

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

DONALD JOHN TRUMP,
RUDOLPH WILLIAM LOUIS GIULIANI,
JOHN CHARLES EASTMAN,
MARK RANDALL MEADOWS,
KENNETH JOHN CHESEBRO,
JEFFREY BOSSERT CLARK,
JENNA LYNN ELLIS,
RAY STALLINGS SMITH III,
ROBERT DAVID CHEELEY,
MICHAEL A. ROMAN,
DAVID JAMES SHAFER,
SHAWN MICAH TRESHER STILL,
STEPHEN CLIFFGARD LEE,
HARRISON WILLIAM PRESCOTT FLOYD,
TREVIAN C. KUTTI,
SIDNEY KATHERINE POWELL,
CATHLEEN ALSTON LATHAM,
SCOTT GRAHAM HALL,
MISTY HAMPTON a/k/a EMILY MISTY HAYES
Defendants.

CASE NO.

23SC188947

**NOTICE OF POTENTIAL CONFLICTS OF INTEREST CONCERNING ATTORNEYS
CHRISTOPHER SCOTT ANULEWICZ, AMANDA ROURK CLARK PALMER, SCOTT
ROBERT GRUBMAN, HARRY W. MACDOUGALD, BRUCE H. MORRIS, AND
DONALD FRANKLIN SAMUEL, WHO PREVIOUSLY REPRESENTED
DEFENDANTS OR WITNESSES FOR THE STATE OF GEORGIA, PURSUANT TO
GEORGIA RULES OF PROFESSIONAL CONDUCT RULES 1.6, 1.7,
AND 1.9 AND OTHER RELEVANT LAW**

COMES NOW the State of Georgia, by and through Fulton County District Attorney Fani T. Willis, and notifies the Court of potential conflicts of interest concerning attorneys Christopher Scott Anulewicz, Amanda Rourk Clark Palmer, Scott Robert Grubman, Harry W. MacDougald, Bruce H. Morris, and Donald Franklin Samuel, who each previously represented Defendants or

witnesses for the state of Georgia in this matter, pursuant to Georgia Rules of Professional Conduct Rules 1.6, 1.7, and 1.9. The State requests that the Court inquire into these circumstances and take such appropriate remedial measures as it deems necessary to ensure that the rights of both witnesses for the State of Georgia and the Defendants in this case are preserved in accordance with Rules 1.6, 1.7, and 1.9.

I. INTRODUCTION

The Georgia Rules of Professional Conduct state that “a lawyer shall not represent or continue to represent a client if there is a significant risk that the lawyer’s own interests or the lawyer’s duties to another client, a former client, or a third person will materially and adversely affect the representation of the client,” subject to limited exceptions requiring written informed consent of the client. GA. R. & REGS. ST. BAR 1.7(a). Client consent is not permissible if the representation “includes the assertion of a claim by one client against another client represented by the lawyer in the same or a substantially related proceeding” or if the representation “involves circumstances rendering it reasonably unlikely that the lawyer will be able to provide adequate representation to one or more of the affected clients.” GA. R. & REGS. ST. BAR 1.7(c). “Where the conflict is such as clearly to call into question the fair or efficient administration of justice, opposing counsel may properly raise the question.” *Id.* “The prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice.” GA. R. & REGS. ST. BAR 3.8, Comment 1. “In light of the prosecutor’s public responsibilities, broad authority and discretion, the prosecutor has a heightened duty of candor to the courts and in fulfilling other professional obligations.” ABA STAND. CRIM. JUST. REL. PROS. FUNCT. 3-1.4(a).

Accordingly, as set forth below, and in conformity with the Georgia Rules of Professional Conduct and relevant guidance related to the ethical duties and obligations of prosecutors under applicable rules, statutes, and both the United States Constitution and the Georgia Constitution, the State of Georgia is compelled to notify the Court of potential conflicts of interest concerning attorneys Christopher Scott Anulewicz, Amanda Rourk Clark Palmer, Scott Robert Grubman, Harry W. MacDougald, Bruce H. Morris, and Donald Franklin Samuel, who each previously represented Defendants or witnesses for the State of Georgia in this matter. The State is so compelled not only because it is paramount that the District Attorney, as a minister of justice, must guarantee that the constitutional and statutory rights of all persons are preserved at every stage of a criminal proceeding, but also because the State's failure to do so would be fundamentally at odds with every lawyer's duties as "a representative of clients, an officer of the legal system, and a citizen having special responsibility for the quality of justice." GA. R. & REGS. ST. BAR, PMBL.

II. PROCEDURAL BACKGROUND

Between May 2, 2022, until the issuance of its final report on December 15, 2022, a special purpose grand jury convened in Fulton County, Georgia, to investigate facts and circumstances relating, directly or indirectly, to possible attempts to disrupt the lawful administration of the November 3, 2020, presidential election in Georgia. *See Exhibit A*, Order Approving Request for Special Purpose Grand Jury Pursuant to O.C.G.A. § 15-12-100 et seq. Throughout the course of its investigation, the special purpose grand jury subpoenaed evidence and heard testimony from as many as 75 witnesses, most of whom were represented by counsel. During roughly the same time, the State of Georgia also conducted voluntary interviews with many of these and other witnesses represented by counsel. Counsel for these witnesses served a variety of purposes: some simply acted as logistical liaisons between their client and the State, some negotiated the scope of their

client's testimony in the context of certain testimonial privileges, some moved to quash subpoenas and engaged in other related litigation on behalf of their client, and some obtained immunity from prosecution for their client in exchange for testimony or interviews.

In the months following the November 3, 2020, presidential election in Georgia, many individuals who later became witnesses involved in or subjects of the special purpose grand jury's investigation engaged in private litigation related to that election. That litigation, in both state and federal courts, included lawsuits against Georgia Governor Brian Kemp, Georgia Secretary of State Brad Raffensperger, members of the Georgia State Election Board, and other government officials. There was considerable overlap in the subject matter, witnesses, parties, and attorneys involved in both the special purpose grand jury's investigation and many of these lawsuits.

On August 14, 2023, a separate grand jury in Fulton County, Georgia, heard testimony, reviewed evidence gathered by the State, and ultimately returned the indictment in this case, charging 19 Defendants with 41 criminal violations of the laws of this State. In the days following the return of the indictment, all 19 Defendants secured representation by counsel, many of whom had previously been involved in the special purpose grand jury proceedings, private post-election litigation, or both. Since the return of the indictment, the State has worked diligently to identify any potential conflicts of interest concerning attorneys who currently represent Defendants in this case and who previously represented material witnesses or parties before the special purpose grand jury and other post-election proceedings.

III. PRIOR REPRESENTATION OF DEFENDANTS AND WITNESSES FOR THE STATE OF GEORGIA

The following is, to the best of the State of Georgia's knowledge and belief, a list of the attorneys in this matter who previously represented Defendants and material witnesses or parties before the special purpose grand jury and other post-election proceedings:

- 1. Christopher Scott Anulewicz:** On August 23, 2023, attorney Christopher Scott Anulewicz filed an entry of appearance as counsel of record for Defendant Robert David Cheeley. *See Exhibit B*, Entry of Appearance. Mr. Anulewicz previously represented Georgia Secretary of State Brad Raffensperger and members of the Georgia State Election Board in *Trump v. Raffensperger*, Fulton County Superior Court Case No. 2020CV343255. *See Exhibit C*, Respondents’ Reply to Petitioners’ Objection to Motion to Dismiss; *Exhibit D*, Response to Plaintiff’s Notice of Filing Voluntary Dismissal. (The answer filed by Mr. Anulewicz in this matter has been sealed, but the preceding exhibits demonstrate his involvement in the matter from beginning to end.) Georgia Secretary of State Brad Raffensperger, members of the State Election Board, and Mr. Anulewicz himself¹ are witnesses for the State in the present case. Mr. Anulewicz’s former clients would be subject to cross-examination by him were he to remain counsel of record in this case.
- 2. Amanda Rourk Clark Palmer:** On August 20, 2023, attorney Amanda Rourk Clark Palmer filed an entry of appearance as counsel of record for Defendant Ray Stallings Smith III. *See Exhibit E*, Entry of Appearance. Ms. Clark Palmer previously represented SullivanStrickler LLC during the special purpose grand jury investigation. *See Exhibit F*, E-mail Titled “SullivanStrickler follow up”. Ms. Clark Palmer also previously represented former Georgia Lieutenant Governor Geoff

¹ Mr. Anulewicz is a witness because he represented Georgia Secretary of State Brad Raffensperger on January 2, 2021, when Defendants Donald John Trump and Mark Randall Meadows, along with attorneys representing the Trump Campaign, placed a telephone call to Secretary Raffensperger without making Mr. Anulewicz part of the telephone call. Attorneys representing the Trump Campaign later characterized the telephone call as a “settlement negotiation” in court filings, and Mr. Anulewicz is a witness to, among other things, the fact that telephone call was not a settlement negotiation.

Duncan and other members of the Georgia General Assembly during the special purpose grand jury investigation. *See* **Exhibit G**, Motion to Quash Subpoenas. SullivanStrickler LLC, former Georgia Lieutenant Governor Geoff Duncan, and members of the Georgia General Assembly are witnesses for the State in the present case. Ms. Clark Palmer's former clients would be subject to cross-examination by her were she to remain counsel of record in this case.

- 3. Scott Robert Grubman:** On August 16, 2023, attorney Scott Robert Grubman filed an entry of appearance as counsel of record for Defendant Kenneth John Chesebro. *See* **Exhibit H**, Entry of Appearance. Mr. Grubman previously represented Georgia Secretary of State Brad Raffensperger and Patricia Raffensperger during the special purpose grand jury investigation. *See* **Exhibit I**, Text Messages; **Exhibit J**, LinkedIn Post. Georgia Secretary of State Brad Raffensperger and Patricia Raffensperger are witnesses for the State in the present case. Mr. Grubman's former clients would be subject to cross-examination by him were he to remain counsel of record in this case.
- 4. Harry W. MacDougald:** On August 25, 2023, attorney Harry W. MacDougald filed an entry of appearance as counsel of record for Defendant Jeffrey Bossert Clark. *See* **Exhibit K**, Entry of Appearance. Mr. MacDougald, Defendant Sidney Katherine Powell and L. Lin Wood previously represented Coreco Ja'Quan Pearson, Vikki Townsend Consiglio, Gloria Kay Godwin, James Kenneth Carroll, Carolyn Hall Fisher, and Cathleen Alston Latham in *Pearson v. Kemp*, District Court, Northern District of Georgia Case No. 1:20-cv-04809. *See* **Exhibit L**, Certificate of Interested Persons. (The State is not attaching the complaint in that matter because it is 104 pages in length. The State can provide the complaint to the Court upon request.) L.

Lin Wood, Coreco Ja'Quan Perason, Vikki Townsend Consiglio, Gloria Kay Godwin, James Kenneth Carroll, and Carolyn Hall Fisher are witnesses for the State in the present case. Sidney Katherine Powell and Cathleen Alston Latham are Defendants in the present case. Mr. MacDougald also previously represented and was co-counsel to L. Lin Wood in *Wood v. Raffensperger*, United States Supreme Court Case No. 20-799. See **Exhibit M**, Petition for Writ of Certiorari Cover Sheet. L. Lin Wood is a witness for the State in the present case. Mr. MacDougald's former clients and co-counsel would be subject to cross-examination by him were he to remain counsel of record in this case.

5. **Bruce H. Morris:** On August 22, 2023, attorney Bruce H. Morris filed an entry of appearance as counsel of record for Defendant Ray Stallings Smith III. See **Exhibit N**, Entry of Appearance. Mr. Morris previously represented Paul Maggio during the special purpose grand jury investigation. See **Exhibit O**, E-mail Titled "Re: SullivanStrickler follow up". Paul Maggio is a witness for the State in the present case. Mr. Morris's former client would be subject to cross-examination by him were he to remain counsel of record in this case.
6. **Donald Franklin Samuel:** On August 20, 2023, attorney Donald Franklin Samuel filed an entry of appearance as counsel of record for Defendant Ray Stallings Smith III. See **Exhibit P**, Entry of Appearance. Mr. Samuel previously represented former Georgia Lieutenant Governor Geoff Duncan and other members of the Georgia General Assembly during the special purpose grand jury investigation. See **Exhibit G**, Motion to Quash Subpoenas. Mr. Samuel also previously represented Keith Williams during the special purpose grand jury investigation and in subsequent

investigative interviews. *See Exhibit Q*, E-mail Titled “Keith Williams”. Former Lieutenant Governor Geoff Duncan, members of the Georgia General Assembly, and Keith Williams are witnesses for the State in the present case. Mr. Samuel’s former clients would be subject to cross-examination by him were he to remain counsel of record in this case.

IV. RULES REGARDING CONFLICTS OF INTEREST AND DUTIES TO FORMER CLIENTS

Analysis of Rules 1.6, 1.7, and 1.9 of the Georgia Rules of Professional Conduct demonstrates why the State is obligated to provide this notice to the Court.

A. Georgia Rule of Professional Conduct 1.7 prohibits lawyers from representing clients if there is a risk that duties to a former client will materially and adversely affect the representation of the client.

Rule 1.7 of the Georgia Rules of Professional Conduct prohibits a lawyer from representing or continuing to represent a client “if there is a significant risk that the lawyer’s own interests or the lawyer’s duties to another client, a former client, or a third person will materially and adversely affect the representation of the client,” except as permitted in limited circumstances requiring written informed consent of the client. GA. R. & REGS. ST. BAR 1.7(a). Client consent is not permissible if the representation “includes the assertion of a claim by one client against another client represented by the lawyer in the same or a substantially related proceeding” or if the representation “involves circumstances rendering it reasonably unlikely that the lawyer will be able to provide adequate representation to one or more of the affected clients.” GA. R. & REGS. ST. BAR 1.7(c).

In *Heidt v. State*, the Georgia Supreme Court upheld a trial court’s disqualification of counsel when Heidt hired an attorney to assist in his defense while that attorney simultaneously

represented Heidt's sister-in-law Robin, who had been arrested and charged with intimidating a witness in the case against Heidt, despite the fact that Heidt and Robin had consented to simultaneous representation. 292 Ga. 343 (2013). Notably, the prosecutor intended to call Robin as a witness at Heidt's trial. *Id.* at 347. The Court held that while "Heidt and Robin may not have foreseen any conflict between their interests at the time that they consented to the dual representation, we know that their interests ultimately were not aligned, inasmuch as Robin ended up testifying against Heidt, and the criminal charges against her were dismissed." *Id.* The Supreme Court affirmed the trial court's disqualification of the attorney because "the prospects of [the attorney] advising Robin about any deal that might be proposed by the State to secure her testimony against Heidt or cross-examining her on behalf of Heidt were rife with serious ethical problems." *Id.* The Supreme Court agreed that "[The attorney's] representation of Robin would materially and adversely affect his representation of Heidt." *Id.* Moreover, the Court recognized that even in criminal cases, where defendants have both a constitutional right to counsel and a constitutional right to choice of counsel, "the presumption in favor of an accused's choice of counsel . . . may be overcome not only by a demonstration of an actual conflict of interest but by a showing of a *serious potential for conflict.*" *Id.* at 346 (internal citations omitted) (emphasis added).

Here, the State is constrained to observe that there is a risk that, because of their duties to former clients, representation of certain Defendants in this matter by the attorneys identified above will be materially and adversely affected, in violation of Rule 1.7.

B. Rule 1.6 prohibits attorneys from disclosing any information gained from representing a client without informed consent, and Rule 1.9 prohibits attorneys from using information relating to representation of a former client to their disadvantage and from revealing information relating to the representation.

Rule 1.6 of the Georgia Rules of Professional Conduct provides that a lawyer "shall maintain in confidence all information gained in the professional relationship with a client,

including information which the client has requested to be held inviolate or the disclosure of which would be embarrassing or would likely be detrimental to the client, unless the client gives informed consent.” GA. R. & REGS. ST. BAR 1.6(a). “The duty of confidentiality shall continue after the client-lawyer relationship has terminated.” GA. R. & REGS. ST. BAR 1.6(c). In order to protect the ongoing duty of confidentiality arising from a former attorney-client relationship, Rule 1.9 provides that a “lawyer who has formerly represented a client in a matter ... shall not thereafter use information relating to the representation to the disadvantage of the former client ... [or] reveal information relating to the representation.” GA. R. & REGS. ST. BAR 1.9(c).

In *Edwards v. State*, the Court of Appeals of Georgia upheld the trial court’s sua sponte disqualification of the defendant’s counsel after a jury was impaneled and sworn to try that defendant on charges of rape and child molestation. 336 Ga. App. 595 (2016). Prior to the presentation of any evidence, the defendant’s counsel and the prosecutor brought to the attention of the trial court that the defendant’s counsel had previously represented the victim’s mother in unrelated proceedings and, through that representation, had learned confidential information that could be used to impeach her if she were to testify at the trial of Edwards. *Id* at 595. Nothing in the record showed that the victim’s mother had waived the conflict or consented to the disclosure or use of the confidential information. *Id* at 596. The Court of Appeals noted that, in that case, the conflict could have been waived if both the current and former clients had consulted with their attorney, had received in writing reasonable and adequate information about the material risks and reasonable available alternatives to the representation, and had an opportunity to consult with independent counsel. *Id* at 599.

Here, no attorney has provided documentation that their former clients have provided informed consent to disclose information gained from that representation, and there is a risk that

information gained from former clients may be used to their disadvantage or that confidential information related to the representation may be revealed, in violation of Rules 1.6 and 1.9.

V. CONCLUSION

As set forth above, in this case, absent inquiry by the Court, there is a significant risk that the Rules of Professional Conduct may be violated, which may compromise the rights of certain witnesses for the State of Georgia should those witnesses be cross-examined by their former attorneys. Further, there is a significant risk that representation of the affected Defendants in this matter may be materially affected, which could affect certain rights, including all of the Defendants' rights to due process and a fundamentally fair trial.

WHEREFORE, based on the foregoing facts and authority, the District Attorney respectfully notifies the Court of these potential conflicts of interest, as is required by the Rules of Professional Conduct and other relevant authority, and requests that the Court inquire into these circumstances and take such appropriate remedial measures as it deems necessary to ensure that the rights of both witnesses for the State of Georgia and rights of the Defendants in this case are preserved in accordance with Rules 1.6, 1.7, and 1.9.

Respectfully submitted this 20th day of September 2023,

FANI T. WILLIS
District Attorney
Atlanta Judicial Circuit

/s/ John W. "Will" Wooten
John W. "Will" Wooten
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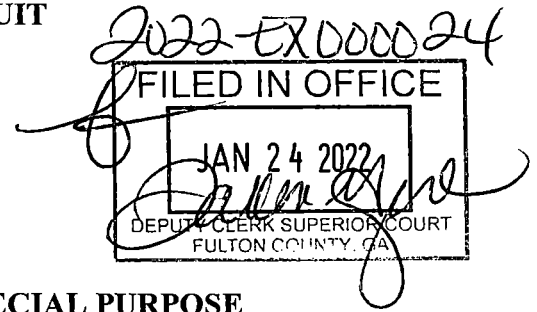
/s/ F. McDonald Wakeford

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Exhibit A

IN THE SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT
STATE OF GEORGIA

IN RE: REQUEST FOR
SPECIAL PURPOSE
GRAND JURY



**ORDER APPROVING REQUEST FOR SPECIAL PURPOSE
GRAND JURY PURSUANT TO O.C.G.A. §15-12-100, et seq.**

The District Attorney for the Atlanta Judicial Circuit submitted to the judges of the Superior Court of Fulton County a request to impanel a special purpose jury for the purposes set forth in that request. This request was considered and approved by a majority of the total number of the judges of this Court, as required by O.C.G.A. §15-12-100(b).

IT IS THEREFORE ORDERED that a special purpose grand jury be drawn and impaneled to serve as provided in O.C.G.A. § 15-12-62.1, 15-12-67, and 15-12-100, to commence on May 2, 2022, and continuing for a period not to exceed 12 months. Such period shall not include any time periods when the supervising judge determines that the special purpose grand jury cannot meet for safety or other reasons, or any time periods when normal court operations are suspended by order of the Supreme Court of Georgia or the Chief Judge of the Superior Court. The special purpose grand jury shall be authorized to investigate any and all facts and circumstances relating directly or indirectly to alleged violations of the laws of the State of Georgia, as set forth in the request of the District Attorney referenced herein above.

Pursuant to O.C.G.A. § 15-12-101(a), the Honorable Robert C. I. McBurney is hereby assigned to supervise and assist the special purpose grand jury, and shall charge said special purpose grand jury and receive its reports as provided by law.

This authorization shall include the investigation of any overt acts or predicate acts relating to the subject of the special purpose grand jury's investigative purpose. The special purpose grand jury, when making its presentments and reports, pursuant to O.C.G.A. §§ 15-12-71 and 15-12-101, may make recommendations concerning criminal prosecution as it shall see fit. Furthermore, the provisions of O.C.G.A. § 15-12-83 shall apply.

This Court also notes that the appointment of a special purpose grand jury will permit the time, efforts, and attention of the regular grand jury(ies) impaneled in this Circuit to continue to be devoted to the consideration of the backlog of criminal matters that has accumulated as a result of the COVID-19 Pandemic.

IT IS FURTHER ORDERED that this Order shall be filed in the Office of the Clerk of the Superior Court of Fulton County.

SO ORDERED, THIS 24 DAY OF January, 2022.



CHRISTOPHER S. BRASHER, CHIEF JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit

Exhibit B

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA,)
)
v.)
) **Criminal Action No. 23SC188947**
ROBERT DAVID CHEELEY, ET AL.,)
)
 Defendants.)
_____)

ENTRY OF APPEARANCE

Pursuant to Uniform Superior Rule 4.2, Christopher S. Anulewicz and Wayne R. Beckermann of the law firm Bradley Arant Boult Cummings LLP hereby enter their appearance in this matter as counsel of record for Defendant Robert David Cheeley. Notices or other materials may be sent to:

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Wayne R. Beckermann
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wbeckermann@bradley.com
Telephone: (404) 868-2030

Respectfully submitted this 23rd day of August, 2023.

/s/ Christopher S. Anulewicz

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Attorneys for Robert David Cheeley

CERTIFICATE OF SERVICE

I hereby certify that this 23rd day of August, 2023, a copy of the foregoing **Entry of Appearance** has been served using the Odyssey eFileGA system, which will automatically serve notice of the filing to counsel of record, and via email, on the following counsel of record:

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J. Wade, Esq.
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fani.willisda@fultoncountyga.gov
nathanwade@lawyer.com

I have also served this filing by email on the following counsel who to my knowledge are representing other defendants named in the underlying indictment:

Drew Findling - drew@findlinglawfirm.com.
Marissa Goldberg- marissa@findlinglawfirm.com
Jennifer Little- jlittle@jllaw.com.
Dwight Thomas- dwightl654@gmail.com

Craig Gillen -cgillen@gwllawfirm.com
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Michael Lee Francisco - mfrancisco@mcguirewoods.com

/s/ Christopher S. Anulewicz

Christopher S. Alulewicz

Georgia Bar No. 020914

Exhibit C

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DONALD J. TRUMP, in his capacity as a)
Candidate for President, DONALD J.)
TRUMP FOR PRESIDENT, INC., and)
DAVID J. SHAFER, in his capacity as a)
Registered Voter and Presidential Elector)
pledged to Donald Trump for President,)

Petitioners,)

v.)

BRAD RAFFENSPERGER, in his official)
capacity as Secretary of State of Georgia, et)
al.,)

Respondents.)

Civil Action No. 2020CV343255

RESPONDENTS BRAD RAFFENSPERGER, REBECCA N. SULLIVAN, DAVID J. WORLEY, MATTHEW MASHBURN, AND ANH LE'S REPLY TO PETITIONERS' OBJECTION TO STATE DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO PERFECT SERVICE AND REPLY IN SUPPORT OF MOTION TO DISMISS

COME NOW Brad Raffensperger, Georgia Secretary of State, Rebecca N. Sullivan, Vice Chair of the Georgia State Election Board, and State Election Board Members David J. Worley, Matthew Mashburn, and Anh Le (collectively, "State Defendants") and file this Reply to Petitioners' Objection to State Defendants' Motion to Dismiss for Failure to Perfect Service and Reply in Support of Motion to Dismiss as follows:

I. INTRODUCTION

On January 6, 2021, the United States House of Representatives and the United States Senate will convene to count the votes submitted by presidential electors from across the country and determine who will be President and Vice President of the United States. While the State Defendants adamantly argue this case is already moot, once Congress has tabulated those votes, even Petitioners will have to concede to that mootness. That impending deadline—a mere eight

days away—notwithstanding, Petitioners have failed to act diligently. First, in bringing this action and second in failing to ensure service on the defendants under the Election Code.

The State Defendants have consistently raised issues with service in both their conversations with Petitioners and in their filings with the Court. *See* Special Appearance Answer at 1 n.1 (“State Defendants have not been served with the Petition as required by O.C.G.A. §§ 9-11-4 and 21-2-524(f)...”); Motion to Dismiss Verified Petition at 2 n.2; Motion to Exclude Affidavits and Testimony of Petitioners’ Experts at 1 n.1; Response to Petitioners’ Motion for Leave to Amend Verified Petition at 2 n.2; Response to Petitioners’ Second Request for Emergency Declaratory and Injunctive Relief at 2 n.2. The State Defendants filed the earliest of these papers with the Court and served them on Petitioners on December 15, 2020. Two more weeks have now passed since these filings, and almost two months have passed since the November 3, 2020 Election. Still Petitioners have not ensured service of their Petition.¹

In spite of the clear legislative and judicial directives that election contests be resolved swiftly, Petitioners have not shown that they have acted diligently in procuring service under the Election Code even after the State Defendants explicitly raised these issues in their Court filings. Rather, Petitioners, in their Response Brief, point to only one act of such “diligence” a “Notice” for submission to the Court on December 24, 2020—*nine days after* the State Defendants filed their Supplemental Motion to Dismiss. It is axiomatic a plaintiff on notice of an issue with service of process has a duty to exercise “the greatest possible diligence to ensure proper and timely service.” *Swain v. Thompson*, 281 Ga. 30, 32 (2006). Petitioners submit nothing showing how waiting nine days is exercising “the greatest possible diligence.”

¹ In other filings, the State Defendants have shown Petitioners have sued the wrong parties under the Election Code, their claims are otherwise moot, and they fail to state a claim upon which relief can be granted. Thus even if Petitioners had secured service, their claims are due to be dismissed.

Not only have Petitioners failed to act with proper diligence, but their importunate actions have unnecessarily caused additional delays in the resolution of this matter. For instance, on December 11, 2020, Petitioners filed a Notice of Appeal and Intention to Seek Writ of Certiorari to the Supreme Court of Georgia. While the Writ of Certiorari was summarily rejected by the Georgia Supreme Court the following day, the notice of appeal divested this Court of jurisdiction and further delayed any resolution of this matter. *See* December 29, 2020 Order.

Unable to show they have acted diligently, Petitioners attack the Court, the Clerk, the Sherriff and the State Defendants. But the Georgia Supreme Court in *Swain* clearly articulates who the burden of Election Code service falls upon—the Petitioners. Because Petitioners have not acted diligently and because so much time has now passed since the Election, the certification of the vote in the Presidential contest, the certification of the slate of electors to the Archivist of the United States, the *casting* of the votes by the properly certified presidential electors for Georgia, and the filing of the Petition, the Court should dismiss this matter.

II. ARGUMENT AND CITATION TO AUTHORITY

A. The State Defendants’ Motion Is Timely

Addressing Petitioners’ technical objection first, the State Defendants’ Supplemental Motion is procedurally proper. The State Defendants raised insufficient service of process in their Special Appearance Answer, so Petitioners cannot claim to have been caught off guard. *See* Answer at 1 n.1. Furthermore, the State Defendants’ pleadings are all provisional—the Election Code does not require the State Defendants to file anything unless and until they receive the special process, which apparently has not even been issued. *See* O.C.G.A. § 21-2-524(f) (providing for the special process to “requir[e] the defendant and any other person named in [the] petition as a candidate for such nomination or office...to appear and answer such petition, on a day to be fixed in such notice”). Finally, even if the Court concludes the State Defendants’ motion is not

technically a motion to dismiss, the Court can treat it as a motion for judgment on the pleadings and otherwise and resolve it in that way. *Cf. Robinson v. Green*, 228 Ga. App. 27, 28 (1997) (noting the trial court should have treated a motion to dismiss for improper service as a motion for summary judgment). Petitioners have failed to perfect service, the State Defendants have raised the issue numerous times, including in their initial special appearance pleadings, and Petitioners' arguments, which amount to quibbling over nomenclature, cannot save them from their own lack of diligence. Petitioners' objection to the motion should be overruled.

B. The State Defendants Have Not Received Service

The Election Code provides a detailed, particular scheme for accomplishing service of process on defendants in election contests. The clerk of the court is to issue a special process, and the sheriff is to serve it. O.C.G.A. § 21-2-524(f). The State Defendants have not received such service in this case, and the State Defendants have not waived their entitlement to such service in this case.

Petitioners acknowledge this, but deflect by citing to an irrelevant notice provision contained in O.C.G.A. § 21-2-524(b). That paragraph requires a plaintiff to serve a copy of the election contest petition on the State Election Board, via its chairperson, "by certified or registered mail or statutory overnight delivery." Petitioners claim to have accomplished this service, and argue that because the Secretary of Service is the chairperson of the Election Board, that qualifies as service on him as well. Petitioners' argument is baseless and exposes a basic misunderstanding of the election contest procedures.

First, paragraph (b) is meant solely to provide notice of election contests to the Election Board, in the same way certain complaints raising constitutional challenges must be served on the Attorney General. *Cf.* O.C.G.A. § 9-4-7(c). This notice on the Election Board, whose members are not proper parties to this case, is not a sufficient method for perfecting service upon someone

named as a defendant in an election contest.² That service must be made according to O.C.G.A. § 21-2-524(f).

Second, and more fundamentally, the plain language of paragraph (b) reveals it is not a method for perfecting service of process—it only calls for service of “a copy of the petition.” “Process” is “[a] summons or writ, [especially] to appear or respond in court.” *Process*, BLACK’S LAW DICTIONARY (11th ed. 2019). Serving a petition without a summons is not serving process.

Therefore, Petitioners’ serving the Election Board with a copy of the petition in no way satisfies the statutory requirement that the petition *and* a summons be served on all defendants to an election contest pursuant to § 21-2-524(f). Petitioners’ failure to ensure that was accomplished in a reasonable time requires dismissal. *See Swain*, 281 Ga. at 32.

C. Petitioners Have Failed to Show They Acted With Diligence

The State Defendants first raised the issue of the insufficiency of service in their Special Appearance Answer filed on December 15, 2020. At that point, Petitioners were on notice and required to exercise “the greatest possible diligence to ensure proper and timely service.” *See Swain*, 281 Ga. at 32. Petitioners did not so, and this case must be dismissed.

Petitioners claim they have acted diligently, citing their motion for appointment of a judge and their appeal to the Georgia Supreme Court. But those actions did not concern the issuance of process.³ Petitioners also cite a “Notice,” attached to their Objection as Exhibit C, which purports

² Indeed, the General Assembly never imagined someone would want to serve the Election Board as a defendant, because, as argued in the State Respondents’ Motion to Dismiss, the Election Board and the Secretary of State cannot be proper defendants to an election contest pursuant to O.C.G.A. § 21-2-520(2).

³ Petitioners’ appeal to the Georgia Supreme Court was a challenge to an order stating this case would proceed “in the normal course.” The Supreme Court unanimously dismissed for lack of jurisdiction, concluding Petitioners failed to obtain permission to file an interlocutory appeal, could not rely on the collateral order doctrine, could not challenge the authority of the superior court before the court had resolve that challenge for itself, and did not show “this is one of those

to request issuance of the special process and is dated December 24, 2020. Even taking that as *some* step to perfect service, Petitioners do not explain why it took them *twenty days* from the filing of their petition and *nine days* from the filing of the State Defendants' Special Appearance Answer to raise the matter of the issuance of process with the Court.

Apart from Petitioners' immaterial and belated steps, Petitioners offer no further explanation for their failure to perfect service of process than to place the blame on the Court, the Clerk, and the Sheriff, accusing the latter two of a "due process violation of epic constitutional proportions." Given such a weighty accusation, one would expect an affidavit or some other evidence of the alleged "delay, stonewalling, and dilatory procedure" Petitioners have supposedly encountered. *See* Objection at 5. Petitioners provide none. Petitioners cannot support the allegations in their petition, and they cannot support the allegations here. There is no excuse for Petitioners' lack of diligence, and therefore the Petition must be dismissed.

D. The Court Should Deny Petitioners' Request for Attorneys' Fees

Finally, the Court should not entertain Petitioners' request for fees under O.C.G.A. § 9-15-14. As shown above, nothing about the State Defendants' motion was "substantially frivolous, substantially groundless, or substantially vexatious." *See* O.C.G.A. § 9-15-14(b). Petitioners have failed to exercise diligence in moving this election contest forward, and their request is a litigation tactic to deflect attention from the casual and dilatory manner in which they have prosecuted this case. Moreover, the State Defendants' Motion is completely supported by the Georgia Supreme Court's *Swain* decision and the State Defendants' Motion should be granted.

III. CONCLUSION

extremely rare cases that would invoke [the Court's] original jurisdiction." Order, *Trump v. Raffensperger*, No. S21M0561 (Ga. Dec. 12, 2020).

Petitioners filed this election contest nearly a month ago, yet there is no notice that any party has been properly served. Their efforts to perfect service in accordance with the Election Code have been anything but an exercise of “the greatest diligence.” The Court should dismiss their petition.

Respectfully submitted this 29th day of December, 2020.

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Rebecca N. Sullivan, David J. Worley, Matthew
Mashburn, and Anh Le*

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of December, 2020 I electronically filed the foregoing with the Clerk of Court using the Odyssey eFileGA eFiling system, which will automatically send email notifications of such filing the following counsel of record:

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/s/ Christopher S. Anulewicz

Christopher S. Anulewicz
Georgia Bar No. 020914

Exhibit D

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DONALD J. TRUMP, in his capacity as a)
Candidate for President, et al.,)

Petitioners,)

v.)

Civil Action No. 2020CV343255

BRAD RAFFENSPERGER, in his official)
capacity as Secretary of State of Georgia, et)
al.,)

Respondents.)

RESPONSE TO PLAINTIFFS' NOTICE OF FILING VOLUNTARY DISMISSAL

Defendants do not object to the voluntary dismissal. Defendants do object to the false grounds articulated in the Notice. Plaintiffs voluntarily dismissed this litigation contending the dismissal is a result of settlement between the Parties. It is not. There is no "settlement." The demonstrably false characterizations by Plaintiffs' counsel are addressed herein in this response.

Plaintiffs' counsel inquired on numerous occasions about settling the disputes, including the pending state court matters, between the Parties. Those inquiries were repeatedly rebuffed by Defendants on the grounds that Plaintiffs' litigation efforts were frivolous and the certified results of the November 3, 2020, Election were valid.

Without notifying Defendants' counsel, Plaintiffs and their litigation counsel participated in a phone conference with Defendant Raffensperger on Saturday January 2, 2020. The participation of counsel for Plaintiffs in that call appears to be in violation of the Georgia Rules of Professional Conduct Rule 4.2, as Plaintiffs' counsel neither notified litigation counsel for Defendant Raffensperger nor sought nor obtained consent to conduct or participate in a conversation with Defendant Raffensperger. This action by Plaintiffs' counsel was undertaken

despite the fact that the substance of the call concerned not only this action but also another pending state superior court matter, a federal district court matter, and a pending appeal in the Georgia Supreme Court in which Defendant Raffensperger was represented by counsel, all of which was known to Plaintiffs' counsel.

After that call, Defendants' counsel told Plaintiffs there would be no discussions between the parties until Plaintiffs dismissed all of their litigations. *See* Notice Ex. 1. Yesterday evening at 9:36 p.m., Plaintiffs' counsel sent a letter to Defendants' counsel stating that they would dismiss their various frivolous complaints pursuant to a "settlement" between the Parties. *See* Notice Ex. 2.

Defendants' counsel responded by email yesterday evening confirming there was absolutely no settlement between the Parties and reiterating that Plaintiffs' claims were frivolous. ***See Exhibit A*** attached hereto. Plaintiffs' counsel responded to that email notification that no "settlement" was contemplated nor agreed to by stating his intention to unilaterally dismiss all pending actions against Defendants. ***See Exhibit B*** attached hereto. Plaintiffs' counsel failed to include that response or his reply after that clear statement that this was not pursuant to a settlement but instead a unilateral dismissal in his filed Notice of Voluntary Dismissal. While Defendants are appreciative of this voluntary dismissal and the cessation by Plaintiffs of this groundless litigation, as officers of the court it is expected that all matters before the Court will be handled with complete candor. The Defendants make this response to ensure that the actual record of what has transpired is accurately reflected in the docket.

Respectfully submitted this 7th day of January, 2021.

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Mashburn, and Anh Le*

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I hereby certify that on the 7th day of January, 2021 I electronically filed the foregoing with the Clerk of Court using the Odyssey eFileGA eFiling system, which will automatically send email notifications of such filing the following counsel of record:

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/s/ Christopher S. Anulewicz

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Georgia Bar No. 020914

EXHIBIT A

Anulewicz, Chris

From: Anulewicz, Chris
Sent: Thursday, January 7, 2021 12:29 AM
To: Kurt Hilbert
Cc: ccarr@law.ga.gov; trevis@hilbertlaw.com; Ray S. Smith, III; dfg@guldenschuhlaw.com; rwillard@law.ga.gov
Subject: Re: Confidential

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Mr. Hilbert—

Thank you for your correspondence of earlier tonight. While I appreciate the willingness of you and your clients to avoid protracted litigation in which, as indicated in my letter of January 3, 2020, we strongly believe the State will prevail, I want to make sure that there are no misunderstandings about either my letter or what the Secretary is willing to do once the pending cases have been dismissed. The letter was not a settlement offer, as you characterize it, but simply a statement that my client was not able to sit down and discuss the issues raised by your clients while there was active litigation by your clients against my client and other state officials. As a result, unless and until your clients met the condition precedent of dismissing all pending cases against state officials, my client would not be able to sit down and discuss the data analysis included in your clients' complaints, including showing how both the underlying data and the accompanying analysis are flawed.

As your clients have now indicated an intent to dismiss the pending cases, my client's offer to voluntarily sit down and discuss, as stated in my letter of January 3, 2020, "as much information with you as we can" outside of the context of ongoing litigation can proceed following your clients' voluntary dismissal of the identified litigation. We cannot agree to provide you access to information that is required by law to remain confidential, but that information should not be necessary to complete the type of discussion contemplated in the prior conversation with Ryan Germany comparing the information relied upon by your experts with the information utilized in the conduct of Georgia's electoral process. While your letter does not specifically state that your clients desire access to confidential information, I wanted to make clear that the Secretary cannot agree to such a request if that was contemplated in your stated intention to dismiss the litigation to complete the Secretary's condition precedent to voluntarily sitting down with you outside the threat of ongoing litigation.

Once your client has voluntarily dismissed the litigation identified in your letter, you can work through Russell Willard and Charlene McGowan in the Attorney General's office to set up a meeting with the Secretary's office. Once the litigation is dismissed, my appointment as a Special Assistant Attorney General will conclude. I look forward to receiving confirmation of the dismissal of the identified litigation. Otherwise, we stand ready to proceed with the scheduled hearing and trial on Friday.

Chris Anulewicz

Sent from my iPhone



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www.balch.com

On Jan 6, 2021, at 9:36 PM, Kurt Hilbert <khilbert@hilbertlaw.com> wrote:

[External Email] Please use caution.

General Carr and Chris-

Please see the attached acceptance letter of your settlement terms from Sunday.

Have a pleasant evening. I look forward to coordinating promptly as per the letter attached.

Kurt R. Hilbert, Esq.
Managing Member

<image001.png>

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IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (a) avoiding penalties under the Internal Revenue Code or (b) promoting, marketing or recommending to another party any transaction or matter addressed herein. YOU HAVE CONTACTED A DEBT COLLECTOR AND ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSES UNDER FEDERAL LAW.

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<doc20210106212320.pdf>

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EXHIBIT B

Anulewicz, Chris

From: Kurt Hilbert <khilbert@hilbertlaw.com>
Sent: Thursday, January 7, 2021 9:18 AM
To: Anulewicz, Chris
Cc: ccarr@law.ga.gov; Timothy Revis; Ray S. Smith, III; dfg@guldenschuhlaw.com; rwillard@law.ga.gov; Hollis, Jim
Subject: RE: Confidential

[External Email] Please use caution.

We will be filing our dismissals this morning. I will notify the court after doing so, and will copy you on that email.

Kurt R. Hilbert, Esq.
Managing Member

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-----Original Message-----

From: Anulewicz, Chris <canulewicz@balch.com>
Sent: Thursday, January 7, 2021 9:16 AM
To: Kurt Hilbert <khilbert@hilbertlaw.com>
Cc: ccarr@law.ga.gov; trevis@hilbertlaw.com; Ray S. Smith, III <rsmith@smithliss.com>; dfg@guldenschuhlaw.com; rwillard@law.ga.gov; Hollis, Jim <jhollis@balch.com>
Subject: Re: Confidential

Kurt—

I left you a voice message. Please confirm you are withdrawing these cases and please email me copies of these withdrawals. We need to also let the Court know.

—Chris

Sent from my iPhone

On Jan 7, 2021, at 12:28 AM, Anulewicz, Chris <canulewicz@balch.com> wrote:

Mr. Hilbert—

Thank you for your correspondence of earlier tonight. While I appreciate the willingness of you and your clients to avoid protracted litigation in which, as indicated in my letter of January 3, 2020, we strongly believe the State will prevail, I want to make sure that there are no misunderstandings about either my letter or what the Secretary is willing to do once the pending cases have been dismissed. The letter was not a settlement offer, as you characterize it, but simply a statement that my client was not able to sit down and discuss the issues raised by your clients while there was active litigation by your clients against my client and other state officials. As a result, unless and until your clients met the condition precedent of dismissing all pending cases against state officials, my client would not be able to sit down and discuss the data analysis included in your clients' complaints, including showing how both the underlying data and the accompanying analysis are flawed.

As your clients have now indicated an intent to dismiss the pending cases, my client's offer to voluntarily sit down and discuss, as stated in my letter of January 3, 2020, "as much information with you as we can" outside of the context of ongoing litigation can proceed following your clients' voluntary dismissal of the identified litigation. We cannot agree to provide you access to information that is required by law to remain confidential, but that information should not be necessary to complete the type of discussion contemplated in the prior conversation with Ryan Germany comparing the information relied upon by your experts with the information utilized in the conduct of Georgia's electoral process. While your letter does not specifically state that your clients desire access to confidential information, I wanted to make clear that the Secretary cannot agree to such a request if that was contemplated in your stated intention to dismiss the litigation to complete the Secretary's condition precedent to voluntarily sitting down with you outside the threat of ongoing litigation.

Once your client has voluntarily dismissed the litigation identified in your letter, you can work through Russell Willard and Charlene McGowan in the Attorney General's office to set up a meeting with the Secretary's office. Once the litigation is dismissed, my appointment as a Special Assistant Attorney General will conclude. I look forward to receiving confirmation of the dismissal of the identified litigation. Otherwise, we stand ready to proceed with the scheduled hearing and trial on Friday.

Chris Anulewicz

Sent from my iPhone

<Balch_Logo_17db8ea2-760c-49c3-b0ff-19f80bb6a179.jpg>

Christopher S. Anulewicz, Partner, Balch & Bingham LLP
30 Ivan Allen Jr. Boulevard, N.W. • Suite 700 • Atlanta, GA 30308-3036
t: (404) 962-3562 f: (866) 320-6758 e: canulewicz@balch.com
www.balch.com<http://www.balch.com>

On Jan 6, 2021, at 9:36 PM, Kurt Hilbert <khilbert@hilbertlaw.com> wrote:

[External Email] Please use caution.

General Carr and Chris-

Please see the attached acceptance letter of your settlement terms from Sunday.

Have a pleasant evening. I look forward to coordinating promptly as per the letter attached.

Kurt R. Hilbert, Esq.
Managing Member
<http://www.hilbertlaw.com/>
<http://www.hilbertlaw.com/>
<image001.png>
THE HILBERT LAW FIRM, LLC
Mailing Address:
205 Norcross Street
Roswell, GA 30075
T: 770-551-9310
F: 770-551-9311
khilbert@hilbertlaw.com<mailto:khilbert@hilbertlaw.com>
www.hilbertlaw.com<http://www.hilbertlaw.com/>

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Exhibit E

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
Plaintiff,)	
	)	CRIMINAL INDICTMENT NO.:
v.)	
	)	23SC188947
RAY STALLINGS SMITH, III,)	
)	
Defendant.)	

ENTRY OF APPEARANCE

COMES NOW, Amanda Clark Palmer, and enters her appearance as counsel of record for the Defendant, Ray Stallings Smith, III, in the above-styled matter. Please send all correspondence, orders, court notices, and copies of pleadings, etc. to the undersigned.

This, the 20th day of August, 2023.

RESPECTFULLY SUBMITTED,

GARLAND, SAMUEL & LOEB, P.C.

/s/ Amanda Clark Palmer
AMANDA CLARK PALMER, ESQ.
Georgia Bar No. 130608
Attorney for Defendant

3151 Maple Drive, N.E.
Atlanta, GA 30305
Tel.: 404-262-2225
Fax: 404-365-5041
Email: aclark@gsllaw.com

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
Plaintiff,)	
	)	CRIMINAL INDICTMENT NO.:
v.)	
	)	23SC188947
RAY STALLINGS SMITH, III,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed this *ENTRY OF APPEARANCE* using the ODYSSEY eFileGA system which will automatically send email notification of such filing to all attorneys and parties of record.

This, the 20th day of August, 2023.

GARLAND, SAMUEL & LOEB, P.C.

/s/ Amanda Clark Palmer
AMANDA CLARK PALMER, ESQ.
Georgia Bar No. 130608
Attorney for Defendant

3151 Maple Drive, N.E.
Atlanta, GA 30305
Tel.: 404-262-2225
Fax: 404-365-5041
Email: aclark@gslaw.com

Exhibit F

Wooten, Will

From: Amanda Clark-Palmer [REDACTED]
Sent: Friday, February 24, 2023 11:02 AM
To: Wooten, Will; Hill, Michael
Cc: Bruce Morris
Subject: SullivanStrickler follow up

This Message Is From an External Sender

This message came from outside Fulton County Government. Use caution with links/attachments.

[Report Suspicious](#)

Hello all

I have copied Bruce Morris on this email. [REDACTED]
[REDACTED]

Separately, you mentioned wanting some additional [REDACTED] information from the firm [REDACTED]. We will volunteer this information to you without the need for a formal subpoena. Just respond back to me and let me know which [REDACTED] information you're looking for and I'll get it to you.

Amanda

Amanda R. Clark Palmer
Partner
Garland, Samuel, & Loeb, P.C.

[REDACTED]

Exhibit G

IN THE FULTON COUNTY SUPERIOR COURT
STATE OF GEORGIA

IN RE: SUBPOENAS FROM SPECIAL PURPOSE GRAND JURY,
CASE NO. 2022-EX-000024

ISSUED TO: Members of the General Assembly (William Ligon; Lt. Governor
Duncan; and others)

MOTION TO QUASH SUBPOENAS

I. INTRODUCTION

During the month of June, the Fulton County Special Purpose Grand Jury issued subpoenas to several Members of the General Assembly (hereinafter “witnesses”).¹ The subpoenas require the attendance and testimony of the witnesses at the special purpose grand jury during the month of July.

The undersigned counsel acting in their limited capacity as Special Assistants Legislative Counsel, and for the reasons stated and based upon the authorities cited herein move the Court to enter an Order quashing the subpoenas or to provide alternative relief as requested herein.

The Georgia Constitution provides privilege and immunity protections to legislators and their staff:

¹ Lt. Governor Geoff Duncan is President of the Senate, not a Member, but the arguments apply equally to him.

"[t]he members of both houses shall be free from arrest during sessions of the General Assembly, or committee meetings thereof, and in going thereto or returning therefrom, except for treason, felony, or breach of the peace. *No member [of the General Assembly] shall be liable to answer in any other place for anything spoken in either house or in any committee meeting of either house.*" Ga. Const. art. III, § 4, ¶ 9 (emphasis added).

This motion raises issues concerning the separation of powers that is foundational to our government. As the Supreme Court has long recognized "it is the duty of each [branch] to zealously protect its function from invasion of the others." *McCutcheon v. Smith*, 199 Ga. 685, 690-691 (1945).² Based on the published reports of the Fulton DA's goal in issuing the subpoenas to members of the General Assembly, the witnesses who are seeking relief realistically are

² The Supreme Court explained that the Separation of Powers doctrine is a part of the structural foundation of state government created by the Georgia Constitution: "The legislative, judicial and executive powers shall forever remain separate and distinct, and no person discharging the duties of one, shall, at the same time, exercise the functions of either of the others, except as herein provided." [now found at Ga. Const. art 1, §2, ¶ III]. While the line of demarcation separating the legislative, judicial, and executive powers may sometimes be difficult to establish, and for this reason each of the three co-ordinate branches of government frequently invades the province of the others, it is nevertheless essential to the very foundation of our system of government that the mandate of the constitution be strictly enforced. The judicial branch doubtless invades the legislative field more frequently than does the legislative branch the judicial field, but it is the duty of each to zealously protect its function from invasion of the others." *Id.*

concerned about the scope of the grand jury's inquiry and the questions that will be posed to them.

The relief sought is straightforward: The Fulton County District Attorney's Office and the Special Purpose Grand Jury that has been convened in Fulton County (1) may not ask any Member of the General Assembly or staff to testify about matters that occurred in the witness's legislative capacity, including conversations a Member had with any other Member or staff; (2) may not ask any Member or staff to testify about the motivations of any Member regarding his or her legislative activities (including, for example, the motivations for questions posed during committee meetings, the motivation for convening committee hearings, or the motivation for allowing certain witnesses to testify, or any other facet of the Member's legislative activities); and (3) may not ask a Member to reveal any research the Member conducted (or staff conducted) including interviewing constituents, lobbyists, or other sources of information that relates to the legislative process.

II. THE GEORGIA CONSTITUTION PROVIDES UNQUALIFIED PRIVILEGE AND IMMUNITY TO MEMBERS OF THE GENERAL ASSEMBLY AND THEIR STAFF

The Constitution grants unqualified legislative immunity to legislators and their staff for any conduct related to their activity as legislators, including participation in debates on the floor of the Senate or House; participation in legislative committee hearings and other meetings; conversations with staff and

other members of the General Assembly and their staff about pending legislative matters and all other activities that are part of the legislative responsibility of the legislator and staff. The privilege and immunity is enshrined in the Georgia Constitution and replicates the Speech and Debate Clause of the United States Constitution. Ga. Const. art. III, § 4, ¶ 9; *Village of N. Atlanta v. Cook*, 219 Ga. 316, 319-320 (1963) (addressing this constitutional provision and finding that it is similar to that in the United States Constitution regarding members of Congress;³ and expressly holding that legislators may not be questioned about the motivations or intent in drafting legislation, or conducting legislative affairs); *Gravel v. United States*, 408 U.S. 606 (1972) (explaining scope of the Speech or Debate Clause in the United States Constitution, Art. I, § 6, cl. 1, as it applies to federal legislators and staff and outlining, *prior* to the appearance of the witness the allowable scope of any questioning of the witness); *Fletcher v. Peck*, 6 Cranch 87, 130, 3 L.Ed. 162 (It was not consonant with our scheme of government for a court to inquire into the motives of legislators, [this] has remained unquestioned); *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 503 (1975) (“[O]nce it is determined that Members are acting within the ‘legitimate legislative sphere’ the Speech or Debate Clause is an absolute

³ The Speech and Debate Clause is found in the U.S. Constitution, Article 1, § 6: “[F]or any Speech or Debate in either House, they [members] shall not be questioned in any other Place.”

bar to interference.”); *Brown & Williamson Tobacco Corp. v. Williams*, 62 F.3d 408 (D.C. Cir. 1995) (the Speech or Debate Clause *prohibits compelled questioning* about legislative communications or legislative actions even if the Member is not named as a party in the lawsuit); *Rangel v. Boehner*, 785 F.3d 19 (D.C. Cir. 2015) (reviewing the history and purpose of the Speech or Debate Clause). The Constitution provides that a legislator and staff may not be compelled to disclose any communications that relate to the legislative responsibilities of the legislator and the staff member. *Miller v. Transamerican Press, Inc.*, 709 F.2d 524 (9th Cir. 1983) (legislator may not be questioned about matters to which the privilege applies).

Thus, there are two separate components of the constitutional provision:

The constitutional provision operates to: (1) prohibit civil suits and criminal prosecutions against Members of the General Assembly (and their staff) for their legislative activities; and (2) shield Members of the General Assembly (and their staff) from appearing in any forum outside of the General Assembly to answer questions or to produce documents relating to their legislative activities, including, but not limited to, their motivations for taking certain actions or communications related thereto.⁴

⁴ In civil matters the federal courts recognize that legislative immunity *completely bars* plaintiffs from seeking evidence from legislators (even non-parties) on *any* aspect of the legislative process. *Roma Outdoor Creations, Inc. v. City of Cumming*, 2008 WL 11411396, at *3 (N.D. Ga. Sept. 18, 2008) (protecting city mayor from a deposition); *Flanigan's Enters., Inc. of Ga. v. City of Sandy Springs*, 2009 WL

III. THE CONSTITUTIONAL PRIVILEGE AND IMMUNITY CLAUSE SERVES TWO FUNCTIONS: FACILITATING THE LEGISLATIVE PROCESS AND PROTECTING THE SEPARATION OF POWERS

A. PRIVILEGED COMMUNICATIONS

The importance of both legislative immunity and legislative privilege cannot be overstated: These provisions enable legislators and their staff to communicate with one another free from the fear that their communications will later be reviewed or questioned by another branch of the government or by any private party in the course of litigation. *See United States v. Brewster*, 408 U.S. 501, 524 (1972). Legislators must be permitted to talk to one another – perhaps even across the proverbial “aisle” – without concern that efforts to accommodate, or compromise, will be exposed to the public. Bad ideas need to be discussed and rejected; good ideas should be promoted. Legislators will acquire information from a variety of sources to formulate a proper legislative solution to a perceived problem, or determine that no legislative action is necessary or possible. All these communications should be accomplished without fear that the public and others – including other branches of government – are entitled to examine or question every step along the way as the (again, “proverbial”) sausage is made.

10697495, at *2 (N.D. Ga. Jan. 29, 2009) (protecting “city council members and mayors from having to attend depositions seeking to question them about their role in the passage of legislation”).

The privilege also applies beyond the limited scope of communications between legislators, or between legislators and a staff member. Additionally, the privilege applies to a legislator's source of information if the information relates to a legislative investigation or the formulation of legislation. *Miller v. Transamerican Press, Inc.*, 709 F.2d 524, 530 (9th Cir. 1983) (“The possibility of public exposure could constrain these sources. It could deter constituents from candid communication with their legislative representatives and otherwise cause the loss of valuable information. Even more to the point, it would chill speech and debate on the floor. The Congressman might censor his remarks or forgo them entirely to protect the privacy of his sources, if he contemplated that he could be forced to reveal their identity in a lawsuit”).

B. SEPARATION OF POWERS

Legislative immunity and legislative privilege also delineate the proper boundaries ensuring the governmental separation of powers. The legislative branch of government is entitled to pursue its agenda without undue interference from the executive or judicial branches, just as the judicial branch pursues its mission without undue interference from the other branches of government. In *Kilbourn v. Thompson*, 103 U.S. 168, 203-04 (1880), the Supreme Court explained the importance of the legislative privileges and immunity, citing the language of an earlier 19th Century Massachusetts Supreme Court decision:

‘These privileges are thus secured, not with the intention of protecting the members against prosecutions for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal. I, therefore, think that the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate, but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature and in the execution of the office. And I would define the article as securing to every member exemption from prosecution for everything said or done by him as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular, according to the rules of the House, or irregular and against their rules. I do not confine the member to his place in the House; and I am satisfied that there are cases in which he is entitled to this privilege when not within the walls of the representatives' chamber.’

103 U.S. at 203–04 (1880) (quoting *Coffin v. Coffin*, 4 Mass. 1 (1808)). *See also Brewster*, 408 U.S. at 524 (“[T]he purpose of the Speech or Debate Clause is to protect the individual legislator, not simply for his own sake, but to preserve the independence and thereby the integrity of the legislative process.”); *Powell v. McCormack*, 395 U.S. 486, 503 (1969) (noting that legislative immunity “insures that legislators are free to represent the interests of their constituents without fear that they will later be called to task in the courts for that representation”).

Imagine, by analogy, if a grand jury (or for that matter, a legislative committee), could summon judges to answer why a judicial decision was reached in a certain way (for example, perhaps the grand jury will summon a Superior Court Judge to inquire why the Judge ruled one way or another regarding a Motion to Quash a subpoena), or summon an appellate judge and compel the judge to reveal

the discussions that were held during the appellate court's conference prior to issuing a decision, or demand to know what law review articles the judge read or considered prior to reaching a decision. Permitting the executive branch to question legislators about their conversations or their motivations is equally disruptive of the functioning of the legislative branch of government.

We anticipate the District Attorney and her assistants will decline to provide the attorneys representing these witnesses any preview of the questions that will be posed to the witness during his grand jury appearance. Pursuant to Ga. Const. art. III, § 4, ¶ 9, there are undeniably numerous topics that are within the scope of the legislative immunity and legislative privilege and may not be the subject of any inquiry. On the other hand, there are questions the District Attorney may pose to the witness that are entirely unrelated to his legislative duties.

IV. THIS COURT SHOULD SET FORTH THE GUIDELINES FOR QUESTIONING OF MEMBERS PRIOR TO THE MEMBERS' APPEARANCE

Because counsel has been provided no preview and because counsel may not appear in the grand jury to interpose any objection, the prudent course is to inquire into the scope of the intended questioning of the witness and to set forth the boundaries. In addition, the District Attorney should be advised that the witness will be permitted to invoke privilege and to assert his immunity and to suspend the

questioning to consult with counsel outside the grand jury room as often as necessary to protect the privilege and to seek advice about the propriety of any topic of inquiry.

In *United States v. Swindall*, 971 F.2d 1531, 1547 (11th Cir. 1992), the Eleventh Circuit reversed the conviction of a Georgia Congressman on certain counts based on the government's improper reliance on evidence presented to the grand jury, relating to the the Congressman's legislative activities. The Eleventh Circuit's description of the purpose of the Speech and Debate Clause applies in this case:

The central role of the Speech or Debate Clause [is] to prevent intimidation of legislators by the Executive and accountability before a possibly hostile judiciary." Gravel v. United States, 408 U.S. 606, 617, 92 S. Ct. 2614, 2623, 33 L. Ed. 2d 583 (1972) (citing Johnson, 383 U.S. at 181, 86 S. Ct. at 755).

The Speech or Debate Clause "at the very least protects [a member of Congress] from criminal or civil liability and from questioning elsewhere than in [Congress]." Gravel, 408 U.S. at 2615, 92 S. Ct. at 2622. ***

The clause is read broadly to effectuate its purposes. See Eastland v. United States Servicemen's Fund, 421 U.S. 491, 501, 95 S. Ct. 1813, 1820, 44 L. Ed. 2d 324 (1975). Legislative activities covered by the privilege include issuing committee reports and holding hearings, see Doe v. McMillan, 412 U.S. 306, 93 S. Ct. 2018, 36 L. Ed. 2d 912 (1973), as well as "*those things generally said or done in the House or the Senate in the performance of official duties.*" United States v. Brewster, 408 U.S. 501, 512, 92 S. Ct. 2531, 2537, 33 L. Ed. 2d 507 (1972) (emphasis added)].

Id. 1544. The Court reversed Swindall's conviction based on the improper use of the evidence in presenting the case to the grand jury: "Invocation of the constitutional protection at a later stage cannot undo the damage. If it is to serve its

purpose, the shield must be raised at the beginning.” The Court went on to find that “[w]hen a member is improperly questioned, however, the violation occurs automatically. ‘It is the very act of questioning that triggers the protection of the *Speech or Debate Clause*.’” *Id.* at 1549 quoting *In re Grand Jury (Intervenor "A")*, 587 F.2d 589, 598 (3d Cir. 1978).

For these reasons, the Court should set this matter down for oral argument⁵ to consider the propriety of any topic of inquiry that the District Attorney intends to pursue with a Member or staff of the Georgia General Assembly. The alternative would require this court to evaluate all questions to all Members who have been subpoenaed throughout the course of each Members’ testimony over the following weeks or months.

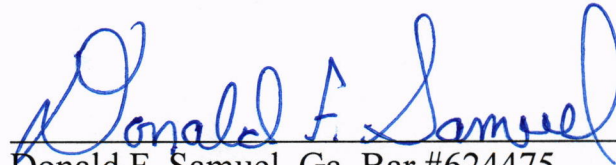
Setting ground rules in advance, as the Supreme Court did in *Gravel*, is the efficient method of evaluating the scope and breadth of the privileges and immunities enjoyed by the Members and staff.

⁵ The court should also consider, given the nature of the inquiry, whether certain communications are privileged (and particularly in the context of a grand jury proceeding) and should be conducted in closed session and not open to the public, just as the grand jury proceedings are secret and not open to the public. If the Court intends to hear the specifics of privileged communications, the inquiry should be conducted *in camera*. *United States v. Zolin*, 491 U.S. 554 (1989) (when attorney-client privilege is invoked, inquiry into the specifics of the communication should be conducted *in camera*).

For the foregoing reasons, the witnesses urge the Court to enter an Order holding that Legislative Immunity and Privilege bars the DA from demanding the appearance of any Member at the Grand Jury to respond to questions relating to the Member's legislative duties and holding that the DA may not ask any witness to reveal any communications involving the Member and any other person relating to the Member's legislative duties.

RESPECTFULLY SUBMITTED,

GARLAND, SAMUEL & LOEB, P.C.



Donald F. Samuel, Ga. Bar #624475
Special Assistant Legislative Counsel



Amanda Clark Palmer, Ga. Bar #130608
Special Assistant Legislative Counsel

3151 Maple Drive, N.E.
Atlanta, Georgia 30305
(404) 262-2225
dfs@gslaw.com
aclark@gslaw.com

IN THE FULTON COUNTY SUPERIOR COURT
STATE OF GEORGIA

IN RE: SUBPOENAS FROM SPECIAL PURPOSE GRAND JURY,
CASE NO. 2022-EX-000024

ISSUED TO: Members of the General Assembly (William Ligon; Lt. Governor
Duncan; and others)

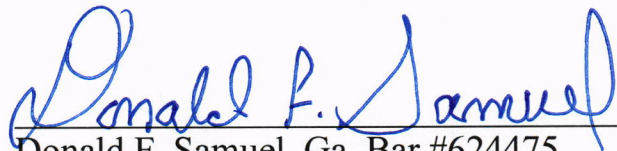
CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **MOTION TO QUASH
SUBPOENAS** upon the following counsel this date by depositing a copy of same
in the United States mail, first class postage prepaid, and properly addressed as
follows:

Fani T. Willis, DA
Fulton County District Attorney's Office
Lewis Slaton Courthouse, Third Floor
136 Pryor Street, S.W.
Atlanta, Georgia 30305

This the 27th day of June, 2022.

RESPECTFULLY SUBMITTED,
GARLAND, SAMUEL & LOEB, P.C.



Donald F. Samuel, Ga. Bar #624475
Special Assistant Legislative Counsel

3151 Maple Drive, N.E.
Atlanta, Georgia 30305
(404) 262-2225
dfs@gsslaw.com

Exhibit H

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA :
 :
v. : INDICTMENT NO.: 23SC188947
 :
KENNETH CHESEBRO, : JUDGE MCAFEE
 :
Defendant. :

ENTRY OF APPEARANCE

COMES NOW, Scott R. Grubman and Manubir S. Arora, and enter their appearance as Counsel of record for the Defendant, Kenneth Chesebro, in the above-styled matter.

Please send all correspondence, orders, court notices, and copies of pleadings to the undersigned.

Respectfully submitted, this the 16th day of August 2023.

/s/ Scott R. Grubman
SCOTT R. GRUBMAN
Georgia Bar No. 317011
Counsel for Defendant

CHILIVIS GRUBMAN
1834 Independence Square
Dunwoody, Georgia 30338
(404) 233-4171
sgrubman@cglawfirm.com

/s/ Manubir S. Arora
MANUBIR S. ARORA
Georgia Bar No. 061641
Counsel for Defendant

ARORA LAW FIRM
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Atlanta, Georgia 30342
(404) 609-4664
manny@arora-law.com

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA	:	
	:	
v.	:	INDICTMENT No.: 23SC188947
	:	
KENNETH CHESEBRO,	:	JUDGE MCAFEE
	:	
Defendant.	:	

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing **Entry of Appearance** upon District Attorney Fani Willis via the e-filing system and via US Mail.

Fani Willis
Office of the Fulton District Attorney
136 Pryor St. SW 3rd Fl
Atlanta, GA 30303

This the 16th day of August 2023.

/s/ Scott R. Grubman
SCOTT R. GRUBMAN
Georgia Bar No. 317011
Counsel for Defendant

CHILIVIS GRUBMAN
1834 Independence Square
Dunwoody, Georgia 30338
(404) 233-4171
sgrubman@cglawfirm.com

/s/ Manubir S. Arora
MANUBIR S. ARORA
Georgia Bar No. 061641
Counsel for Defendant

ARORA LAW FIRM
75 W. Wieuca Road, N.E.
Atlanta, Georgia 30342
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manny@arora-law.com

Exhibit I

5:29

5G E



iMessage
May 26, 2022 at 1:45 PM

Hello, this is Scott grubman
(attorney for Tricia Raffensperger).
Any chance you can talk for 5
minutes?

May 26, 2022 at 3:43 PM

Scott- the attys are tied up- but will
call you tomorrow am around 10 if
that's good for you. Trina

Thank you! Please tell them if I
don't answer I'll call them back
asap

Will do!

Than you

May 27, 2022 at 10:03 AM

Good morning Scott- is now a good
time for you to speak with the
prosecutors? I'll call you

Jun 1, 2022 at 11:16 AM

Hello! Sorry I missed you. Secretary
and Ms. Raffensperger wanted to
see if you can tell us more info
regarding timing of their testimony
tomorrow



iMessage



5:29

5G E



time for you to speak with the prosecutors? I'll call you

Jun 1, 2022 at 11:16 AM

Hello! Sorry I missed you. Secretary and Ms. Raffensperger wanted to see if you can tell us more info regarding timing of their testimony tomorrow

Jun 1, 2022 at 2:52 PM

Hi. Secretary should be here at 9 am. He is the first witness. Mrs. Raffensperger can come at 1:00. Our thinking is that Secretary will take til about noon. The jurors will break for lunch, and then Mrs Raffensperger will be up at lunch. We don't expect her testimony to take long at all. I hope that helps.

Delivered

Ok thank you 🙏

Jul 12, 2022 at 11:20 AM

Good morning, this is Scott Grubman (attorney who repped Mrs. Raffensperger). I have been retained to represent Ken Chesebro. I understand y'all might be trying to serve a subpoena?



iMessage



Exhibit J

Scott Grubman's Post



Scott Grubman
Partner at Chilivis Grubman
1y · Edited


It is my honor and privilege to represent Secretary of State Brad Raffensperger. Secretary Raffensperger stood strong in the face of unimaginable pressure and ensured that our fragile democracy survived to see another day.

us 🇺🇸 us



👍❤️🗨️ 317 · 17 Comments

👍 Like 🗨️ Comment ➦ Share



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- Business Administration
- HR Management
- Engineering
- Soft Skills
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Exhibit K

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

v.

DONALD J. TRUMP, ET AL.,

Defendants

Case No.

23SC188947

ENTRY OF SPECIAL APPEARANCE

Comes Now the undersigned and, pursuant to U.S.C.R. 4.2, enters this appearance on behalf of Jeffrey Bossert Clark, a defendant in the above-entitled matter. This is a special appearance and we do not hereby concede either personal or subject matter jurisdiction in this Court as set out in our Notice of Removal. *See generally State v. Clark*, U.S. District Court for the Northern District of Georgia, Case No. 1:23-cv-3721-SCJ, Notice of Removal, Dkt. 1. In view of the proceedings in federal court, should litigating those issues in this forum become necessary, these threshold defenses and any other applicable defenses will be presented in this Court at the appropriate time as specified by this Court.

Respectfully submitted, this 25th day of August 2023.

**CALDWELL, CARLSON, ELLIOTT &
DELOACH, LLP**

/s/ Harry W. MacDougald

Harry W. MacDougald

Ga. Bar No. 463076

Two Ravinia Drive
Suite 1600
Atlanta, GA 30346

(404) 843-1956

hmacdougald@cedlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this 25 day of August, 2023, I electronically lodged the within and foregoing *Entry of Special Appearance* with the Clerk of Court using the PeachCourt eFile/GA system which will provide automatic notification to the following counsel of record:

Fani Willis, Esq.
Nathan J. Wade, Esq.
Fulton County District Attorney's Office
136 Pryor Street SW
3rd Floor
Atlanta GA 30303

As of this filing, to the knowledge of the undersigned, there are no other counsel of record in this case.

**CALDWELL, CARLSON, ELLIOTT &
DELOACH, LLP**

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

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Atlanta, GA 30346
(404) 843-1956
hmacdougald@ccedlaw.com

Exhibit L

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

**CORECO JA'QAN PEARSON,
VIKKI TOWNSEND CONSIGLIO, GLORIA KAY
GODWIN, JAMES KENNETH CARROLL
CAROLYN HALL FISHER, CATHLEEN ALSTON
LATHAM, JASON M SHEPHERD, on behalf of the
COBB COUNTY REPUBLICAN PARTY, and
BRIAN JAY VAN GUNDY,**

CASE NO.

1:20-cv-4809

Plaintiffs

v.

**BRIAN KEMP, in his official capacity as
Governor of Georgia, BRAD RAFFENSPERGER,
in his official capacity as Secretary of State and
Chair of the Georgia State Election Board,
DAVID J. WORLEY, in his official capacity as a
member of the Georgia State Election Board,
REBECCA N. SULLIVAN, in her official capacity
as a member of the Georgia State Election Board,
MATTHEW MASHBURN, in his official capacity
as a member of the Georgia State Election Board,
and ANH LE, in her official capacity as a member
of the Georgia State Election Board,**

Defendants.

**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

(1) The undersigned counsel of record for a party to this action certifies that the following is a full and complete list of all parties in this action,

including any parent corporation and any publicly held corporation that owns 10% or more of the stock of a party:

Plaintiffs:

Coreco Ja'qan Pearson,

Vikki Townsend Consiglio,

Brian Jay Van Gundy, Assistant Secretary of the Georgia Republican Party

Jason M Shepherd, on behalf of the Cobb County Republican Party

Gloria Kay Godwin,

James Kenneth Carroll

Carolyn Hall Fisher

Cathleen Alston Latham

Jason M Shepherd, on behalf of the Cobb County Republican Party

Defendants:

The Honorable Brian Kemp, in his official capacity as the Governor of Georgia;

The Honorable Brad Raffensperger, in his official capacity as Secretary of State of the State of Georgia;

Rebecca N. Sullivan, in her official capacity as Vice Chair of the Georgia State Election Board;

David J. Worley, in his official capacity as a Member of the Georgia State Election Board;

Matthew Mashburn, in his official capacity as a Member of the Georgia State Election Board; and

Anh Le, in her official capacity as a Member of the Georgia State Election Board.

(2) The undersigned further certifies that the following is a full and complete list of all other persons, associations, firms, partnerships, or corporations having either a financial interest in or other interest which could be substantially affected by the outcome of this particular case:

DefendTheRepublic.org.

Cobb County, Georgia Republican Party

(3) The undersigned further certifies that the following is a full and complete list of all persons serving as attorneys for the parties in this proceeding:

Plaintiffs:

Harry W. MacDougald
Georgia Bar No. 463076
CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

/s Sidney Powell*

Sidney Powell PC
Texas Bar No. 16209700
sidney@federalappeals.com
2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219
(214) 707-1775

Julia Z. Haller *

District of Columbia Bar No. 466921
hallerjulia@outlook.com
Of counsel to Sidney Powell, office address to be updated.

Emily P. Newman*

Virginia Bar License No. 84265
enewman@protonmail.com
Of counsel to Sidney Powell, office address to be updated.

L. Lin Wood

GA Bar No. 774588
L. LIN WOOD, P.C.
P.O. Box 52584
Atlanta, GA 30305-0584
Telephone: (404) 891-1402
lwood@linwoodlaw.com

Howard Kleinhendler*

NEW YORK BAR NO. 2657120
Howard Kleinhendler Esquire
369 Lexington Avenue, 12th Floor
New York, New York 10017
Office (917) 793-1188
Mobile (347) 840-2188
howard@kleinhendler.com
www.kleinhendler.com

*Applications for admission pro hac vice forthcoming

Defendants

No appearance yet.

Respectfully submitted, this 27th day of November, 2020.

/s/ Sidney Powell*
Sidney Powell PC
Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300
Dallas, Texas 75219

*Application for admission pro hac vice
forthcoming

CALDWELL, PROPST & DELOACH,
LLP

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

CALDWELL, PROPST & DELOACH, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 – Telephone
(404) 843-2737 – Facsimile
hmacdougald@cpdlawyers.com

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook 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

This is to certify that I have on this day e-filed the foregoing Plaintiffs' Certificate of Interested Persons with the Clerk of Court using the CM/ECF system, and that I have delivered the filing to the Defendants by email and FedEx at the following addresses:

This 27th day of November, 2020.

Governor Brian Kemp
206 Washington Street
111 State Capitol
Atlanta, GA 30334

Secretary of State Brad Raffensperger
214 State Capitol
Atlanta, Georgia 30334
brad@sos.ga.gov
soscontact@sos.ga.gov

Rebecca N. Sullivan
Georgia Department of Administrative Services
200 Piedmont Avenue SE
Suite 1804, West Tower
Atlanta, Georgia 30334-9010
rebecca.sullivan@doas.ga.gov

David J. Worley
Evangelista Worley LLC
500 Sugar Mill Road
Suite 245A
Atlanta, Georgia 30350
david@ewlawllc.com

Matthew Mashburn
Aldridge Pite, LLP
3575 Piedmont Road, N.E.
Suite 500

Atlanta, Georgia 30305
mmashburn@aldridgepate.com

Anh Le
Harley, Rowe & Fowler, P.C.
2700 Cumberland Parkway
Suite 525
Atlanta, Georgia 30339
ale@hrfllegal.com

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

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

Exhibit M

S. Ct. Case No. _____

11th Cir. Case No. 20-14418
N.D. Ga. Case No. 20-cv-04651-SDG

**IN THE
SUPREME COURT OF THE UNITED STATES**

L. LIN WOOD, JR.

Petitioner,

vs.

BRAD RAFFENSPERGER, et al.,

Respondents.

PETITION FOR WRIT OF CERTIORARI

On Petition for a Writ of Certiorari to the Eleventh Circuit Court of Appeals.

L. Lin Wood, Esq. (lead counsel)
GA Bar No. 774588
L. LIN WOOD, P.C.
P.O. BOX 52584
Atlanta, GA 30305-0584
(404) 891-1402
lwood@linwoodlaw.com

Harry W. MacDougald
Georgia Bar No. 463076
Caldwell, Propst & Deloach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
(404) 843-1956 Office
hmacdougald@cpdlawyers.com

Exhibit N

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
Plaintiff,)	
	)	CRIMINAL INDICTMENT NO.:
vs.	)	23-SC-188947
)	
RAY STALLINGS SMITH, III,)	
)	
Defendant.)	

NOTICE OF APPEARANCE OF COUNSEL

COMES NOW Bruce H. Morris, and enters his appearance as counsel of record for the Defendant Ray Stallings Smith, III, in the above-styled matter. Please send all correspondence, orders, court notices, and copies of pleadings, etc. to the undersigned.

This 22nd day of August, 2023.

Respectfully submitted,

Finestone & Morris, LLP

By: /s/ Bruce H. Morris

BRUCE H. MORRIS

Georgia Bar No. 523575

Suite 2540 Tower Place
3340 Peachtree Road, N.E.
Atlanta, Georgia 30326
(404) 262-2500

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the within and foregoing “Notice of Appearance of Counsel” upon Fulton County’s District Attorney’s office via electronic filing with a courtesy copy to:

Litigation Manager
Cheryl Vortice
<Cheryl.vortice@fultoncountyga.gov>

This 22nd day of August, 2023.

/s/ Bruce H. Morris
Bruce H. Morris
Georgia Bar No. 523575

Exhibit O

Wooten, Will

From: bmorris fmattorneys.com [REDACTED]
Sent: Monday, July 24, 2023 3:32 PM
To: Amanda Clark-Palmer
Cc: Hill, Michael; Wooten, Will; Swanson-Lucas, Trina
Subject: Re: SullivanStrickler follow up

This Message Is From an External Sender

This message came from outside Fulton County Government. Use caution with links/attachments.

Report Suspicious

Amanda and Mr. Hill:

I will [REDACTED] on behalf of Mr. Maggio.

Bruce

Sent from my iPhone

On Jul 24, 2023, at 2:52 PM, Amanda Clark-Palmer [REDACTED] wrote:

Mr. Morris represents Mr. Maggio personally so I will let him respond.

Best,
Amanda

Amanda R. Clark Palmer
Partner
Garland, Samuel, & Loeb, P.C.

[REDACTED]
[REDACTED]
[REDACTED]

From: Hill, Michael [REDACTED]
Sent: Monday, July 24, 2023 2:50 PM
To: Amanda Clark-Palmer [REDACTED]
Cc: Wooten, Will [REDACTED]; Swanson-Lucas, Trina [REDACTED]
[REDACTED] bmorris fmattorneys.com [REDACTED]
Subject: RE: SullivanStrickler follow up

Good afternoon Amanda,

I pray all is well and you are enjoying the summer.

My contact regards Mr. Paul Maggio. I attempted to call you at the office today but was told you were unavailable.

Do you still represent Mr. Maggio? [REDACTED]
[REDACTED]

Please advise.

Integrity Matters

Michael L. Hill II
Assistant Chief Investigator
Capital & Cold Case Unit, Gangs Unit, White Collar Crime Unit, Civil Forfeiture Unit
Atlanta Judicial Circuit

[REDACTED]

<image002.png>
<image003.jpg>
<image004.jpg>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Exhibit P

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
Plaintiff,)	
	)	CRIMINAL INDICTMENT NO.:
v.)	
	)	23SC188947
RAY STALLINGS SMITH, III,)	
)	
Defendant.)	

ENTRY OF APPEARANCE

COMES NOW, Donald F. Samuel, and enters his appearance as counsel of record for the Defendant, Ray Stallings Smith, III, in the above-styled matter. Please send all correspondence, orders, court notices, and copies of pleadings, etc. to the undersigned.

This, the 20th day of August, 2023.

RESPECTFULLY SUBMITTED,

GARLAND, SAMUEL & LOEB, P.C.

/s/ Donald F. Samuel
DONALD F. SAMUEL, ESQ.
Georgia Bar No. 624475
Attorney for Defendant

3151 Maple Drive, N.E.
Atlanta, GA 30305
Tel.: 404-262-2225
Fax: 404-365-5041
Email: dfs@gslaw.com

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
Plaintiff,)	
	)	CRIMINAL INDICTMENT NO.:
v.)	
	)	23SC188947
RAY STALLINGS SMITH, III,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed this *ENTRY OF APPEARANCE* using the ODYSSEY eFileGA system which will automatically send email notification of such filing to all attorneys and parties of record.

This, the 20th day of August, 2023.

GARLAND, SAMUEL & LOEB, P.C.

/s/ Donald F. Samuel
DONALD F. SAMUEL, ESQ.
Georgia Bar No. 624475
Attorney for Defendant

3151 Maple Drive, N.E.
Atlanta, GA 30305
Tel.: 404-262-2225
Fax: 404-365-5041
Email: dfs@gslaw.com

Exhibit Q

Wooten, Will

[REDACTED]

From: Don Samuel [REDACTED]
Sent: Monday, March 13, 2023 11:11 AM
To: Swanson-Lucas, Trina [REDACTED] Ney, Adam [REDACTED] Hill,
Michael [REDACTED]
Subject: Keith Williams

This Message Is From an External Sender

This message came from outside Fulton County Government. Use caution with links/attachments.

Report Suspicious

Ms. Swanson-Lucas: I have been representing members of the General Assembly in connection with the SPGJ and other matters that relate to their right to assert legislative immunity and legislative privilege. I understand you may want to speak to Keith Williams. I represent him (and represented him at the SPGJ).

Please communicate with him through me in the future.

Thanks

Don Samuel

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

DONALD JOHN TRUMP,
RUDOLPH WILLIAM LOUIS GIULIANI,
JOHN CHARLES EASTMAN,
MARK RANDALL MEADOWS,
KENNETH JOHN CHESEBRO,
JEFFREY BOSSERT CLARK,
JENNA LYNN ELLIS,
RAY STALLINGS SMITH III,
ROBERT DAVID CHEELEY,
MICHAEL A. ROMAN,
DAVID JAMES SHAFER,
SHAWN MICAH TRESHER STILL,
STEPHEN CLIFFGARD LEE,
HARRISON WILLIAM PRESCOTT FLOYD,
TREVIAN C. KUTTI,
SIDNEY KATHERINE POWELL,
CATHLEEN ALSTON LATHAM,
SCOTT GRAHAM HALL,
MISTY HAMPTON a/k/a EMILY MISTY HAYES
Defendants.

CASE NO.

23SC188947

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this NOTICE OF POTENTIAL CONFLICTS OF INTEREST CONCERNING ATTORNEYS CHRISTOPHER SCOTT ANULEWICZ, AMANDA ROURK CLARK PALMER, SCOTT ROBERT GRUBMAN, HARRY W. MACDOUGALD, BRUCE H. MORRIS, AND DONALD FRANKLIN SAMUEL, WHO PREVIOUSLY REPRESENTED DEFENDANTS OR WITNESSES FOR THE STATE OF GEORGIA, PURSUANT TO GEORGIA RULES OF PROFESSIONAL CONDUCT RULES 1.6, 1.7, AND 1.9 AND OTHER RELEVANT LAW, upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system.

This 20th day of September 2023,

FANI T. WILLIS
District Attorney
Atlanta Judicial Circuit

/s/ John W. "Will" Wooten
John W. "Will" Wooten
Georgia Bar No. 410684
Deputy District Attorney
Fulton County District Attorney's Office
136 Pryor Street SW, 3rd Floor
Atlanta, Georgia 30303
will.wooten@fultoncountyga.gov