

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

COMMON CAUSE GEORGIA, as an)	
organization,)	
)	
Plaintiff,)	
)	Civil Action
v.)	
)	File No. 1:18-CV-05102-AT
BRIAN KEMP, in his official capacity as)	
Secretary of State of Georgia, ¹)	
)	
Defendant.)	

**DEFENDANT’S SUPPLEMENTAL GENERAL SUBMISSION IN
RESPONSE TO COURT’S REQUEST FOR INFORMATION**

COMES NOW Defendant Crittenden and supplements her response to this Court’s request for information on the timing of election certification by Georgia counties under O.C.G.A. § 21-2-493(k). As of 1:45 pm November 9, 2018, twenty-six out of Georgia’s 159 counties have certified their election results: ²

¹ Defendant Kemp resigned from his position as Secretary of State, effective yesterday. Governor Deal has appointed Robyn A. Crittenden as the new Secretary of State for the State of Georgia.

² It is important to note that the Office of the Secretary of State for the State of Georgia does not receive the certifications or results until the day after the deadline for certification under O.C.G.A. § 21-2-493(k) – i.e. Wednesday November 14, 2018.

- Atkinson
- Baker
- Berrien
- Bryan
- Candler
- Charlton
- Clay
- Colquitt
- Haralson
- Jenkins
- Johnson
- Long
- Macon
- Marion
- McDuffie
- McIntosh
- Mitchell
- Pulaski
- Quitman
- Rabun
- Randolph
- Screven
- Taylor
- Wayne
- White
- Wilcox

Below are the anticipated certification dates of those counties with over 200 provisional ballots:

- Fulton: **Tuesday** (3,670 Provisional Ballots)
- DeKalb: **Tuesday** (3,008 Provisional Ballots)
- Rockdale: **Saturday** (140 Provisional Ballots)
- Clayton: **Saturday** (888 Provisional Ballots)
- Cobb: **Monday** (2,202 Provisional Ballots)

- Richmond: **Friday** (272 Provisional Ballots)
- Lowndes: **Monday** (1,174 Provisional Ballots)
- Bulloch: **Friday** (224 Provisional Ballots)
- Dougherty: **Friday** (355 Provisional Ballots)
- Macon-Bibb: **Tuesday** (419 Provisional Ballots)
- Clarke: **Friday** (198 Provisional Ballots)
- Muscogee: **Tuesday** (352 Provisional Ballots)
- Troup: **Friday** (685 Provisional Ballots)
- Gwinnett: **Tuesday** (2,427 Provisional Ballots)
- Hall: **Monday** (370 Provisional Ballots)
- Henry: **Monday** (339 Provisional Ballots)
- Chatham: **No Response** (329 Provisional Ballots)
- Carroll: **Friday** (291 Provisional Ballots)
- Floyd: **Friday** (200 Provisional Ballots)

Also attached is **Exhibit A** which provides the information Defendant has received from counties regarding the number of ballots per provisional code. Despite repeated attempts to contact, Defendant has failed to receive a response from the following counties regarding the breakdown of the types of provisional ballots (which are highlighted on Exhibit A):

- Atkinson
- Brooks
- Bryan
- Clay
- Coffee
- Echols
- Fulton
- Glynn
- Gwinnett
- Hall

- Hancock
- Jeff Davis
- Long
- Lowndes
- McIntosh
- Quitman
- Rabun
- Rockdale
- Taliaferro
- Wilkes

Because the certification process is already underway, any action by this Court requiring counties to stop the rejection of provisional ballots, even a subset of those ballots, will not grant the relief that Plaintiff seeks. An order at this point can only apply to counties that have not already certified.

Because federal courts can only adjudicate ongoing cases and controversies, events that make it impossible for courts to “grant any effectual relief” make the case moot. Brooks v. Ga. State Bd. of Elections, 59 F.3d 1114, 1118 (11th Cir. 1995). Using the same logic, a request for emergency relief becomes moot when a court cannot grant relief to the party seeking it. See De La Fuente v. Kemp, 679 F. App'x 932, 933 (11th Cir. 2017). As the Eleventh Circuit made clear in De La Fuente, “This Court cannot prevent what has already occurred.” Id.

While this Court can certainly address the issues raised by Plaintiff outside of the emergency context, this Court should deny the request for emergency relief because it is now moot. Counties are certifying election results and this Court cannot grant relief to Plaintiff at this stage in the election process.

Respectfully submitted this 9th day of November 2018.

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L.R. 7.1(D) CERTIFICATION

I certify that this Submission has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this Submission has been prepared using 14-pt Times New Roman Font.

/s/ Josh B. Belinfante

Josh Belinfante

Georgia Bar No. 047399

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the within and foregoing **DEFENDANT'S SUPPLEMENTAL GENERAL SUBMISSION IN RESPONSE TO COURT'S REQUEST FOR INFORMATION** with the Clerk of Court using the CM/ECF system, which automatically sent counsel of record e-mail notification of such filing.

This 9th day of November, 2018.

/s/ Josh Belinfante