

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

John Wood,

Contestant,

v.

Brad Raffensperger, in his official capacity of
Secretary of State of the State of Georgia; and Brian
Kemp, in his official capacity as Governor of the
State of Georgia.

Defendants.

Civ. Act. No. 2020CV342959

Proposed Answer to Petition for Election Contest

Proposed Intervenors Gloria Butler, Bobby Fuse, Deborah Gonzalez, Stephen Henson, Van Johnson, Pedro Marin, Fenika Miller, Ben Myers, Rachel Paule, Calvin Smyre, Robert Trammell Jr., Manoj S. "Sachin" Varghese, Nikema Williams, and Cathy Woolard, who are among the slate of 16 presidential electors nominated by the Democratic Party and certified by Governor Brian Kemp after Secretary of State Brad Raffensperger certified the election results to formally declare President-Elect Joseph R. Biden, Jr., the winner of Georgia's presidential race, move to intervene as Defendants in this action, and by and through their attorneys answer John Wood's Petition for Election Contest as set forth below. Unless expressly admitted, each allegation in the petition is denied.

INTRODUCTION

In response to the Petitioner's four-page introduction, the Intervenors deny the entirety of the introduction.

JURISDICTION

1. Paragraph 1 of the Petition states:

The Georgia Superior Courts have jurisdiction in all cases except as otherwise provided in the Georgia Constitution, Article VI, Section IV, paragraph 1.

Answer: Paragraph 1 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors deny the same.

2. Paragraph 2 of the Petition states:

Ga. Code §21-2-521 authorizes a voter contest of a federal Presidential Election electing Presidential Electors to the Electoral College. The statute states, “the election of any person who is declared elected to any such office ... may be contested by any person who was a candidate at such primary or election for such nomination or office, or by any aggrieved elector who was entitled to vote for such person . . .”

Answer: Paragraph 2 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors deny the same.

3. Paragraph 3 of the Petition states:

Ga. Code § 21-2-522 allows for an election contest on one or more of the following grounds: “(1) Misconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result; . . . (3) When illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result.”

Answer: Paragraph 3 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors admit that the quoted language appears in O.C.G.A. § 21-2-522.

4. Paragraph 4 of the Petition states:

Ga. Code. Ann. § 21-2-571 allows for an election contest on the following ground: “Any person who votes or attempts to vote at any primary or election, knowing that such person does not possess all the qualifications of an elector at such primary or election, as required by law ... or who knowingly gives false information to poll officers in an attempt to vote in any primary or election.”

Answer: Paragraph 4 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors deny that the cited statute allows for an election contest.

5. Paragraph 5 of the Petition states:

Ga. Code § 21-2-572 allows for an election contest on the following ground: “Any person who votes in more than one precinct in the same primary or election or otherwise fraudulently votes more than once at the same primary or election shall be guilty of a felony.”

Answer: Paragraph 5 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors deny that the cited statute allows for an election contest.

6. Paragraph 6 of the Petition states:

Georgia Code § 21-2-524 requires eight allegations in the petition which are made herein. First, the contestant’s qualification as an aggrieved elector is identified. Second, the contestant’s desire to contest the result of the November 3, 2020 general election for President and Vice President is identified. Third, the names of the defendants Governor and Secretary of State are identified. Fourth, the names of the candidates at the election are: Joseph R. Biden and Kamala D. Harris; Donald J. Trump and Michael R. Pence; and Jo Jorgenson and Jeremy “Spike” Cohen. Fifth, this petition lists each ground of the contest. Sixth, the Secretary of State certified the vote totals for the Presidential contest on November 20, 2020. Seventh, the relief sought is identified herein. Eighth, other facts as are necessary are provided herein, including the attached expert declaration by Matthew Braynard, to provide a full, particular and explicit statement of the cause of contest.

Answer: Paragraph 6 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors admit that O.C.G.A. § 21-2-524 requires eight allegations in the Petition. The Intervenors also admit that Petitioner has identified himself as an aggrieved elector but deny that this qualifies Petitioner to institute the contest; admit that Petitioner identified his desire to contest the November 3, 2020 election for the presidential candidate; admit that Petitioner identified defendants but deny that these are the proper defendants to the contest, *see* O.C.G.A. § 21-2-520(2), *Martin v. Fulton Cty. Bd. of Registration & Elections*, 307 Ga. 193, 200 n.8 (2019), *Jones v. McElreath*, 167 Ga.

833 (1929), and *Swain v. Thompson*, 281 Ga. 30 (2006); deny that Petitioner listed presidential candidates as defined under Georgia law; admit that Petitioner lists the grounds for the contest; admit that the Secretary of State certified the election results on November 20, 2020 and the Governor issued a certificate of ascertainment of appointment of Electors of President and Vice President of the United States for the State of Georgia; and admit that Petitioner filed a declaration from Matthew Braynard but deny that the declaration contains the necessary facts for proof in his Petition.

7. Paragraph 7 of the Petition states:

The Fulton County Superior Court has jurisdiction and venue because the Defendants primarily reside or are located in Fulton County, Georgia. Ga. Code § 21-2-523.

Answer: Paragraph 7 of the Petition contains characterizations, legal contentions, and conclusions, to which no response is required. To the extent a response is required, the Intervenors deny the same.

PARTIES

8. Paragraph 8 of the Petition states:

Contestant John Wood is an elector, eligible voter and taxpayer residing in Coweta County and the Third Congressional District. John Wood is President of the Georgia Voters Alliance. John Wood is an aggrieved elector who believes the Georgia 2020 federal general election violated principles of election integrity.

Answer: In response to Paragraph 8 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 8 of the Petition and on that basis deny the same.

9. Paragraph 9 of the Petition states:

Georgia Secretary of State Brad Raffensperger is a Defendant. His office is located in Atlanta, Georgia. Secretary of State Raffensperger certified the Presidential Election result on November 20, 2020.

Answer: In response to Paragraph 9 of the Petition, the Intervenors admit that Petitioner names Brad Raffensperger as a defendant but deny that he is a proper defendant. The Intervenors further admit that the Secretary of State certified the Presidential Election results on November 20, 2020.

10. Paragraph 10 of the Petition states:

Georgia Governor Brian Kemp is a Defendant. His office is located in Atlanta, Georgia. Under 3 U.S.C. § 6, a Governor of a state notifies the federal government of the Presidential Electors of that state for the Electoral College.

Answer: In response to Paragraph 10 of the Petition, the Intervenors admit that Petitioner names Brian Kemp as a defendant but deny that he is a proper defendant. The Intervenors admit that 3 U.S.C. § 6 requires the Governor of each State to notify the federal government of the presidential electors for the electoral college.

ULTIMATE ISSUE PRESENTED BY THE CONTROVERSY

11. Paragraph 11 of the Petition states:

Whether there is sufficient evidence to show that Georgia's election officials failed to conduct the November 3, 2020 election for Presidential Electors in accordance with the Georgia state constitution and Georgia state law casting sufficient doubt on the razor-thin margin of 12,670 to void the election result.

Answer: Paragraph 11 contains characterization of the issue in the Petition, which does not necessitate a response from the Intervenors. To the extent a response is required, the Intervenors deny the same.

PETITION

12. Paragraph 12 of the Petition states:

The Georgia General Assembly has adopted laws governing the voting for the selection of Presidential electors. Those laws provide for voting to be conducted pursuant to Georgia general election laws. Title 21 of the Official Code of Georgia.

Answer: Admit.

13. Paragraph 13 of the Petition states:

In 1997, in order to prevent the casting of ineligible ballots due to, among other reasons, fraud, the Georgia General Assembly adopted Act 53 to require Georgia voters, known as electors under Georgia law, to present an identification containing a photograph, such as a driver's license, to either a municipal or county clerk when registering to vote municipal or county clerk or other official when voting. Ga. Code § 21-4-417. The Georgia General Assembly adopted the photo ID requirement to deter the casting of ballots by persons either not eligible to vote or persons fraudulently casting multiple ballots. *Democratic Party of Georgia, Inc. v. Perdue*, 288 Ga. 720 (2011).

Answer: Paragraph 13 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. The Intervenor further deny that O.C.G.A. § 21-4-417 is a statute regarding election-related identification because O.C.G.A. § 21-4-417 does not appear to be an election statute at all. To the extent Petitioner's characterization and interpretation of the cited case law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor deny the allegations.

14. Paragraph 14 of the Petition states:

The Georgia General Assembly has also provided voters with the option to vote by absentee processes which are set forth in very detailed and unambiguous language in the Georgia statutes at Georgia Code § 21 -2-10, et seq.

Answer: Paragraph 14 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor admit that the Georgia General Assembly has provided voters with the option to vote by absentee processes and deny each other or different allegation.

15. Paragraph 15 of the Petition states:

The Georgia General Assembly created the State Election Board as an independent agency under the Georgia Secretary of State, as chairman, to administer Georgia's election laws. Ga. Code §21-

2-30-34. The State Election Board is authorized to adopt administrative rules pursuant to the Georgia Administrative Procedures Act, which governs administrative rule making. However, nothing under Georgia's election laws authorizes the State Elections Board to issue any documents, make any oral determinations or instruct governmental officials administering elections to perform any act contrary to Georgia law governing elections.

Answer: The Intervenors admit the first two sentences of Paragraph 15. The Intervenors deny the remainder of the paragraph to the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions.

16. Paragraph 16 of the Petition states:

Furthermore, the Georgia General Assembly also allowed for the creation of county election boards with the power to act as an election superintendent relating to the conduct of primaries and elections. Ga. Code § 21-2-40. These county election boards are responsible for administering the elections in their respective jurisdictions.

Answer: Admit.

17. Paragraph 17 of the Petition states:

As set forth above, the Georgia General Assembly adopted Act 53 in 1997 to require Georgia electors to present an identification containing a photograph, such as a driver's license, to either a municipal or county clerk when registering to vote municipal or county clerk or other official when voting. Ga. Code §21-4-417. The Georgia General Assembly adopted the photo ID requirement to deter the casting of ballots by persons either not eligible to vote or persons fraudulently casting multiple ballots. *Democratic Party of Georgia, Inc. v. Perdue*, 288 Ga. 720 (2011).

Answer: Paragraph 17 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. The Intervenors further deny that O.C.G.A. § 21-4-417 is a statute regarding election-related identification because O.C.G.A. § 21-4-417 does not appear to be an election statute at all. To the extent Petitioner's characterization and interpretation of the cited case law differs from the text of the cited provisions, the Intervenors deny the allegations. To the extent a response is otherwise required, the Intervenors deny the allegations.

18. Paragraph 18 of the Petition states:

Georgia's absentee voting is governed by Ga. Code § 21 -2-380-§21-2-390.

Answer: The Intervenors admit that absentee voting is governed, in part, by the statutes referenced in Paragraph 18. However, to the extent Petitioner suggests this list is complete as to the law governing absentee voting, the Intervenors deny the allegations.

19. Paragraph 19 of the Petition states:

Ga. Code § 21-2-381 governs how Georgia electors may obtain an absentee ballot.

Answer: Paragraph 20 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenors admit that absentee voting is governed, in part, by the statute referenced in Paragraph 19. However, to the extent Petitioner suggests this paragraph is complete as to the law governing absentee voting, the Intervenors deny the allegations.

20. Paragraph 20 of the Petition states:

With respect to all absentee voters, Ga. Code § 21-2-381(b) governs how the clerk is to transmit an absentee ballot to the absentee elector after the clerk approves the absentee voter application.

Answer: Paragraph 20 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenors admit that absentee voting is governed, in part, by the statute referenced in Paragraph 20. However, to the extent Petitioner suggests this paragraph is complete as to the law governing absentee voting, the Intervenors deny the allegations.

21. Paragraph 21 of the Petition states:

Under Ga. Code§ 21-2-384(b), if the clerk approves absentee ballot application, the clerk will then mail to the absentee voter an envelope containing (i) the absentee ballot and (ii) a return envelope into which the absentee voter is to place the absentee ballot.

Answer: Paragraph 21 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise

required, the Intervenors admit that the statute provides for the clerk to mail the absentee voter an envelope containing the absentee ballot and a return envelope.

22. Paragraph 22 of the Petition states:

On the back of the absentee envelope, Ga. Code § 21-2-384(b), requires that the clerk send the absentee voter an envelope containing (i) an envelope with only the words “Official Absentee Ballot” on one side and (ii) an envelope which the absentee voter must use to return the absentee ballot back to the clerk. On one side of the envelope is the oath for electors and the oath for the person assisting the elector, and the statutory penalties for violation of the oaths. On the other side the name and address of the board of registrars or absentee ballot clerk, and the elector’s name and voter registration number.

Answer: Paragraph 22 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenors admit the allegations.

23. Paragraph 23 of the Petition states:

The absentee voter’s certification must be in substantially the following form pursuant to Ga. Code § 21-2-384(c)(1):

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

Signature or Mark of Elector
Printed Name of Elector

Answer: Paragraph 23 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise

required, the Intervenors admit that the elector's oath is governed, in part, by the language quoted in the statute referenced in Paragraph 23. However, to the extent Petitioner suggests this paragraph is complete as to the law governing absentee voting, the Intervenors deny the allegations.

24. Paragraph 24 of the Petition states:

Pursuant to Ga. Code § 21-2-386, "Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or mark on the oath with the signature or mark on the absentee elector's voter registration 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 mark 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."

Answer: Paragraph 24 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenors deny the allegations. To the extent a response is otherwise required, the Intervenors admit that the quoted language appears in the cited statute.

25. Paragraph 25 of the Petition states:

Under Ga. Code § 21-2-386(a)(1)(C), the Georgia General Assembly also established a clear and efficient process to be used by county officials if they determine that an elector had failed to sign the oath on the outside envelope enclosing the ballot or that the signature does not conform with the signature on file in the registrar's or clerk's office. When dealing with 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 two years.

Answer: Paragraph 25 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenors deny the allegations. To the extent a response is otherwise required, the Intervenors admit that the quoted language appears in O.C.G.A. § 21-2-386(a)(1)(C), but is not a complete recitation of the statute.

26. Paragraph 26 of the Petition states:

Fulton County entered into an agreement with a non-profit organization, CTCL, an organization created in 2012 and funded with \$350 million USD by Facebook billionaire Mark Zuckerberg, a well-known activist and partisan, to take millions of dollars from CTCL to conduct the November 3, 2020 election in violation of Georgia law.

Answer: In response to Paragraph 26 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 26 of the Petition and on that basis deny the same.

27. Paragraph 27 of the Petition states:

Moreover, specifically with respect to elections, only the Georgia Secretary of State can take in monies from sources other than taxation and that is limited to applying for a federal grant under Georgia's Election Plan created under the Help America Vote Act ("HAVA"). Ga. Code § 21-2-50.2 provides that only the Georgia Secretary of State can seek funds from the federal government under HAVA.

Answer: Paragraph 27 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenors deny the same.

28. Paragraph 28 of the Petition states:

Georgia adopted a plan in 2003 pursuant to the federally enacted Help America Vote Act ("HAVA"). Pursuant to Section 3 of the HAVA plan, each election commission was "required to conduct regular training and administer examinations to ensure that individuals who are certified

are knowledgeable concerning their authority and responsibilities.” Using HAVA volunteers is a violation of Georgia’s HAVA plan.

Answer: Paragraph 28 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner’s characterization and interpretation differs from the text of the cited provisions, the Intervenors deny the allegations. To the extent a response is otherwise required, the Intervenors deny the allegations.

29. Paragraph 29 of the Petition states:

In September 2020, Fulton County entered into agreement with CTCL to take “as a gift” \$6.3 million USD from CTCL (“CTCL Agreement”).

Answer: In response to Paragraph 29 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 29 of the Petition and on that basis deny the same.

30. Paragraph 30 of the Petition states:

Pursuant to the terms of the CTCL Agreement, Fulton County would be required to remit back to CTCL the entire \$6.3 million USD “gift” if CTCL in its sole discretion determines that the cities have not complied with the CTCL Agreement. The CTCL Agreement provide that the purpose of the funds was to be used exclusively for the public purpose of planning safe and secure election administration in Fulton County. Thus, pursuant to the CTCL Agreement, CTCL could direct the election officials to conduct the election in ways CTCL wanted and, if the Fulton County election officials did not comply, CTCL could force Fulton County to refund the \$6,300,000.

Answer: In response to Paragraph 30 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 30 of the Petition and on that basis deny the same.

31. Paragraph 31 of the Petition states:

On September 2, 2020, the Fulton County Board of Commissioners approved acceptance of the grant from the CTCL at the recommendation from the Fulton County Registration and Elections Division. Among other things, Fulton County agreed “with CTCL to use the monies to:

- Hire additional personnel for elections;

- Increase existing salaries for staff;
- Encourage and Increase Absentee Voting (By Mail and Early, In-Person);
- Provide assistance to help voters comply with absentee ballot requests & certification requirements;
- Utilize secure drop-boxes to facilitate return of absentee ballots
- Deploy additional staff and/ or technology improvements to expedite & improve accuracy of absentee ballot processing;
- Expand In-Person Early Voting (Including Curbside Voting); and Commit “to conducting the necessary voter outreach and education to promote absentee voting and encourage higher percentages of our electors to vote absentee.

Harding Decl., Exs. A, B, C.

Answer: In response to Paragraph 31 of the Petition, the Intervenors admit that Petitioner filed an exhibit that appears to be a Resolution Authorizing Fulton County to Accept a Grant for Elections Equipment and Services; and for other Services. The Intervenors deny each other or different allegation to the extent Petitioner’s characterization and interpretation of the Resolution differs from the text of the Resolution entered into between Fulton County and CTCL.

32. Paragraph 32 of the Petition states:

The Cities and CTCL knew in 2020 that Democrat voters would be voting primarily by absentee vote which is why the Cities and CTCL aggressively “promoted,” “encouraged” and overzealously solicited” voters to vote absentee—including eliminating absentee ballot security requirements.

Answer: Denied.

33. Paragraph 33 of the Petition states:

CTCL provided a \$6.3 million grant for election administration to Fulton County Georgia. See attached Harding Decl., Ex. F.

Answer: In response to Paragraph 33 of the Petition, the Intervenors admit that Petitioner filed a letter that appears to indicate that CTCL approved a grant of at least \$6.3 million dollars for election administration. Intervenors lack sufficient information to ascertain the foundation of

this letter and therefore can neither admit nor deny the allegations in Paragraph 33 of the Petition and on that basis deny the same.

34. Paragraph 34 of the Petition states:

CTCL provided grants to at least a dozen generally democratic Georgia counties to develop their election administration.

Answer: In response to Paragraph 34 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 34 of the Petition and on that basis deny the same.

35. Paragraph 35 of the Petition states:

This meant that counties that were unaware of these grants were unable to access the funds and were unable to provide similar access and technology to their electors for the 2020 federal general election.

Answer: In response to Paragraph 35 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 35 of the Petition and on that basis deny the same. However, it appears that applications for the grant program are publicly available online, and specifically to election offices in Georgia. *See, e.g.*, Center for Tech and Civic Life, COVID-19 Response Grants, <https://www.techandciviclelife.org/our-work/election-officials/grants/> (last accessed Nov. 28, 2020).

36. Paragraph 36 of the Petition states:

CTCL put out a statement regarding the ways they intended grant recipients to improve their voting access compared to other localities. These actions were under 4 broad categories.

a. Making Voting Safe

i. Designated Polling Locations for Voters with COVID-19

ii. Partnering with Sports Arenas

iii. Controlling Long Lines

iv. Hand Delivering Ballots

- v. Reaching Voters in Nursing Homes
 - vi. Promoting Curbside Voting
 - vii. Expanding Vote-By-Mail Options
- b. Engaging Historically Disenfranchised Populations
- i. Registering Voters Serving Out Felony Sentences
 - ii. Offering In-Person Voting for Incarcerated Individuals
 - iii. Educating Ex-Felons and Incarcerated Individuals
 - iv. Supporting Voters who Speak English as a Second Language
 - v. Offering Late-Night Voting Options
 - vi. Educating Native Americans
- c. Supporting Voters with Disabilities
- i. Expanding American Sign Language Resources
 - ii. Offering Private and Independent Voting Options
 - iii. Developing Online Voting Portals
 - iv. Partnering with Disability Rights Groups
- d. Improving Access for Displaced Voters
- i. Providing Critical Information on Election Websites
 - ii. Implementing Mobile Voter Sites
 - iii. Supporting People Experiencing Homelessness

Harding Decl, Ex. D.

Answer: In response to Paragraph 36 of the Petition, the Intervenor's lack sufficient information to admit or deny the allegations in Paragraph 36 of the Petition and on that basis deny the same. The Intervenor's admit that CTCL referenced these categories on its website. *See* 20

Ways Election Officials Increased Accessibility During the November Election, Center for Tech and Civic Life, <https://www.techandciviclelife.org/increasing-accessibility/#making-voting-safe> (last accessed Nov. 28, 2020).

37. Paragraph 37 of the Petition states:

CTCL only made this money and services available to certain counties. Moreover, CTCL only increases access to these options if the local municipality agrees to run the election according to CTCL preferences.

Answer: In response to Paragraph 37 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 37 of the Petition and on that basis deny the same. However, it appears that applications for the grant program are publicly available online, and specifically to election offices in Georgia. *See, e.g.*, Center for Tech and Civic Life, COVID-19 Response Grants, <https://www.techandciviclelife.org/our-work/election-officials/grants/> (last accessed Nov. 28, 2020).

38. Paragraph 38 of the Petition states:

Consequently, numerous electors in the State of Georgia were not able to benefit from CTCL's private federal election grants making it easier to vote in-person and absentee.

Answer: In response to Paragraph 38 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 38 of the Petition and on that basis deny the same.

39. Paragraph 39 of the Petition states:

Georgia is comprised of 159 counties. In 2016, Hillary Clinton garnered 1,877,963 votes in the state of Georgia. Clinton won four counties in major population centers, Fulton (297,051), Cobb (160,121), Gwinnett (166,153), and Dekalb Counties (251,370). These four counties represented 874,695 votes for Hillary Clinton.

Answer: Intervenors admit that Georgia has 159 counties and that the New York Times published these results. Intervenors deny each other or different allegation to the extent Petitioner's

characterization and interpretation of the results differ from the results published by the New York Times. To the extent a response is otherwise required, the Intervenors deny the allegations.

40. Paragraph 40 of the Petition states:

Georgia has 300 total drop boxes for electors to submit absentee ballots.

Answer: In response to Paragraph 40 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 40 of the Petition and on that basis deny the same.

41. Paragraph 41 of the Petition states:

In 2020, Georgia counties utilized CTCL funding to install additional drop boxes in areas that would make it easier for voters to cast their absentee ballot. The four counties won by the Clinton campaign contain a plurality of the drop boxes.

Answer: In response to Paragraph 41 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 41 of the Petition and on that basis deny the same.

42. Paragraph 42 of the Petition states:

Fulton County was home to 39 drop boxes, Cobb County provided 16 drop boxes, 23 drop boxes in Gwinnett County, and DeKalb County has 34 boxes.

Answer: The Intervenors admit that Fulton, Cobb, and Gwinnett Counties' websites state that they had the number of drop boxes alleged in Paragraph 42. The Intervenors lack sufficient information to admit or deny the allegations in Paragraph 42 regarding DeKalb County and on that basis deny the same.

43. Paragraph 43 of the Petition states:

These four localities account for 112 drop boxes, spread out over 1,587 square miles. Meaning, voters in these four Clinton strongholds have one drop box for every 14 square miles. Meanwhile, in the remaining 155 counties, spread out over 55,926 square miles, a republican voter will find one drop box for every 294 square miles.

Answer: The Intervenors lack sufficient information to admit or deny the allegations in Paragraph 43 of the Petition and on that basis deny the same.

44. Paragraph 44 of the Petition states:

Notwithstanding the clarity of the applicable statutes and the constitutional authority for the Georgia General Assembly actions, on March 6, 2020, the Secretary of State of the State of Georgia, Secretary Raffensperger, and the State Election Board, who administer the state elections (the “Administrators”) entered into a “Compromise and Settlement Agreement and Release” (the “Settlement Agreement”) with the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee (collectively, the “Democrat Party Agencies”), setting forth different standards to be followed by the clerks and registrars in processing absentee ballots in the State of Georgia. Harding Decl., Ex. E.

Answer: In response to Paragraph 44 of the Petition, the Intervenors admit that a Compromise Settlement Agreement was reached between the Democratic Party of Georgia, Inc., the Democrat Senatorial Campaign Committee, and the Democratic Congressional Campaign Committee and Brad Raffensperger, Rebecca N. Sullivan, David J. Worley, Seth Harp, and Anh Le on March 6, 2020, referred to in the Petition as the “Settlement Agreement.” The Intervenors deny each other or different allegation.

45. Paragraph 45 of the Petition states:

The Georgia election officials’ Settlement Agreement violated the Elections Clause of the Constitution, Art. 1 Sec. 4, cl. 1, Georgia Constitution and statutes. *Carson v. Simon*, 978 F.3d 1071 (C.A. 8, 2020).

Answer: Denied.

46. Paragraph 46 of the Petition states:

The Settlement Agreement sets forth different legal standards to be followed by the clerks and registrars in processing absentee ballots in the State of Georgia than those constitutionally and statutorily required.

Answer: Denied.

47. Paragraph 47 of the Petition states:

Although the State Election Board is authorized to promulgate rules and regulations that are “conducive to the fair, legal, and orderly conduct of primaries and elections,” all such rules and regulations must be “consistent with law.” Ga. Code§ 21-2-31(2).

Answer: The Intervenors admit that the quoted language is from O.C.G.A. § 21-2-31(2) and deny each other or different allegation to the extent Petitioner’s characterization and interpretation of the cited law differs from the text of the cited provisions. To the extent a response is otherwise required, the Intervenors deny the allegations.

48. Paragraph 48 of the Petition states:

Under the Settlement Agreement, however, the State Election Board and Secretary of State agreed to change the statutorily-prescribed manner of handling absentee ballots in a manner that was not consistent with the laws promulgated by the Georgia General Assembly for elections in this state.

Answer: Denied.

49. Paragraph 49 of the Petition states:

The Settlement Agreement provides that the Secretary of State would issue an “Official Election Bulletin” to County Administrators overriding the statutory procedures prescribed for those officials. That power, however, does not belong to the Secretary of State under the Georgia Constitution and U.S. Constitution.

Answer: Denied.

50. Paragraph 50 of the Petition states:

The Settlement Agreement procedure, set forth in pertinent part below, is more cumbersome, and makes it much more difficult to follow the statute with respect to defective absentee ballots.

Answer: Denied

51. Paragraph 51 of the Petition states:

Because of the COVID-19 pandemic and the pressures created by a larger number of absentee ballots, County Officials were under great pressure to handle an historical level of absentee voting.

Answer: In response to Paragraph 51 of the Petition, the Intervenors admit that the COVID-19 pandemic caused an increase in absentee voting in Georgia, which protected the health and safety of voters across the state. The Intervenors deny each other or different allegation.

52. Paragraph 52 of the Petition states:

Additionally, the County Officials were required to certify the speed with which they were handling absentee ballots on a daily basis, with the goal of processing absentee ballots faster than they had been processed in the past.

Answer: In response to Paragraph 52 of the Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 52 of the Petition and on that basis deny the same.

53. Paragraph 53 of the Petition states:

Under the Litigation Settlement, the following language added to the pressures and complexity of processing defective absentee ballots, making it less likely that they would be identified or, if identified, processed for rejection:

County registrars and absentee ballot clerks are required, upon receipt of each mail-in absentee ballot, to compare the signature or make of the elector on the mail-in absentee ballot envelope with the signatures or marks in eNet and on the application for the mail-in absentee ballot. If the signature does not appear to be valid, registrars and clerks are required to follow the procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C). When reviewing an elector's signature on the mail-in absentee ballot envelope, the registrar or clerk must compare the signature on the mail-in absentee ballot envelope to each signature contained in such elector's voter registration record in eNet and the elector's signature on the application for the mail-in absentee ballot.

If the registrar or absentee ballot clerk determines that the voter's signature on the mail-in absentee ballot envelope does not match any application, the registrar or absentee ballot clerk must seek review from two other registrars, deputy registrars, or absentee ballot clerks. A mail-in absentee ballot shall not be rejected unless a majority of the registrars, deputy registrars, or absentee ballot clerks reviewing the signature agree that the signature does not match any of the voter's signatures on file in eNet or on the absentee ballot application. If a determination is made that the elector's signature on the mail-in absentee ballot envelope does not match any of the voter's signatures on file in eNet or on the absentee ballot application, the registrar or absentee ballot clerk shall write the names of the three elections officials who conducted the signature review across the face of the absentee ballot envelope, which shall be in addition to writing "Rejected" and the reason for the rejection as required under O.C.G.A. § 21-2-386(a)(1)(C). Then, the registrar or absentee ballot clerk shall commence the notification procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C) and State Election Board Rule 183-1-14-.13. [Emphasis added].

Answer: Denied.

54. Paragraph 54 of the Petition states:

The bolded language above is not consistent with the statute adopted by the Georgia General Assembly.

Answer: Denied.

55. Paragraph 55 of the Petition states:

First, the Settlement Agreement overrides the clear statutory authorities granted to County Officials individually and forces them to form a committee of three (3) if any one official believes that an absentee ballot is a defective absentee ballot, contrary to state law.

Answer: Denied.

56. Paragraph 56 of the Petition states:

Such a procedure creates a cumbersome, unnecessary and expensive bureaucratic protocol to be followed with each questionable absentee ballot signature—and makes difficult to reject ballots. Ballots that would be rejected by the procedure as laid out in Ga. Code 21-2-396 will simply be approved by a majority of the review team.

Answer: Denied.

57. Paragraph 57 of the Petition states:

Second, the Litigation Settlement allows a county official to compare signatures in ways not permitted by the statutory structure created by the Georgia General Assembly.

Answer: Denied.

58. Paragraph 58 of the Petition states:

The Georgia General Assembly prescribed procedures to ensure that any request for an absentee ballot must be accompanied by sufficient identification of the elector's identity. *See* O.C.G.A. § 21-2-381(b)(1) (providing, in pertinent part, "In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417...").

Answer: The Intervenors admit that the quoted language is from O.C.G.A. § 21-2-381(b)(1). To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenors deny the allegations. To the extent a response is otherwise required, the Intervenors deny the allegations.

59. Paragraph 59 of the Petition states:

Under O.C.G.A. § 21-2-220(c), the elector must present identification, but need not submit identification if the electors submit with their application information such that the county officials are able to match the elector's information with the state database, generally referred to as the eNet system.

Answer: Paragraph 59 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor deny the allegations.

60. Paragraph 60 of the Petition states:

The system for identifying absentee ballots was carefully constructed by the Georgia General Assembly to ensure that electors were identified by acceptable identification (O.C.G.A. § 21-2-417 even permits the use of an expired driver's license), but at some point in the process, the Georgia General Assembly mandated the system whereby the elector be identified for each absentee ballot.

Answer: Paragraph 60 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenor deny the allegations. To the extent a response is otherwise required, the Intervenor deny the allegations.

61. Paragraph 61 of the Petition states:

Under the Settlement Agreement, any determination of a signature mismatch would lead to the cumbersome process described in the settlement, which was not intended by the Georgia General Assembly, which authorized those decisions to be made by single election officials.

Answer: Denied.

62. Paragraph 62 of the Petition states:

Georgia law requires that its election officials enforce residency requirements on voters. Ga. Code § 21-2-218.

Answer: Paragraph 62 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenors deny the allegations because Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions.

63. Paragraph 63 of the Petition states:

Georgia election officials had residency information to verify that an actual person was voting according to their residence. Ga. Code§ 21-2-211.

Answer: Denied. Paragraph 63 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions, the Intervenors deny the allegations. To the extent a response is otherwise required, the Intervenors deny the allegations.

64. Paragraph 64 of the Petition states:

Georgia election officials violated Georgia law in not applying this change of address information to enforce residency requirements on voters who changed residency before the November 3, 2020 election. Ga. Code§ 21-2-211.

Answer: Denied.

65. Paragraph 65 of the Petition states:

Georgia law requires that its election officials enforce the prohibition on one person voting more than once. Ga. Code§ 21-2-572.

Answer: Paragraph 65 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenors deny the allegations because Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions.

66. Paragraph 66 of the Petition states:

Georgia election officials have access to information to prevent double voting. Ga. Code § 21-2-211.

Answer: Paragraph 66 of the Petition contains characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is otherwise required, the Intervenors deny the allegations because Petitioner's characterization and interpretation of the cited law differs from the text of the cited provisions.

67. Paragraph 67 of the Petition states:

Georgia election officials violated Georgia law in not applying this information to enforce Georgia's prohibition on double voting before the November 3, 2020 election.

Answer: Denied.

68. Paragraph 68 of the Petition states:

The people of Georgia had complaints about election officials' activities regarding the November 3 election. Harding Decl., Ex. G.

Answer: In response to Paragraph 68 of Plaintiff's Petition, the Intervenors lack sufficient information to admit or deny the allegations in Paragraph 68 of Plaintiff's Petition and on that basis deny the same.

69. Paragraph 69 of the Petition states:

The Georgia government's data was reviewed and presented by data analyst Matthew Braynard in an accompanying report. Braynard Decl.

Answer: The Intervenors admit that Petitioner filed a Declaration from Matthew Braynard but deny that he is qualified to opine as an expert in this subject area.

70. Paragraph 70 of the Petition states:

Dr. Qianying (Jennie) Zhang also provided an accompanying report based on statistical extrapolation from the data analysis of Matthew Braynard.

Answer: The Intervenors admit that Petitioner filed a declaration from Dr. Qianying Zhang but deny that Dr. Zhang is qualified to opine as an expert in this subject area.

71. Paragraph 71 of the Petition states:

Additionally, as to absentee voters, according to polling by John McLaughlin, Biden voters were significantly more likely (approximately 62%) to vote absentee than other candidates. McLaughlin Decl.

Answer: The Intervenors admit that Petitioner filed a Declaration from John McLaughlin but deny the allegations in Paragraph 71.

72. Paragraph 72 of the Petition states:

Based on the government's data and analysis, it is estimated that 20,431 is the minimum number of absentee ballots requested which were not requested by the person identified in Georgia's database. Braynard Decl.; Zhang Decl.

Answer: Denied.

73. Paragraph 73 of the Petition states:

Based on the government's data and analysis, it is estimated that 43,688 is the minimum number of absentee ballots that the requester returned but were not counted. Braynard Decl.; Zhang Decl.

Answer: Denied.

74. Paragraph 74 of the Petition states:

Based on the government's data, it is estimated that 138,221 electors voted were they did not reside. Braynard Decl.

Answer: Denied.

75. Paragraph 75 of the Petition states:

Based on the government's data, it is estimated that 20,312 out-of-state residents voted in Georgia. Braynard Decl.

Answer: Denied.

76. Paragraph 76 of the Petition states:

Based on the government's data, it is estimated that there were 395 double votes in Georgia. Braynard Decl.

Answer: Denied.

77. Paragraph 77 of the Petition states:

In summary, based on the government's data, it is estimated that there were 204,143 illegal votes counted and legal votes not counted-exceeding the Presidential contest margin of 12,670 votes in Georgia. Braynard Deel.; Zhang Decl.

Answer: Denied.

78. Paragraph 78 of the Petition states:

Georgia election officials' material violations of Georgia election law placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law. Ga. Code § 21-2-527.

Answer: Denied.

79. Paragraph 79 of the Petition states:

Georgia election officials' material violations of Georgia election law violated the voters due process rights under the state constitution and constituted and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law. Ga. Code§ 21-2-527.

Answer: Denied.

80. Paragraph 80 of the Petition states:

Georgia election officials' material violations of Georgia election law violated the voters equal protection rights under the state constitution and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law. Ga. Code§ 21 -2-527.

Answer: Denied.

81. Paragraph 81 of the Petition states:

Georgia election officials violated the Elections Clause and Electors Clause of the United States Constitution and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law. U.S. Constitution Art. 1 Sec. 4 cl. 1 and Georgia Code§ 21-2-527.

Answer: Denied.

82. Paragraph 82 of the Petition states:

Since the election result is legally null and void, the State of Georgia and the Secretary of State should be enjoined from certifying the election result so that the Georgia General Assembly can lawfully appoint the electors.

Answer: Denied.

83. Paragraph 83 of the Petition states:

The Governor of the State of Georgia should be enjoined to certify the Presidential electors under 3 U.S.C. § 6 appointed by the Georgia General Assembly.

Answer: Denied.

WHEREFORE, THE CONTESTANT PRAYS:

1. Paragraph 1 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** a declaratory judgment that Georgia election officials' material violations of Georgia election law placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law;

Answer: Denied.

2. Paragraph 2 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** a declaratory judgment that Georgia election officials' material violations of Georgia election law violated the voters' due process rights under the state constitution and constituted and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law;

Answer: Denied.

3. Paragraph 3 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** a declaratory judgment that Georgia election officials' material violations of Georgia election law violated the voters' equal protection rights under the state constitution and placed the results of a close Presidential election in Georgia in doubt and are null and void, as a matter of law;

Answer: Denied.

4. Paragraph 4 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** a declaratory judgment that Georgia election officials violated the Elections Clause and Electors Clause of the U.S. Constitution;

Answer: Denied.

5. Paragraph 5 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** an injunction enjoining the Secretary of State or any election body official in the State of Georgia from certifying the Presidential election so that the Georgia General Assembly can lawfully appoint the electors;

Answer: Denied.

6. Paragraph 6 of Petitioner's Prayer for Relief states:

That the Court **ISSUES** an injunction requiring the Governor of the State of Georgia to certify the Presidential electors under 3 U.S.C. § 6 appointed by the Georgia General Assembly if any;

Answer: Denied.

7. Paragraph 7 of Petitioner's Prayer for Relief states:

Or in the alternative, the Court **ORDERS** a second Presidential election in the entirety of the State of Georgia at a certain date and time, to include requiring the Georgia elections officials to abide by state law and provide transparency;

Answer: Denied.

8. Paragraph 8 of Petitioner's Prayer for Relief states:

That the Court **GRANTS** any other relief the Court **DEEMS** just and proper.

Answer: Denied regarding any relief that Petitioner seeks.

FIRST AFFIRMATIVE DEFENSE

Petitioner's claims are barred in whole or in part because this Court lacks jurisdiction to adjudicate Petitioner's claims where Petitioner has named the wrong defendants in the Petition, lacks standing, and has requested relief contrary to law and which this Court cannot grant.

SECOND AFFIRMATIVE DEFENSE

Petitioner's election contest is improper because he cannot contest the election of presidential electors.

THIRD AFFIRMATIVE DEFENSE

Petitioner's Petition fails to state a claim upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

Petitioner's Petition is barred by the equitable doctrine of laches.

PROPOSED INTERVENORS' REQUEST FOR RELIEF

Having answered Petitioner's Petition, the Intervenors request that the Court:

1. Deny Petitioner is entitled to any relief;
2. Dismiss Petitioner's Petition with prejudice;
3. Grant such other and further relief as this Court deems just and proper.

Dated: November 30, 2020.

Respectfully submitted,

/s/Adam M. Sparks

Halsey G. Knapp, Jr.

Georgia Bar No. 425320

Joyce Gist Lewis

Georgia Bar No. 296261

Susan P. Coppedge

Georgia Bar No. 187251

Adam M. Sparks

Georgia Bar No. 341578

KREVOLIN AND HORST, LLC

One Atlantic Center

1201 W. Peachtree Street, NW, Ste. 3250

Atlanta, GA 30309

Telephone: (404) 888-9700

Facsimile: (404) 888-9577

hknapp@khlawfirm.com

jlewis@khlawfirm.com

coppedge@khlawfirm.com

sparks@khlawfirm.com

Marc E. Elias*

Amanda R. Callais*

Emily R. Brailey*

PERKINS COIE LLP

700 Thirteenth Street NW, Suite 800

Washington, DC 20005

Telephone: (202) 654-6200

melias@perkinscoie.com

acallais@perkinscoie.com

ebrailey@perkinscoie.com

Kevin J. Hamilton*

Amanda J. Beane*

PERKINS COIE LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101

Telephone: (206) 359-8000

khamilton@perkinscoie.com
abeane@perkinscoie.com

Gillian C. Kuhlmann*
PERKINS COIE LLP
1888 Century Park East, Suite 1700
Los Angeles, California 90067
Telephone: (310) 788-3900
gkuhlmann@perkinscoie.com

Matthew J. Mertens
Georgia Bar No: 870320
PERKINS COIE LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Telephone: (503) 727-2000

Counsel for Proposed Intervenor-Defendants
**Pro Hac Vice Application Forthcoming*