

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,  
JEFFREY BOSSERT CLARK,  
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,  
CATHLEEN ALSTON LATHAM,  
MISTY HAMPTON a/k/a EMILY MISTY HAYES  
Defendants.

CASE NO.

23SC188947

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**STATE'S MOTION TO TAKE DEPOSITION TO PRESERVE  
TESTIMONY OF A MATERIAL WITNESS**

**COMES NOW** the State of Georgia and makes this Motion under O.C.G.A. § 24-13-130 for a Deposition to Preserve Testimony of a Material Witness in the above-styled case and requests the Court to set a time period of no more than thirty-days to take the deposition.

The State, as required under O.C.G.A. § 24-13-130, asserts that the pertinent witness, Susan Holmes, is 72 years of age or older, having been born in 1942. O.C.G.A. § 24-13-130(b)(6).

The indictment charges the defendants in this case with 41 criminal acts arising from a criminal conspiracy to unlawfully change the outcome of the 2020 presidential election in the State of Georgia. Pertinent to this motion, the defendants are charged with violating the Georgia RICO act (O.C.G.A. § 16-14-4(c)), forgery in the first degree (O.C.G.A. § 16-9-1(b)), conspiracy to

commit forgery in the first degree (O.C.G.A. § 16-4-8), false statements and writings (O.C.G.A. § 16-10-20), conspiracy to commit false statements and writings (O.C.G.A. § 16-4-8), criminal attempt to commit filing false documents (O.C.G.A. § 16-4-1), and conspiracy to commit filing false documents (O.C.G.A. § 16-4-8), in connection with the creation and distribution of false documents related to Georgia's electoral college votes.

The status of this criminal proceeding is that the indictment was returned on August 14, 2023. The defendants have each waived arraignment and entered pleas of not guilty. No trial date has been set. Discovery has been served, and continues to be served as necessary, upon the attorneys for the defendants.

Witness Susan Holmes' testimony is material to the above-styled case in that she had been recruited and qualified to serve as a candidate for presidential elector in early 2020. She was not aware of the December 14, 2020 Alternate Elector Meeting described in the indictment until she was asked to attend it by an unindicted co-conspirator. Her position was that she would not attend the meeting because she knew that Defendant Donald Trump did not win the presidential election in Georgia. Susan Holmes has testimony regarding the recruitment of individuals to attend the December 14 meeting that other witnesses do not have, and that no other witness can testify to.

Susan Holmes can be contacted through her attorney, T.C. Spencer Pryor, Alston and Bird, 1201 West Peachtree Street, Atlanta, GA 30309.

The State requests that the court to set a time period of no more than thirty days (30) to take the deposition. The State will retain a certified court reporter to create a transcript of the proceedings, and the State will also create a video recording of the proceedings.

Respectfully submitted this 8<sup>th</sup> day of January, 2024,

**FANI T. WILLIS**  
**Georgia Bar No. 223955**

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/s/ F. McDonald Wakeford  
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/s/ Alex Bernick  
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**VERIFICATION**

My name is Alex Bernick. I hereby swear or affirm that I have read the attached document, State's Motion to take Deposition to Preserve Testimony of a Material Witness, which was filed on January 8, 2024, and the facts stated in said document are true.



**Alex Bernick**  
**Georgia Bar No. 730234**  
Assistant District Attorney  
Fulton County District Attorney's Office

Subscribed and sworn before me on

 , 2024.

  
Notary Public



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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of this State's Motion to take Deposition to Preserve Testimony of a Material Witness, upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system.

This 8<sup>th</sup> day of January, 2024,

**FANI T. WILLIS**  
District Attorney  
Atlanta Judicial Circuit

/s/ Alex Bernick  
**Alex Bernick**  
**Georgia Bar No. 730234**  
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