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Via Electronic mail to: [jfuchs@sos.ga.gov](mailto:jfuchs@sos.ga.gov), [RGermany@sos.ga.gov](mailto:RGermany@sos.ga.gov)

The Honorable Brad Raffensperger  
Georgia Secretary of State  
214 State Capitol  
Atlanta, Georgia 30334  
Jordan Fuchs, Deputy Secretary of State  
Ryan Germany, General Counsel

RE: *Fifth* Request for Audit of Signatures on Absentee Ballot Applications and Ballot Return Envelopes for the November 3, 2020 General Election in the State of Georgia

Dear Secretary Raffensperger:

On behalf of President Donald J. Trump, candidate for President of the United States and Donald J. Trump for President, Inc., we are hereby requesting for the *fifth* time that you exercise your broad supervisory authority to order, as part of the ongoing statutory recount, an *immediate audit of the signatures* on absentee ballot applications and absentee ballot envelopes received in all counties in Georgia for the November 3, 2020 General Election. This would necessarily include signatures on absentee ballot applications returned for the 2020 Primary election, upon which the counties relied to automatically return an absentee ballot for the 2020 General Election (“the Signatures”).

**It is *not* possible for you to accurately certify the results in the presidential race from the November 3, 2020 election until and unless there is a thorough audit of the Signatures, which we have now requested *four* times in writing prior to this request. You cannot in good faith conclude the ongoing statutory recount until you have instituted a Signature matching audit. The margin in Georgia at this time is 12,670 votes – and the potential illegal absentee ballots included in that number is between three and four times the margin of votes awarding the victory to Joe Biden.**

The Georgia Election Code requires that voters who submit applications for absentee ballots must be positively identified, including the matching of the voter’s signature on the application for an absentee ballot. Indeed, the legislature has enacted a statutory framework for the applications for, processing, receipt and verifying all absentee ballots. *See* O.C.G.A. §§ 21-2-380 *et seq.*

Notwithstanding the statutory requirements, it is apparent that the process enacted by the legislature may not have been followed consistently in all counties in the State of Georgia during the 2020 General Election. An analysis of the absentee ballot rejection rate since 2016 by a data expert, performed at my request, confirms the following:

*Table 1: Mail-In Ballot Rejection rates by Election.*

Row	Ballot Status	2016 General	2018 General	2020 Primary	2020 General
1	Not returned (NULL)	25,948	36,074	333,608	133,886
2	Canceled	12,053	20,601	116,424	318,086
3	Spoiled	69	98	1,794	4,082
4	Rejected	6,059	7,889	11,772	4,471
5	Accepted	202,492	219,731	1,150,478	1,308,447
6	Total ballots (returned) (3+4+5)	208,620	227,718	1,164,044	1,317,000
7	Total ballots (mailed) (1+2+3+4+5)	246,621	284,393	1,614,076	1,768,972
8	Rejection rate (4 ÷ 6)	2.90%	3.46%	1.01%	0.34%

As Table 1 shows, Georgia's rate of rejection for mail-in ballots averaged 2.90% and 3.46% respectively for the 2016 and 2018 general elections. Concerning the 2020 primary election, the mail-in ballot rejection rate decreased to 1.01%.

In stark contrast even to the 2020 primary, the 2020 general election rejection rate decreased even further to just 0.34%.

If Georgia's historical mail-in ballot rejection rate of 2.90-3.46% is applied to the current mail in ballot numbers, there would have been between 38,250 and 45,626 ballots rejected in the 2020 general election, rather than the number actually rejected: 4,471.

This number represents between three and four times the margin of victory in the presidential race. Why would you *not* want to conduct an audit that could confirm what the results actually are, when your search for the truth would either set the public's mind at rest about the conduct of the election or, alternatively, change the outcome of the presidential election?

It is unconscionable that you continue to refuse to allow for any verification of the Signatures, particularly when there is a clear anomaly in the rate of rejection of the absentee ballots during the 2020 General Election – suggesting that the procedures required under Georgia law were not followed.

Your office has declared that the signature matching verification process yielded similar rejection rates as in prior elections. See [https://sos.ga.gov/index.php/elections/number\\_of\\_absentee\\_ballots\\_rejected\\_for\\_signature\\_issues\\_in\\_the\\_2020\\_election\\_increased\\_350\\_from\\_2018](https://sos.ga.gov/index.php/elections/number_of_absentee_ballots_rejected_for_signature_issues_in_the_2020_election_increased_350_from_2018)

However, your recent statement on the number of absentee ballots rejected in the 2020 election as compared to 2018 contains numerous misleading claims and outright incorrect data figures. These errors raise serious questions about the quality of the data that your office is using to make decisions and your office's understanding of that data.

First, the figure you reference in your statement for the number of mail-in ballots "cast" in the 2018 General Election is 284,393. In fact, this figure represents the number of mail-in ballots your office mailed out, not the number of ballots cast. The correct figure for ballots cast is 227,718, nearly a 20% difference.

Second, your figures for the total number of ballots "cast" in the 2020 Primary and General Elections are also incorrect. The figures you reference—1,151,371 and 1,322,529 mail-in ballots cast in the Primary and General Elections, respectively—match neither the total number of mail-in ballots cast nor the total number of mail-in ballots mailed in those elections. And, unlike your 2018 figure, your 2020 numbers are closer to the total number of mail-in ballots cast. While this is an improvement over your misleading 2018 figure, your conflation of terms—namely, ballots mailed and ballots cast—raises doubts about your office's understanding of its own data and its ability to conduct true "apples-to-apples" analysis across election cycles that inspires public confidence.

Third, in your statement, your office claims to know exactly how many mail-in ballots were rejected for signature issues as opposed to other reasons. You state that the number of ballots rejected for missing or non-matching signatures was 454 in the 2018 General Election; 3,266 in the 2020 Primary Election; and 2,011 in the 2020 General Election. Every one of these numbers is false. For one, the data between the 2018 and 2020 elections are not comparable. In the 2018 General Election, fully 203 unique reasons were entered into the free-text field entitled "Status Reason," ranging from "INSUFFICIENT OATH INFORMATION" to "RE" to "NO SIGNATURE. DID CALL HER." There are simply too many unique reasons listed with not enough specificity to conclude with any degree of confidence how many ballots in the 2018 election were rejected for signature issues. Meanwhile, in the 2020 elections, the number of reasons for ballot rejection reduces from 203 to five—two of which are entitled "Missing Signature" and "Invalid Signature." But even this change in methodology does not allow one to arrive at the same numbers your office provides. The number of mail-in ballots rejected for these two reasons in the 2020 Primary and General Elections was 1,998 and 3,212, respectively—not the 3,266 and 2,011 that your office asserts with confidence in its press release.

At the very least, these discrepancies raise serious concerns regarding the quality of data your office is using to make decisions, especially regarding your conclusions as to the correct number of votes cast in the presidential election. If your office is using a different, superior set of data as compared to what is posted publicly on your website, we encourage you to release it. Full transparency is the only way to restore the public's confidence in Georgia's elections, and it is why we are requesting a full audit of the Signatures of persons requesting absentee ballots in the 2020 General Election.

Indeed, the poor quality of the data that your office provides is why we performed our analysis using the top-line number of total ballots rejected for all reasons. This is the only like-for-like analysis that one can conduct on mail-in ballot rejection rates across election cycles, and it shows a clear and undeniable drop in the rejection rate—from 2.9 and 3.5% in 2016 and 2018, respectively, down to 0.3% in the 2020—while at the same the number of mail-in ballots cast exploded *sixfold*, a highly unlikely coincidence.

If your office is confident of your position, then you should welcome an audit of the Signatures to put to rest any doubt as to whether the laws of the State of Georgia were followed for purposes of processing absentee ballot applications and verifying the identity of the voters allowed to cast absentee ballots.

The absentee ballot envelopes are required by law in OCGA 21-2-390 to be delivered to the county clerk of superior court to be preserved. The absentee applications are retained by the registrars for 24 months per OCGA 21-2-390. In other words, the Georgia legislature has directed that the documents that should and must be audited, are required by law to be preserved, and we are presuming that all counties have complied with the law in that regard. It is imperative that those records be made available immediately for audit and review as described below.

There are several specific steps related to the vitally important Signature matching that must take place immediately, *before* the end of the current recount:

1. Order the counties to immediately undertake a review and audit of all documents with Signatures, related to the 2020 General Election absentee ballots, allowing monitors and poll watchers to meaningfully observe and see the actual signatures on the applications and return envelopes, *or*

2. Alternatively, and at the very least, we would request an audit of the Signatures, selecting the following records for a random sample of the Signatures, beginning from the date of receipt of the absentee ballot applications for the Primary 2020, where the applicant requested an absentee ballot for the General Election, through the last date of receipt of any ballot counted for the November 3, 2020:

- Absentee ballot applications containing the voter signatures (including ballot applications received in the primary, where a general election ballot was automatically forwarded without a separate application);
- Absentee ballot return envelopes containing the voter signatures;
- Voter files containing the voter signatures
- Logs or other memoranda with the identity of the election office employee(s) who conducted the signature verification for the application and the ballot, with date and time of receipt and processing of signature verification(s).

We also request the same information for *all* rejected absentee ballots

Below is the list of 15 counties for review of the above identified records:

County	Accepted mail-in ballots	% of accepted mail ballots, GA
COBB	148,577	11.4%
FULTON	142,406	10.9%
DEKALB	127,018	9.7%
GWINNETT	123,543	9.4%
CHATHAM	41,161	3.1%
CHEROKEE	37,487	2.9%
CLAYTON	31,449	2.4%
FORSYTH	30,654	2.3%
HENRY	29,162	2.2%
RICHMOND	27,775	2.1%
HOUSTON	20,130	1.5%
BARTOW	10,571	0.8%
FLOYD	8,661	0.7%
PICKENS	2,972	0.2%
HANCOCK	1,474	0.1%
<b>Grand Total</b>	<b>783,040</b>	<b>59.9%</b>

For a statistically significant sample size, we are requesting that ten percent (10%) of the returned and accepted absentee ballot envelopes from each of the identified counties be provided for inspection / audit. This statistically significant random sample of documents will allow the voters of Georgia – and America – to know what actually transpired with the absentee ballots in Georgia – and whether the laws of the state of Georgia were or were not followed.

3. We request that you immediately upload and make available to the public, appending to the voter files, any and all digital signatures from ballot applications received at any time during 2020, and the ballot envelopes from the November 3, 2020 General Election. Allowing the public to have access to the Signatures in order that citizens can conduct their own reviews and audits of the Signatures is an important step in restoring public confidence in the voting process for the 2020 General Election.

4. We request that you immediately publish all data files on which you rely for the incorrect statements you have made regarding the rejection rate for absentee ballots in the 2020 General Election.

5. We request that you require a verified, written report from each county to be released to the public, outlining the specific procedures followed by the county for verification of absentee voter identity, demonstrating full compliance with the Georgia Election Code.

Attached are the four previous communications to you requesting that you conduct an audit of the Signatures, dated November 10, 2020, November 12, 2020, November 23, 2020, and a November 23, 2020 email to your general counsel, with affidavits from witnesses testifying as to the failure of certain counties to conduct signature matching in compliance with state law.

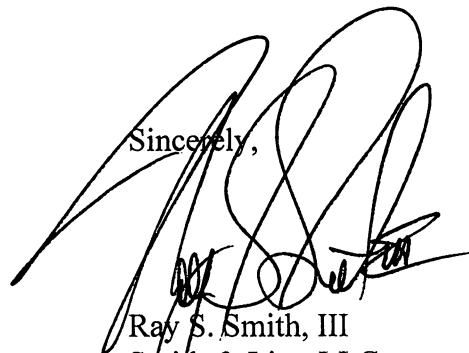
Also attached is an *amicus curiae* brief filed on July 30, 2020 by the Public Interest Legal Foundation and Landmark Legal Foundation in *The New Georgia Project v Raffensperger*, Case No. 1:20-cv-01986-ELR (NDGA), which details the importance of verification of absentee voter identity and the dramatically increased opportunity for voter fraud presented by massive increases in absentee voting.

We estimate that between 38,250 and 45,626 illegal votes may have been cast, counted, and included in your tabulations for the presidential race. It is inconceivable that you are unwilling to take *any* steps to audit the Signatures before completing the current recount and proceeding to certify the results of an election where so many illegal votes may be included in your tabulations.

We implore you to exercise your statutory authority and your duty to the electorate to audit the Signatures, before it is too late. Governor Brian Kemp has also publicly urged you to conduct the audit of the Signatures, as have Senators David Perdue and Kelly Loeffler, among others. There is absolutely no reason for your continued refusal to commence the audit of the Signatures and we are again asking – for the *fifth* time – that the Signature audit be ordered and commenced immediately.

Thank you.

Sincerely,



Ray S. Smith, III  
Smith & Liss, LLC  
Counsel to Donald J. Trump,  
candidate for President, and Donald  
J. Trump for President, Inc.

Attachments:

- November 10, 2020 – Letter to Secretary Raffensperger requesting Signature Audit
- November 12, 2020 – Letter to Secretary Raffensperger requesting Signature Audit
- November 23, 2020 – Letter to Secretary Raffensperger requesting Signature Audit
- November 23, 2020 – email to Ryan Germany, General Counsel to Secretary Raffensperger, requesting investigation of counties for failing to conduct Signature verification
- July 30, 2020 *Amicus Curiae* Brief of Public Interest Legal Foundation and Landmark Legal Foundation regarding Absentee Ballots and Verification to Prevent Fraud



November 10, 2020

**VIA U.S. Mail, and Hand-Delivery**

The Honorable Brad Raffensperger  
Georgia Secretary of State  
214 State Capitol  
Atlanta, Georgia 30334

Dear Secretary Raffensperger:

The Georgia Republican Party and The Donald J. Trump for President Campaign daily continue to receive hundreds of reports of voting discrepancies and errors statewide, including reports of tens of thousands of ballots being unlawfully counted.

To assure confidence in an honest vote, the law authorizes your office to recount and recanvass the ballots wherever and whenever needed prior to the certification of the consolidated returns.<sup>1</sup> The role of your office is to assure public confidence in the integrity and accuracy of the election process. Whenever any “discrepancy” or “error” even “appear” to be present, the law authorizes your office to take corrective action, including a full hand recount of all ballots. (See O.C.G.A. 21-2-495).

Millions of Georgians doubt the process for counting ballots in this state, including substantiated documentary, testimonial and expert evidence of each of the following categories of discrepancy and error your office can take meaningful effort to helpfully resolve: a) ineligible, out-of-state voters casting ballots in the General Election; b) deceased voters casting ballots after their death; c) duplicate ballots by voters; d) ballots counted that were received by mail, but lacked the signature verification required under Georgia law, the only safeguard to prevent false ballots from being included in the vote count when received by mail; e) voters denied the opportunity to vote a regular ballot

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<sup>1</sup> See O.C.G.A. 21-2-495; see also your office’s published Candidate Training Guide: Information for County, State and Federal Candidates.

The Honorable Brad Raffensperger

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on November 3 because they were advised that someone had already voted absentee in their name; f) denial of statutory access to observe the opening of ballots, and to observe the counting of ballots; and g) the illicit, ex parte meetings of Vote Review Panels excluding Republican panel members denied notice of the meeting and the opportunity to participate.

As you know, as the Georgia Secretary of State, your office is required by law to “proceed to tabulate, compute, and canvass the votes” for statewide offices and each slate of presidential electors. O.C.G.A. §§ 21-2-499(a) and 21-2-499(b). “In the event an error is found in the certified returns presented to the Secretary of State or in the tabulation, computation, or canvassing of votes as described in [O.C.G.A. § 21-2-499], the Secretary of State shall notify the county submitting the incorrect returns and direct the county to correct and recertify such returns.” O.C.G.A. § 21-2-499(a). Upon receipt of any corrected certified returns of a county, a new certification of the results is issued and filed in your office. *Id.*

On behalf of the Georgia Republican Party and The Donald J. Trump for President Campaign, we respectfully request, prior to certification of the election results, that your office exercise its statutory authority to order a manual hand recount of every ballot cast within the State of Georgia to ensure the integrity of the ballots and the election process, so that the citizens of Georgia and the United States can have confidence that the results are trustworthy. In order to accomplish that purpose, the following measures are needed to resolve public concerns over the above-mentioned and detailed discrepancies, to-wit:

1. Direct the counties, in the presence of party-designated observers, to re-canvass using a hand-count process the votes for President of the United States, United States Senator (Senator Perdue), and Georgia Public Service Commission (District 1/Commissioner McDonald);
2. Verify, in the presence of party-designated observers, the validity of the signature of any ballot received absentee or by mail;
3. Review the recorded list of voters to cross-check that no person who was unqualified to vote, was nonetheless able to cast a ballot, including those deceased at the time their ballot was cast, those who voted in other jurisdictions, those legally domiciled in other jurisdictions, those



in prison or felons not qualified to vote, and those not qualified citizens of the state;

4. Trace the chain of custody of the ballots from printing to sending, from receipt to counting, to document that the ballots being counted were cast in a legal manner, conforming to the chain of custody of all ballots, and
5. Inspection and confirmation that each ballot received by mail included the requisite notations of the date and time of receipt of the ballot, the signature verification of the absentee ballot, and the signature of the employee conducting the review, as required by Georgia law.

We appreciate your office's state commitment to "fully investigate" every irregularity, and we share this commitment to build confidence in this election. An honest vote requires every lawful vote lawfully cast to be counted and that every voter concern and complaint of irregularity be satisfactorily and thoroughly investigated before your office can tender its official certification to the election. As your office justifiably assured the public:

**If somebody has a credible complaint and they have some kind of evidence or trail to an evidence, they can give our office a call . . . cause we want to make sure we protect the integrity of the ballot because that's the way you're going to build trust back in the system that the outcome of the election is correct**  
--Georgia Secretary of State Press Conference November 6, 2020.

In that respect, we request that you investigate the issues identified above, and are further raised by affidavits we are providing to your office for purposes of your investigation. In particular, we are concerned that the counting of ballots took place in secret after Republican Party observers were dismissed because they were advised that the tabulation center was shutting down for the night. We are further concerned about the "duplication" of spoiled ballots without the statutorily required presence of witnesses.<sup>2</sup> It is a critical aspect of the truth-finding process of our American system of law that public scrutiny and the fresh light of transparency provides an oversight role critically missing from this election. Your office has publicly committed that

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<sup>2</sup> These affidavits are a sample of the evidence that has been collected.

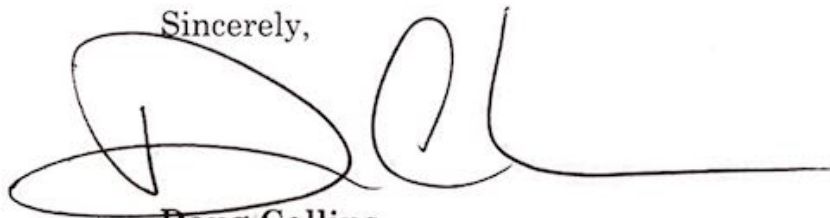
The Honorable Brad Raffensperger  
November 10, 2020  
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transparency was vital during the election process and we are troubled that there are multiple reports to the contrary. You have the opportunity through the aforementioned hand recount to restore the transparency that did not exist previously.

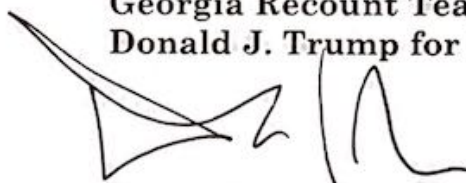
We appreciate your service and look forward to working with your office to accomplish our mutual objectives of protecting the integrity of Georgia's elections.

Should you need additional information, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to be "Doug Collins", written over a horizontal line.

**Doug Collins,  
Georgia Recount Team Leader  
Donald J. Trump for President**

A handwritten signature in black ink, appearing to be "David J. Shafer", written over a horizontal line.

**David J. Shafer  
State Chairman  
Georgia Republican Party**



November 12, 2020

*VIA U.S. Mail and Electronic Mail*

The Honorable Brad Raffensperger  
Georgia Secretary of State  
214 State Capitol  
Atlanta, Georgia 30334

Dear Secretary Raffensperger:

The Georgia Republican Party and The Donald J. Trump for President Campaign appreciate your announcement yesterday that you are exercising your discretionary authority under Georgia law<sup>1</sup> to order a statewide hand count of ballots cast in the November 2020 General Election, in response to our request earlier this week. You stated yesterday that the process would be “an audit, a recount and a recanvass all at once” and would help ‘build public confidence.’”

However, the training and directives issued today do not comport with your stated goals yesterday and do not satisfy our concerns that gave rise to our request for a hand count in the first place.

We write now to express our serious concerns regarding the training and directives issued today as to how the hand count is to be conducted by the counties. We do not believe that the protocols and procedures announced today will accomplish what we had requested in our letter or announced by your office yesterday. Absent immediate revisions, the people of Georgia cannot have confidence that the hand count and audit were meaningful or delivered on the promised objectives.

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<sup>1</sup> See O.C.G.A. 21-2-495

The Honorable Brad Raffensperger

November 12, 2020

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First, the audit does not include a review of signatures on absentee ballot applications and ballot envelopes to confirm the validity of the statutory signature verification process by the counties. Our analysis of your office's publicly available data shows that the number of rejected absentee ballots in Georgia plummeted from 3.5% in 2018 to 0.3% in 2020. This raises serious concerns as to whether the counties properly conducted signature verification and/or other scrutiny of absentee ballots. In fact, it presents the issue of whether some counties conducted any scrutiny at all.

We reiterate our earlier request that this hand count and audit process include a review of signatures on absentee ballot applications and envelopes in order to ascertain whether the signature verification process was properly executed by the counties. We believe that a review of the signatures is fundamental to this procedure. We do not believe it is possible to certify the results of the 2020 General Election without conducting this investigation and analysis.

Second, we have concerns about meaningful access to the auditing process by our designated monitors. Your office announced today that the state parties can designate only one reviewer for every 10 audit teams. That makes it impossible for hand count decisions to be reviewed in real time. One designated monitor cannot observe ten tables at once. Transparency has been a very significant problem during this election. During the initial vote tabulation, some counties placed ballot reviewers in multiple rooms and aggressively enforced arbitrary distancing restrictions that prevented poll watchers from effectively observing the tabulating process. In other counties, poll watchers were not allowed an unobstructed view of the tabulating process. We are concerned that your directive today has replicated and aggravated these problems.

You have publicly stated that transparency and openness are a high priority to you. That requires a system that allows our designated monitors to be able to meaningfully observe the audit and hand count. Having one monitor for ten audit teams does not allow for transparency. We hereby request that you allow designated monitors on a one-to-one ratio for every audit team as well as for every vote review panel.

The Honorable Brad Raffensperger

November 12, 2020

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We also request that you direct the counties to make certain that the designated monitors are able to confirm their ability to actually see the process as it occurs. Simply allowing monitors somewhere in the vicinity of the audit process is not sufficient for proper and meaningful oversight. And it is certainly not meaningful if the monitors are behind obstructions or not even in the same room as the audit teams and the vote review panels.

Third, we are very troubled by the directive issued today that counties must certify their results by 5:00 P.M. tomorrow. Given that the audit and recount will necessarily still be ongoing, it is completely improper for counties to be directed to certify the accuracy of the results before the audit and hand count are completed. The purpose of the audit and hand count is to ascertain whether the unofficial tabulations were accurate and conducted in accordance with state law. Only upon completion of the audit and hand count should there be a certification of the results – but not before. Please rescind your earlier directive that the counties are required to certify their results tomorrow afternoon. And we further request confirmation that your office will not rely on the accuracy of any certified results from the counties until after the hand count and audit are completed.

Fourth, we had expected to receive by yesterday the parameters for the hand count in order to provide sufficient time to the public of the process to be followed. However, your training and guidance were issued only within the last few hours and the counties are directed to start the audit tomorrow. That is simply not sufficient public notice of the existence, location, and times of the audits and hand counts. We would request that you delay the commencement of the process until Monday, November 16, 2020, in order to provide ample public notice in every county of the commencement and details of the audit. We would also request that the counties announce and post publicly and clearly when and where they will conduct the audit. It would be helpful to post that information from all the counties on your website. And, in that spirit, we would also request that you notify all counties that they must not begin the audit without public notice or outside the presence of our designated monitors.

Fifth, the security of the paper ballots is critically important. Aside from a single passing reference about security during today's training, the Secretary of State's office provided no substantive guidance regarding the necessity of maintaining the security of the ballots, the transporting of ballots, and documenting the chain of custody as required by law.

The Honorable Brad Raffensperger

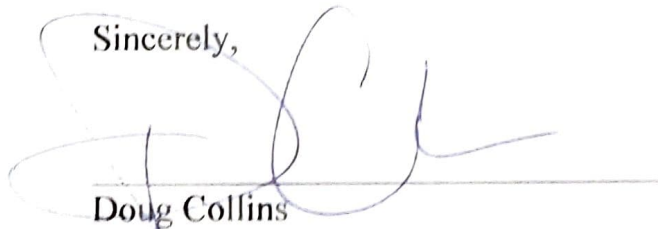
November 12, 2020

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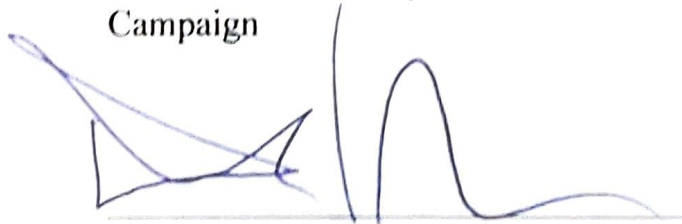
We appreciate your decision to proceed with the hand count as well as your public commitment to transparency and openness. The purpose of this letter is to identify the ways in which the announced process is counter to that intended purpose. We are more than willing to work with your office to accomplish our mutual objectives of protecting the integrity of Georgia's elections and to make certain that there is meaningful public access to the audit and vote review process.

Please contact the undersigned should you wish to discuss further. Thank you for your attention.

Sincerely,

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Doug Collins  
Georgia Recount Team Leader  
The Donald J. Trump for President  
Campaign

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David J. Shafer  
State Chairman  
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## VIA U.S. MAIL AND EMAIL

Hon. Brad Raffensperger  
c/o Ryan Germany, General Counsel  
Secretary of State  
State of Georgia  
214 State Capitol  
Atlanta, Georgia 30334  
[rgermany@sos.ga.gov](mailto:rgermany@sos.ga.gov)

November 23, 2020

Dear Secretary Raffensperger:

On behalf of President Donald J. Trump, we respectfully request that the statewide recount previously demanded by the Donald J. Trump Campaign pursuant to O.C.G.A § 21-2-495 (c) (1) (as set forth in State Election Board Rule 183-1-15-.03) (“Recount”) be robust, transparent, and conducted in a manner so that the American people have the highest degree of confidence in its outcome. It is within your inherent supervisory powers to do more than the minimum optical scan of the ballots as outlined in the aforementioned Code and Rule. Hundreds of thousands of Georgians voted via absentee ballot, and this information (and alleged signature matches) has yet to be thoroughly examined. The President of the United States requests that your office go beyond the Recount bare minimum and undertake, in addition to what is required by law, an absentee ballot audit. This audit has also been demanded by Governor Kemp, the Republican Party of Georgia, and now the President.

The below elements should be incorporated into a meaningful recount and audit:

### 1. Signature Verification of Absentee Ballot Requests and Ballot Envelope

We respectfully request that your office conduct the audit of absentee ballot signature verifications. This should be done live online, with party representatives present for adjudication. We request that the following records be produced publicly prior to the sample recount to ensure a random sample of returned and accepted absentee ballots be provided for inspection, including by Republican inspectors, beginning from the date of mailing through November 3, 2020:

- Absentee ballot applications containing the voter signatures.
- Absentee ballot return envelopes containing the voter signatures.
- Voter files containing the voter signatures
- Logs or other memoranda with the identity of the election office employee(s) who conducted the signature verification for the application and the ballot, with date and time of receipt and processing of signature verification(s).

Below is the list of 15 counties for review of the above identified records:

<b>County</b>	<b>Accepted mail-in ballots</b>	<b>% of accepted mail ballots, GA</b>
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PICKENS	2,972	0.2%
HANCOCK	1,474	0.1%
<b>Grand Total</b>	<b>783,040</b>	<b>59.9%</b>

For a statistically significant sample size, we request that ten percent (10%) of the returned and accepted absentee ballot envelopes from each of the identified counties be provided for inspection / audit.

2. **Verification that Ballots are not Counterfeit, Duplicates, or Test Ballots**

The absentee ballots being recounted should first be checked to ensure they are authentic and genuine. The following non exhaustive list includes scientific factors to be examined:

- Ballot paper type and weight;
- Ballot paper origin and manufacture date;
- Ballot paper brightness and color; and
- Fold mark measurements.



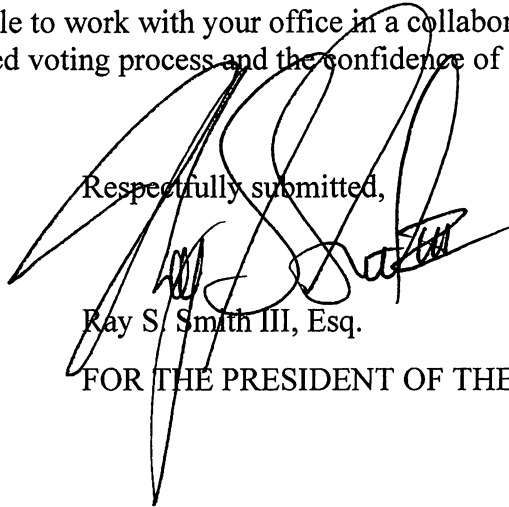
The Honorable Brad Raffensperger

November 22, 2020

Page 3 of 3

We stand ready, willing and able to work with your office in a collaborative fashion in order to ensure the integrity of the sacred voting process and the confidence of its outcome.

Respectfully submitted,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and lines, positioned over the typed name and title.

Ray S. Smith III, Esq.

FOR THE PRESIDENT OF THE UNITED STATES

cc: Hon. Rudy Giuliani, Esq.

**From:** Ray S. Smith, III  
**Sent:** Monday, November 23, 2020 11:02 PM  
**To:** [rgermany@sos.ga.gov](mailto:rgermany@sos.ga.gov)  
**Subject:** Affidavits  
**Importance:** High

Dear Ryan:

Pursuant to today's conversation, attached please find multiple affidavits that are being submitted to the Secretary of State for investigative purposes. We request that your office protect the identities of the affiants throughout the course of your investigation. These affidavits should be treated as confidential as they are being submitted in reliance of the promised ongoing investigation into voting irregularities during this 2020 General Election.

Be advised that these affidavits are being submitted on behalf of the President of the United States in support of his request, as well as that of the GA GOP's request, that the Secretary of State investigate irregularities and allegations of violations pertaining to Georgia's signature match process (and lack thereof) as well as the treatment and processing of mail in absentee ballots.

We are prepared to cooperate with Secretary Raffensberger and his office in this important endeavor and we renew our request that the Secretary initiate an audit of the Signature Applications and Match as outlined in the President's letter of 11/22.

Thank you,

Ray S. Smith III, Esq.  
FOR THE PRESIDENT OF THE UNITED STATES

Ray S. Smith III  
Partner

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
Atlanta Division**

THE NEW GEORGIA PROJECT,  
*et al.*,

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, in his  
official capacity as the Georgia  
Secretary of State and the Chair of the  
Georgia State Election Board, *et al.*

*Defendants.*

Case No. 1:20-cv-01986-ELR

**BRIEF OF THE PUBLIC INTEREST LEGAL FOUNDATION AND  
LANDMARK LEGAL FOUNDATION AS *AMICI CURIAE* IN  
OPPOSITION TO PLAINTIFFS’ MOTION FOR PRELIMINARY  
INJUNCTION**

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## INTRODUCTION

Plaintiffs ask this Court to invalidate five elements of Georgia’s absentee ballot voting procedures: (1) the process for notifying voters on incomplete absentee ballot applications (“Error Notification”), [O.C.G.A. § 21-2-381\(b\)\(4\)](#); (2) the age restriction on those who are allowed to submit one application to vote by mail for an entire election cycle, (“Absentee Application Age Restriction”), [O.C.G.A. § 21-2-381\(a\)\(1\)\(G\)](#); (3) the failure to provide prepaid postage on absentee ballots (“Postage Requirement”); (4) the rejection of absentee ballots received after 7:00 p.m. on Election Day (“Receipt Deadline”), [O.C.G.A. § 21-2-386\(a\)\(1\)\(F\)](#); and (5) the prohibition on third-party assistance for absentee ballots (“Ballot Harvesting Ban”), [O.C.G.A. § 21-2-385\(a\)](#). (Doc. # 33 p. 10.)

Plaintiffs have not established their entitlement to relief under relevant precedent. *Amici* Public Interest Legal Foundation (“PILF”) and Landmark Legal Foundation (“Landmark”) therefore respectfully urge the Court to deny Plaintiffs’ request for preliminary injunction.

## ARGUMENT

### I. PILF's Voter Roll Research.

#### A. PILF's Research and Submission of Findings to the Georgia Secretary of State.

As part of its organizational mission, PILF analyzes voter rolls across the Nation to assess their health. In November 2019, PILF received a copy of Georgia's statewide voter roll. Then, at considerable expense for a 501(c)(3) charitable organization, using detailed methodologies and matching techniques (described *infra* and in the attached letter), PILF identified registrations that are potentially inaccurate, outdated, or no longer valid. In Georgia, these registrations include the following: (1) registrations belonging to potentially deceased individuals; (2) registrations that are potentially duplicated across county lines; (3) registrations that are potentially duplicated within the same county; and, (4) persons potentially registered twice across state lines. PILF also reviews voting histories to determine if one or more voting credits were assigned to these potentially problematic entries. A voting credit is a government record from the state of Georgia indicating whether a registrant voted in a particular election. On June 19, 2020, PILF sent a letter to the Georgia Secretary of State that described PILF's methodology and findings and asked the Secretary to investigate and take



corrective action where necessary.<sup>1</sup> Exhibit A (hereafter, the “Letter”).

**B. PILF Matched More than 4,200 Registrations to a Verifiable Record of Death.**

PILF’s research indicates that there were potentially more than 4,200 deceased individuals with an active registration in Georgia in the voter roll data purchased by PILF. Letter at 1. While it is true that the Georgia Secretary of State may have removed some of these deceased registrants in the intervening time and may endeavor to keep deceased registrants off the list of eligible registrants, the record is not subject to dispute that there have been deceased registrants on the rolls. Each of those potentially deceased individuals presents an opportunity for confusion and even fraud. Anyone with access to a deceased registrant’s date of birth and address information<sup>2</sup> could attempt to request a ballot in the name of the deceased.

Georgia law presently limits the universe of people who may collect and deliver the voted ballot of another person. *See* [O.C.G.A. § 21-2-385\(a\)](#). Those limits are designed to safeguard the votes of those who are unable to deliver or mail their own ballot, including the disabled. Plaintiffs ask this Court to remove

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<sup>1</sup> Election officials are the final judge of voter eligibility. PILF asks election officials to do what is permissible under state and federal law to investigate the leads PILF submits.

<sup>2</sup> *See* Application for Official Absentee Ballot, *available at* [https://sos.ga.gov/admin/files/Absentee\\_Ballot\\_Application\\_2018.pdf](https://sos.ga.gov/admin/files/Absentee_Ballot_Application_2018.pdf) (last accessed July 14, 2020).

those limits and allow anyone to collect and deliver the voted ballots of other absentee voters. If such relief is granted, someone who successfully requests a ballot in the name of the deceased could also deliver and submit that ballot. Were someone to succeed in doing so, it would cancel out the legitimate vote of another Georgian.

In order to ensure a high degree of confidence, PILF matched voter roll data against the federally maintained cumulative Social Security Death Index (SSDI), and where possible, against the SSDI and printed obituaries and other public notices. Letter at 1. Approximately 89 percent of registrants matched against the SSDI list a date of death in November 2019 or earlier, with some dates of death reaching back as far as 2010. Letter at 1.<sup>3</sup>

**C. PILF Identified Potentially Duplicated Registrations with Apparent Voting Credits Assigned for Georgia Elections.**

PILF's letter also alerted the Secretary to registrations that are potentially duplicated within the same Georgia county (intracounty) and across county lines (intercounty) that were apparently assigned voting credits for the same election. Letter at 2. For the 2016 General Election, more than 570 potential intercounty duplicates were apparently assigned voting credits, and more than 9,600 potential intracounty duplicates were apparently assigned voting credits, according to public

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<sup>3</sup> The true number of deceased registrants is likely even higher because PILF analyzed only registrants with active registrations.

records. *Id.* For the 2018 General Election, nearly 9,900 potential intracounty duplicates were apparently assigned voting credits, according to public records. *Id.* PILF cannot confirm whether the apparent duplicate registrations did or did not cast ballots, only that the records from election officials indicated that they did.

The number of people with two or more active duplicate registrations is almost certainly even higher because PILF flagged only registrations that were assigned voting credits. In addition, PILF has not yet accounted for some well-known causes of duplication, such as married-name confusion, which happens when a registrant becomes married and then submits a subsequent registration using a different last name. Such cases of duplication would only increase the total number of duplicate active registrations. PILF has seen those circumstances result in significant numbers of likely duplicated registrations in other jurisdictions.

It is paramount that Georgia's election officials investigate and confirm the registrations PILF flagged and further examine Georgia's voter rolls for other duplicate entries prior to the entry of any injunctive relief that would exacerbate these defects.

**D. PILF Identified Potentially Duplicated Registrations with Apparent Voting Credits Assigned for Elections in Georgia and Another State.**

Using voter roll extracts obtained from other states, PILF performed a detailed matching analysis to discern the number of registrants who are potentially

registered in more than one state. Using this methodology, PILF alerted the Secretary's office to more than 840 potentially duplicated registrations across state lines where it appeared that voting credits were assigned for the 2018 General Election in each state, according to public records. Letter at 2. PILF cannot confirm whether the apparent duplicate registrations did or did not cast ballots, only that government records indicated that they did.

PILF and Landmark invite the Court to appoint an *Amicus Curiae* to verify PILF's voter roll research. PILF's research can be replicated. PILF hopes that replication can resolve any doubts concerning ambiguities or uncertainties in the data. PILF therefore invites the Court to verify its research. PILF welcomes efforts to verify and improve upon its work so that the Court is working with the most accurate and up-to-date data when rendering a decision in this matter. For example, PILF invites the Court to appoint its own *amicus curiae* to replicate the study to ascertain the number of duplicate registrations on the public voter rolls in Georgia, if the Court believes it is warranted.

## **II. Reasonable Protections for Absentee Voting Do Not Violate the Voting Rights Act nor Are They Unconstitutional.**

Georgia's laws designed to ensure the accuracy and integrity of its absentee voting system are reasonable, impose a minimal burden on voters, and fall well within a state's authority to regulate the time, place, and manner of its elections.

U.S. Const. Art. I., § 4. They do not violate the Voting Rights Act nor are they unconstitutional.

The right to vote in any way one wishes is not absolute. *Burdick v. Takushi*, 504 U.S. 428, 433 (1992). There is no constitutional right to vote by absentee ballot. *Griffin v. Roupas*, 385 F.3d 1128, 1130-31 (7th Cir. 2004). To achieve the necessary objective of a fair, orderly, and honest election, states enact comprehensive and sometimes complex election codes. These provisions affect—at least to some degree—the individual’s right to vote. *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983). Reasonable and nondiscriminatory restrictions are justifiable because of a state’s important regulatory interests in ensuring a fair and honest election. *Id.* Voting regulations, therefore, do not automatically trigger strict scrutiny—even when they affect the right to vote. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997).

Thus, courts must determine the burden the regulation places on voters when setting the standard of review. “While a rational basis standard applies to state regulations that do not burden the fundamental right to vote, strict scrutiny applies when a state’s restriction imposes ‘severe’ burdens.” *NE Ohio Coal. for Homeless v. Husted*, 696 F.3d 580, 592 (6th Cir. 2012). In less severe cases, courts apply the flexible *Anderson-Burdick* standard:

Under this test,

A court considering a challenge to a state election law must weigh “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate” against “the precise interests put forward by the State as justifications for the burden imposed by the rule,” taking into consideration “the extent to which those interests make it necessary to burden the plaintiff’s rights.”

*Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789). There is thus no “litmus test” to separate valid from invalid voting regulations. Courts must balance the burden placed on voters against the state’s asserted justifications and “make the ‘hard judgment’ that our adversary system demands.” *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 190 (2008). Any burden should be “justified by relevant and legitimate state interests ‘sufficiently weighty to justify the limitation.’” *Crawford*, 553 U.S. at 191 (quoting *Norman v. Reed*, 502 U.S. 279, 288-289 (1991)).

The protections challenged by the Plaintiffs do not violate this standard. The notification process requirement that a voter completing an absentee ballot provides enough information to establish identity guards against fraud. Requiring verification of identity ensures a fair and honest election. The process also requires election officials to “promptly” notify the voter should the request contain errors. O.C.G.A. § 21-2-381(b)(4). It is a minimal burden that is especially necessary because of the increasing likelihood that large numbers of absentee ballots may be

cast in the General Election. The receipt deadline ensures finality and reduces the opportunities for post-election voter fraud.

**A. Absentee Voting Systems Require Special Protections and They Are Particularly Vulnerable to Fraud.**

Plaintiffs allege that Georgia law disenfranchises lawful voters. (Doc. # 33 p. 10). They are incorrect and fail to consider the inherently vulnerable nature of voting by absentee ballot. *See United States v. McCranie*, [169 F.3d 723, 725-26](#) (11th Cir. 1999) (“most of the illegal vote buying occurred during the absentee voting period”). In short, opportunities for fraud abound when individuals vote by absentee ballot. Presidential Commission on Election Administration, *Building Confidence in U.S. Elections: Report of the Commission on Federal Election Reform* 46 (2005) (“Carter–Baker Report”).<sup>4</sup> For example, voting occurs outside the strictly regulated confines of the precinct, where election officials guard against undue influence and electioneering, ensure compliance with voting laws and maintain the chain of custody of ballots. Thus, the absentee ballot process “remains the largest source of potential voter fraud.” *Id.* Fraud occurs in several ways. First, blank ballots mailed to wrong addresses or apartment buildings can be intercepted. *Id.* Second, voters are particularly susceptible to pressure or intimidation when voting at home or from a nursing home. *Id.* Finally, third-party organizations can

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<sup>4</sup> Available at <https://www.legislationline.org/download/id/1472/file/3b50795b2d0374cbef5c29766256.pdf> (last visited July 14, 2020).

operate illicit “vote buying schemes” that are “far more difficult to detect when citizens vote by mail.” *Id.*

Even a study skeptical of the incidence of voter fraud generally acknowledges the dangers in vote-by-mail. It notes that – when fraud does occur, “absentee ballots are often the method of choice.” Presidential Commission on Election Administration, *The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration 56* (2014).<sup>5</sup>

Voter registration errors also contribute to voting system vulnerabilities. Millions of voters’ names appear on multiple state voter registration lists because states do not routinely share registration data. *Id.* at 28. In 2012, The Pew Center on the States found that about 24 million (one in eight) voter registrations were no longer valid or contained significant inaccuracies with 1.8 million deceased individuals listed on voter rolls and 2.75 million names on registrations in more than one state. The Pew Center on the States, *Inaccurate, Costly and Inefficient: Evidence that America’s Voter Registration System Needs an Upgrade 1-5* (February 2012).<sup>6</sup>

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<sup>5</sup> Available at [https://elections.delaware.gov/pdfs/PCEA\\_rpt.pdf](https://elections.delaware.gov/pdfs/PCEA_rpt.pdf) (last visited July 14, 2020).

<sup>6</sup> Available at [https://www.pewtrusts.org/~media/legacy/uploadedfiles/pes\\_assets/2012/pewupgradingvoterregistrationpdf.pdf](https://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2012/pewupgradingvoterregistrationpdf.pdf) (last visited July 14, 2020).



These inaccuracies can, in part, be traced to states' failures to enforce the provisions of the National Voter Registration Act (NVRA), which require election officials to ensure the accuracy of registration lists by confirming residency and periodically removing the names of dead or out of state residents from voter rolls. [52 U.S.C. § 20507.](#)

As discussed, *supra*, *amicus* PILF's research found potential inaccuracies on Georgia's voter registration rolls. These registration errors make an already vulnerable voting system even more susceptible to fraud. Necessary protections such as placing deadlines on when absentee ballots are received, limiting who may handle ballots or ensuring absentee ballot applications are essential to limit opportunities for fraud. *See* Carter-Baker Report at 47.

**B. The Absentee Application Age Restriction Does Not Violate the 26th Amendment.**

Without any relevant basis in the law, Plaintiffs allege the absentee age restriction violates the 26th Amendment. (Doc. # 33 p. 62.) They are incorrect. The 26th Amendment lowered the voting age from 21 years to 18 years. U.S. Const. Amend. XXVI. It expands the pool of eligible voters. It does not prohibit states from enacting reasonable protections to ensure the integrity of the vote. The state of Georgia's statutory provision permitting elderly residents to cast absentee ballots does not deny others the right to vote. Rather, it is a commonsense

accommodation to ensure infirm and elderly citizens are able to vote while allowing the state to maintain an orderly election process.

Protections enacted by states on absentee voting are subject to a “rational basis standard” because voting in this fashion is not a fundamental right. *Texas Dem. Party v. Abbott*, No. 20-50407, [2020 U.S. App. LEXIS 17564 at \\*26](#) (5th Cir. June 4, 2020). As older voters face unique challenges in their ability to vote in-person, the state is justified in providing them an exclusive accommodation. Accordingly, Plaintiffs should not succeed on their 26th Amendment challenge.

Prior to ratification of the 26th Amendment, Congress lowered the voting age from 21 years to 18 years by amending the Voting Rights Act. Congress determined that imposing “national defense responsibilities” upon 18 to 21-year-olds while denying that class of individuals the right to vote was particularly unfair. The amendments applied to all federal, state and local elections. The statute was limited to federal elections by the Supreme Court in *Oregon v. Mitchell*, [400 U.S. 112, 223](#) (1970). The VRA amendments, however, did not create a universal ban on any secondary age requirements that a state might place on absentee voting – they simply guaranteed those 18-years-old and older the right to vote.

In response to *Oregon v. Mitchell*, Congress, with support from the states, proposed to expand the franchise to those 18-years-old and older to all elections through the 26th Amendment. Ratification occurred after extensive debates on the

abilities of 18-year-olds to conscientiously participate in the election process. Congress determined that most people between ages 18 and 21 had completed high school, bore all or most of an adult's responsibilities, and ought to be extended the opportunities to influence society in a constructive manner. *See* Cong. Research Service, *The Eighteen Year Old Vote: The Twenty-Sixth Amendment and Subsequent Voting Rates of Newly Enfranchised Age Groups*, May 20, 1983, Report No. 83-103.

The ratification history and case law pertaining to the 26th Amendment do not support Plaintiffs' expansive and unfounded claims.

**C. Georgia's Requirement that Prospective Absentee Voters Pay Their Own Postage Does Not Violate the 24th Amendment.**

The Plaintiffs allege that Georgia's requirement that absentee ballot voters pay their own postage to return completed ballots violates the 24th Amendment. (Doc. # 33 p. 35.) Plaintiffs demand that the Court open Pandora's box to the indirect costs associated with voting. Their argument goes well beyond the scope of the Amendment's text and should be rejected.

The 24th Amendment prohibits conditioning the right to vote in federal elections upon payment of a "poll tax or other tax." U.S. Const. Amend. XXIV. Under equal protection grounds, the Supreme Court found that the right to vote in a state election could not be conditioned upon payment of a fee as well. *Harper v. Virginia Bd. of Elections*, [383 U.S. 663, 668-69](#) (1966). The state cannot force a

voter to choose between a poll tax and a cumbersome burden. In the first Supreme Court case interpreting the amendment, the Court struck down a state law requiring either the payment of a poll tax or the filing of a certificate of residence six months before the election. *Harman v. Forssenius*, [380 U.S. 528, 533-34](#) (1965). The state's scheme for filing the certificate was "plainly a cumbersome procedure" so that many would prefer just paying the poll tax. *Id.* at 541.

Georgia does not condition the right to vote on the payment of any poll tax or fee, nor does it impose any cumbersome burden in lieu of a poll tax. *See* [O.C.G.A. § 21-2-216\(a\)](#) (elector's qualifications); [O.C.G.A. § 21-2-381](#) (application for absentee ballot); [O.C.G.A. § 21-2-385](#) (voting by absentee electors). Georgia voters have several methods of voting. They can vote in person at the ballot box or during early voting. They can vote by absentee ballot and hand deliver the ballot to the county elections office. They can vote by absentee ballot and have the U.S. postal service deliver the ballot in the return envelope. Plaintiffs contend that, when using this last option to vote, the indirect cost of postage amounts to a tax.

Yet courts have not extended the 24th Amendment in several cases in which fees arise indirectly, such as the restoration of rights of former felons and voter identification laws. In former felons cases, circuit courts have rejected claims that the amendment prohibits their re-enfranchisement turning on payment of child

support, *see Johnson v. Bredesen*, [624 F.3d 742](#) (6th Cir. 2010), payment of past due fines or restitution, *see Harvey v. Brewer*, [605 F.3d 1067](#) (9th Cir. 2010) (O'Connor, J. (retired)), or even a fee to cover the process for reinstatement of voting rights, *see Howard v. Gilmore*, No. 99-2285, [2000 U.S. App. LEXIS 2680](#) (4th Cir. Feb. 23, 2000).

In contrast, however, a district court recently held that a state “*can* condition voting on payment of fines and restitution that a person is able to pay but *cannot* condition voting on payment of amounts a person is unable to pay or on payment of taxes, even those labeled fees or costs.” *Jones v. Desantis*, No. 4:19cv300-RH/MJF, [2020 U.S. Dist. LEXIS 90729](#), at \*7 (N.D. Fla. May 24, 2020) (emphasis in original). While affirming a preliminary injunction in the same case, the 11th Circuit ruled earlier that states cannot condition voting on the payment of an amount a person is genuinely unable to pay. *Jones v. Governor of Fla.*, [950 F.3d 795, 800](#) (11th Cir. 2020).

The district court’s opinion in *Jones v. Desantis* conflicts with the reasoning in *Harvey v. Brewer*. In *Harvey*, Justice O’Connor shunned the type of expansive reading of the amendment that is urged by the Plaintiffs in this case.

Plaintiffs’ right to vote was not abridged because they failed to pay a poll tax; it was abridged because they were convicted of felonies. Having lost their right to vote, they now have no cognizable Twenty-Fourth Amendment claim until their voting rights are restored. That restoration of their voting rights requires them to pay all debts owed under their criminal sentences does not transform their criminal fines into poll taxes.

*Id.* at 1080.

The argument—that the costs associated with obtaining identification to vote violated the amendment—also failed in the Ninth Circuit. *Gonzalez v. Arizona*, [677 F.3d 383](#) (9th Cir. 2012). In *Gonzalez*, plaintiffs argued that because some voters did not have the identification required under Arizona law, those voters would have to spend money to obtain it, making this payment indirectly equivalent to a tax on the right to vote. The court disagreed, stating, “Although obtaining the identification required under [the law] may have a cost, it is neither a poll tax itself (that is, it is not a fee imposed on voters as a prerequisite for voting), nor is it a burden imposed on voters who refuse to pay a poll tax.” *Id.* at 407.

In fact, all forms of voting often require indirect costs. Voters may have to pay for gas to drive to a polling place or pay for public transportation. Anyone outside walking distance of a polling place has an indirect cost. Voters may also have to take time off from work to vote on Election Day, requiring hourly workers to lose income. The danger of Plaintiffs’ argument is that it has no limiting principle and would bring such costs under constitutional scrutiny. This would raise the administrative costs of elections for the states exponentially.

However, Plaintiffs do not stop with postage. They argue that beyond the cost of a stamp, going out to buy a stamp is a complicated process that imposes more financial costs. (Doc. # 33 at 12.) Local post offices may not be open and

available to answer questions, delaying the voting process. This is nowhere near the administrative burdens at issue in *Harman v. Forssenius*.

**D. Georgia's Limitations on Who Handles Absentee Ballots Limits Opportunities for Voter Fraud.**

The inherently vulnerable nature of absentee voting coupled with registration errors makes it imperative to enact and enforce reasonable limitations on who handles absentee ballots. Should ineligible individuals receive absentee ballots, harvesting groups can easily exploit the situation and commit wholesale voter fraud. Such exploitation has occurred in the past. For example, in 2004, 1,700 voters registered in both New York and California requested vote-by-mail ballots to be mailed to their home in the other state with no investigation. Carter-Baker Report at 12.

Absentee ballots mailed to addresses of those who have moved or died are vulnerable to ballot harvesting. Unaccounted-for ballots are currency to harvesters. Georgia's limitations on who handles ballots, however, are a useful tool to ensure that ballots sent to ineligible registrants are not collected and submitted by unscrupulous individuals or organizations. Removal of this protection exposes this system to persons who seek to unlawfully affect the outcome of elections. The U.S. Supreme Court has recognized incidents of voting fraud that have occurred in vote-by-mail systems. *Crawford v. Marion County Election Bd.*, [553 U.S. at 195-196](#). The Court noted that fraudulent voting in the 2003 Democratic primary for East

Chicago Mayor, “perpetrated using absentee ballots,” demonstrated “that not only is the risk of voter fraud real but that it could affect the outcome of a close election.” *Id.*

Lack of significant regulation on the absentee ballot voting process led to widespread “ballot harvesting” in California in 2018. “[P]olitical operatives, known as ‘ballot brokers,’ ...identify specific locations, such as large apartment complexes or nursing homes” to exploit the voting process. U.S. House of Representatives Committee on House Administration Republicans, *Political Weaponization of Ballot Harvesting in California 2* (May 14, 2020) (“Committee Report”).<sup>7</sup> After establishing relationships with individuals in these locations, ballot brokers would “encourage, and even assist, these unsuspecting voters in requesting a mail-in ballot; weeks later when the ballot arrives in the mail the same ballot brokers are there to assist the voter in filling out and delivering the ballot.” *Id.* As noted in the Committee Report, “[t]his behavior can result in undue influence in the voting process and destroys the secret ballot, a long-held essential principle of American elections intended to protect voters.” *Id.* It continued, “These very scenarios are what anti-electioneering laws at polling locations are

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<sup>7</sup> Available at <https://republicans-cha.house.gov/sites/republicans.cha.house.gov/files/documents/CA%20Ballot%20Harvesting%20Report%20FINAL.pdf> (last visited July 14, 2020).



meant to protect against. A voter cannot wear a campaign button to a polling location, but a political operative can collect your ballot in your living room?” *Id.*

Ballot harvesting appeared to affect the outcome of several races for the U.S. House of Representatives in California. For example, in the 39th Congressional district, Young Kim, the Republican candidate, led the vote count on election night and in the week following election day. Ms. Kim even traveled to Washington D.C. for orientation as a new member of the House. “Two weeks later, the Democrat challenger was declared the winner after 11,000 mail ballots were counted, many of which were harvested.” *Id.* at 3. In the 21st Congressional district, Republican David Valadao led by almost 5,000 votes on election night. The final tally of votes led to Mr. Valadao’s Democratic challenger winning by 862 votes – a swing of 5,701 votes. *Id.* These votes, “heavily favored the Democrat candidate at a much higher rate than previously counted ballots.” *Id.* The swing in counted votes was due largely to numbers of vote-by-mail ballots that had been dropped off at the polls and were processed and counted in the days following the election. “In Orange County alone, 250,000 mail ballots were turned in on Election Day.” *Id.* at 4. Such last-minute actions can overwhelm election officials’ ability to properly validate every ballot before the certification deadline. California’s insufficient signature verification standards only added to this post-election chaos.

This uncertainty and after-the-fact results undermine the public’s confidence in the integrity of the election process. And “[c]onfidence in the election process is essential to the functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006). The Court continued, “Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government.” *Id.*

Limiting who handles vote-by-mail ballots to the voter, an acknowledged family member, the U.S. Postal Service, caregivers, or election officials is reasonable and provides a necessary protection to guard against voter manipulation and voter fraud. As voter rolls are not accurate and as voting by mail is the method of choice for those who seek to commit fraud, reasonable protections are essential. The benefits of preventing fraud, intimidation, and undue influence on voters by limiting who can handle vote-by-mail ballots far outweighs the minimal burden imposed by Georgia’s law.

### **CONCLUSION**

This Court should accordingly deny Plaintiffs’ request for a preliminary injunction.

Dated: July 15, 2020

Respectfully Submitted,

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\*Motion for admission *pro hac vice* forthcoming

The undersigned certifies that the foregoing document was prepared in 14-point Times New Roman font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald  
Harry W. MacDougald  
Georgia Bar No. 463076

**EXHIBIT A**

**Public Interest Legal Foundation Letter to Georgia  
Secretary of State Brad Raffensperger**

**June 19, 2020.**

# PUBLIC INTEREST

— LEGAL FOUNDATION —

VIA FACSIMILE and USPS

June 19, 2020

**The Hon. Brad Raffensperger**  
**Georgia Secretary of State**  
Elections Division  
2 MLK Jr. Drive  
Suite 802, Floyd West Tower  
Atlanta, GA 30334  
Fax: (404) 463-5231

**Re: Voter List Maintenance Leads  
Request for Meeting**

Dear Secretary Raffensperger:

Our organization—the Public Interest Legal Foundation—is a non-partisan, 501(c)(3) public-interest organization that is dedicated entirely to promoting the integrity of elections nationwide through research, education, remedial programs, and litigation. As part of our mission, we study, audit, and analyze voter rolls throughout the country to assess their health and accuracy. We compare voter roll data against federal and other public or commercial databases to flag registrations that may be incomplete, outdated, or no longer valid. We then submit findings and leads to proper election officials for further investigation and confirmation to better aid voter roll maintenance programs.

We write today to offer you our findings for the State of Georgia.

## **Summary of Findings and Methodology**

### **1. Potentially Deceased Registrants with an Active Registration.**

In November 2019, we received a copy of the Georgia voter registration extract from your offices. The “active” portion of the extract was compared against the U.S. Social Security Death Index (SSDI), a database made available via the U.S. Social Security Administration. Where possible, voter registration entries were compared against the SSDI *and* printed obituaries and other public notices.

Our analysis showed there were potentially more than **4,200 deceased individuals** with an active registration in Georgia at that time. Approximately 89 percent of the entries matched against the SSDI listed a date of death prior to November 2019, the time period when the roll was provided. Some matches list dates of death as far back as 2010.

As you are likely aware, the National Voter Registration Act of 1993 (“NVRA”) requires your office to use reasonable efforts to identify and remove registrants who are deceased. [52 U.S.C. § 20507\(a\)\(4\)\(A\)](#). Georgia law provides that “Upon receipt of the lists described in subsection (d)

of this Code section, the Secretary of State or his or her designated agent shall remove all such names of deceased persons from the list of electors and shall notify the registrar in the county where the deceased person was domiciled at the time of his or her death.” Georgia Code Title 21. Elections § 21-2-231(e). Further, “county registrars may obtain information about persons who died from obituaries published by local newspapers, death certificates, verifiable knowledge of the death...County registrars shall determine if such deceased person’s name appears on the list of electors and, if so, shall remove such name from the list of electors...” Georgia Code Title 21. Elections § 21-2-231(e.1).

We have utilized multiple means to verify these potentially deceased registrants, but ultimately only your office can conclusively determine whether the registrants are indeed deceased.

## **2. Potential Duplicate Registrations Across State Lines with Voting Credits Apparently Assigned by Election Officials for the 2018 Election.**

Using voter roll extracts obtained from other states at the same time as we obtained Georgia’s extract, we performed a detailed matching analysis to discern the number of registrants who are potentially registered in more than one state. We then viewed voting history reports to discern the number of registrants who were apparently assigned voting credits in more than one state for the same election.

In Georgia, we identified more than **840 potentially duplicated registrations across state lines** with apparent voting credits assigned by election officials in each state for the 2018 General Election. To arrive at this figure, potential matches of full names and dates of birth were filtered through commercial identity-validation services using Social Security data and more. We have utilized multiple means to verify these potentially duplicate registrations but ultimately only your office can conclusively determine whether these registrations are indeed duplications with genuine document trails reflecting the voting credits shown in the purchased voter extract.

## **3. Potential Intercounty and Intracounty Duplicates with Apparent Voting Credits Assigned for 2016 and 2018 General Elections.**

Using a similar methodology as above, we also flagged registrations that are potentially duplicated within the same Georgia county (intracounty) and across county lines (intercounty). We then reviewed assigned voting credits for each such registration.

For the 2016 General Election, 570 potential intercounty duplicates were apparently assigned voting credits.

More concerning were the findings of intracounty duplicates at matched residential addresses. At least 9,600 potential intracounty duplicates were apparently assigned voting credits in the 2016 General. For the 2018 General Election, nearly 9,900 potential intracounty duplicates were apparently assigned voting credits.

Our reading of the most recent U.S. Election Assistance Commission survey data show that your offices are aware of a duplicate registration problem. During the 2018 election cycle, your offices reportedly removed more than 62,000 registrants on this score.

We have utilized multiple means to verify these potentially duplicate registrations but ultimately only your office can conclusively determine whether these registrations are indeed duplications with genuine document trails reflecting the voting credits shown in the purchased voter extract.

**Request for Meeting**

We would like to offer our findings to you for further investigation and confirmation. We are available via telephone or videoconference, if needed, to discuss our research and how we can best transfer the data to you. Please let us know which date(s) and time(s) you prefer.

Should you need to contact us regarding this matter, please contact me at [lchurchwell@publicinterestlegal.org](mailto:lchurchwell@publicinterestlegal.org). Thank you for your service on this matter.

Sincerely,



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Communications & Research Director  
Public Interest Legal Foundation  
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