicable obstacle [to] cabal, intrigue, and corruption," including "foreign powers" that might try to insinuate themselves into our elections. THE FEDERALIST NO. 68, at 410-11 (C. Rossiter, ed. 1961) (Madison, J.).

39. Defendant States' applicable laws are set out under the facts for each Defendant State.

FACTS

40. The use of absentee and mail-in ballots skyrocketed in 2020, not only as a public-health response to the COVID-19 pandemic but also at the urging of mail-in voting's proponents, and most especially executive branch officials in Defendant States. According to the Pew Research Center, in the 2020 general election, a record number of votes—about 65 million were cast via mail compared to 33.5 million mail-in ballots cast in the 2016 general election—an increase of more than 94 percent.

41. In the wake of the contested 2000 election, the bipartisan Jimmy Carter-James Baker commission identified absentee ballots as "the largest source of potential voter fraud." BUILDING CONFIDENCE IN U.S. ELECTIONS: REPORT OF THE COMMISSION ON FEDERAL ELECTION REFORM, at 46 (Sept. 2005).

42. Concern over the use of mail-in ballots is not novel to the modern era, Dustin Waters, *Mail-in Ballots Were Part of a Plot to Deny Lincoln Reelection in 1864*, WASH. POST (Aug. 22, 2020),[6] but it remains a *current* concern. *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 194-96 & n.11 (2008); *see also* Texas Office of the Attorney General, *AG Paxton Announces Joint Prosecution of Gregg County Organized Election Fraud in Mail-In Balloting Scheme* (Sept. 24, 2020); Harriet Alexander & Ariel Zilber, *Minneapolis police opens investigation into reports that Ilhan Omar's supporters illegally harvested Democrat ballots in Minnesota*, DAILY MAIL, Sept. 28, 2020.

43. Absentee and mail-in voting are the primary opportunities for unlawful ballots to be cast. As a result of expanded absentee and mail-in voting in Defendant States, combined with Defendant States' unconstitutional modification of statutory protections designed to ensure ballot integrity, Defendant States created a massive opportunity for fraud. In addition, the Defendant States have made it difficult or impossible to separate the constitutionally tainted mail-in ballots from all mail-in ballots.

44. Rather than augment safeguards against illegal voting in anticipation of the millions of additional mail-in ballots flooding their States, Defendant States *all* materially weakened, or did away with, security measures, such as witness or signature verification procedures, required by their respective legislatures. Their legislatures established those commonsense safeguards to prevent—or at least reduce—fraudulent mail-in ballots.

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[6]https://www.washingtonpost.com/history/2020/08/22/mail-in-voting-civil-war-election-conspiracy-lincoln/

45. Significantly, in Defendant States, Democrat voters voted by mail at two to three times the rate of Republicans. Former Vice President Biden thus greatly benefited from this unconstitutional usurpation of legislative authority, and the weakening of legislatively mandated ballot security measures.

46. The outcome of the Electoral College vote is directly affected by the constitutional violations committed by Defendant States. Those violations proximately caused the appointment of presidential electors for former Vice President Biden. The United States as a sovereign and as *parens patriae* for all its citizens will therefore be injured if Defendant States' unlawfully certify these presidential electors and those electors' votes are recognized.

47. In addition to the unconstitutional acts associated with mail-in and absentee voting, there are grave questions surrounding the vulnerability of electronic voting machines—especially those machines provided by Dominion Voting Systems, Inc. ("Dominion") which were in use in all of the Defendant States (and other states as well) during the 2020 general election.

48. As initially reported on December 13, 2020, the U.S. Government is scrambling to ascertain the extent of broad-based hack into multiple agencies through a third-party software supplied by vendor known as SolarWinds. That software product is used throughout the U.S. Government, and the private sector including, apparently, Dominion.

49. As reported by CNN, what little we know has cybersecurity experts extremely worried.[7] CNN also quoted Theresa Payton, who served as White House Chief Information Officer under President George W. Bush stating: "I woke up in the middle of the night last night just sick to my stomach. . . . On a scale of 1 to 10, I'm at a 9 — and it's not because of what I know; it's because of what we still don't know."

50. Disturbingly, though the Dominion's CEO denied that Dominion uses SolarWinds software, a screenshot captured from Dominion's webpage shows that Dominion does use SolarWinds technology.[8] Further, Dominion apparently later altered that page to remove any reference to SolarWinds, but the SolarWinds website is still in the Dominion page's source code. *Id*.

Commonwealth of Pennsylvania

51. Pennsylvania has 20 electoral votes, with a statewide vote tally currently estimated at 3,363,951 for President Trump and 3,445,548 for former Vice President Biden, a margin of 81,597 votes.

52. On December 14, 2020, the Pennsylvania Republican slate of Presidential Electors, met at the State Capital and cast their votes for President

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[7] https://www.cnn.com/2020/12/16/tech/solarwinds-orion-hack-explained/index.html

[8] https://www.theepochtimes.com/dominion-voting-systems-ceo-says-company-has-never-used-solarwinds-orion-platform_3619895.html

Donald J. Trump and Vice President Michael R. Pence.[9]

53. The number of votes affected by the various constitutional violations exceeds the margin of votes separating the candidates.

54. Pennsylvania's Secretary of State, Kathy Boockvar, without legislative approval, unilaterally abrogated several Pennsylvania statutes requiring signature verification for absentee or mail-in ballots. Pennsylvania's legislature has not ratified these changes, and the legislation did not include a severability clause.

55. On August 7, 2020, the League of Women Voters of Pennsylvania and others filed a complaint against Secretary Boockvar and other local election officials, seeking "a declaratory judgment that Pennsylvania existing signature verification procedures for mail-in voting" were unlawful for a number of reasons. *League of Women Voters of Pennsylvania v. Boockvar*, No. 2:20-cv-03850-PBT, (E.D. Pa. Aug. 7, 2020).

56. The Pennsylvania Department of State quickly settled with the plaintiffs, issuing revised guidance on September 11, 2020, stating in relevant part: "The Pennsylvania Election Code does not authorize the county board of elections to set aside returned absentee or mail-in ballots based solely on signature analysis by the county board of elections."

57. This guidance is contrary to Pennsylvania law. First, Pennsylvania Election Code mandates that, for non-disabled and non-military

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[9] https://www.foxnews.com/politics/republican-electors-pennsylvania-georgia-vote-for-trump

voters, all applications for an absentee or mail-in ballot "shall be signed by the applicant." 25 PA. STAT. §§ 3146.2(d) & 3150.12(c). Second, Pennsylvania's voter signature verification requirements are expressly set forth at 25 PA. STAT. 350(a.3)(1)-(2) and § 3146.8(g)(3)-(7).

58. The Pennsylvania Department of State's guidance unconstitutionally did away with Pennsylvania's statutory signature verification requirements. Approximately 70 percent of the requests for absentee ballots were from Democrats and 25 percent from Republicans. Thus, this unconstitutional abrogation of state election law greatly inured to former Vice President Biden's benefit.

59. In addition, in 2019, Pennsylvania's legislature enacted bipartisan election reforms, 2019 Pa. Legis. Serv. Act 2019-77, that set *inter alia* a deadline of 8:00 p.m. on election day for a county board of elections to receive a mail-in ballot. 25 PA. STAT. §§ 3146.6(c), 3150.16(c). Acting under a generally worded clause that "Elections shall be free and equal," PA. CONST. art. I, § 5, cl. 1, a 4-3 majority of Pennsylvania's Supreme Court in *Pa. Democratic Party v. Boockvar*, 238 A.3d 345 (Pa. 2020), extended that deadline to three days after Election Day and adopted a presumption that even *non-postmarked ballots* were presumptively timely.

60. Pennsylvania's election law also requires that poll-watchers be granted access to the opening, counting, and recording of absentee ballots: "Watchers shall be permitted to be present when the envelopes containing official absentee ballots and mail-in ballots are opened and when such ballots are counted and

recorded." 25 PA. STAT. § 3146.8(b). Local election officials in Philadelphia and Allegheny Counties decided not to follow 25 PA. STAT. § 3146.8(b) for the opening, counting, and recording of absentee and mail-in ballots.

61. Prior to the election, Secretary Boockvar sent an email to local election officials urging them to provide opportunities for various persons—including political parties—to contact voters to "cure" defective mail-in ballots. This process clearly violated several provisions of the state election code.

- Section 3146.8(a) requires: "The county boards of election, upon receipt of official absentee ballots in sealed official absentee ballot envelopes as provided under this article and mail-in ballots as in sealed official mail-in ballot envelopes as provided under Article XIII-D,1 shall safely keep the ballots in sealed or locked containers until they are to be canvassed by the county board of elections."
- Section 3146.8(g)(1)(ii) provides that mail-in ballots shall be canvassed (if they are received by eight o'clock p.m. on election day) in the manner prescribed by this subsection.
- Section 3146.8(g)(1.1) provides that the first look at the ballots shall be "no earlier than seven o'clock a.m. on election day." And the hour for this "pre-canvas" must be publicly announced at least 48 hours in advance. Then the votes are counted on election day.

62. By removing the ballots for examination prior to seven o'clock a.m. on election day, Secretary Boockvar created a system whereby local officials could review ballots without the proper

announcements, observation, and security. This entire scheme, which was only followed in Democrat majority counties, was blatantly illegal in that it permitted the illegal removal of ballots from their locked containers prematurely.

63. Statewide election officials and local election officials in Philadelphia and Allegheny Counties, aware of the historical Democrat advantage in those counties, violated Pennsylvania's election code and adopted the differential standards favoring voters in Philadelphia and Allegheny Counties with the intent to favor former Vice President Biden. *See* Verified Complaint (Doc. No. 1), *Donald J. Trump for President, Inc. v. Boockvar*, 4:20-cv-02078-MWB (M.D. Pa. Nov. 18, 2020) at ¶¶ 3-6, 9, 11, 100-143.

64. Absentee and mail-in ballots in Pennsylvania were thus evaluated under an illegal standard regarding signature verification. It is now impossible to determine which ballots were properly cast and which ballots were not.

65. The changed process allowing the curing of absentee and mail-in ballots in Allegheny and Philadelphia counties is a separate basis resulting in an unknown number of ballots being treated in an unconstitutional manner inconsistent with Pennsylvania statute. *Id.*

66. In addition, a great number of ballots were received after the statutory deadline and yet were counted by virtue of the fact that Pennsylvania did not segregate all ballots received after 8:00 pm on November 3, 2020. Boockvar's claim that only about 10,000 ballots were received after this deadline has no way of being proven since Pennsylvania broke its promise to the Court to segregate ballots and co-

mingled perhaps tens, or even hundreds of thousands, of illegal late ballots.

67. On December 4, 2020, fifteen members of the Pennsylvania House of Representatives led by Rep. Francis X. Ryan issued a report to Congressman Scott Perry (the "Ryan Report," App. 139a-144a) stating that "[t]he general election of 2020 in Pennsylvania was fraught with inconsistencies, documented irregularities and improprieties associated with mail-in balloting, pre-canvassing, and canvassing that the reliability of the mail-in votes in the Commonwealth of Pennsylvania is impossible to rely upon."

68. The Ryan Report's findings are startling, including:

- Ballots with NO MAILED date. That total is 9,005.
- Ballots Returned on or BEFORE the Mailed Date. That total is 58,221.
- Ballots Returned one day after Mailed Date. That total is 51,200.

Id. 143a.

69. These nonsensical numbers alone total 118,426 ballots and exceed Mr. Biden's margin of 81,660 votes over President Trump. But these discrepancies pale in comparison to the discrepancies in Pennsylvania's reported data concerning the number of mail-in ballots distributed to the populace—now with no longer subject to legislated mandated signature verification requirements.

70. The Ryan Report also stated as follows:

> [I]n a data file received on November 4, 2020, the Commonwealth's PA Open Data sites reported over 3.1 million mail in ballots sent out. The CSV file from the state on November 4 depicts 3.1 million mail in ballots sent out but on November 2, the information was provided that only 2.7 million ballots had been sent out. ***This discrepancy of approximately 400,000 ballots from November 2 to November 4 has not been explained***.

Id. at 143a-44a. (Emphasis added).

71. The Ryan Report stated further: "This apparent [400,000 ballot] discrepancy can only be evaluated by reviewing all transaction logs into the SURE system [the Statewide Uniform Registry Electors]."[10]

72. In its opposition brief to Texas's motion to for leave file a bill of complaint, Pennsylvania said nothing about the 118,426 ballots that had no mail date, were nonsensically returned *before* the mailed date, or were improbably returned one day after the mail date discussed above.[11]

73. With respect to the 400,000 discrepancy in mail-in ballots Pennsylvania sent out as reported on November 2, 2020 compared to November 4, 2020 (one day after the election), Pennsylvania asserted

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[10] Ryan Report at App. a [p.5].

[11] Pennsylvania Opposition To Motion For Leave To File Bill of Complaint and Motion For Preliminary Injunction, Temporary Restraining Order, or Stay ("Pennsylvania Opp. Br.") filed December 10, 2020, Case No. 220155.

that the discrepancy is purportedly due to the fact that "[o]f the 3.1 million ballots sent out, 2.7 million were mail-in ballots and 400,000 were absentee ballots." Pennsylvania offered *no support* for its conclusory assertion. *Id*. at 6. Nor did Pennsylvania rebut the assertion in the Ryan Report that the "discrepancy can only be evaluated by reviewing all transaction logs into the SURE system."

74. These stunning figures illustrate the out-of-control nature of Pennsylvania's mail-in balloting scheme. Democrats submitted mail-in ballots at more than two times the rate of Republicans. This number of constitutionally tainted ballots far exceeds the approximately 81,660 votes separating the candidates.

75. This blatant disregard of statutory law renders all mail-in ballots constitutionally tainted and cannot form the basis for appointing or certifying Pennsylvania's presidential electors to the Electoral College.

76. According to the U.S. Election Assistance Commission's report to Congress *Election Administration and Voting Survey: 2016 Comprehensive Report*, in 2016 Pennsylvania received 266,208 mail-in ballots; 2,534 of them were rejected (.95%). *Id.* at p. 24. However, in 2020, Pennsylvania received more than 10 times the number of mail-in ballots compared to 2016. As explained *supra*, this much larger volume of mail-in ballots was treated in an unconstitutionally modified manner that included: (1) doing away with the Pennsylvania's signature verification requirements; (2) extending that deadline to three days after Election Day and adopting a presumption that even *non-postmarked ballots* were

presumptively timely; and (3) blocking poll watchers in Philadelphia and Allegheny Counties in violation of State law.

77. These non-legislative modifications to Pennsylvania's election rules appear to have generated an outcome-determinative number of unlawful ballots that were cast in Pennsylvania. Regardless of the number of such ballots, the non-legislative changes to the election rules violated the Electors Clause.

State of Georgia

78. Georgia has 16 electoral votes, with a statewide vote tally currently estimated at 2,458,121 for President Trump and 2,472,098 for former Vice President Biden, a margin of approximately 12,670 votes.

79. On December 14, 2020, the Georgia Republican slate of Presidential Electors, including Petitioner Electors, met at the State Capital and cast their votes for President Donald J. Trump and Vice President Michael R. Pence.[12]

80. The number of votes affected by the various constitutional violations far exceeds the margin of votes dividing the candidates.

81. Georgia's Secretary of State, Brad Raffensperger, without legislative approval, unilaterally abrogated Georgia's statutes governing the date a ballot may be opened, and the signature verification process for absentee ballots.

82. O.C.G.A. § 21-2-386(a)(2) prohibits the opening of absentee ballots until after the polls open

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[12] https://www.foxnews.com/politics/republican-electors-pennsylvania-georgia-vote-for-trump

on Election Day: In April 2020, however, the State Election Board adopted Secretary of State Rule 183-1-14-0.9-.15, Processing Ballots Prior to Election Day. That rule purports to authorize county election officials to begin processing absentee ballots up to *three weeks* before Election Day. Outside parties were then given early and illegal access to purportedly defective ballots to "cure" them in violation of O.C.G.A. §§ 21-2-386(a)(1)(C), 21-2-419(c)(2).

83. Specifically, Georgia law authorizes and requires a single registrar or clerk—after reviewing the outer envelope—to reject an absentee ballot if the voter failed to sign the required oath or to provide the required information, the signature appears invalid, or the required information does not conform with the information on file, or if the voter is otherwise found ineligible to vote. O.C.G.A. § 21-2-386(a)(1)(B)-(C).

84. Georgia law provides absentee voters the chance to "cure a failure to sign the oath, an invalid signature, or missing information" on a ballot's outer envelope by the deadline for verifying provisional ballots (*i.e.*, three days after the election). O.C.G.A. §§ 21-2-386(a)(1)(C), 21-2-419(c)(2). To facilitate cures, Georgia law requires the relevant election official to notify the voter in writing: "The board of registrars or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of which notification shall be retained in the files of the board of registrars or absentee ballot clerk for at least two years." O.C.G.A. § 21-2-386(a)(1)(B).

85. There were 284,817 early ballots corrected and accepted in Georgia out of 4,018,064 early ballots used to vote in Georgia. Former Vice President Biden received nearly twice the number of

mail-in votes as President Trump and thus materially benefited from this unconstitutional change in Georgia's election laws.

86. In addition, on March 6, 2020, in *Democratic Party of Georgia v. Raffensperger*, No. 1:19-cv-5028-WMR (N.D. Ga.), Georgia's Secretary of State entered a Compromise Settlement Agreement and Release with the Democratic Party of Georgia (the "Settlement") to materially change the statutory requirements for reviewing signatures on absentee ballot envelopes to confirm the voter's identity by making it far more difficult to challenge defective signatures beyond the express mandatory procedures set forth at GA. CODE § 21-2-386(a)(1)(B).

87. Among other things, before a ballot could be rejected, the Settlement required a registrar who found a defective signature to now seek a review by two other registrars, and only if a majority of the registrars agreed that the signature was defective could the ballot be rejected but not before all three registrars' names were written on the ballot envelope along with the reason for the rejection. These cumbersome procedures are in direct conflict with Georgia's statutory requirements, as is the Settlement's requirement that notice be provided by telephone (*i.e.*, not in writing) if a telephone number is available. Finally, the Settlement purports to require State election officials to consider issuing guidance and training materials drafted by an expert retained by the Democratic Party of Georgia.

88. Georgia's legislature has not ratified these material changes to statutory law mandated by the Compromise Settlement Agreement and Release, including altered signature verification requirements

and early opening of ballots. The relevant legislation that was violated by Compromise Settlement Agreement and Release did not include a severability clause.

89. This unconstitutional change in Georgia law materially benefitted former Vice President Biden. According to the Georgia Secretary of State's office, former Vice President Biden had almost double the number of absentee votes (65.32%) as President Trump (34.68%). *See* Cicchetti Decl. at ¶ 25, App. 7a-8a.

90. The effect of this unconstitutional change in Georgia election law, which made it more likely that ballots without matching signatures would be counted, had a material impact on the outcome of the election.

91. Specifically, there were 1,305,659 absentee mail-in ballots submitted in Georgia in 2020. There were 4,786 absentee ballots rejected in 2020. This is a rejection rate of .37%. In contrast, in 2016, the 2016 rejection rate was 6.42% with 13,677 absentee mail-in ballots being rejected out of 213,033 submitted, which more than *seventeen times greater* than in 2020. *See* Cicchetti Decl. at ¶ 24, App. 7a.

92. If the rejection rate of mailed-in absentee ballots remained the same in 2020 as it was in 2016, there would be 83,517 less tabulated ballots in 2020. The statewide split of absentee ballots was 34.68% for Trump and 65.2% for Biden. Rejecting at the higher 2016 rate with the 2020 split between Trump and Biden would decrease Trump votes by 28,965 and Biden votes by 54,552, which would be a net gain for Trump of 25,587 votes. This would be more than needed to overcome the Biden advantage of 12,670

votes, and Trump would win by 12,917 votes. *Id*. Regardless of the number of ballots affected, however, the non-legislative changes to the election rules violated the Electors Clause.

93. In addition, Georgia uses Dominion's voting machines throughout the State. Less than a month before the election, the United States District Court for the Northern District of Georgia ruled on a motion brought by a citizen advocate group and others seeking a preliminary injunction to stop Georgia from using Dominion's voting systems due to their known vulnerabilities to hacking and other irregularities. *See Curling v. Raffensperger*, 2020 U.S. Dist. LEXIS 188508, No. 1:17-cv-2989-AT (N.D. GA Oct.11, 2020).

94. Though the district court found that it was bound by Eleventh Circuit law to deny plaintiffs' motion, it issued a prophetic warning stating:

> The Court's Order has delved deep into the true risks posed by the new BMD 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, if equipment and software systems are not properly protected, implemented, and audited.

Id. at *176 (Emphasis added).

95. One of those material risks manifested three weeks later as shown by the November 4, 2020 video interview of a Fulton County, Georgia Director

of Elections, Richard Barron. In that interview, Barron stated that the tallied vote of over 93% of ballots were based on a "review panel['s]" determination of the voter's "intent"—not what the voter actually voted. Specifically, he stated that "so far we've scanned 113,130 ballots, we've adjudicated over 106,000. . . . The only ballots that are adjudicated are if we have a ballot with a contest on it in which there's some question as to how the computer reads it so that the vote review panel then determines voter intent."[13]

96. This astounding figure demonstrates the unreliability of Dominion's voting machines. These figures, in and of themselves in this one sample, far exceeds the margin of votes separating the two candidates.

97. Lastly, on December 17, 2020, the Chairman of the Election Law Study Subcommittee of the Georgia Standing Senate Judiciary Committee issued a detailed report discussing a myriad of voting irregularities and potential fraud in the Georgia 2020 general election (the "Report").[14] The Executive Summary states that "[t]he November 3, 2020 General Election (the 'Election') was chaotic and any reported results must be viewed as untrustworthy". After detailing over a dozen issues showing irregularities and potential fraud, the Report concluded:

> The Legislature should carefully consider its obligations under the U.S. Constitution. If a

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[13] https://www.c-span.org/video/?477819-1/fulton-county-georgia-election-update at beginning at 20 seconds through 1:21.

[14] (App. a -- a)

> majority of the General Assembly concurs with the findings of this report, the certification of the Election should be rescinded and the General Assembly should act to determine the proper Electors to be certified to the Electoral College in the 2020 presidential race. Since time is of the essence, the Chairman and Senators who concur with this report recommend that the leadership of the General Assembly and the Governor immediately convene to allow further consideration by the entire General Assembly.

State of Michigan

98. Michigan has 16 electoral votes, with a statewide vote tally currently estimated at 2,650,695 for President Trump and 2,796,702 for former Vice President Biden, a margin of 146,007 votes. In Wayne County, Mr. Biden's margin (322,925 votes) significantly exceeds his statewide lead.

99. On December 14, 2020, the Michigan Republican slate of Presidential Electors *attempted* to meet and cast their votes for President Donald J. Trump and Vice President Michael R. Pence but were denied entry to the State Capital by law enforcement. Their tender of their votes was refused. They instead met on the grounds of the State Capital and cast their votes for President Donald J. Trump and Vice President Michael R. Pence.[15]

100. The number of votes affected by the various constitutional violations exceeds the margin of votes dividing the candidates.

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[15]https://thepalmierireport.com/michigan-state-police-block-gop-electors-from-entering-capitol/

101. Michigan's Secretary of State, Jocelyn Benson, without legislative approval, unilaterally abrogated Michigan election statutes related to absentee ballot applications and signature verification. Michigan's legislature has not ratified these changes, and its election laws do not include a severability clause.

102. As amended in 2018, the Michigan Constitution provides all registered voters the right to request and vote by an absentee ballot without giving a reason. MICH. CONST. art. 2, § 4.

103. On May 19, 2020, however, Secretary Benson announced that her office would send unsolicited absentee-voter ballot applications by mail to all 7.7 million registered Michigan voters prior to the primary and general elections. Although her office repeatedly encouraged voters to vote absentee because of the COVID-19 pandemic, it did not ensure that Michigan's election systems and procedures were adequate to ensure the accuracy and legality of the historic flood of mail-in votes. In fact, it did the opposite and did away with protections designed to deter voter fraud.

104. Secretary Benson's flooding of Michigan with millions of absentee ballot applications prior to the 2020 general election violated M.C.L. § 168.759(3). That statute limits the procedures for requesting an absentee ballot to three specified ways:

> An application for an absent voter ballot under this section may be made in *any of the following ways*:
>
> (a) By a written request signed by the voter.
>
> (b) On an absent voter ballot application form provided for that purpose by the clerk of the city or township.

(c) On a federal postcard application.

M.C.L. § 168.759(3) (emphasis added).

105. The Michigan Legislature thus declined to include the Secretary of State as a means for distributing absentee ballot applications. *Id*. § 168.759(3)(b). Under the statute's plain language, the Legislature explicitly gave *only local clerks* the power to distribute absentee voter ballot applications. *Id.*

106. Because the Legislature declined to explicitly include the Secretary of State as a vehicle for distributing absentee ballots applications, Secretary Benson lacked authority to distribute even a single absentee voter ballot application—much less the *millions* of absentee ballot applications Secretary Benson chose to flood across Michigan.

107. Secretary Benson also violated Michigan law when she launched a program in June 2020 allowing absentee ballots to be requested online, *without* signature verification as expressly required under Michigan law. The Michigan Legislature did not approve or authorize Secretary Benson's unilateral actions.

108. MCL § 168.759(4) states in relevant part: "An applicant for an absent voter ballot shall sign the application. Subject to section 761(2), a clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application."

109. Further, MCL § 168.761(2) states in relevant part: "The qualified voter file must be used to determine the genuineness of a signature on an application for an absent voter ballot", and if "the signatures do not agree sufficiently or [if] the signature is missing" the ballot must be rejected.

110. In 2016 only 587,618 Michigan voters requested absentee ballots. In stark contrast, in 2020, 3.2 million votes were cast by absentee ballot, about 57% of total votes cast – and more than *five times* the number of ballots *even requested* in 2016.

111. Secretary Benson's unconstitutional modifications of Michigan's election rules resulted in the distribution of millions of absentee ballot applications without verifying voter signatures as required by MCL §§ 168.759(4) and 168.761(2). This means that *millions* of absentee ballots were disseminated in violation of Michigan's statutory signature-verification requirements. Democrats in Michigan voted by mail at a ratio of approximately two to one compared to Republican voters. Thus, former Vice President Biden materially benefited from these unconstitutional changes to Michigan's election law.

112. Michigan also requires that poll watchers and inspectors have access to vote counting and canvassing. M.C.L. §§ 168.674-.675.

113. Local election officials in Wayne County made a conscious and express policy decision not to follow M.C.L. §§ 168.674-.675 for the opening, counting, and recording of absentee ballots.

114. Michigan also has strict signature verification requirements for absentee ballots, including that the Elections Department place a written statement or stamp on each ballot envelope where the voter signature is placed, indicating that the voter signature was in fact checked and verified with the signature on file with the State. *See* MCL § 168.765a(6).

115. However, Wayne County made the policy decision to ignore Michigan's statutory signature-verification requirements for absentee ballots. Former Vice President Biden received approximately 587,074, or 68%, of the votes cast there compared to President Trump's receiving approximate 264,149, or 30.59%, of the total vote. Thus, Mr. Biden materially benefited from these unconstitutional changes to Michigan's election law.

116. Numerous poll challengers and an Election Department employee whistleblower have testified that the signature verification requirement was ignored in Wayne County in a case currently pending in the Michigan Supreme Court.[16] For example, Jesse Jacob, a decades-long City of Detroit employee assigned to work in the Elections Department for the 2020 election testified that:

> Absentee ballots that were received in the mail would have the voter's signature on the envelope. While I was at the TCF Center, I was instructed not to look at any of the signatures on the absentee ballots, and I was instructed not to compare the signature on the absentee ballot with the signature on file.[17]

117. In fact, a poll challenger, Lisa Gage, testified that not a single one of the several hundred to a thousand ballot envelopes she observed had a written statement or stamp indicating the voter

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[16] *Johnson v. Benson*, Petition for Extraordinary Writs & Declaratory Relief filed Nov. 26, 2020 (Mich. Sup. Ct.) at ¶¶ 71, 138-39, App. 25a-51a.

[17] *Id.*, Affidavit of Jessy Jacob, Appendix 14 at ¶15, attached at App. 34a-36a.

signature had been verified at the TCF Center in accordance with MCL § 168.765a(6).[18]

118. The TCF was the only facility within Wayne County authorized to count ballots for the City of Detroit.

119. Additional public information confirms the material adverse impact on the integrity of the vote in Wayne County caused by these unconstitutional changes to Michigan's election law. For example, the Wayne County Statement of Votes Report lists 174,384 absentee ballots out of 566,694 absentee ballots tabulated (about 30.8%) as counted without a registration number for precincts in the City of Detroit. *See* Cicchetti Decl. at ¶ 27, App. a. The number of votes not tied to a registered voter by itself exceeds Vice President Biden's margin of margin of 146,007 votes by more than 28,377 votes.

120. The extra ballots cast most likely resulted from the phenomenon of Wayne County election workers running the same ballots through a tabulator multiple times, with Republican poll watchers obstructed or denied access, and election officials ignoring poll watchers' challenges, as documented by numerous declarations. App. 25a-51a.

121. In addition, a member of the Wayne County Board of Canvassers ("Canvassers Board"), William Hartman, determined that 71% of Detroit's Absent Voter Counting Boards ("AVCBs") were unbalanced—*i.e.*, the number of people who checked in did not match the number of ballots cast—without explanation. *Id*. at ¶ 29.

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[18] Affidavit of Lisa Gage ¶ 17 (App. a).

122. On November 17, 2020, the Canvassers Board deadlocked 2-2 over whether to certify the results of the presidential election based on numerous reports of fraud and unanswered material discrepancies in the county-wide election results. A few hours later, the Republican Board members reversed their decision and voted to certify the results after severe harassment, including threats of violence.

123. The following day, the two Republican members of the Board *rescinded their votes* to certify the vote and signed affidavits alleging they were bullied and misled into approving election results and do not believe the votes should be certified until serious irregularities in Detroit votes are resolved. *See* Cicchetti Decl. at ¶ 29, App. a.

124. Michigan admitted in a filing with this Court that it "is at a loss to explain the[] allegations" showing that Wayne County lists 174,384 absentee ballots that do not tie to a registered voter. *See* State of Michigan's Brief In Opposition To Motions For Leave To File Bill of Complaint and For Injunctive Relief at 15 (filed Dec. 10, 2020), Case No. 220155.

125. Lastly, on November 4, 2020, Michigan election officials in Antrim County admitted that a purported "glitch" in Dominion voting machines caused 6,000 votes for President Trump to be wrongly switched to Democrat Candidate Biden in just one county. Local officials discovered the so-called "glitch" after reportedly questioning Mr. Biden's win in the heavily Republican area and manually checked the vote tabulation.

126. The Dominion voting tabulators used in Antrim County were recently subjected to a forensic

audit.[19] Though Michigan's Secretary of State tried to keep the Allied Report from being released to the public, the court overseeing the audit refused and allowed the Allied Report to made public.[20] The Allied Report concluded that "the vote flip occurred because of machine error built into the voting software designed to create error."[21] In addition, the Allied report revealed that "all server security logs prior to 11:03 pm on November 4, 2020 are missing and that there was other "tampering with data." *See* Allied Report at ¶¶ B.16-17 (App. a).

127. Further, the Allied Report determined that the Dominion voting system in Antrim County was designed to generate an error rate as high as 81.96% thereby sending ballots for "adjudication" to determine the voter's intent. *See* Allied report at ¶¶ B.2, 8-22 (App. a-- a).

128. Notably, the extraordinarily high error rate described here is consistent with the same situation that took place in Fulton County, Georgia with an enormous 93% error rate that required "adjudication" of over 106,000 ballots.

129. These non-legislative modifications to Michigan's election statutes resulted in a number of constitutionally tainted votes that far exceeds the margin of voters separating the candidates in

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[19] Antrim Michigan Forensics Report by Allied Security Operations Group dated December 13, 2020 (the "Allied Report") (App. a -- a);

[20] https://themichiganstar.com/2020/12/15/after-examining-antrim-county-voting-machines-asog-concludes-dominion-intentionally-designed-to-create-systemic-fraud/

[21] Allied Report at ¶¶ B.4-9 (App. a).

Michigan. Regardless of the number of votes that were affected by the unconstitutional modification of Michigan's election rules, the non-legislative changes to the election rules violated the Electors Clause.

State of Wisconsin

130. Wisconsin has 10 electoral votes, with a statewide vote tally currently estimated at 1,610,151 for President Trump and 1,630,716 for former Vice President Biden (*i.e.*, a margin of 20,565 votes). In two counties, Milwaukee and Dane, Mr. Biden's margin (364,298 votes) significantly exceeds his statewide lead.

131. On December 14, 2020, the Wisconsin Republican slate of Presidential Electors met at the State Capital and cast their votes for President Donald J. Trump and Vice President Michael R. Pence.[22]

132. In the 2016 general election some 146,932 mail-in ballots were returned in Wisconsin out of more than 3 million votes cast.[23] In stark contrast, 1,275,019 mail-in ballots, nearly a 900 percent increase over 2016, were returned in the November 3, 2020 election.[24]

133. Wisconsin statutes guard against fraud in absentee ballots: "[V]oting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place. The legislature finds that the privilege of voting by absentee ballot must be

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[22] https://wisgop.org/republican-electors-2020/.

[23] Source: U.S. Elections Project, *available at*: http://www.electproject.org/early 2016.

[24] Source: U.S. Elections Project, *available at*: https://electproject.github.io/Early-Vote-2020G/WI.html.

carefully regulated to prevent the potential for fraud or abuse[.]" WISC. STAT. § 6.84(1).

134. In direct contravention of Wisconsin law, leading up to the 2020 general election, the Wisconsin Elections Commission ("WEC") and other local officials unconstitutionally modified Wisconsin election laws—each time taking steps that weakened, or did away with, established security procedures put in place by the Wisconsin legislature to ensure absentee ballot integrity.

135. For example, the WEC undertook a campaign to position hundreds of drop boxes to collect absentee ballots—including the use of unmanned drop boxes.[25]

136. The mayors of Wisconsin's five largest cities—Green Bay, Kenosha, Madison, Milwaukee, and Racine, which all have Democrat majorities—joined in this effort, and together, developed a plan use purportedly "secure drop-boxes to facilitate return of absentee ballots." Wisconsin Safe Voting Plan 2020, at 4 (June 15, 2020).[26]

137. It is alleged in an action recently filed in the United States District Court for the Eastern District of Wisconsin that over five hundred

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[25] Wisconsin Elections Commission Memoranda, To: All Wisconsin Election Officials, Aug. 19, 2020, *available at*: https://elections.wi.gov/sites/elections.wi.gov/files/2020-08/Drop%20Box%20Final.pdf. at p. 3 of 4.

[26] Wisconsin Safe Voting Plan 2020 Submitted to the Center for Tech & Civic Life, June 15, 2020, by the Mayors of Madison, Milwaukee, Racine, Kenosha and Green Bay *available at*: https://www.techandciviclife.org/wp-content/uploads/2020/07/Approved-Wisconsin-Safe-Voting-Plan-2020.pdf.

unmanned, illegal, absentee ballot drop boxes were used in the Presidential election in Wisconsin.[27]

138. However, the use of *any* drop box, manned or unmanned, is directly prohibited by Wisconsin statute. The Wisconsin legislature specifically described in the Election Code "Alternate absentee ballot site[s]" and detailed the procedure by which the governing body of a municipality may designate a site or sites for the delivery of absentee ballots "other than the office of the municipal clerk or board of election commissioners as the location from which electors of the municipality may request and vote absentee ballots and to which voted absentee ballots shall be returned by electors for any election." Wis. Stat. 6.855(1).

139. Any alternate absentee ballot site "shall be staffed by the municipal clerk or the executive director of the board of election commissioners, or employees of the clerk or the board of election commissioners." Wis. Stat. 6.855(3). Likewise, Wis. Stat. 7.15(2m) provides, "[i]n a municipality in which the governing body has elected to an establish an alternate absentee ballot sit under s. 6.855, the municipal clerk shall operate such site as though it were his or her office for absentee ballot purposes and shall ensure that such site is adequately staffed."

140. Thus, the unmanned absentee ballot drop-off sites are prohibited by the Wisconsin Legislature as they do not comply with Wisconsin law

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[27] *See* Complaint (Doc. No. 1), *Donald J. Trump, Candidate for President of the United States of America v. The Wisconsin Election Commission*, Case 2:20-cv-01785-BHL (E.D. Wisc. Dec. 2, 2020) (Wisconsin Trump Campaign Complaint") at ¶¶ 188-89.

expressly defining "[a]lternate absentee ballot site[s]". Wis. Stat. 6.855(1), (3).

141. In addition, the use of drop boxes for the collection of absentee ballots, positioned predominantly in Wisconsin's largest cities, is directly contrary to Wisconsin law providing that absentee ballots may only be "mailed by the elector, or delivered *in person* to the municipal clerk issuing the ballot or ballots." Wis. Stat. § 6.87(4)(b)1 (emphasis added).

142. The fact that other methods of delivering absentee ballots, such as through unmanned drop boxes, are *not* permitted is underscored by Wis. Stat. § 6.87(6) which mandates that, "[a]ny ballot not mailed or delivered as provided in this subsection may not be counted." Likewise, Wis. Stat. § 6.84(2) underscores this point, providing that Wis. Stat. § 6.87(6) "shall be construed as mandatory." The provision continues—"Ballots cast in contravention of the procedures specified in those provisions may not be counted. *Ballots counted in contravention of the procedures specified in those provisions may not be included in the certified result of any election*." Wis. Stat. § 6.84(2) (emphasis added).

143. These were not the only Wisconsin election laws that the WEC violated in the 2020 general election. The WEC and local election officials also took it upon themselves to encourage voters to unlawfully declare themselves "indefinitely confined"—which under Wisconsin law allows the voter to avoid security measures like signature verification and photo ID requirements.

144. Specifically, registering to vote by absentee ballot requires photo identification, except for those who register as "indefinitely confined" or

"hospitalized." WISC. STAT. § 6.86(2)(a), (3)(a). Registering for indefinite confinement requires certifying confinement "because of age, physical illness or infirmity or [because the voter] is disabled for an indefinite period." *Id.* § 6.86(2)(a). Should indefinite confinement cease, the voter must notify the county clerk, *id.*, who must remove the voter from indefinite-confinement status. *Id.* § 6.86(2)(b).

145. Wisconsin election procedures for voting absentee based on indefinite confinement enable the voter to avoid the photo ID requirement and signature requirement. *Id.* § 6.86(1)(ag)/(3)(a)(2).

146. On March 25, 2020, in clear violation of Wisconsin law, Dane County Clerk Scott McDonnell and Milwaukee County Clerk George Christensen both issued guidance indicating that all voters should mark themselves as "indefinitely confined" because of the COVID-19 pandemic.

147. Believing this to be an attempt to circumvent Wisconsin's strict voter ID laws, the Republican Party of Wisconsin petitioned the Wisconsin Supreme Court to intervene. On March 31, 2020, the Wisconsin Supreme Court unanimously confirmed that the clerks' "advice was legally incorrect" and potentially dangerous because "voters may be misled to exercise their right to vote in ways that are inconsistent with WISC. STAT. § 6.86(2)."

148. On May 13, 2020, the Administrator of WEC issued a directive to the Wisconsin clerks prohibiting removal of voters from the registry for indefinite-confinement status if the voter is no longer "indefinitely confined."

149. The WEC's directive violated Wisconsin law. Specifically, WISC. STAT. § 6.86(2)(a) specifically

provides that "any [indefinitely confined] elector [who] is no longer indefinitely confined … shall so notify the municipal clerk." WISC. STAT. § 6.86(2)(b) further provides that the municipal clerk "shall remove the name of any other elector from the list upon request of the elector or upon receipt of reliable information that an elector no longer qualifies for the service."

150. According to statistics kept by the WEC, nearly 216,000 voters said they were indefinitely confined in the 2020 election, nearly a fourfold increase from nearly 57,000 voters in 2016. In Dane and Milwaukee counties, more than 68,000 voters said they were indefinitely confined in 2020, a fourfold increase from the roughly 17,000 indefinitely confined voters in those counties in 2016.

151. On December 16, 2020, the Wisconsin Supreme Court ruled that Wisconsin officials, including Governor Evers, unlawfully told Wisconsin voters to declare themselves "indefinitely confined"—thereby avoiding signature and photo ID requirements. *See Jefferson v. Dane County*, 2020 Wisc. LEXIS 194 (Wis. Dec. 14, 2020). Given the near fourfold increase in the use of this classification from 2016 to 2020, tens of thousands of these ballots could be illegal. The vast majority of the more than 216,000 voters classified as "indefinitely confined" were from heavily democrat areas, thereby materially and illegally, benefited Mr. Biden.

152. Under Wisconsin law, voting by absentee ballot also requires voters to complete a certification, including their address, and have the envelope witnessed by an adult who also must sign and indicate their address on the envelope. *See* WISC. STAT. § 6.87. The sole remedy to cure an "improperly completed

certificate or [ballot] with no certificate" is for "the clerk [to] return the ballot to the elector[.]" *Id.* § 6.87(9). "If a certificate is missing the address of a witness, the ballot *may not be counted*." *Id.* § 6.87(6d) (emphasis added).

153. However, in a training video issued April 1, 2020, the Administrator of the City of Milwaukee Elections Commission unilaterally declared that a "witness address may be written in red and that is because we were able to locate the witnesses' address for the voter" to add an address missing from the certifications on absentee ballots. The Administrator's instruction violated WISC. STAT. § 6.87(6d). The WEC issued similar guidance on October 19, 2020, in violation of this statute as well.

154. In the Wisconsin Trump Campaign Complaint, it is alleged, supported by the sworn affidavits of poll watchers, that canvas workers carried out this unlawful policy, and acting pursuant to this guidance, in Milwaukee used red-ink pens to alter the certificates on the absentee envelope and then cast and count the absentee ballot. These acts violated WISC. STAT. § 6.87(6d) ("If a certificate is missing the address of a witness, the ballot may not be counted"). *See also* WISC. STAT. § 6.87(9) ("If a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector . . . whenever time permits the elector to correct the defect and return the ballot within the period authorized.").

155. Wisconsin's legislature has not ratified these changes, and its election laws do not include a severability clause.

156. In addition, Ethan J. Pease, a box truck delivery driver subcontracted to the U.S. Postal Service ("USPS") to deliver truckloads of mail-in ballots to the sorting center in Madison, WI, testified that USPS employees were backdating ballots received after November 3, 2020. Decl. of Ethan J. Pease at ¶¶ 3-13. Further, Pease testified how a senior USPS employee told him on November 4, 2020 that "[a]n order came down from the Wisconsin/Illinois Chapter of the Postal Service that 100,000 ballots were missing" and how the USPS dispatched employees to "find[] . . . the ballots." *Id*. ¶¶ 8-10. One hundred thousand ballots supposedly "found" after election day would far exceed former Vice President Biden margin of 20,565 votes over President Trump.

State of Arizona

157. Arizona has 11 electoral votes, with a state-wide vote tally currently estimated at 1,661,677 for President Trump and 1,672,054 for former Vice President Biden, a margin of 10,377 votes. In Arizona's most populous county, Maricopa County, Mr. Biden's margin (45,109 votes) significantly exceeds his statewide lead.

158. On December 14, 2020, the Arizona Republican slate of Presidential Electors met at the State Capital and cast their votes for President Donald J. Trump and Vice President Michael R. Pence.[28]

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[28] https://arizonadailyindependent.com/2020/12/14/az-democrat-electors-vote-biden-republicans-join-pennsylvania-georgia-nevada-in-casting-electoral-college-votes-for-trump/

159. Since 1990, Arizona law has required that residents wishing to participate in an election submit their voter registration materials no later than 29 days prior to election day in order to vote in that election. Ariz. Rev. Stat. § 16-120(A). For 2020, that deadline was October 5.

160. In *Mi Familia Vota v. Hobbs*, No. CV-20-01903-PHX-SPL, 2020 U.S. Dist. LEXIS 184397 (D. Ariz. Oct. 5, 2020), however, a federal district court violated the Constitution and enjoined that law, extending the registration deadline to October 23, 2020. The Ninth Circuit stayed that order on October 13, 2020 with a two-day grace period, *Mi Familia Vota v. Hobbs*, 977 F.3d 948, 955 (9th Cir. 2020).

161. However, the Ninth Circuit did not apply the stay retroactively because neither the Arizona Secretary of State nor the Arizona Attorney General requested retroactive relief. *Id.* at 954-55. As a net result, the deadline was unconstitutionally extended from the statutory deadline of October 5 to October 15, 2021, thereby allowing potentially thousands of illegal votes to be injected into the state.

162. In addition, on December 15, 2020, the Arizona state Senate served two subpoenas on the Maricopa County Board of Supervisors (the "Maricopa Board") to audit scanned ballots, voting machines, and software due to the significant number of voting irregularities. Indeed, the Arizona Senate Judiciary Chairman stated in a public hearing earlier that day that "[t]here is evidence of tampering, there is evidence of fraud" with vote in Maricopa County. The Board then voted to refuse to comply with those subpoenas necessitating a lawsuit to enforce the

subpoenas filed on December 21, 2020. That litigation is currently ongoing.

State of Nevada

163. Nevada has 6 electoral votes, with a statewide vote tally currently estimated at 669,890 for President Trump and 703,486 for former Vice President Biden, a margin of 33,596 votes. Nevada voters sent in 579,533 mail-in ballots. In Clark County, Mr. Biden's margin (90,922 votes) significantly exceeds his statewide lead.

164. On December 14, 2020 the Republican slate of Presidential Electors met at the State Capital and cast their votes for President Donald J. Trump and Vice President Michael R. Pence.[29]

165. In response to the COVID-19 pandemic, the Nevada Legislature enacted—and the Governor signed into law—Assembly Bill 4, 2020 Nev. Ch. 3, to address voting by mail and to require, for the first time in Nevada's history, the applicable county or city clerk to mail ballots to all registered voters in the state.

166. Under Section 23 of Assembly Bill 4, the applicable city or county clerk's office is required to review the signature on ballots, without permitting a computer system to do so: "The *clerk or employee shall check* the signature used for the mail ballot against all signatures of the voter available in the records of the clerk." *Id.* § 23(1)(a) (codified at NEV. REV. STAT. § 293.8874(1)(a)) (emphasis add). Moreover, the system requires that two or more employees be included: "If at least two employees in the office of the clerk believe there is a reasonable question of fact as to whether the

[29] https://nevadagop.org/42221-2/

signature used for the mail ballot matches the signature of the voter, the clerk shall contact the voter and ask the voter to confirm whether the signature used for the mail ballot belongs to the voter." *Id.* § 23(1)(b) (codified at NEV. REV. STAT. § 293.8874(1)(b)). A signature that differs from on-file signatures in multiple respects is inadequate: "There is a reasonable question of fact as to whether the signature used for the mail ballot matches the signature of the voter if the signature used for the mail ballot differs in multiple, significant and obvious respects from the signatures of the voter available in the records of the clerk." *Id.* § 23(2)(a) (codified at NEV. REV. STAT. § 293.8874(2)(a)). Finally, under Nevada law, "each voter has the right … [t]o have a uniform, statewide standard for counting and recounting all votes accurately." NEV. REV. STAT. § 293.2546(10).

167. Nevada law does not allow computer systems to substitute for review by clerks' employees.

168. However, county election officials in Clark County ignored this requirement of Nevada law. Clark County, Nevada, processed all its mail-in ballots through a ballot sorting machine known as the Agilis Ballot Sorting System ("Agilis"). The Agilis system purported to match voters' ballot envelope signatures to exemplars maintained by the Clark County Registrar of Voters.

169. Anecdotal evidence suggests that the Agilis system was prone to false positives (*i.e.*, accepting as valid an invalid signature). Victor Joecks, *Clark County Election Officials Accepted My Signature—on 8 Ballot Envelopes*, LAS VEGAS REV.-J. (Nov. 12, 2020) (Agilis system accepted 8 of 9 false signatures).

170. Even after adjusting the Agilis system's tolerances outside the settings that the manufacturer recommends, the Agilis system nonetheless rejected approximately 70% of the approximately 453,248 mail-in ballots.

171. More than 450,000 mail-in ballots from Clark County either were processed under weakened signature-verification criteria in violation of the statutory criteria for validating mail-in ballots. The number of contested votes exceeds the margin of votes dividing the parties.

172. With respect to approximately 130,000 ballots that the Agilis system approved, Clark County did not subject those signatures to review by two or more employees, as Assembly Bill 4 requires. To count those 130,000 ballots without review not only violated the election law adopted by the legislature but also subjected those votes to a different standard of review than other voters statewide.

173. With respect to approximately 323,000 ballots that the Agilis system rejected, Clark County decided to count ballots if a signature matched at least one letter between the ballot envelope signature and the maintained exemplar signature. This guidance does not match the statutory standard "differ[ing] in multiple, significant and obvious respects from the signatures of the voter available in the records of the clerk."

174. Out of the nearly 580,000 mail-in ballots, registered Democrats returned almost twice as many mail-in ballots as registered Republicans. Thus, this violation of Nevada law appeared to materially benefited former Vice President Biden's vote tally. Regardless of the number of votes that were affected

by the unconstitutional modification of Nevada's election rules, the non-legislative changes to the election rules violated the Electors Clause.

COUNT I: ELECTORS CLAUSE

175. The United States repeats and re-alleges the allegations above, as if fully set forth herein.

176. The Electors Clause of Article II, Section 1, Clause 2, of the Constitution makes clear that only the legislatures of the States are permitted to determine the rules for appointing presidential electors. The pertinent rules here are the state election statutes, specifically those relevant to the presidential election.

177. Non-legislative actors lack authority to amend or nullify election statutes. *Bush II*, 531 U.S. at 104 (quoted *supra*).

178. Under *Heckler v. Chaney*, 470 U.S. 821, 833 n.4 (1985), conscious and express executive policies—even if unwritten—to nullify statutes or to abdicate statutory responsibilities are reviewable to the same extent as if the policies had been written or adopted. Thus, conscious and express actions by State or local election officials to nullify or ignore requirements of election statutes violate the Electors Clause to the same extent as formal modifications by judicial officers or State executive officers.

179. The actions set out in Paragraphs 41-128 constitute non-legislative changes to State election law by executive-branch State election officials, or by judicial officials, in Defendant States Pennsylvania, Georgia, Michigan, Wisconsin, Arizona, and Nevada in violation of the Electors Clause.

180. Electors appointed to Electoral College in violation of the Electors Clause cannot cast constitutionally valid votes for the office of President.

COUNT II: EQUAL PROTECTION

181. The United States repeats and re-alleges the allegations above, as if fully set forth herein.

182. The Equal Protection Clause prohibits the use of differential standards in the treatment and tabulation of ballots within a State. *Bush II*, 531 U.S. at 107.

183. The one-person, one-vote principle requires counting valid votes and not counting invalid votes. *Reynolds*, 377 U.S. at 554-55; *Bush II*, 531 U.S. at 103 ("the votes eligible for inclusion in the certification are the votes meeting the properly established legal requirements").

184. The actions set out in Paragraphs (Georgia), (Michigan), (Pennsylvania), (Wisconsin), (Arizona), and (Nevada) created differential voting standards in Defendant States Pennsylvania, Georgia, Michigan, Wisconsin, [Arizona (maybe not)], and Nevada in violation of the Equal Protection Clause.

185. The actions set out in Paragraphs (Georgia), (Michigan), (Pennsylvania), (Wisconsin), (Arizona). And (Nevada) violated the one-person, one-vote principle in Defendant States Pennsylvania, Georgia, Michigan, Wisconsin, Arizona, and Nevada.

186. By the shared enterprise of the entire nation electing the President and Vice President, equal protection violations in one State can and do adversely affect and diminish the weight of votes cast in other States that lawfully abide by the election

structure set forth in the Constitution. The United States is therefore harmed by this unconstitutional conduct in violation of the Equal Protection or Due Process Clauses.

COUNT III: DUE PROCESS

187. The United States repeats and re-alleges the allegations above, as if fully set forth herein.

188. When election practices reach "the point of patent and fundamental unfairness," the integrity of the election itself violates substantive due process. *Griffin v. Burns*, 570 F.2d 1065, 1077 (1st Cir. 1978); *Duncan v. Poythress*, 657 F.2d 691, 702 (5th Cir. 1981); *Florida State Conference of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1183-84 (11th Cir. 2008); *Roe v. State of Ala. By & Through Evans*, 43 F.3d 574, 580-82 (11th Cir. 1995); *Roe v. State of Ala.*, 68 F.3d 404, 407 (11th Cir. 1995); *Marks v. Stinson*, 19 F. 3d 873, 878 (3rd Cir. 1994).

189. Under this Court's precedents on procedural due process, not only intentional failure to follow election law as enacted by a State's legislature but also random and unauthorized acts by state election officials and their designees in local government can violate the Due Process Clause. *Parratt v. Taylor*, 451 U.S. 527, 537-41 (1981), *overruled in part on other grounds by Daniels v. Williams*, 474 U.S. 327, 330-31 (1986); *Hudson v. Palmer*, 468 U.S. 517, 532 (1984). The difference between intentional acts and random and unauthorized acts is the degree of pre-deprivation review.

190. Defendant States acted unconstitutionally to lower their election standards—including to allow invalid ballots to be counted and valid ballots to not be counted—with the express

intent to favor their candidate for President and to alter the outcome of the 2020 election. In many instances these actions occurred in areas having a history of election fraud.

191. The actions set out in Paragraphs (Georgia), (Michigan), (Pennsylvania), (Wisconsin), (Arizona), and (Nevada) constitute intentional violations of State election law by State election officials and their designees in Defendant States Pennsylvania, Georgia, Michigan, Wisconsin, and Arizona, and Nevada in violation of the Due Process Clause.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully request that this Court issue the following relief:

A. Declare that Defendant States Pennsylvania, Georgia, Michigan, Wisconsin, Arizona, and Nevada administered the 2020 presidential election in violation of the Electors Clause and the Fourteenth Amendment of the U.S. Constitution.

B. Declare that the electoral college votes cast by such presidential electors appointed in Defendant States Pennsylvania, Georgia, Michigan, Wisconsin, Arizona, and Nevada are in violation of the Electors Clause and the Fourteenth Amendment of the U.S. Constitution and cannot be counted.

C. Enjoin Defendant States' use of the 2020 election results for the Office of President to appoint presidential electors to the Electoral College.

D. Enjoin Defendant States' use of the 2020 election results for the Office of President to appoint presidential electors to the Electoral College and authorize, pursuant to the Court's remedial authority,

the Defendant States to conduct a special election to appoint presidential electors.

E. Enjoin Defendant States' use of the 2020 election results for the Office of President to appoint presidential electors to the Electoral College and authorize, pursuant to the Court's remedial authority, the Defendant States to conduct an audit of their election results, supervised by a Court-appointed special master, in a manner to be determined separately.

F. Award costs to the United States.

G. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

December , 2020

[redacted] **(ODAG)**

From: [redacted] (ODAG)
Sent: Tuesday, December 29, 2020 11:18 AM
To: Lair, Kate E. EOP/WHO
Cc: [redacted] (ODAG); Kepto, Abbie E. EOP/WHO; Horning, Liz A. EOP/WHO
Subject: RE: Monday Lunch

Yes, please. With a diet coke.

Thanks in advance,

[redacted]
U.S. Department of Justice
Office of the Deputy Attorney General
[redacted]

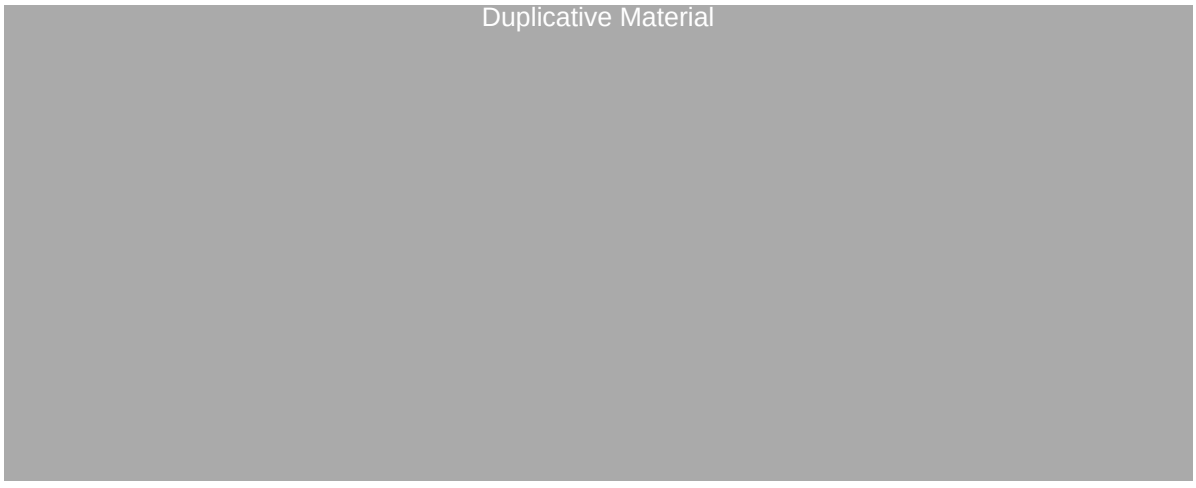
From: Lair, Kate E. EOP/WH [redacted]
Sent: Tuesday, December 29, 2020 11:13 AM
T [redacted] (ODAG [redacted]>
C [redacted]. (ODAG [redacted] Kepto, Abbie E. EOP/WHO
[redacted]; Horning, Liz A. EOP/WHO [redacted]
Subject: Re: Monday Lunch

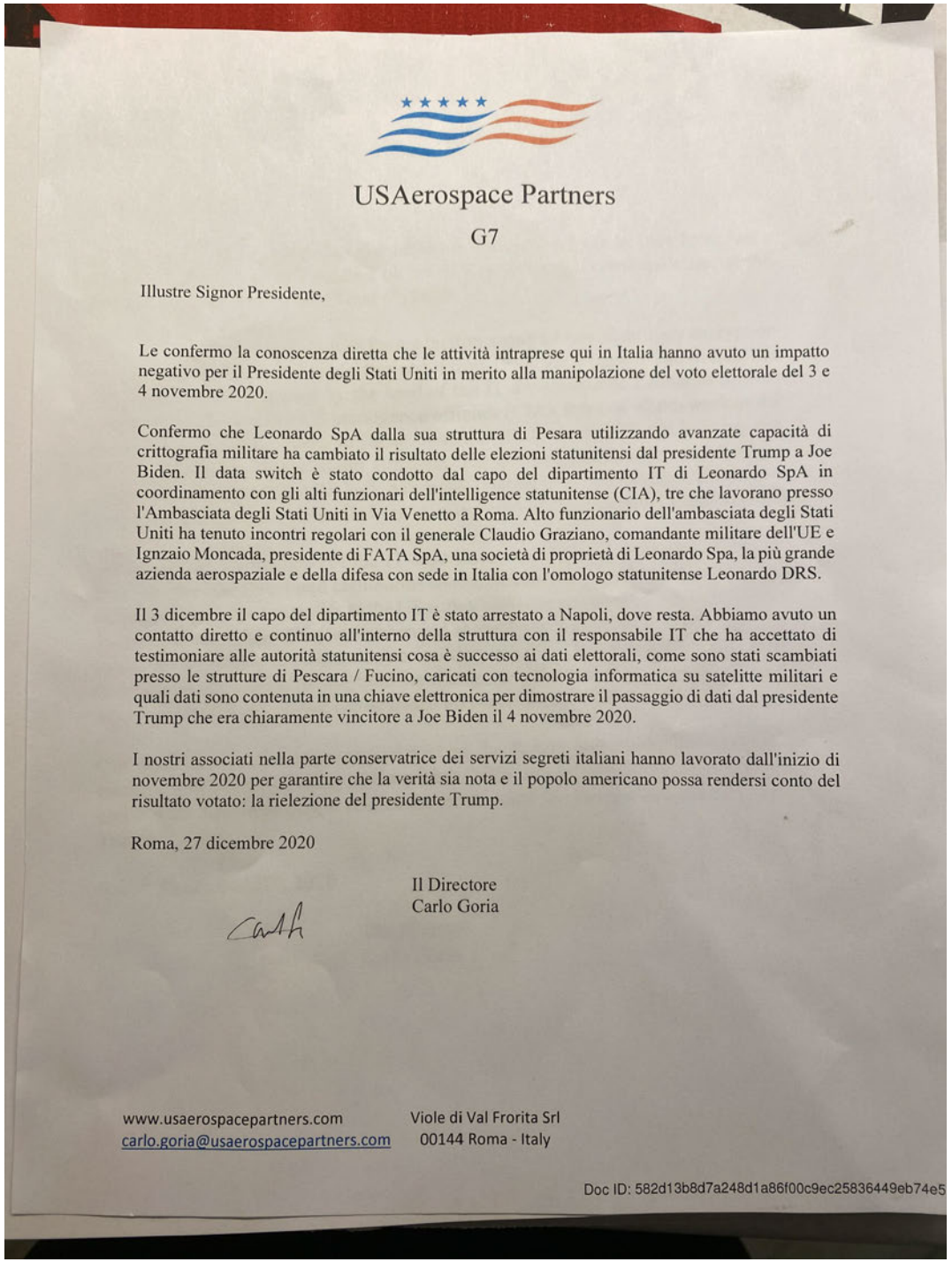
Yes we are good for lunch today at 12:00 pm. Does he want his regular plain turkey burger with provolone and fries? Let us know.

Kate

Sent from my iPhone

On Dec 29, 2020, at 11:08 AM, Lair, Kate E. EOP/WH [redacted] wrote:





USAerospace Partners

G7

Illustre Signor Presidente,

Le confermo la conoscenza diretta che le attività intraprese qui in Italia hanno avuto un impatto negativo per il Presidente degli Stati Uniti in merito alla manipolazione del voto elettorale del 3 e 4 novembre 2020.

Confermo che Leonardo SpA dalla sua struttura di Pesara utilizzando avanzate capacità di crittografia militare ha cambiato il risultato delle elezioni statunitensi dal presidente Trump a Joe Biden. Il data switch è stato condotto dal capo del dipartimento IT di Leonardo SpA in coordinamento con gli alti funzionari dell'intelligence statunitense (CIA), tre che lavorano presso l'Ambasciata degli Stati Uniti in Via Venetto a Roma. Alto funzionario dell'ambasciata degli Stati Uniti ha tenuto incontri regolari con il generale Claudio Graziano, comandante militare dell'UE e Ignzaio Moncada, presidente di FATA SpA, una società di proprietà di Leonardo Spa, la più grande azienda aerospaziale e della difesa con sede in Italia con l'omologo statunitense Leonardo DRS.

Il 3 dicembre il capo del dipartimento IT è stato arrestato a Napoli, dove resta. Abbiamo avuto un contatto diretto e continuo all'interno della struttura con il responsabile IT che ha accettato di testimoniare alle autorità statunitensi cosa è successo ai dati elettorali, come sono stati scambiati presso le strutture di Pescara / Fucino, caricati con tecnologia informatica su satelitte militari e quali dati sono contenuta in una chiave elettronica per dimostrare il passaggio di dati dal presidente Trump che era chiaramente vincitore a Joe Biden il 4 novembre 2020.

I nostri associati nella parte conservatrice dei servizi segreti italiani hanno lavorato dall'inizio di novembre 2020 per garantire che la verità sia nota e il popolo americano possa rendersi conto del risultato votato: la rielezione del presidente Trump.

Roma, 27 dicembre 2020

Il Directore
Carlo Goria

www.usaerospacepartners.com
carlo.goria@usaerospacepartners.com
Viole di Val Frorita Srl
00144 Roma - Italy

[redacted] (ODAG)

From: [redacted] (ODAG)
Sent: Tuesday, December 29, 2020 12:14 PM
To: Kepto, Abbie E. EOP/WHO; Lair, Kate E. EOP/WHO
Cc: [redacted]. (ODAG)
Subject: RE: Monday Lunch

Mr. Rosen is en route.

Thanks in advance,

[redacted]
U.S. Department of Justice
Office of the Deputy Attorney General
[redacted]

From: Kepto, Abbie E. EOP/WH [redacted]
Sent: Tuesday, December 29, 2020 11:10 AM
To: Lair, Kate E. EOP/WH [redacted] [redacted] (ODAG [redacted] >
C [redacted] (ODAG [redacted]
Subject: RE: Monday Lunch

[redacted],

Yes, we are confirmed for lunch today. Please send me lunch orders.

Thanks,
Abbie

Abbie Kepto
Office of White House Counsel
O [redacted]
C [redacted]

From: Lair, Kate E. EOP/WH [redacted]
Sent: Tuesday, December 29, 2020 11:08 AM
T [redacted] (ODAG) [redacted] >
C [redacted] (ODAG) [redacted]; Kepto, Abbie E. EOP/WHO [redacted] >; Horning, Liz A. EOP/WH [redacted]
Subject: Re: Monday Lunch

Duplicative Material

Meadows, Mark R. EOP/WHO

From:	Meadows, Mark R. EOP/WHO
Sent:	Wednesday, December 30, 2020 9:31 AM
To:	Rosen, Jeffrey A. (ODAG)
Subject:	Fwd: [EXTERNAL] Fwd: December 4, 2020 - Petition and Press Statement - R Smith.docx
Attachments:	December 4, 2020 - Press Statement - R Smith.docx; VERIFIED PETITION TO CONTEST GEORGIA ELECTION.pdf

Can you have your team look into these allegations of wrongdoing. Only the alleged fraudulent activity.
Thanks Mark

Sent from my iPhone

Begin forwarded message:

From: Mark Meadow [redacted (b) (6)]
Date: December 30, 2020 at 9:28:38 AM EST
To: "Meadows, Mark R. EOP/WHO [redacted (b) (6)]
Subject: [EXTERNAL] Fwd: December 4, 2020 - Petition and Press Statement - R Smith.docx

?

Sent from my iPhone

Begin forwarded message:

From: "Mitchell, Cleta" <CMitchell@foley.com>
Date: December 30, 2020 at 9:07:45 AM EST
To: Mark Meadow [redacted (b) (6)]>
Subject: December 4, 2020 - Petition and Press Statement - R Smith.docx

? This is the petition filed in GA state court and the press release issued about it.

I presume the DOJ would want all the exhibits - that's 1800 pages total. I need to get someone to forward that to a drop box.

Plus I don't know what is happening re investigating the video issues in Fulton County. And the equipment. We didn't include the equipment in our lawsuit but there are certainly many issues and questions that some resources need to be devoted to reviewing. We had no way to conduct proper due diligence to include the equipment / software.

Cleta Mitchell, Esq.
Foley & Lardner, LLP
cmitchell@foley.com
(b) (6) (cell)
202.295.4081 (office)
Sent from my iPhone

FOR IMMEDIATE RELEASE

December 4, 2020

TRUMP CAMPAIGN FILES ELECTION CONTEST IN GEORGIA

Election Contest Lawsuit Documents Tens Thousands of Illegal Votes Included in the GA Presidential Vote Totals Rendering November 3, 2020 Election Results Null and Void; Suit Asks Court to Vacate and Enjoin the Certification of the Election

ATLANTA, GA - The Trump Campaign filed an election contest today in Georgia state court seeking to invalidate the state's November 3, 2020 presidential election results. Joining President Trump and the Trump campaign in the lawsuit is David Shafer, Chairman of the Georgia Republican Party, who is also a Trump presidential elector.

"What was filed today clearly documents that there are literally tens of thousands of illegal votes that were cast, counted, and included in the tabulations the Secretary of State is preparing to certify," said Ray S. Smith III, lead counsel for the Trump Campaign. "The massive irregularities, mistakes, and potential fraud violate the Georgia Election Code, making it impossible to know with certainty the actual outcome of the presidential race in Georgia."

Attached to the complaint are sworn affidavits from dozens of Georgia residents swearing under penalty of perjury to what they witnessed during the election: failure to process and secure the ballots, failure to verify the signatures on absentee ballots, the appearance of mysterious "pristine" absentee ballots not received in official absentee ballot envelopes that were voted almost solely for Joe Biden, failure to allow poll watchers meaningful access to observe the election, among other violations of law.

Data experts also provided sworn testimony in the lawsuit identifying thousands of illegal votes: 2,560 felons; 66,247 underage voters, 2,423 votes from people not registered; 1,043 individuals registered at post office boxes; 4,926 individuals who voted in Georgia after registering in another state; 395 individuals who voted in two states; 15,700 votes from people who moved out of state before the election; 40,279 votes of people who moved without re-registering in their new county; and another 30,000 to 40,000 absentee ballots lacking proper signature matching and verification.

MORE

2-2-2

"The Secretary of State has orchestrated the worst excuse for an election in Georgia history," added Smith. "We are asking the Court to vacate the certification of the presidential election and to order a new statewide election for president. Alternatively, we are asking the Court to enjoin the certification and allow the Georgia legislature to reclaim its duty under the U.S. Constitution to appoint the presidential electors for the state," Smith concluded,

###

For additional information contact:

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DONALD J. TRUMP, in his capacity as a Candidate for President, DONALD J. TRUMP FOR PRESIDENT, INC., and DAVID J. SHAFER, in his capacity as a Registered Voter and Presidential Elector pledged to Donald Trump for President,	)	
Petitioners,	)	**CIVIL ACTION FILE NO.**
v.	)	_____
BRAD RAFFENSPERGER, in his official capacity as Secretary of State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board, DAVID J. WORLEY, in his official capacity as a Member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a Member of the Georgia State Election Board, ANH LE, in her official capacity as a Member of the Georgia State Election Board, RICHARD L. BARRON, in his official capacity as Director of Registration and Elections for Fulton County, JANINE EVELER, in her official capacity as Director of Registration and Elections for Cobb County, ERICA HAMILTON, in her official capacity as Director of Voter Registration and Elections for DeKalb County, KRISTI ROYSTON, in her official capacity as Elections Supervisor for Gwinnett County, RUSSELL BRIDGES, in his official capacity as Elections Supervisor for Chatham County, ANNE DOVER, in her official capacity as Acting Director of Elections and Voter Registration for Cherokee County, SHAUNA DOZIER, in her official capacity as Elections Director for Clayton County, MANDI SMITH, in her official capacity as Director of Voter Registration and Elections for Forsyth	)	

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

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

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

INTRODUCTION

1.

The United States Constitution sets forth the authority to regulate federal elections: "The Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators." U.S. Const. art. I, § 4.

2.

With respect to the appointment of presidential electors, the Constitution further provides, "[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in Congress." U.S. Const. art. II, § 1.

3.

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

4.

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

5.

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

6.

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

7.

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

8.

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

9.

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

10.

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

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

11.

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

12.

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

THE PARTIES

13.

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

14.

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

15.

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

16.

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

17.

Respondent Brad Raffensperger is named in his official capacity as the Secretary of State of Georgia.[1] Secretary Raffensperger serves as the Chairperson of Georgia's State Election Board, which promulgates and enforces rules and regulations to (i) obtain uniformity in the practices and proceedings of election officials as well as legality and purity in all primaries and general elections, and (ii) be conducive to the fair, legal, and orderly conduct of primaries and general elections. *See* O.C.G.A. §§ 21-2-30(d), 21-2-31, 21-2-33.1. Secretary Raffensperger, as Georgia's chief elections officer, is also responsible for the administration of the Election Code. *Id.*

18.

Respondents Rebecca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Le in their official capacities as members of the Georgia State Election Board (the "State Election Board"), are members of the State Election Board in Georgia, responsible for "formulat[ing], adopt[ing], and promulgat[ing] such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections." O.C.G.A. § 21-2-31(2). Further, the State Election Board "promulgate[s] rules and regulations to define uniform and nondiscriminatory standards concerning what constitutes a vote and what will be counted as a vote for each category of voting system" in Georgia. O.C.G.A. § 21-2-31(7).

[1] Secretary Raffensperger is a state official subject to suit in his official capacity because his office "imbues him with the responsibility to enforce the [election laws]." *Grizzle v. Kemp*, 634 F.3d 1314, 1319 (11th Cir. 2011).

19.

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

20.

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

21.

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

22.

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

23.

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

24.

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

25.

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

26.

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

27.

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

28.

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

29.

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

30.

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

31.

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

32.

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

33.

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

34.

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

JURISDICTION AND VENUE

35.

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

36.

Venue is proper before this Court.

FACTUAL BACKGROUND

The Georgia Election Code and Election Contest Provisions

37.

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

38.

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

1. Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result;
2. When the defendant is ineligible for the nomination or office in dispute;
3. When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result;
4. For any error in counting the votes or declaring the result of the primary or election, if such error would change the results; or
5. For any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.[2]

39.

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

40.

The Election Code "allows elections to be contested through litigation, both as a check on the integrity of the election process and as a means of ensuring the fundamental right of citizens to vote and to have their votes counted securely." *Martin*, 307 Ga. at 194.

41.

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

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

The Contested Election

42.

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

43.

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

44.

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

45.

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

46.

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

[3] The first certified number of votes.

47.

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

48.

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

49.

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

50.

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

51.

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

52.

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

53.

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

54.

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

55.

An actual controversy exists.

56.

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

57.

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

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

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

Requirements to Legally Vote in Georgia

58.

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

59.

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

60.

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

61.

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

62.

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

63.

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

64.

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

65.

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

66.

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

67.

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

68.

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

69.

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

70.

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

71.

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

72.

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

73.

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

74.

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

75.

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

76.

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

77.

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

78.

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

79.

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

80.

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

81.

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

82.

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

83.

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

84.

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

85.

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

86.

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

87.

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

88.

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

89.

A postal office box is not a residential address.

90.

One cannot reside within a postal office box.

91.

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

92.

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

93.

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

94.

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

95.

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

96.

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

97.

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

98.

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

99.

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

100.

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

101.

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

102.

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

103.

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

104.

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

105.

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

106.

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

107.

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

108.

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

109.

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

110.

Another Affiant, Sandy Rumph, has stated that her father-in-law, who died on September 9, 2019, had his voter registration change from "deceased" to "active" 8 days ***after*** he passed away. **Exhibit 6** attached hereto and incorporated by reference.

111.

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

112.

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

113.

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

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

114.

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

115.

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

116.

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

117.

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

118.

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

119.

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

120.

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

121.

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

122.

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

123.

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

124.

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

125.

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

126.

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

127.

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

128.

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

129.

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

130.

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

131.

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

132.

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

133.

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

134.

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

135.

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

136.

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

137.

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

138.

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

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

139.

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

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

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

140.

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

> Upon receipt of each [absentee] ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk **shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or make on the oath with the signature or mark on the absentee elector's voter card or the most recent update to such absentee elector's voter registration card and application for absentee ballot or a facsimile of said signature or maker taken from said card or application**, and shall, if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct. O.C.G.A. § 21-2-386(a)(1)(B) (emphasis added).

141.

O.C.G.A. § 21-2-386(a)(1)(C) mandates the procedures to be followed by election officials with respect to defective absentee ballots:

> **If the elector has failed to sign the oath, or if the signature does not appear to be valid, or if the elector has failed to furnish required information or information so furnished does not conform with that on file in the registrar's or clerk's office**, or if the elector is otherwise found disqualified to vote, the registrar or clerk ***shall*** write across the face of the envelope "Rejected," giving the reason therefor. The board of registrars or absentee ballot clerk ***shall*** promptly **notify the elector of such rejection**, a copy of which notification ***shall*** be retained in the files of the board of registrars or absentee ballot clerk for at least one year. O.C.G.A. § 21-2-386(a)(1)(C) (emphasis added).

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

142.

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

143.

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

144.

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

145.

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

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

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

146.

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

147.

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

148.

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

149.

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

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

150.

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

151.

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

152.

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

153.

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

154.

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

155.

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

156.

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

157.

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

158.

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

159.

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

160.

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

161.

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

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

162.

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

163.

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

164.

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

165.

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

166.

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

167.

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

168.

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

169.

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

170.

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

171.

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

172.

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

173.

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

174.

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

175.

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

176.

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

> Per the instructions given to counties as they conduct their audit triggered full hand recounts, **designated monitors will be given complete access to observe the process from the beginning**. While the audit triggered recount **must be open to the public and media, designated monitors will be able to observe more closely**. The general public and the press will be restricted to a public viewing area. **Designated monitors will be able to watch the recount while standing close to the elections' workers conducting the recount**.
>
> Political parties are allowed to designate a minimum of two monitors per county at a ratio of one monitor per party for every ten audit boards in a county . . . . **Beyond being able to watch to ensure the recount is conducted fairly and securely**, the two-person audit boards conducting the hand recount call out the votes as they are recounted, **providing monitors and the public an additional way to keep tabs on the process**.[5]

177.

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

178.

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

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[5] Office of Secretary of State Brad Raffensperger, *Monitors Closely Observing Audit Triggered Full Hand Recount: Transparency is Built Into Process* (Nov. 17, 2020), https://sos.ga.gov/index.php/elections/monitors closely observing audit triggered full hand recount transparency is built into process.

179.

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

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

180.

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

181.

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

182.

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

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

183.

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

184.

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

185.

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

Fulton County Elections' Deception and Fraud

186.

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

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

187.

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

188.

The Fulton County Election Officials lied.

189.

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

190.

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

191.

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

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

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

192.

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

193.

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

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

194.

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

[8] David Wickert, *Georgia Officials Call for Spalding Election Director to Resign*, The Atlanta Journal Constitution (Nov. 17, 2020), https://www.ajc.com/politics/election/georgia officials call for spalding election director to resign/YYUISCBSV5FTHDZPM3N5RJVV6A/.
[9] Jeffrey Martin, Georgia Secretary of State Calls for Resignation of County Election Director After 2,600 Ballots Discovered (Nov. 16, 2020), https://www.newsweek.com/georgia secretary state calls resignation county election director after 2600 ballots discovered 1547874.

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

195.

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

196.

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

197.

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

198.

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

199.

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

200.

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

201.

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

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

202.

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

203.

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

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

204.

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

205.

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

206.

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

207.

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

208.

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

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

209.

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

210.

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

211.

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

212.

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

COUNTS

COUNT I:

ELECTION CONTEST

O.C.G.A §21-2-521 *et seq.*

213.

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

214.

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

215.

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

216.

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

217.

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

218.

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

219.

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

220.

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

221.

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

222.

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

223.

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

224.

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

225.

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

226.

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

227.

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

228.

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

229.

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

230.

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

231.

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

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

COUNT II:

VIOLATIONS OF THE GEORGIA CONSTITUTION'S EQUAL PROTECTION PROVISION

232.

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

233.

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

234.

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

235.

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

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

236.

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

237.

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

238.

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

239.

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

240.

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

241.

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

242.

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

243.

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

244.

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

245.

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

246.

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

247.

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

248.

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

249.

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

250.

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

COUNT III:

VIOLATIONS OF THE GEORGIA CONSTITUTION'S DUE PROCESS PROVISIONS

251.

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

252.

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

253.

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

254.

The right to vote is a fundamental right.

255.

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

256.

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

257.

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

258.

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

259.

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

COUNT IV:

DECLARATORY JUDGMENT AND RELIEF

260.

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

261.

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

262.

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

a. The illegal and improper inclusion of unqualified voters on Georgia's voter list;

b. allowing ineligible voters to vote illegally in the Contested Election;

c. whether the Contested Election results are invalid;

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

e. whether the results of the Contested Election are null and void.

263.

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

264.

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

265.

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

a. ineligible and unqualified individuals are unlawfully included on Georgia's voter role;

b. unregistered, unqualified, and otherwise ineligible voters cast their votes during the Contested Election;

c. the Consent Decree is unauthorized under Georgia law and is therefore null and void; and

d. the results of the Contested Election are null and void.

COUNT V:

REQUEST FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

266.

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

267.

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

a. Order expedited discovery and strict compliance with all open records requests;

b. Order Respondents to respond to this Petition within 3 days;

c. Require Respondents to immediately fulfill their obligations under the Election Code to properly maintain and update Georgia's list of registered voters to remove ineligible voters;

d. Prevent Respondents from allowing unqualified, unregistered, and otherwise ineligible individuals from voting in Georgia elections, including but not limited to the upcoming January 5, 2021 run-off[11];

e. Require an immediate audit of the signatures on absentee ballot applications and ballots as described in Exhibit 16;

f. Enjoin and restrain Respondents from taking any further actions or to further enforce the Consent Decree;

g. Prevent the certification of the results of the Contested Election;

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

h. Enjoin the Secretary of State from appointing the Electors to the Electoral College;

i. **Order a new Presidential Election to occur at the earliest opportune time**; and

j. For such other relief that this Court deems just and proper under the circumstances.

268.

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

269.

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

270.

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

271.

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

272.

Granting the requested relief will not disserve the public interest.

273.

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

274.

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

275.

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

276.

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

277.

The damage to Petitioners is not readily compensable by money.

278.

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

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

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

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

Respectfully submitted this 4th day of December, 2020.

SMITH & LISS, LLC

/s/ Ray S. Smith III

RAY S. SMITH, III
Georgia Bar No. 662555
Attorney for Petitioners Donald J. Trump, in his capacity as a Candidate for President, and Donald J. Trump for President, Inc.

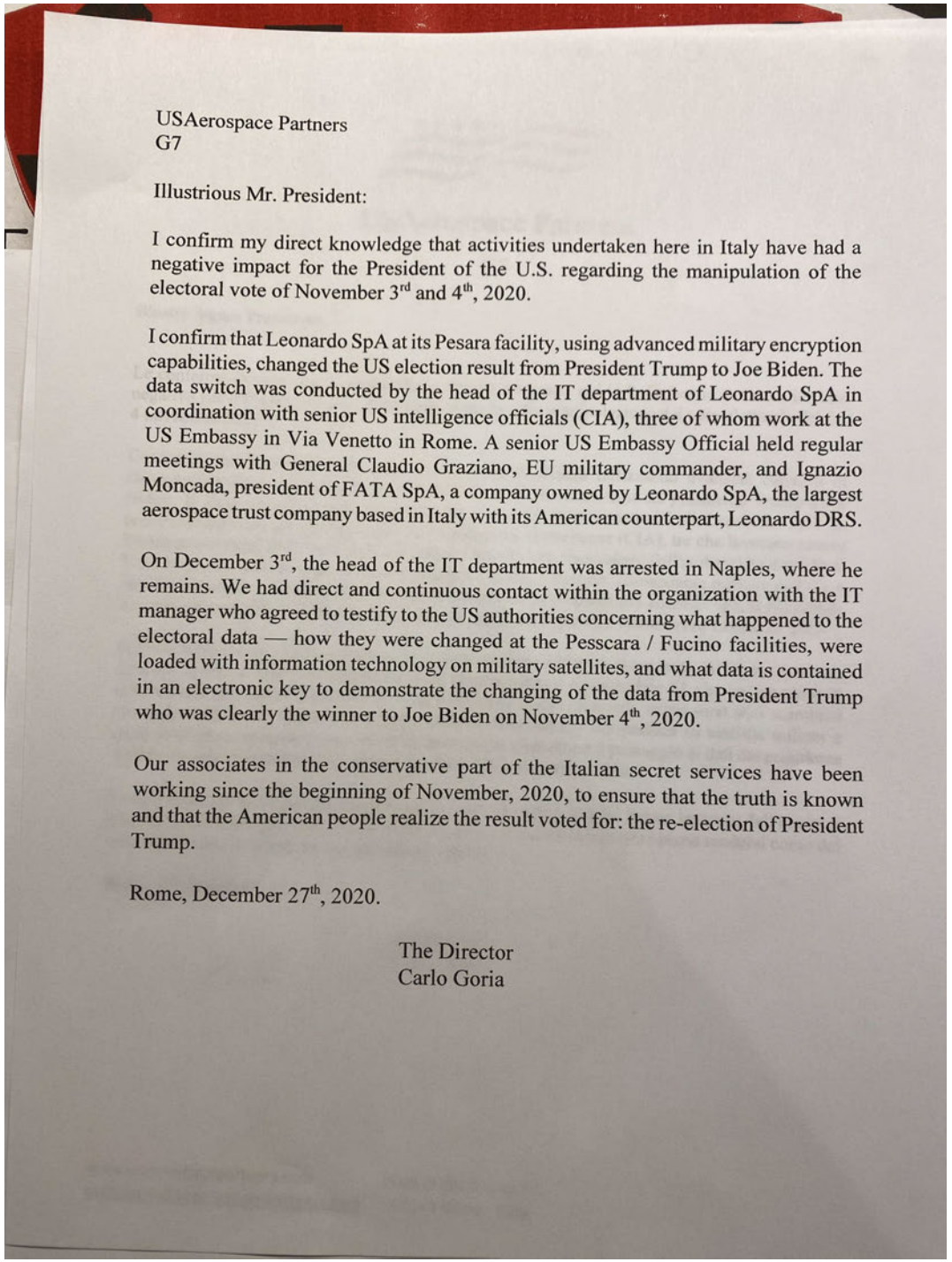
Five Concourse Parkway
Suite 2600
Atlanta, Georgia 30328
Telephone: (404) 760-6000
Facsimile: (404) 760-0225

MARK POST LAW, LLC

/s/ Mark C. Post

MARK C. POST
Georgia Bar No. 585575
Attorney for Petitioner David J. Shafer, in his capacity as a Registered Voter and Presidential Elector Candidate pledged to Donald Trump for President

3 Bradley Park Court
Suite F
Columbus, Georgia 31904
Telephone: (706) 221-9371
Facsimile: (706) 221-9379



USAerospace Partners
G7

Illustrious Mr. President:

I confirm my direct knowledge that activities undertaken here in Italy have had a negative impact for the President of the U.S. regarding the manipulation of the electoral vote of November 3rd and 4th, 2020.

I confirm that Leonardo SpA at its Pesara facility, using advanced military encryption capabilities, changed the US election result from President Trump to Joe Biden. The data switch was conducted by the head of the IT department of Leonardo SpA in coordination with senior US intelligence officials (CIA), three of whom work at the US Embassy in Via Venetto in Rome. A senior US Embassy Official held regular meetings with General Claudio Graziano, EU military commander, and Ignazio Moncada, president of FATA SpA, a company owned by Leonardo SpA, the largest aerospace trust company based in Italy with its American counterpart, Leonardo DRS.

On December 3rd, the head of the IT department was arrested in Naples, where he remains. We had direct and continuous contact within the organization with the IT manager who agreed to testify to the US authorities concerning what happened to the electoral data — how they were changed at the Pesscara / Fucino facilities, were loaded with information technology on military satellites, and what data is contained in an electronic key to demonstrate the changing of the data from President Trump who was clearly the winner to Joe Biden on November 4th, 2020.

Our associates in the conservative part of the Italian secret services have been working since the beginning of November, 2020, to ensure that the truth is known and that the American people realize the result voted for: the re-election of President Trump.

Rome, December 27th, 2020.

The Director
Carlo Goria

Meadows, Mark R. EOP/WHO

From:	Meadows, Mark R. EOP/WHO
Sent:	Friday, January 1, 2021 3:08 PM
To:	Rosen, Jeffrey A. (ODAG)
Subject:	Fwd: [EXTERNAL] Brad Johnson: Rome, Satellites, Servers: an Update - YouTube

Sent from my iPhone

Begin forwarded message:

From: Mark Meadow [redacted (b) (6)]
Date: January 1, 2021 at 3:06:53 PM EST
To: "Meadows, Mark R. EOP/WHO [redacted (b) (6)]>
Subject: [EXTERNAL] Brad Johnson: Rome, Satellites, Servers: an Update - YouTube

?

https://www.youtube.com/watch?v=YwtbK5XXAMk&feature=youtu.be<

Sent from my iPhone

Meadows, Mark R. EOP/WHO

From: Meadows, Mark R. EOP/WHO
Sent: Friday, January 1, 2021 4:13 PM
To: Rosen, Jeffrey A. (ODAG)
Subject: Re: [EXTERNAL] Fwd:

There have been allegations of signature match anomalies in Fulton county, Ga. Can you get Jeff Clark to engage on this issue immediately to determine if there is any truth to this allegation

Sent from my iPhone

> On Jan 1, 2021, at 3:22 PM, Rosen, Jeffrey A. (ODAG) <Jeffrey.Rosen38@usdoj.gov> wrote:
>
> ?
> Got it. Thanks.
>
> **From:** Meadows, Mark R. EOP/WH (b) (6)
> **Sent:** Friday, January 1, 2021 3:09 PM
> **To:** Rosen, Jeffrey A. (ODAG) <jarosen@jmd.usdoj.gov>
> **Subject:** Re: [EXTERNAL] Fwd:
>
> You should have it now
>
> Sent from my iPhone
>
> > On Jan 1, 2021, at 2:51 PM, Rosen, Jeffrey A. (ODAG) <Jeffrey.Rosen38@usdoj.gov> wrote:
> >
> > ?
> > Did not receive the video link. Can you re-send?

Meadows, Mark R. EOP/WHO

From:	Meadows, Mark R. EOP/WHO
Sent:	Friday, January 1, 2021 6:56 PM
To:	Rosen, Jeffrey A. (ODAG)
Subject:	2020 Ballot Security - New Mexico Complaints.docx
Attachments:	2020 Ballot Security - New Mexico Complaints.docx

Can you forward this list to your team to review the allegations contained herein. Steve Pearce is the chairman of the Republican Party for N (b) (6)

Sent from my iPhone

New Mexico List of Complaints

1. Poll Challengers removed from the Absentee Ballot Certification Process
    a. RPNM notified the Secretary of State in timely fashion and she refused to allow challengers access to the process
    b. RPNM took this complaint to the NM Supreme Court (4 Democrats, 1 Republican) in timely fashion; they refused to hear the case.
    c. Local races were lost by a few votes in several counties where the Party was not present to verify the Absentee Ballots.
2. Poll Challengers were unable to adequately do their job
    a. Some counties forced them away from the ballot counting process, sometimes as much as 50 feet away, making it impossible to verify correct procedures were used.
    b. Republican Poll Challengers were met with outright hostility by some county clerks.
3. Dominion Machines are the only machines used in New Mexico
    a. Many Anomalies were encountered
        i. Vote dumps in the middle of the night when no counting was taking place
        ii. In each instance of vote dump, the Democrat candidate was the beneficiary.
    b. Three automatic recounts took place
        i. Republican challengers were met with hostility and attempts to keep them out of the recount
        ii. Dominion Representatives were allowed into each recount.
        iii. Our data team had noticed a pattern in all the Dominion machines where vote totals below 120 votes had one pattern but when the total votes in the machine exceeded that number, the voting pattern was significantly different.
        iv. In order to test their theory, RPNM instructed our challengers to request that the 100 sample ballots be fed thru the machine a second time.
            1. The Dominion Representatives objected strenuously
            2. The theory was never tested because the County Clerks in each instance gave in to the pressure from the Dominion Representatives.
    c. Our Data Team has reviewed voter files back to 1992
        i. They have identified anomalies that have become increasingly sophisticated through the years
        ii. Recent data patterns suggest between 10-20% vote shifts in recent years, including the 2020 Presidential Election.
4. Absentee ballot requests
    a. We have documented cases of absentee ballots being requested by someone other than the voter, the signature not the same name as the voter and live absentee ballots were mailed.
5. Other Irregularities
    a. Multiple documented cases of dead people voting
    b. Multiple cases of persons who moved out of the state years ago receiving ballots.
6. The Trump Legal team
    a. Has filed a lawsuit against the SOS

    b. Has filed two IPRA requests to the SOS
        i. The SOS responded that they would provide the information by 30 December, 2020
        ii. On 31 December, she notified the Trump team she would not provide the information until January 14, 2021.
7. Notarized Affidavits
    a. RPNM has in hand many signed and notarized affidavits of problems individual voters encountered.
    b.

(b) (5)

[redacted]

From: txedCM@txed.uscourts.gov <txedCM@txed.uscourts.gov>
Sent: Friday, January 1, 2021 7:27 PM
To: txedcmcc@txed.uscourts.gov
Subject: Activity in Case 6:20-cv-00660-JDK Gohmert et al v. Pence Order Dismissing Case

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

U.S. District Court

Eastern District of TEXAS [LIVE]

Notice of Electronic Filing

The following transaction was entered on 1/1/2021 at 6:27 PM CST and filed on 1/1/2021

Case Name: Gohmert et al v. Pence
Case Number: 6:20-cv-00660-JDK
Filer:

WARNING: CASE CLOSED on 01/01/2021

Document Number: 37

Docket Text:

ORDER OF DISMISSAL. The Court dismisses the case without prejudice. Signed by District Judge Jeremy D. Kernodle on 1/1/2021. (efarris,)

6:20-cv-00660-JDK Notice has been electronically mailed to:

Wm. Charles Bundren [redacted]

William Lewis Sessions [redacted]

Howard Kleinhendler howard@kleinhendler.com [redacted]

Lawrence J Joseph [redacted] [redacted]

Timothy P Dowling [redacted] [redacted]

Julia Zsuzsa Haller [redacted] [redacted]

Alan Hamilton Kennedy alan.kennedy@aya.yale.edu

Douglas N. Letter douglas.letter@mail.house.gov

John V. Coghlan [redacted]

Timothy P Dowling [redacted]

6:20-cv-00660-JDK Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1041545818 [Date=1/1/2021] [FileNumber=12765997-0
] [0f01bbc2bf50afa456ffd02258e14b6d6f8b472edfb242b44445501f47b1f342a1f
55b075a34e35d353124df11f05c06341570a7dbf99ce6087d81e91c8581d3]]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

THE HONORABLE LOUIE GOHMERT, et al.,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Case No. 6:20-cv-660-JDK
	§	
THE HONORABLE MICHAEL R. PENCE, in his official capacity as Vice President of the United States,	§	
	§	
Defendant.	§	

ORDER OF DISMISSAL

This case challenges the constitutionality of the Electoral Count Act of 1887, as codified at 3 U.S.C. §§ 5, 15. The Court cannot address that question, however, without ensuring that it has jurisdiction. *See, e.g.*, U.S. CONST. art. III, § 2; *Cary v. Curtis*, 44 U.S. 236, 245 (1845). One crucial component of jurisdiction is that the plaintiffs have standing. This requires the plaintiffs to show a personal injury that is fairly traceable to the defendant's allegedly unlawful conduct and is likely to be redressed by the requested relief. *See, e.g.*, U.S. CONST. art. III, § 2; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). Requiring plaintiffs to make this showing helps enforce the limited role of federal courts in our constitutional system.

The problem for Plaintiffs here is that they lack standing. Plaintiff Louie Gohmert, the United States Representative for Texas's First Congressional District, alleges at most an institutional injury to the House of Representatives. Under well-settled Supreme Court authority, that is insufficient to support standing. *Raines v.*

Byrd, 521 U.S. 811, 829 (1997).

The other Plaintiffs, the slate of Republican Presidential Electors for the State of Arizona (the "Nominee-Electors"), allege an injury that is not fairly traceable to the Defendant, the Vice President of the United States, and is unlikely to be redressed by the requested relief.

Accordingly, as explained below, the Court lacks subject matter jurisdiction over this case and must dismiss the action.

I.

A.

The Electors Clause of the U.S. Constitution requires that each state appoint, in the manner directed by the state's legislature, the number of presidential electors to which it is constitutionally entitled. U.S. CONST. art. II, § 1, cl. 2. Under the Twelfth Amendment, each state's electors meet in their respective states and vote for the President and Vice President. U.S. CONST. amend XII. The electors then certify the list of their votes and transmit the sealed lists to the President of the United States Senate—that is, the Vice President of the United States. The Twelfth Amendment then provides that, "[t]he President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted." *Id.* A candidate winning a majority of the electoral votes wins the Presidency. However, if no candidate obtains a majority of the electoral votes, the House of Representatives is to choose the President—with each state delegation having one vote. *Id.*

The Electoral Count Act, informed by the Hayes-Tilden dispute of 1876, sought to standardize the counting of electoral votes in Congress. Stephen A. Siegel, *The Conscientious Congressman's Guide to the Electoral Count Act of 1887*, 56 FLA. L. REV. 541, 547–50 (2004). Section 5 makes states' determinations as to their electors, under certain circumstances, "conclusive" and provides that these determinations govern the counting of electoral votes. 3 U.S.C. § 5. Section 15 requires a joint session of Congress to count the electoral votes on January 6, with the President of the Senate presiding. *Id.* § 15.

During that session, the President of the Senate calls for objections on the electoral votes. Written objections submitted by at least one Senator and at least one Member of the House of Representatives trigger a detailed dispute-resolution procedure. *Id.* Most relevant here, Section 15 requires both the House of Representatives and the Senate—by votes of their full membership rather than by state delegations—to decide any objection. The Electoral Count Act also gives the state governor a role in certifying the state's electors, which Section 15 considers in resolving objections. *Id.* § 6.

It is these dispute-resolution procedures that Plaintiffs challenge in this case.

B.

On December 14, 2020, electors convened in each state to cast their electoral votes. *Id.* § 7; Docket No. 1 ¶ 5. In Arizona, the Democratic Party's slate of eleven electors voted for Joseph R. Biden and Kamala D. Harris. These votes were certified by Arizona Governor Doug Ducey and Arizona Secretary of State Katie Hobbs and submitted as required under the Electoral Count Act. Docket No. 1 ¶ 22. That same

day, the Nominee-Electors state that they also convened in Arizona and voted for Donald J. Trump and Michael R. Pence. *Id.* ¶ 20. Similar actions took place in Georgia, Pennsylvania, Wisconsin, and Michigan (with Arizona, the "Contested States"). *Id.* ¶ 20–21. Combined, the Contested States represent seventy-three electoral votes. *See id.* ¶ 23.

On December 27, Plaintiffs filed this lawsuit, alleging that there are now "competing slates" of electors from the Contested States and asking the Court to declare that the Electoral Count Act is unconstitutional and that the Vice President has the "exclusive authority and sole discretion" to determine which electoral votes should count. *Id.* ¶ 73. They also ask for a declaration that "the Twelfth Amendment contains the exclusive dispute resolution mechanisms" for determining an objection raised by a Member of Congress to any slate of electors and an injunction barring the Vice President from following the Electoral Count Act. *Id.* On December 28, Plaintiffs filed an Emergency Motion for Expedited Declaratory Judgment and Emergency Injunctive Relief ("Emergency Motion"). Docket No. 2. Plaintiffs request "an expedited summary proceeding" under Federal Rule of Civil Procedure 57. *Id.*

On December 31, the Vice President opposed Plaintiffs' motion. Docket No. 18.

II.

As mentioned above, before the Court can address the merits of Plaintiff's Emergency Motion, it must ensure that it has subject matter jurisdiction. *See, e.g.*, *Cary*, 44 U.S. at 245 ("The courts of the United States are all limited in their nature and constitution, and have not the powers inherent in courts existing by prescription or by the common law."); *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 340–41 (2006)

("If a dispute is not a proper case or controversy, the courts have no business deciding it, or expounding the law in the course of doing so."). Article III of the U.S. Constitution limits federal courts to deciding only "cases" or "controversies," which ensures that the judiciary "respects 'the proper—and properly limited—role of the courts in a democratic society.'" *DaimlerChrysler*, 547 U.S. at 341 (quoting *Allen v. Wright*, 468 U.S. 737, 750 (1984)); *see also Raines*, 521 U.S. at 828 (quoting *United States v. Richardson*, 418 U.S. 166, 192 (1974)) ("Our regime contemplates a more restricted role for Article III courts . . . 'not some amorphous general supervision of the operations of government.'").

"[A]n essential and unchanging part of the case-or-controversy requirement of Article III" is that the plaintiff has standing. *Lujan*, 504 U.S. at 560. The standing requirement is not subject to waiver and requires strict compliance. *E.g.*, *Lewis v. Casey*, 518 U.S. 343, 349 n.1 (1996); *Raines*, 521 U.S. at 819. A standing inquiry is "especially rigorous" where the merits of the dispute would require the Court to determine whether an action taken by one of the other two branches of the Federal Government is unconstitutional. *Raines*, 521 U.S. at 819–20 (citing *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 542 (1986), and *Valley Forge Christian Coll. v. Ams. United for Separation of Church & St., Inc.*, 454 U.S. 464, 473–74 (1982)). This is because "the law of Art. III standing is built on a single basic idea—the idea of separation of powers." *Allen*, 468 U.S. at 752, *abrogated on other grounds by Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 128 (2014). Article III standing "enforces the Constitution's case-or-controversy requirement."

DaimlerChrysler Corp., 547 U.S. at 342 (quoting *Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1, 11 (2004)). And "[n]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies." *Raines,* 521 U.S. at 818.

Article III standing requires a plaintiff to show: (1) that he "has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical"; (2) that "the injury is fairly traceable to the challenged action of the defendant"; and (3) that "it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *El Paso Cnty. v. Trump*, 982 F.3d 332, 336 (5th Cir. 2020) (quoting *Friends of the Earth, Inc. v. Laidlaw Env't. Servs. (TOC), Inc.*, 528 U.S. 167, 180–81 (2000)). "The party invoking federal jurisdiction bears the burden of establishing these elements," and "each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.,* with the manner and degree of evidence required at the successive stages of the litigation." *Lujan*, 504 U.S. at 561. "At the pleading stage, general factual allegations of injury resulting from the defendant's conduct may suffice." *Id.*

III.

Here, Plaintiffs have failed to demonstrate that they have standing to bring the claim alleged in Count I of their complaint.

A.

The first Plaintiff is the Representative for Texas's First Congressional District, the Honorable Louie Gohmert. Congressman Gohmert argues that he will

be injured because "he will not be able to vote as a Congressional Representative in accordance with the Twelfth Amendment." Docket No. 2 at 4. Specifically, Congressman Gohmert argues that on January 6, 2021, when Congress convenes to count the electoral votes for President and Vice President, he "will object to the counting of the Arizona slate of electors voting for Biden and to the Biden slates from the remaining Contested States." Docket No. 1 ¶ 6. If a member of the Senate likewise objects, then under Section 15 of the Electoral Count Act, each member of the House and Senate is entitled to vote to resolve the objections, which Congressman Gohmert argues is inconsistent with the state-by-state voting required under the Twelfth Amendment. Docket No. 2 at 5. Congressmen Gohmert argues that the Vice President's compliance with the procedures of the Electoral Count Act will directly cause his alleged injury. *Id.* at 7. And he argues that a declaration that Sections 5 and 15 of the Electoral Count Act are unconstitutional would redress his alleged injury. *Id.* at 9–10.

Congressman Gohmert's argument is foreclosed by *Raines v. Byrd*, which squarely held that Members of Congress lack standing to bring a claim for an injury suffered "solely because they are Members of Congress." 521 U.S. at 821. And that is all Congressman Gohmert is alleging here. He does not identify any injury to himself as an individual, but rather a "wholly abstract and widely dispersed" institutional injury to the House of Representatives. *Id.* at 829. Congressman Gohmert does not allege that he was "singled out for specially unfavorable treatment as opposed to other Members of their respective bodies," does not claim that he has

"been deprived of something to which [he] *personally* [is] entitled," and does not allege a "loss of any private right, which would make the injury more concrete." *Id*. at 821 (emphasis in original). Congressman Gohmert's alleged injury is "a type of institutional injury (the diminution of legislative power), which necessarily damages all Members of Congress." *Id*. Under these circumstances, the Supreme Court held in *Raines*, a Member of Congress does not have "a sufficient 'personal stake'" in the dispute and lacks "a sufficiently concrete injury to have established Article III standing." *Id*. at 830.

For the first time in their reply brief, Plaintiffs assert that Congressman Gohmert has standing as a Texas voter, relying on *League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421, 430 (5th Cir. 2011). Docket No. 30 at 30, 33–34. The Court disagrees. In *LULAC*, the Fifth Circuit held that an individual voter had standing to challenge amendments to the City of Boerne's city council election scheme that would allegedly deprive him of a "pre-existing right to vote for certain offices." 659 F.3d at 430. That is not the case here. Congressman Gohmert does not allege that he was denied the right to vote in the 2020 presidential election. Rather, he asserts that under the Electoral Count Act, "he will not be able to vote *as a Congressional Representative* in accordance with the Twelfth Amendment." Docket No. 2 at 4 (emphasis added). Because Congressman Gohmert is asserting an injury in his role as a Member of Congress rather than as an individual voter, *Raines* controls.

Further weighing against Congressman Gohmert's standing here is the speculative nature of the alleged injury. "To establish Article III standing, an injury must be 'concrete, particularized, and actual or imminent.'" *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013) (quoting *Monsanto Co. v. Geertson Seed Farms,* 561 U.S. 139, 149 (2010)); *see also Lujan*, 504 U.S. at 560 (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 155 (1990)) (alleged injury cannot be "conjectural" or "hypothetical"). "Although imminence is concededly a somewhat elastic concept, it cannot be stretched beyond its purpose, which is to ensure that the alleged injury is not too speculative for Article III purposes—that the injury is *certainly* impending." *Clapper*, 568 U.S. at 409 (quoting *Lujan*, 504 U.S. at 565 n.2).

Here, Congressman Gohmert's alleged injury requires a series of hypothetical—but by no means certain—events. Plaintiffs presuppose what the Vice President will do on January 6, which electoral votes the Vice President will count or reject from contested states, whether a Representative and a Senator will object under Section 15 of the Electoral Count Act, how each member of the House and Senate will vote on any such objections, and how each state delegation in the House would potentially vote under the Twelfth Amendment absent a majority electoral vote. All that makes Congressman Gohmert's alleged injury far too uncertain to support standing under Article III. *Id.* at 414 ("We decline to abandon our usual reluctance to endorse standing theories that rest on speculation about the decisions of independent actors.").

Accordingly, the Court finds that Congressman Gohmert lacks standing to bring the claim alleged here.

B.

The Nominee-Electors argue that they have standing under the Electors Clause "as candidates for the office of Presidential Elector because, under Arizona law, a vote cast for the Republican Party's President and Vice President is cast for the Republican Presidential Electors." Docket No. 2 at 6 (citing ARIZ. REV. STAT. § 16-212). The Nominee-Electors were injured, Plaintiffs contend, when Governor Ducey unlawfully certified and transmitted the "competing slate of Biden electors" to be counted in the Electoral College. *Id*. at 7.

This alleged injury, however, is not fairly traceable to any act of the Vice President. Nor is it an injury likely to be redressed by a favorable decision here. *See Friends of the Earth*, 528 U.S. at 180–81.[1] Plaintiffs do not allege that the Vice President had any involvement in the "certification and transmission of a competing

[1] The Court need not decide whether the Nominee-Electors were "candidates" under Arizona law. Plaintiffs cite *Carson v. Simon*, in which the Eighth Circuit held that prospective presidential electors are "candidates" under Minnesota law and have standing to challenge how votes are tallied in Minnesota. 978 F.3d 1051, 1057 (8th Cir. 2020). But the U.S. District Court for the District of Arizona has distinguished *Carson*, holding that presidential electors in Arizona are ministerial and are "not candidates for office as the term is generally understood" under Arizona law. *Bowyer v. Ducey*, — F. Supp. 3d —, 2020 WL 7238261, at *4 (D. Ariz. Dec. 9, 2020); *see also Feehan v. Wis. Elections Comm'n*, No. 20-CV-1771-PP, 2020 WL 7250219, at *12 (E.D. Wis. Dec. 9, 2020) (nominee-elector is not a candidate under Wisconsin law). "Arizona law makes clear that the duty of an Elector is to fulfill a ministerial function, which is extremely limited in scope and duration, and that they have no discretion to deviate at all from the duties imposed by the statute." *Bowyer*, 2020 WL 7238261, at *4 (citing ARIZ. REV. STAT. § 16-212(c)). Arizona voters, moreover, vote "for their preferred presidential candidate," not any single elector listed next to the presidential candidates' names. *Id*. (citing ARIZ. REV. STAT. § 16-507(b)). The court in *Bowyer* therefore held that nominee-electors in Arizona lacked standing to sue state officials for alleged voting irregularities. *See id*. In any event, even if the Nominee-Electors had standing to sue state officials to redress the injury alleged here, they have not done so. Plaintiffs have named only the Vice President, and they have not shown "a fairly traceable connection between [their] injury and the complained-of conduct of defendant." *E.g.*, *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 103 (1998).

slate of Biden electors." Docket No. 2 at 7. Nor could they. *See* 3 U.S.C. § 6. That act is performed solely by the Arizona Governor, who is a "third party not before the court." *Lujan*, 504 U.S. at 560–61 (quoting *Simon v. Eastern Ky. Welfare Rts. Org.*, 426 U.S. 26, 41–42 (1976)). Indeed, Plaintiffs acknowledge that their injury was caused by Arizona officials in Arizona, the "Vice President did not cause [their] injury," and their "unlawful injuries [were] suffered in Arizona." Docket No. 2 at 7.

The Nominee-Electors argue that their injury is nevertheless fairly traceable to the Vice President because he will "ratify and purport to make lawful the unlawful injuries that Plaintiffs suffered in Arizona." *Id.* For support, Plaintiffs cite *Sierra Club v. Glickman*, in which the Fifth Circuit held that an environmental injury was fairly traceable to the Department of Agriculture, even though the injury was directly caused by third-party farmers, because the Department had "the ability through various programs to affect the pumping decisions of those third party farmers to such an extent that the plaintiff's injury could be relieved." 156 F.3d 606, 614 (5th Cir. 1998). Nothing like that is alleged here. The Vice President's anticipated actions on January 6 will not affect the decision of Governor Ducey regarding the certification of presidential electors—which occurred more than two weeks ago on December 14. Even "ratifying" or "making lawful" the Governor's decision, as Plaintiffs argue will occur here, will not have any "coercive effect" on Arizona's certification of electoral votes. *See Bennett v. Spear*, 520 U.S. 154, 168–69 (1997).

For similar reasons, the Nominee-Electors' claimed injury is not likely to be redressed here. To satisfy redressability, Plaintiffs must show that it is "likely" their

alleged injury will be "redressed by a favorable decision." *Lujan*, 504 U.S. at 561. But here, Plaintiffs seek declaratory and injunctive relief as to the manner of the Vice President's electoral vote *count*. *See* Docket No. 1 ¶ 73. Such relief will not resolve their alleged harm with respect to Governor Ducey's electoral vote *certification*. *See* Docket No. 2 at 7. As the Supreme Court has long held, "a federal court can act only to redress injury that fairly can be traced to the challenged action of the defendant, and not injury that results from the independent action of some third party not before the court." *Simon*, 426 U.S. at 41–42; *see also El Paso Cnty.*, 982 F.3d at 343 (plaintiff lacks standing where an order granting the requested relief "would not rescind," and "accordingly would not redress," the allegedly harmful act).

Even if their injury were the loss of the right to vote in the Electoral College, *see* Docket No. 2 at 6, Plaintiffs' requested relief would not redress that injury. Plaintiffs are not asking the Court to order the Vice President to count the Nominee-Electors' votes, but rather that the Vice President "exercise the exclusive authority and sole discretion in determining which electoral votes to count for a given State," or alternatively, to decide that no Arizona electoral votes should count. *See* Docket No. 1 ¶ 73. It is well established that a plaintiff lacks standing where it is "uncertain that granting [the plaintiff] the relief it wants would remedy its injuries." *Inclusive Comtys. Project, Inc. v. Dep't of Treasury*, 946 F.3d 649, 657–58 (5th Cir. 2019).

Accordingly, the Court finds that the Nominee-Electors lack standing.[2]

[2] Plaintiffs Hoffman and Kern claim without supporting argument that they have standing as members of the Arizona legislature. Docket No. 2 at 4. This claim fails for the reasons Congressman Gohmert's standing argument fails. *See supra* Part III.A.

IV.

Because neither Congressman Gohmert nor the Nominee-Electors have standing here, the Court is without subject matter jurisdiction to address Plaintiffs' Emergency Motion or the merits of their claim. *HSBC Bank USA, N.A. as Tr. for Merrill Lynch Mortg. Loan v. Crum*, 907 F.3d 199, 202 (5th Cir. 2018). The Court therefore **DISMISSES** the case without prejudice.

So **ORDERED** and **SIGNED** this **1st** day of **January, 2021.**

JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE

Lair, Kate E. EOP/WHO

From: Lair, Kate E. EOP/WHO
Sent: Monday, January 4, 2021 11:03 AM
To: [redacted] (ODAG)
Subject: RE: WHCO Lunch

Got it - thanks!

[redacted]. (ODAG [redacted]
Sent: Monday, January 4, 2021 10:45 AM
To: Lair, Kate E. EOP/WH [redacted]
Subject: RE: WHCO Lunch

Thank you. He'll go with his usual: Turkey burger with provolone cheese (no onions, tomato or lettuce), fries, and a Diet Coke.

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phon [redacted]

From: Lair, Kate E. EOP/WH [redacted]>
Sent: Monday, January 4, 2021 10:35 AM
T [redacted] (ODAG) [redacted]
Subject: RE: WHCO Lunch

Yes we are good for 12 pm. What would the DAG like? Below is this week's menu.

Weekly Lunch Special

Chicken Power Bowl $12.50

Adobo Grilled Chicken, Cilantro Lime Brown Rice, Avocado, Black Beans, Red Onion, Salsa Verde, Romaine Lettuce

Bang Bang Cauliflower $9.00

Tempura Battered Cauliflower, White Rice, Pineapple Slaw, Sesame Seeds, Bang Bang Sauce

Grand Marnier Shrimp $13.00

Hineska Aga' ga' (Red Rice), Charred Broccolini, Pan Au Jus, Spectrum Micro Blend

Steak of the Week

Astoria $17.00

30 Day Aged Ribeye, Charred Broccolini, Garlic & Sour Cream Mashed Potato, Herb Butter

Sandwich of the Week

Turkey Croque Monsieur $11.00

Roasted Turkey, Sliced Gruyere, House Cured Pickles, Dried Tomatoes, Herb Dijon Béchamel, Parmesan, Spectrum Micro Blend

Soup of the Week

Chicken & Dumplings

Shredded Chicken, Mirepoix, Dumplings

$3.50

Medium

$4.00

Large

Sides of the Week

Broccolini $2.00

Garlic Mashed Potatoes $2.00

Salads

Caesar Salad

Romaine Lettuce, Croutons, House made Caesar Dressing

$4.50

Small

$8.00

Large

Add Ons

$3.50

Grilled Chicken

$5.00

Shrimp, Steak, Salmon

Side Salad $4.00

Lettuce, Tomatoes, Red Onions, Croutons, and your choice of dressing

18 Acres Fruit Medley $7.50

Cantaloupe, Honeydew, Pineapple, Red and Green Grapes, Gala and Granny Smith Apples, Pears on Green Leaf Lettuce

Add Ons

$1.00

Cottage Cheese

$1.50

Tuna or Chicken Salad

Hummus Platter $8.00

Cucumber Slices, Baby Carrots, Red and Yellow Pepper Strips, Kalamata Olives and Grilled Pita Bread. Served with a Traditional and Roasted Red Pepper Hummus

Smokehouse Chicken Salad $11.50

Mixed Greens, Smoked Chicken Breast, Mandarin Oranges, Dried Cranberries, Glazed

Pecans, Blue Cheese, Balsamic Vinaigrette

From The Grill

Turkey Burger $7.00

Turkey Burger, Sesame Bun, Lettuce, Tomatoes, Onions, Pickle, Choice of Cheese

Black Bean Veggie Burger $6.50

Black Bean Burger, Multi-Grain Bun, Lettuce, Tomatoes, and Onions

Chicken Tenders $7.50

Carrot and Celery Sticks

Grilled Chicken Sandwich $7.00

Lettuce, Tomatoes, Onions, Pickle, Choice of Cheese on a Kaiser roll

Kosher Style Hot Dog $4.00

Stone Ground Mustard, Potato Roll, Relish

West Wing Burger $7.00

House Blend Beef Patty, Lettuce, Tomatoes, Onions, Pickle, Choice of Cheese

Sandwiches/Wraps

Gluten Free Bread upon request. (+ $1.50)

Turkey Sandwich $6.00

Turkey, Lettuce, Tomato, Choice of Cheese and Assorted Breads

Turkey Club $7.50

Turkey, Lettuce, Tomato, Bacon, Choice of Cheese and Assorted Breads

Reuben $8.00

Shaved Pastrami, Swiss Cheese, Sauerkraut, House Dressing, Grilled Rye on your choice of Assorted Breads and Cheeses

Tuna Salad Sandwich $6.00

Tuna Salad, Lettuce, Tomato, Pickle, Choice of Cheese and Assorted Breads

Grilled Cheese Sandwich $3.00

Choice of Cheese and Assorted Breads

Add Ons

$1.50

Ham

California Club $7.50

Turkey, Bacon, Lettuce, Tomato, Avocado, Cheddar and Assorted Breads

Chicken Salad Sandwich $6.00

Chicken Breast, Granny Smith Apples, Cranberries, Walnuts, Dill Mayo on your choice of Assorted Breads

Peanut Butter & Jelly Sandwich $3.00

On a choice of Assorted Breads and a choice of Peanut Butter, Raspberry, Strawberry, or

Grape Jelly

Ham Sandwich $6.50

Deli Ham, Lettuce, Tomato, Choice of Cheese and Assorted Breads

BLT $6.00

Applewood-Smoked Bacon, Lettuce, Tomato, Choice of Cheese and Assorted Breads

Tuna Melt $7.00

Albacore Tuna Salad, Choice of Cheese and Assorted Breads

From [redacted] (ODAG [redacted]
Sent: Monday, January 4, 2021 10:09 AM
To: Lair, Kate E. EOP/WH [redacted]
Subject: WHCO Lunch

Good morning Kate,

I wanted to confirm today's lunch with A/AG Rosen. Are we still set to go forward?

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phon [redacted]

Moran, John (ODAG)

From:	Moran, John (ODAG)
Sent:	Tuesday, January 5, 2021 12:48 PM
To:	Philbin, Patrick F. EOP/WHO
Cc:	Donoghue, Richard (ODAG)
Subject:	Re: A/AG Statement re Demonstrations

The A/AG also just told me that the working group with DOD and DHS asked him to put out a statement about federal preparedness, so that was a large part of the initial drive.

John

> On Jan 5, 2021, at 12:46 PM, Moran, John (ODAG [redacted (b) (6)] wrote:
>
> ?
> Pat,
>
> As I understand it, the main driver has been the many inquiries we have been getting from the Hill and the press corps about whether DOJ is preparing for the demonstrations in light of the civil unrest this summer. At that time, AG Barr was putting out a lot of statements about response and preparedness. E.g.:
>
> https://www.justice.gov/opa/pr/attorney-general-william-p-barrs-statement-protests-washington-dc
>
> https://www.justice.gov/opa/pr/attorney-general-william-p-barrs-statement-riots-and-domestic-terrorism
>
> We have also been receiving specific inquiries about whether A/AG Rosen will take a similar approach to AG Barr.
>
> I think the goal was to offer a general statement that indicates we are alert and prepared without being seen as criticizing (or vouching for) any group of demonstrators.
>
> Regards,
> John
>
>> On Jan 5, 2021, at 12:07 PM, Philbin, Patrick F. EOP/WHO [redacted (b) (6)] wrote:
>>
>> ?Are such statements routinely issued before planned demonstrations in DC?
>> What's the last example?

Patrick F. Philbin

Deputy Counsel to the President

Office of White House Counsel

(b) (6)

O (b) (6) C (b) (6)

-----Original Message-----

From: Moran, John (ODAG (b) (6)

Sent: Tuesday, January 5, 2021 11:59 AM

To: Philbin, Patrick F. EOP/WH (b) (6)

Cc: Donoghue, Richard (ODAG (b) (6)

Subject: A/AG Statement re Demonstrations

Pat,

Below is a draft statement from A/AG reason about the demonstrations this week. We wanted to share for WHCO's awareness. And of course, if you have any thoughts we would welcome them.

(b) (5)

Regards,

John

Meadows, Mark R. EOP/WHO

From:	Meadows, Mark R. EOP/WHO
Sent:	Sunday, January 10, 2021 1:44 PM
To:	Rosen, Jeffrey A. (ODAG); Chad Wolf
Subject:	MMB to DHS Secretary Wolf 1-9-21.pdf
Attachments:	MMB to DHS Secretary Wolf 1-9-21.pdf

Can we discuss the appropriate response that will keep people safe. As you both know, we are already in discussions to expand the NSSE but this request seems to be far beyond the request from Capitol Hill

Sent from my iPhone

MURIEL BOWSER
MAYOR

January 9, 2021

The Honorable Chad F. Wolf
Acting Secretary
United States Department of Homeland Security
Washington, DC 20528

Dear Acting Secretary Wolf:

Following the unprecedented terrorist attack on the United States Capitol on Wednesday, January 6, 2021, and the continued threat of related violence in the District of Columbia, we are extremely concerned about the upcoming National Special Security Event (NSSE) led by the United States Secret Service. We believe strongly that the 59th Presidential Inauguration on January 20 will require a very different approach than previous inaugurations given the chaos, injury, and death experienced at the United States Capitol during the insurrection. While I will be reaching out to a broad range of local, regional, and federal partners to enhance cooperation among our bodies, I strongly urge the United States Department of Homeland Security to adjust its approach to the Inauguration in several specific ways.

First, the District of Columbia is requesting the Department extend the National Special Security Event period to run from Monday, January 11 to Sunday, January 24, 2021. This is an increase from the current period of January 19 to January 21, 2021, which will allow for better Federal and District government interagency preparation for the Inauguration, given the new threats from insurgent acts of domestic terrorists. Further, the District strongly recommends that you secure the permission of the Congress of the United States to include the Capitol and its grounds in the NSSE perimeter.

Second, the District of Columbia is submitting a request for a pre-disaster declaration under the Robert T. Stafford Act for the Inauguration. This declaration will enhance and expedite direct federal assistance needed to prepare for the Inauguration. My Administration is developing specific requests for direct federal assistance and will work with FEMA to execute those requests upon approval of the declaration.

Third, the District of Columbia urges the Department to coordinate with the Department of Defense and the Department of Justice, the United States Congress, and the United States Supreme Court to establish a security and federal force deployment plan for all federal property, which will ensure the Metropolitan Police Department's (MPD) ability to focus on its local mission in the District's eight wards. Earlier this week, MPD officers acted heroically rushing to back-up the United States

Capitol Police to stop the assault on the United States Capitol. Consistent with established protocols and practices, it is the primary responsibility of the federal government to secure federal property in these situations.

In addition, I ask that the Acting Attorney General at the Department of Justice direct the Federal Bureau of Investigation to provide an intelligence and threat briefing on a daily basis during the period of January 11 24, 2021, to the DC Homeland Security and Emergency Management Agency (HSEMA) and MPD and all law enforcement entities operating in the District of Columbia.

Further, I am requesting that the Secretary of the Department of Interior cancel any and all Public Gathering Permits in the District of Columbia and deny any applications for Public Gathering Permits during the period of January 11 24, 2021. We have made this request repeatedly since June 2020 because of the COVID-19 pandemic, and this week demonstrated the National Park Service's willingness to approve last minute permits and major adjustments.

The requests outlined herein if issued swiftly and communicated broadly are essential to demonstrating our collective resolve in ensuring the Constitutional transition of power and our nation's capital in the days leading up to it. And like with previous inaugurations and NSSEs, the District of Columbia will host a press event for agencies engaged in the NSSE to brief the public on the plan and coordination among our agencies. We look forward to federal participation.

Dr. Christopher Rodriguez, Director of HSEMA, is my point person on this request and is available to provide you with any additional information. He can be reached at (b) (6) or (b) (6). Thank you for your immediate attention and reply to these requests.

Sincerely,

Muriel Bowser
Mayor

Rosen, Jeffrey A. (ODAG)

From:	Rosen, Jeffrey A. (ODAG)
Sent:	Monday, January 11, 2021 8:38 AM
To:	AS1CFW; Meadows, Mark R. EOP/WHO
Subject:	RE: MMB to DHS Secretary Wolf 1-9-21.pdf

Same here will be discussing internally and will connect with DHS today.

From [redacted]
Sent: Sunday, January 10, 2021 5:14 PM
To: Meadows, Mark R. EOP/WH [redacted]; Rosen, Jeffrey A. (ODAG) <jarosen@jmd.usdoj.gov>
Subject: Re: MMB to DHS Secretary Wolf 1-9-21.pdf

Thank you, Chief.
We are meeting internally at DHS tomorrow and will circle up with DOJ and others tomorrow am.

From: Meadows, Mark R. EOP/WH [redacted]
Sent: Sunday, January 10, 2021 1:43:47 PM
To: Jeff Rosen <jeffrey.rosen38@usdoj.gov [redacted]
Subject: MMB to DHS Secretary Wolf 1-9-21.pdf

Can we discuss the appropriate response that will keep people safe. As you both know, we are already in discussions to expand the NSSE but this request seems to be far beyond the request from Capitol Hill

Sent from my iPhone

[redacted] **(ODAG)**

From: [redacted] (ODAG)
Sent: Monday, January 11, 2021 11:23 AM
To: Lair, Kate E. EOP/WHO
Subject: RE: Lunch today?

Good morning Kate,

My apologies, the schedule got a bit crowded so it looks like no lunch for today.

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phone [redacted]

-----Original Message-----
From: Lair, Kate E. EOP/WH [redacted]
Sent: Monday, January 11, 2021 11:18 AM
T [redacted] (ODAG [redacted]
Subject: Lunch today?

H [redacted]

Just haven't heard from you so assuming no lunch today? Please confirm.

Sent from my iPhone

Thurston, Eliza C. EOP/WHO

From:	Thurston, Eliza C. EOP/WHO
Sent:	Monday, January 11, 2021 1:48 PM
To:	(b) (6) (ODAG)
Cc:	(b) (6) (ODAG)
Subject:	RE: A/AG Call Request

Sounds good! I'll give you a call at 4:30pm.

Eliza Thurston
Office of the Chief of Staff
(b) (6)

From (b) (6). (ODAG (b) (6)
Sent: Monday, January 11, 2021 1:46 PM
To: Thurston, Eliza C. EOP/WH (b) (6)
C (b) (6) (ODAG) (b) (6)
Subject: RE: A/AG Call Request

That would be great. Thank you very much.

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phon (b) (6)

From: Thurston, Eliza C. EOP/WH (b) (6)
Sent: Monday, January 11, 2021 1:44 PM
T (b) (6). (ODAG (b) (6)
C ((ODAG (b) (6)
Subject: RE: A/AG Call Request

(b) (6)

Happy to confirm a call for 4:30pm this afternoon. Would you like me to call you directly?

Eliza Thurston
Office of the Chief of Staff
(b) (6)

Fro ((ODAG (b) (6)
Sent: Monday, January 11, 2021 1:33 PM
To: Thurston, Eliza C. EOP/WH (b) (6)
C (b) (6) (ODA (b) (6)
Subject: A/AG Call Request

Good afternoon Eliza,

A/AG Rosen would like to follow up on Mr. Meadows's email from yesterday with a brief call today (5 minutes) if possible. Would 4:30 p.m. work on your end?

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phone (b) (6)

Thurston, Eliza C. EOP/WHO

From:	Thurston, Eliza C. EOP/WHO
Sent:	Wednesday, January 13, 2021 9:39 PM
To:	(b) (6). (ODAG)
Cc:	(b) (6) (ODAG)
Subject:	Re: Thursday Meeting

(b) (6)

Wonderful, we'll plan for 1:30pm tomorrow. Yes, we can certainly look to Friday if needed.

I'll follow up in the morning with a WAVEs link.

Eliza Thurston
Office of the Chief of Staff
C (b) (6)

On Jan 13, 2021, at 8:42 PM (b) (6) (ODAG (b) (6) wrote:

?
Thanks Eliza,

Let's go with 1:30 p.m. tomorrow. In the event something changes, would Friday afternoon be a possible back-up?

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phone (b) (6)

From: Thurston, Eliza C. EOP/WH (b) (6)
Sent: Wednesday, January 13, 2021 7:30 PM
T (b) (6) (ODAG (b) (6)
C (b) (6) (ODAG) (b) (6)
Subject: RE: Thursday Meeting

(b) (6)

Thanks for reaching out. Would 10:30am tomorrow morning work? We can also do 1:30pm if afternoon is preferable. Just let me know and I'll provide a WAVEs link.

Eliza Thurston
Office of the Chief of Staff
(b) (6)

From (b) (6) (ODAG (b) (6)
Sent: Wednesday, January 13, 2021 5:45 PM
To: Thurston, Eliza C. EOP/WH (b) (6)
C (b) (6) (ODAG (b) (6)
Subject: Thursday Meeting

Hi Eliza,

Mr. Meadows and A/AG Rosen discussed setting up a meeting at the WH tomorrow to also include Steven Engel and Ryan Newman. Would something between 10:00 and 11:30 a.m. or 1:30 3:00 p.m. work?

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phone (b) (6)

Thurston, Eliza C. EOP/WHO

From: Thurston, Eliza C. EOP/WHO
Sent: Thursday, January 14, 2021 8:43 AM
To: (b) (6) (ODAG)
Cc: (b) (6) (ODAG)
Subject: RE: Thursday Meeting

Good mornin (b) (6)

Circling back please use this link for WAVE (b) (6) . We're confirmed for 1:30pm but let me know if anything comes up.

Eliza Thurston
Office of the Chief of Staff
(b) (6)

From (b) (6) . (ODAG (b) (6)
Sent: Wednesday, January 13, 2021 8:42 PM
To: Thurston, Eliza C. EOP/WH (b) (6)
C (b) (6) (ODAG (b) (6)
Subject: RE: Thursday Meeting

Duplicative Material

Thurston, Eliza C. EOP/WHO

From: Thurston, Eliza C. EOP/WHO
Sent: Thursday, January 14, 2021 5:01 PM
To: (b) (6) (ODAG)
Subject: RE: WAVEs for tonight

Thank you! No worries.

Eliza Thurston
Office of the Chief of Staff
(b) (6)

From (b) (6) (ODAG (b) (6)
Sent: Thursday, January 14, 2021 5:00 PM
To: Thurston, Eliza C. EOP/WH (b) (6)
Subject: RE: WAVEs for tonight

Eliza,

They are running a couple minutes late but will be en route momentarily. Our apologies!

(b) (6)
Special Assistant
Office of the Deputy Attorney General
Phon (b) (6)

From: Thurston, Eliza C. EOP/WH (b) (6)
Sent: Thursday, January 14, 2021 10:47 AM
T (b) (6) (ODA (b) (6)
Subject: WAVEs for tonight

(b) (6)

Thanks again for the flexibility today! We're confirmed for 5:00pm in our office.

Please use this link for WAVEs, and let me know if there are any issues:
(b) (6)

Eliza Thurston
Office of the Chief of Staff
(b) (6)

Lair, Kate E. EOP/WHO

From:	Lair, Kate E. EOP/WHO
Sent:	Monday, January 18, 2021 10:41 AM
To:	[redacted] (ODAG)
Subject:	RE: Lunch today? -

No worries thanks!

From [redacted] (ODAG) [redacted]
Sent: Monday, January 18, 2021 10:40 AM
To: Lair, Kate E. EOP/WH [redacted]
Subject: RE: Lunch today? -

Good morning Kate,

My apologies. With the holiday, we had assumed there would be no lunch today.

[redacted]
Special Assistant
Office of the Deputy Attorney General
Phon [redacted]

From: Lair, Kate E. EOP/WH [redacted]
Sent: Monday, January 18, 2021 10:04 AM
T [redacted] (ODA [redacted]
Subject: Lunch today? -

Chat with William Olson

12/25/2020 2:30:36 PM - 12/29/2020 11:37:20 AM

Export Details:

Device Phone Number [redacted]

Device Name Jeff's iPhone

Device ID [redacted]

Backup Date Friday, January 29, 2021 8:55 AM

Backup Directory G:\ORMP\SLO Records\ODAG\Rosen\[redacted]

iOS 14.3

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

Participants:

[redacted] William Olson

Tuesday, December 29, 2020

William Olson

Mr. Rosen The President has instructed Kurt Olsen to meet with you this morning. He has been unable to reach you. Please call him without delay at [redacted] Thank you. Bill Olson

11:37 AM

Chat with Jeffrey Clark (ENRD)

9/12/2020 10:59:57 AM - 1/3/2021 4:54:37 PM

Export Details:

Device Phone Number (b) (6)

Device Name Jeff's iPhone

Device ID (b) (6)

Backup Date Friday, January 29, 2021 8:55 AM

Backup Directory G:\ORMP\SLO Records\ODAG\Rosen\(b) (6)

iOS 14.3

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

Participants:

(b) (6), Jeffrey Clark (ENRD)

Sunday, January 03, 2021

Jeffrey Clark (ENRD)

Jeff. Just got off phone with Pat P. Please call me when you're ready for me to come up. Thanks

2:43 PM

Jeffrey Rosen

Am ready now

2:50 PM

Jeffrey Clark (ENRD)

Ok coming up

2:51 PM

Jeffrey Clark (ENRD)

Meadows says 615. He will have someone work on logistics

4:53 PM

Jeffrey Rosen

Got it. See you then.

4:54 PM

Jeffrey Clark (ENRD)

Ok. See you over there.

4:54 PM

Chat with Patrick Hovakimian

1/22/2020 1:36:32 PM - 1/3/2021 10:20:35 PM

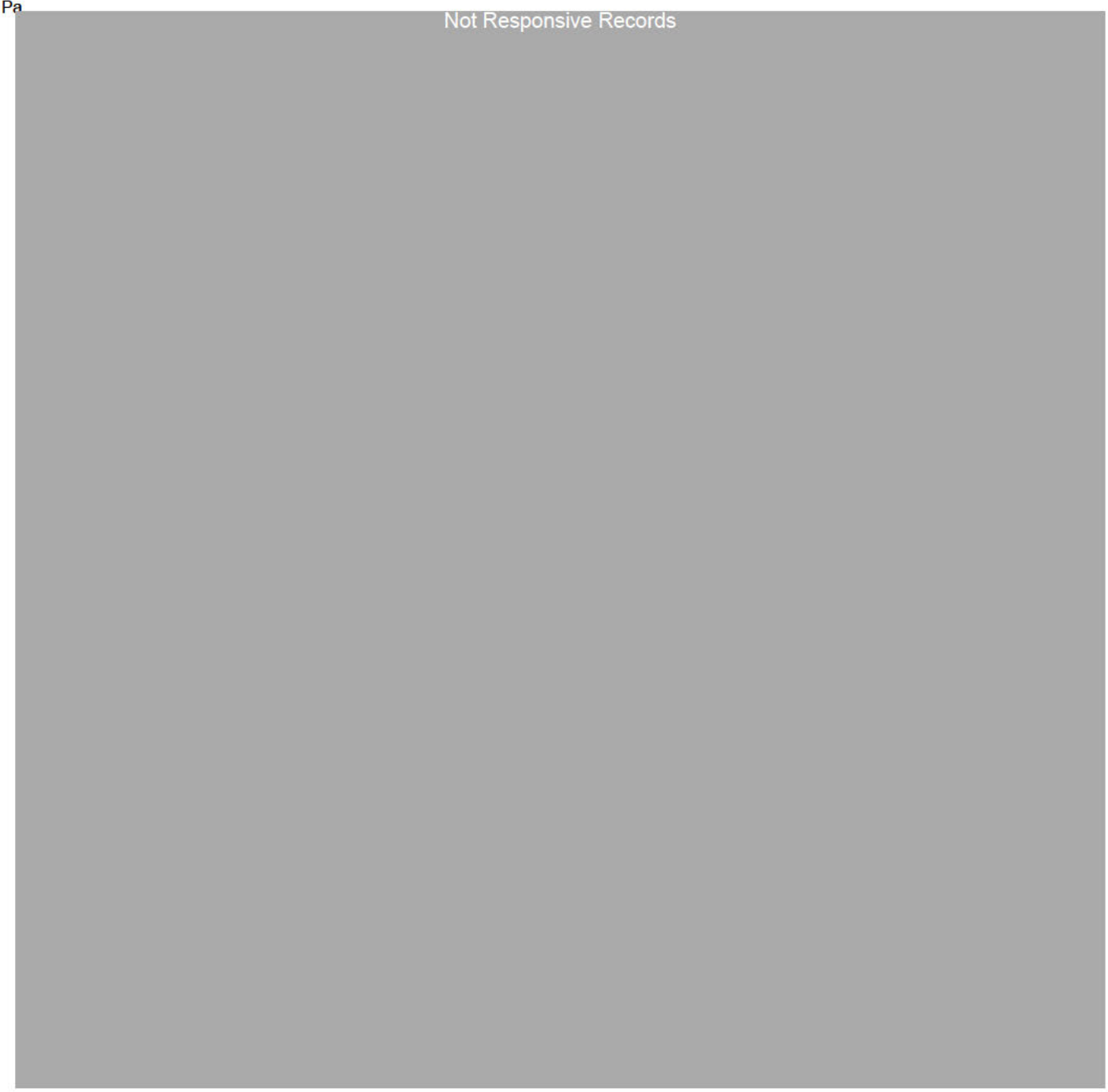
Export Details:

Device Phone Number	(b) (6)
Device Name	Jeff's iPhone
Device ID	(b) (6)
Backup Date	Friday, January 29, 2021 8:55 AM
Backup Directory	G:\ORMP\SLO Records\ODAG\Rosen (b) (6)
iOS	14.3
Current Time Zone	(UTC-05:00) Eastern Time (US & Canada)
Created with	iExplorer v4.4.2.0

Participants:

(b) (6) Patrick Hovakimian

Not Responsive Records



Sunday, January 03, 2021

Jeffrey Rosen

Will call shortly, but we won. 9:03 PM

Patrick Hovakimian

Thanks. Great. Need to advise AAGs, who have been asking what's going on. 9:04 PM

Jeffrey Rosen

We will convene a call when I get back. 9:05 PM

Patrick Hovakimian

Ok 9:05 PM

Jeffrey Rosen

Will be back in 10 min 9:29 PM

Patrick Hovakimian

Great. Thanks. 9:29 PM

Jeffrey Rosen

Ready to go in 2 min 10:20 PM

Chat with Mark Meadows

1/4/2021 7:57:31 PM - 1/4/2021 7:59:30 PM

Export Details:

Device Phone Number (b) (6)

Device Name Jeff's iPhone

Device ID (b) (6)

Backup Date Friday, January 29, 2021 8:55 AM

Backup Directory G:\ORMP\SLO Records\ODAG\Rosen\(b) (6)

iOS 14.3

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

Participants:

(b) (6) Mark Meadows

Monday, January 04, 2021

Mark Meadows

Give me a call

7:57 PM

Jeffrey Rosen

Just tried

7:58 PM

Mark Meadows

Just talk to pat Cipollone

7:59 PM

(b) (6), (b) (7)(C)

Chat with (b) (6), (b) (7)(C)

12/23/2020 8:37:12 PM - 1/19/2021 10:20:35 PM

Export Details:

Device Phone Number (b) (6)

Device Name Jeff's iPhone

Device ID (b) (6)

Backup Date Friday, January 29, 2021 8:55 AM

Backup Directory G:\ORMP\SLO Records\ODAG\Rosen\(b) (6)

iOS 14.3

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

Participants:

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Not Responsive Records

(b) (6), (b) (7)(C) f

Not Responsive Records

Tuesday, December 29, 2020

(b) (6), (b) (7)(C)

SH

Sir this is (b) (6), (b) (7)(C) I have relieved (b) (6), (b) (7)(C) at the WH. (b) (6) . I should be back to the vehicle in 10 minutes or less in case you get done.

3:12 PM

(b) (6), (b) (7)(C)

SH

I'm back

3:12 PM

Jeffrey Rosen

Ready to go in 5 min

8:16 PM

(b) (6), (b) (7)(C)

Yes sir

8:16 PM

Not Responsive Records

(b) (6), (b) (7)(C)

Sunday, January 03, 2021

Jeffrey Rosen

I need to go over to WH for a 6 pm meeting. Will want to leave by 5:30 pm, possibly a little sooner. — 4:50 PM

(b) (6), (b) (7)(C)

We will be ready — 4:50 PM

(b) (6), (b) (7)(C)

Sir, Will Acting DAG Donoghue be joining you at the WH? — 4:58 PM

Jeffrey Rosen

No. But we will meet at DOJ afterwards. — 4:59 PM

(b) (6), (b) (7)(C)

Thank you — 4:59 PM

Jeffrey Rosen

Ready to go in 3 min — 10:21 PM

(b) (6), (b) (7)(C)

Yes sir — 10:21 PM

Not Responsive Records

Chat with (b) (6)

1/3/2021 8:07:39 PM - 1/3/2021 8:38:04 PM

Export Details:

Device Name	Hovakimian ODAG 12821
Device ID	(b) (6)
Backup Date	Monday, February 22, 2021 3:45 PM
Backup Directory	(b) (6)
iOS	13.7
Current Time Zone	(UTC-05:00) Eastern Time (US & Canada)
Created with	iExplorer v4.4.2.0

Participants:

(b) (6)

Sunday, January 03, 2021

(b) (6)

Any update?

Jeff

8:07 PM

Patrick Hovakimian

They are still over there.

8:08 PM

(b) (6)

??

8:36 PM

Patrick Hovakimian

They're still there and no one has called/updated yet.

8:38 PM

Chat with Claire Murray

11/13/2019 8:44:27 PM - 1/3/2021 8:41:11 PM

Export Details:

Device Name	Hovakimian ODAG 12821
Device ID	(b) (6)
Backup Date	Monday, February 22, 2021 3:45 PM
Backup Directory	(b) (6)
iOS	13.7
Current Time Zone	(UTC-05:00) Eastern Time (US & Canada)
Created with	iExplorer v4.4.2.0

Participants:

(b) (6) Claire Murray

Not Responsive Records

Sunday, January 03, 2021

Claire Murray

Team Rosen. 5:30 PM

Claire Murray

Justice is our client. 5:30 PM

Claire Murray

If the DAG gets fired for not publicly espousing a falsehood, I walk. 5:31 PM

Me

I agree. Hands down I'll be gone too. I passed your decision onto DAG Rosen. Thanks Claire. 5:36 PM

Claire Murray

No word? 8:40 PM

Me

None yet. Called Rich twice and he didn't pick up. 8:41 PM

Chat with Jeff Rosen

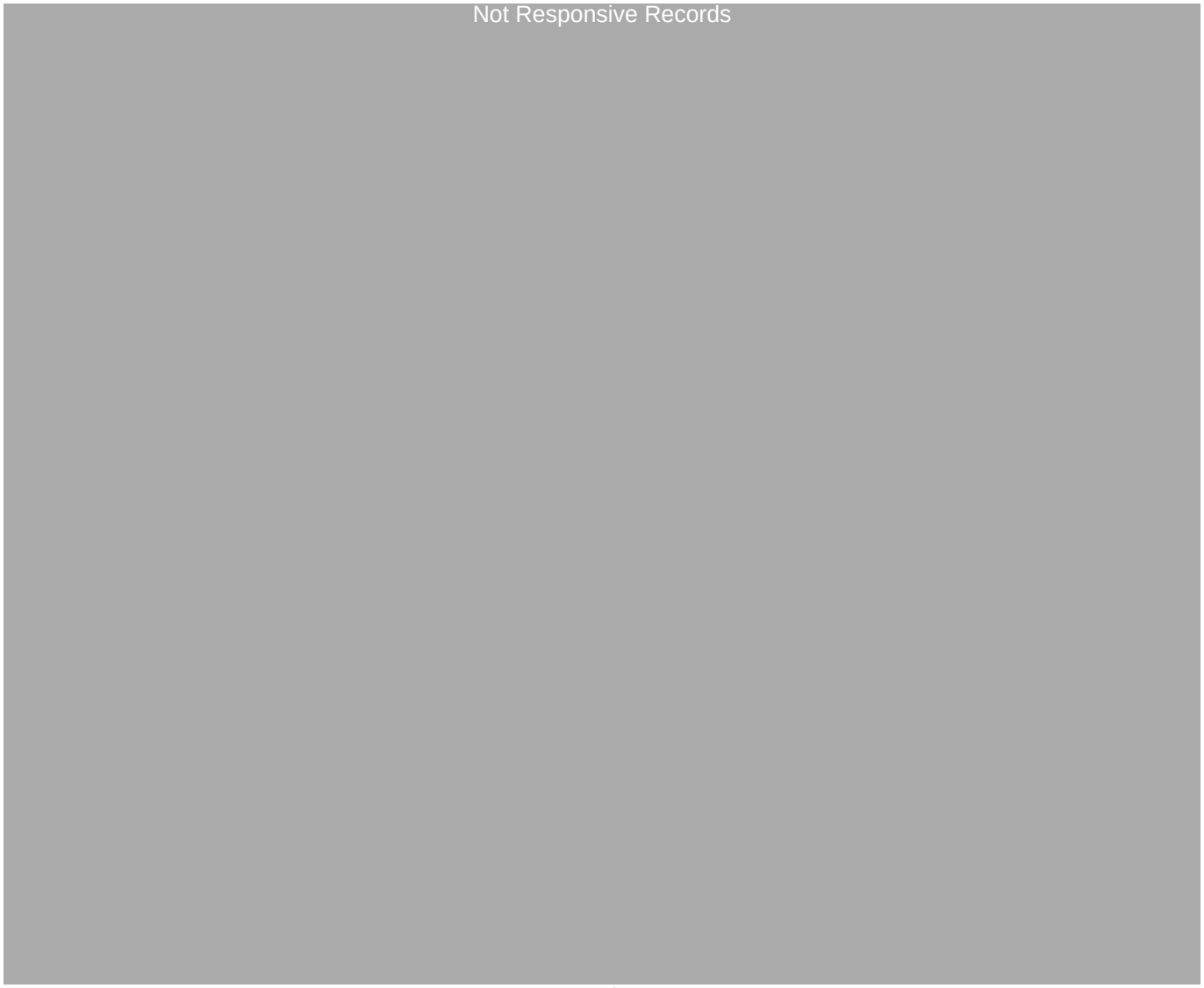
6/14/2019 7:07:40 PM - 1/3/2021 10:20:35 PM

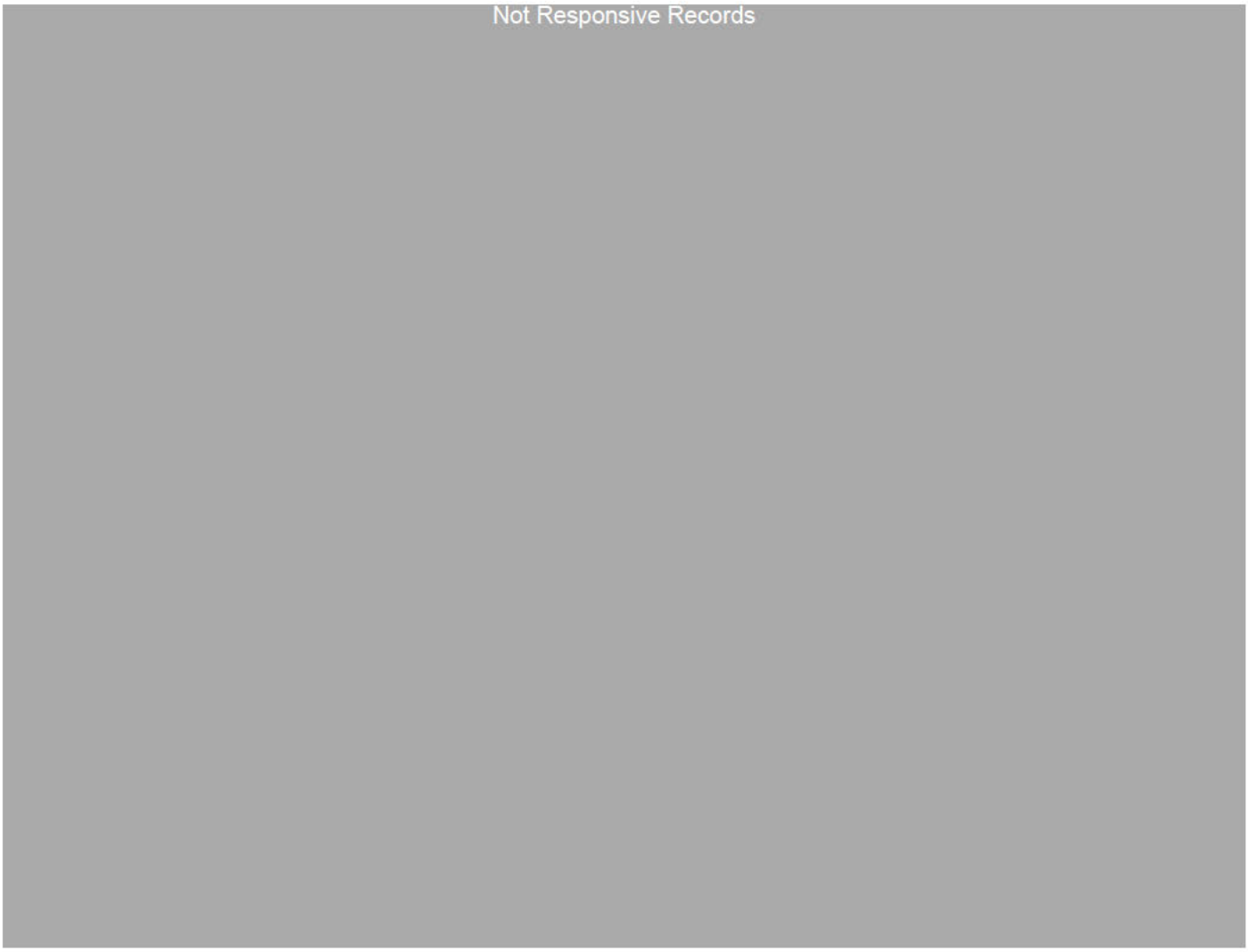
Export Details:

Device Name	Hovakimian ODAG 12821
Device ID	(b) (6)
Backup Date	Monday, February 22, 2021 3:45 PM
Backup Directory	(b) (6)
iOS	13.7
Current Time Zone	(UTC-05:00) Eastern Time (US & Canada)
Created with	iExplorer v4.4.2.0

Participants:

(b) (6), Jeff Rosen





Sunday, January 03, 2021

Jeff Rosen

Will call shortly, but we won. 9:03 PM

Patrick Hovakimian

Thanks. Great. Need to advise AAGs, who have been asking what's going on. 9:04 PM

Jeff Rosen

We will convene a call when I get back. 9:05 PM

Patrick Hovakimian

Ok 9:05 PM

Jeff Rosen

Will be back in 10 min 9:29 PM

Patrick Hovakimian

Great. Thanks. 9:29 PM

Jeff Rosen

Ready to go in 2 min

10:20 PM

Wireless Number	Date	Time	Number	Min
(b)(6) - Jeffrey Rosen Cell Phone	12/10	10:18A	(b) (6)	8
	12/11	12:06P		6
	12/15	10:54A		4
	12/15	11:00A		1
	12/16	8:33P		5
	12/16	9:28P		13
	12/17	9:52A		5
	12/17	12:09P		9
	12/21	11:22A		8
	12/21	12:41P		7
	12/21	7:46P		1
	12/22	2:29P		6
	12/22	4:28P		2
	12/22	7:57P		5
	12/23	1:34P		1
	12/23	7:34P		14
	12/23	9:02P		2
	12/24	8:27A		1
	12/24	8:29A		1
	12/24	9:11A		12
	12/24	9:22A		28
	12/24	9:50A		11
	12/24	10:32A		10
	12/24	4:46P		38
	12/26	10:12A		6
	12/26	10:18A		23
	12/26	12:16P		18
	12/26	2:05P		5
	12/27	8:59A		30
	12/27	10:45A		4
	12/27	2:11P		131
	12/27	4:44P		18
	12/27	6:26P		8

(b)(6) - Jeffrey Rosen Cell Phone			(b) (6)	
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	12/28	1:05P		3
	12/28	2:24P		4
	12/28	3:38P		19
	12/28	4:36P		5
	12/28	4:41P		2
	12/28	5:35P		23
	12/29	10:43A		9
	12/29	10:54A		11
	12/29	11:48A		7
	12/29	5:45P		1
	12/29	6:04P		1
	12/29	6:32P		1
	12/29	6:33P		4
	12/29	6:36P		6
	12/29	7:51P		14
	12/29	8:13P		2
	12/30	9:10A		4
	12/30	9:31A		3
	12/30	10:38A		11
	12/30	10:48A		6
	12/30	11:22A		9
	12/30	4:20P		8
	12/30	5:14P		5
	12/30	6:32P		22
	12/30	8:37P		26
	12/31	10:26A		5
	12/31	10:46A		14
	12/31	11:36A		7
	12/31	12:50P		5
	12/31	1:04P		20
	12/31	1:30P		2
	12/31	1:44P		2
	12/31	6:53P		3

(b)(6) - Jeffrey Rosen Cell Phone				
[redacted]	12/31	7:54P	(b) (6) [redacted]	2
	12/31	8:24P		13
	12/31	10:27P		3
	01/01	10:32A		16
	01/01	11:18A		4
	01/01	11:39A		18
	01/01	12:23P		1
	01/01	12:39P		5
	01/01	12:49P		5
	01/01	2:13P		4
	01/01	2:18P		13
	01/01	5:19P		3
	01/01	5:48P		2
	01/01	5:50P		5
	01/01	5:54P		1
	01/01	5:59P		1
	01/01	6:11P		2
	01/01	6:14P		2
	01/01	8:00P		6
	01/02	11:37A		7
	01/02	1:09P		17
	01/02	1:45P		3
	01/02	1:48P		3
	01/02	2:20P		18
	01/02	5:56P		31
	01/03	11:03A		1
	01/03	11:54A		31
	01/03	12:55P		1
	01/03	12:57P		1
	01/03	1:36P		1
	01/03	1:36P		6
	01/03	1:42P		1
	01/03	1:49P		1
	01/03	2:42P		8

(b)(6) - Jeffrey Rosen Cell Phone			(b) (6)	
	01/03	4:10P		7
	01/03	4:35P		5
	01/03	4:38P		2
	01/03	5:01P		6
	01/03	5:06P		5
	01/03	5:12P		4
	01/03	5:21P		2
	01/03	11:06P		2
	01/04	3:33P		2
	01/04	8:01P		5
	01/05	8:37A		13
	01/05	8:50A		7
	01/05	9:04A		5
	01/05	10:00A		16
	01/05	10:40A		4
	01/05	12:27P		5
	01/06	10:46A		2
	01/06	10:55A		1
	01/06	11:01A		1
	01/06	12:03P		1
	01/06	2:57P		4
	01/06	3:11P		4
	01/06	4:34P		7
	01/06	5:31P		1
	01/06	5:32P		2
	01/06	9:09P		2
	01/06	10:39P		6
	01/07	8:39A		1
	01/07	9:01A		9
	01/07	12:43P		4
	01/07	7:53P		4
	01/07	9:24P		12
	01/07	10:32P		26
	01/08	8:01A		1

(b)(6) - Jeffrey Rosen Cell Phone			(b) (6)	
	01/08	8:19A		1
	01/08	2:45P		9
	01/08	5:58P		6
	01/08	6:16P		5
	01/09	12:56P		5
	01/09	1:28P		10
	01/10	8:03P		1
	01/10	9:39P		19
	01/12	2:27P		3
	01/12	4:08P		1
	01/12	4:17P		12
	01/12	4:56P		4
	01/12	7:38P		2
	01/12	9:07P		1
	01/13	10:25A		7
	01/13	10:47A		4
	01/13	5:33P		5
	01/14	12:30P		2
	01/15	8:23A		13
	01/15	1:46P		5
	01/16	5:16P		13
	01/17	3:35P		2
	01/17	6:12P		2
	01/18	3:51P		8
	01/20	8:30A		2
	01/20	8:50A		2
	01/20	10:27A		1
	01/20	10:51A		1

Wireless Number	Date	Time	Number	Min
(b)(6) - Richard Donoghue Cell Phone	12/24	1:50P	(b) (6)	7
	12/28	8:17A		5
	01/03	5:53P		1
	01/03	11:10P		3
	01/06	3:15P		2
	01/06	3:44P		11
	01/06	3:57P		1
	01/06	4:27P		3
	01/06	5:05P		2
	01/06	5:16P		1
	01/06	5:30P		1
	01/06	5:38P		1
	01/06	5:56P		33
	01/06	7:56P		2
	01/06	9:52P		3
	01/06	11:11P		6
	01/12	12:46P		4
	01/16	5:28P		12
	01/17	1:29P		5
	01/17	4:41P		1
	01/17	5:06P		1
	01/17	8:07P		9
	01/18	3:14P		1
	01/18	9:22P		8
	01/19	10:31A		19
	01/20	9:05A		3
	01/20	10:14A		2
	01/20	10:26A		4