IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA	
	CASE NO.
v.	
	23SC188947
DONALD JOHN TRUMP, JOHN CHARLES EASTMAN, JEFFREY BOSSERT CLARK, RAY STALLINGS SMITH III, ROBERT DAVID CHEELEY, MICHAEL A. ROMAN, DAVID JAMES SHAFER, SHAWN MICAH TRESHER STILL, CATHLEEN ALSTON LATHAM, Defendants.	

STATE'S SUPPLEMENTAL BRIEF ON THE INAPPLICABILITY OF *IN RE LONEY* TO COUNTS 14, 15, AND 27

Hon. FANI T. WILLIS
District Attorney
Atlanta Judicial Circuit

Office of the District Attorney
136 Pryor Street SW, Third Floor
Atlanta, GA 30303

I. *In re Loney* has no application beyond habeas corpus and perjury cases.

The Court has invited briefing "on the application of *In re Loney* as it relates to counts 14, 15, and 27" of the Indictment in this case. Each of those counts relate to the crime of filing false documents in violation of O.C.G.A. § 16-10-20.1.[1] The State here responds that *In re Loney*, 134 U.S. 372 (1890), a historically unique habeas corpus case concerning charges of perjury, neither affects nor applies to those counts. *Loney* is an early consideration of the concept of federal preemption confined to its own idiosyncratic circumstances. What the Defendants ask of this Court—to discard the stated intent of the Georgia General Assembly and hold that false filings in federal courts cannot possibly have a bearing on any state interest—would entail an unprecedented extension of *Loney*. The Court should deny that request.

Loney is an outlier and has never, in 134 years, been interpreted as broadly as the Defendants suggest. Almost invariably, cases that rely on *Loney* tend to invoke its holdings on habeas corpus or its perjury-specific holding that individual states may not prosecute a witness based on false testimony given in violation of an oath required by Congress.[2] *Loney*'s perjury holding has never been applied to charges of filing false documents, and, certainly, no court has ever interpreted it as creating any broadly applicable rule of constitutional jurisprudence. The Supreme Court has cabined *Loney* as an "exceptional" habeas case that only justified the "exceedingly delicate jurisdiction given to the federal courts" to disrupt ongoing state criminal

[1] O.C.G.A. § 16-10-20.1(b)(1) states that it is unlawful to "knowingly file, enter, or record any document in a public record or court of this state or the United States knowing or having reason to know that such document is false or contains a materially false, fictitious, or fraudulent statement or representation."

[2] *See, e.g.*, *Wade v. Mayo*, 334 U.S. 672, 692-93 (1948) (classifying *Loney* as example of when habeas corpus applicant need not first exhaust state remedies); *Frank v. Mangum*, 237 U.S. 309, 329 (1915) (*Loney* is "exceptional" habeas case); *Holmgren v. United States*, 217 U.S. 509, 518 (1910) (affirming federal conviction for testimony in violation of federal oath during naturalization proceedings even though oath was administered in state court); *People v. Cohen*, 9 A.D.3d 71, 84 (New York 2004) (distinguishing *Loney* from cases where individual states have interests in false testimony made before tribunals implicating both federal and state concerns); *Commonwealth v. Kitchen*, 141 Ky. 655, 658 (1911) (citing *Loney* for proposition that "jurisdiction to punish perjury committed in a Federal tribunal is confined to the courts of the United States").

proceedings because of its extremely unusual facts. *Baker v. Grice*, 169 U.S. 284, 291 (1898). Those facts involved direct and intentional state interference in an ongoing Congressional inquiry where the state's only arguable interest in the prosecution occurred by happenstance—a state notary public happened to administer Loney's federal oath, acting solely as a proxy for the federal government. "[T]he reasons for the interference of the Federal court in [*Loney* and *In re Neagle*] were extraordinary, and presented what this court regarded as such exceptional facts as to justify the interference of the Federal tribunal." *Id.* at 298. *Loney* was

> [a] case[] of urgency, involving in a substantial sense the authority and operations of the general government… The obvious effect of Loney's arrest, under the circumstances disclosed, was to embarrass one of the parties in the contested election case in obtaining evidence in his behalf, intimidate witnesses whom he might desire to introduce, and delay the preparation of the case for final determination by the House of Representatives.

New York v. Eno, 155 U.S. 89, 96-97 (1894). In other words, *Loney* was an emergency. The Supreme Court later clarified that the "peculiar" or "exceptional urgency" demonstrated in *Loney* stemmed from the fact "that to permit [Loney] to be prosecuted in the state courts would greatly impede and embarrass the administration of justice in a national tribunal." *United States ex rel. Kennedy v. Tyler*, 269 U.S. 13, 19 (1925). The case implicated practical concerns about the authority and reputation of federal proceedings generally because it was an obvious and *deliberate* attempt by a state to interfere with Congressional power, necessitating immediate action by the Supreme Court. These various circumstances make *Loney* unlike almost any other case.

Loney may apply in cases where, unlike this case, a state has *no* legitimate interest in the circumstances *and* where, also unlike here, a federal statute directly conflicts with the state statute or manages to otherwise "occupy the field." As one court has explained,

> The Supreme Court noted that despite the trappings of state authority conferred by the fact of a state licensed notary, the oath was required to be administered only by virtue of federal, and not state, law. The entire point of the deposition concerned a congressional matter, with Congress acting in its constitutionally conferred quasi-

> judicial capacity to adjudge the election of its members. The deponent's state had no interest in the matter, and its laws did not require that the oath be administered.

People v. Cohen, 9 A.D.3d 71, 84 (N.Y. App. Div. 2004).[3] Additionally, *Loney* involved a procedural scenario where "the act charged against the petitioner was one for which he was amenable alone to the laws of the United States." *In re Lincoln*, 202 U.S. 178, 182 (1906). A federal perjury statute was already on the books, designed to apply to the precise circumstances of *Loney*. The case thus presented an instance of *direct conflict* between the respective prosecutorial authority of the federal government and Virginia, in a matter where Virginia simply did not have a legitimate interest. This stands in contrast with the circumstances of the present case, where both federal and state law create a regime of shared interests and responsibilities.

Loney is an odd case arising from urgent circumstances, confined to its peculiar factual and legal contexts. It stands for no broader constitutional propositions aside from certain preemption scenarios, none of which apply in this case. Finally, unlike this case, *Loney* involved Virginia's direct and intentional interference in matters in which that state had no sanctioned role or legitimate interest. Given the State of Georgia's considerable interest in the matters at issue in counts 14, 15, and 27, *Loney* has no application to this case.

II. No federal law preempts the State's ability to enforce O.C.G.A. § 16-10-20.1.

The only broadly applicable principle pronounced in *Loney* relates to direct conflicts between federal and state statutes. Citing *Loney* for the holding that "States may not impose their own punishment for perjury in federal courts," the Supreme Court more recently stated that "[e]ven

[3] The 2004 *Cohen* opinion also explicitly points out an overbroad proposition which *Loney* does *not* stand for: "Defendants direct us to [*Loney*], an 1890 Supreme Court perjury ruling that defendants construe to be binding precedent for the proposition that an oath given in a proceeding involving federal law cannot be the basis for a state perjury conviction. However, that is not quite the proposition asserted in *Loney*, nor are the peculiar circumstances undergirding *Loney* remotely analogous to either the present factual or legal contexts." *Id.* What mattered in *Loney* was Virginia's lack of any interest in the proceedings, which were entirely governed by Congress's powers under the Constitution. "The notary was state licensed, a happenstance that did not convert enforcement regarding a federally required oath into a state matter that could give rise to a state perjury charge. Hence, *Loney* does not apply." *Id.*

if a State may make violation of federal law a crime in some instances, it cannot do so in a field (like the field of alien registration) that has been occupied by federal law." *Arizona v. United States*, 567 U.S. 387, 402 (2012). As will be shown below, even *that* broader holding is not applicable in this case, because § 16-10-20.1 does not conflict with any federal statute.

The Defendants claim the State has no constitutional authority to enforce the provision of O.C.G.A. § 16-10-20.1 that criminalizes false filings in a court of the United States and that the power to regulate such conduct is within the exclusive province of the federal government. Here, two federal statutes—18 U.S.C. §§ 1001 and 1521—could arguably regulate the same conduct as the federal court provision of O.C.G.A. § 16-10-20.1. In order to find the State cannot enforce O.C.G.A. § 16-10-20.1 in its entirety, this Court would have to determine that either 18 U.S.C. § 1001 or 18 U.S.C. § 1521 preempts Georgia's statute under the Supremacy Clause. But "[c]onsideration under the Supremacy Clause starts with the basic assumption that Congress did not intend to displace state law," *Maryland v. Louisiana*, 451 U.S. 725, 746 (1981), and the historic police powers reserved to the States are "not to be superseded by [a] Federal Act unless that was the clear and manifest purpose of Congress." *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). Here, no such clear and manifest purpose of Congress exists.

A. There is no express, impossibility, or obstacle preemption of O.C.G.A. § 16-10-20.1 by 18 U.S.C. § 1001 or 18 U.S.C. § 1521.

A federal law may preempt a state law (1) when the express language of the statute clearly indicates Congress's intent to preempt; (2) when compliance with both a federal and state law is impossible; or (3) when a state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of a federal law. *Altria Group, Inc. v. Good*, 555 U.S. 70, 77 (2008) (express preemption); *Fla. Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142-43 (1963) (impossibility preemption); *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941) (obstacle preemption).

None of these apply here. Neither 18 U.S.C. § 1001 nor 18 U.S.C. § 1521 contains any language that expressly preempts the authority of Georgia or any other state to criminalize the filing of false documents in a court of the United States. Moreover, compliance with O.C.G.A. § 16-10-20.1 certainly does not make it impossible to comply with 18 U.S.C. § 1001 or 18 U.S.C. § 1521. Finally, enforcement of O.C.G.A. § 16-10-20.1 by the State in no way stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress's enactment of 18 U.S.C. § 1001 and 18 U.S.C. § 1521. Quite the opposite: Georgia's prohibition on filing false documents in courts of the United States is harmonious with the purposes and objectives of 18 U.S.C. § 1001 and 18 U.S.C. § 1521.

B. Neither 18 U.S.C. § 1001 nor 18 U.S.C. § 1521 "occupies the field" such that Georgia is prohibited from enforcing O.C.G.A. § 16-10-20.1(b)(1).

A federal statute may also preempt state law (1) when the "scheme of federal regulation [is] so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it"; (2) when a federal law touches "a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement" of similar state laws; (3) when the objectives of the federal law "and the character of obligations imposed by it may reveal the same purpose"; or (4) when state law "may produce a result inconsistent with the objective of the federal statute." *Rice*, 331 U.S. at 230. None of these circumstances apply to the extent that either 18 U.S.C. § 1001 or 18 U.S.C. § 1521 preempt Georgia's authority to enforce O.C.G.A. § 16-10-20.1 for false documents filed in federal courts.

In determining whether 18 U.S.C. § 1001 or 18 U.S.C. § 1521 "occupy the field" to the exclusion of Georgia's authority to fully enforce O.C.G.A. § 16-10-20.1, it is essential to consider both the conduct the federal and state statutes were intended to regulate and each sovereign's interests in regulating that conduct. Beginning with the federal statutes, the purpose of 18 U.S.C.

§ 1001 is "to protect the authorized functions of [federal] governmental departments and agencies from the perversion which might result from" deceptive practices. *United States v. Gilliland,* 312 U.S. 86, 93 (1941). The gravamen of the statute's function is "to protect the [federal] Government from fraud and deceit" that would hinder its functioning. *United States v. Fern,* 696 F.2d 1269, 1273 (11th Cir. 1983). By contrast, 18 U.S.C. § 1521 is intended to protect a limited class of private citizens from the use of a court as an instrumentality for the commission of fraud by "penaliz[ing] individuals who seek to intimidate and harass Federal judges and employees by filing false liens against their real and personal property." *United States v. Reed*, 668 F.3d 978, 981 (8th Cir. 2012). Significantly, and consistent with its purpose, 18 U.S.C. § 1521 criminalizes the filing of false liens and encumbrances against federal officers in both federal and state courts. *See, e.g., United States v. Pate*, 84 F.4th 1196 (11th Cir. 2023).[4]

Turning to the state statute, O.C.G.A. § 16-10-20.1 in its initial form drew clear inspiration from 18 U.S.C. § 1521. The statute originated as House Bill 997, sponsored by then-Representative BJay Pak, and was signed into law in 2012, almost identically mirroring the federal statute's language but protecting state instead of federal employees. 2012 Ga. Laws 582. In 2014, House Bill 985 was introduced, according to its synopsis, for the purpose of "expand[ing] the protection against the filing of false liens or documents *to all citizens*." 2014 Ga. Laws 626 (emphasis added). The bill was signed into law in 2014 and remains the current version of O.C.G.A. § 16-10-20.1. Based on the language of its synopsis, the General Assembly's intent in passing HB 985 was not to protect state government from fraud[5], but to protect the *citizens of Georgia* against the corrupt

[4] Pate's convictions on counts 7, 9, and 10 concerned three false documents filed in the Superior Court of Richmond County, Georgia. *See* "**Exhibit A**," Pate Indictment.

[5] Georgia does, of course, have a counterpart to 18 U.S.C. § 1001: O.C.G.A. § 16-10-20. Much like its federal analogue, O.C.G.A. § 16-10-20 criminalizes "lie[s] that threaten[] to deceive and thereby harm the government" since such lies require the government "to expend time and resources to determine the truth." *Haley v. State*, 289 Ga. 515, 528 (2011). This purpose, though equally important, is fundamentally different than that of O.C.G.A. § 16-10-20.1,

use of any court or other public record as an instrumentality for the commission of fraud. *See Persons v. Mashburn*, 211 Ga. 477, 479 (1955) (recognizing that the synopsis of a statute can be used to determine legislative intent). Neither 18 U.S.C. § 1001 nor 18 U.S.C. § 1521 serve to protect this substantial state interest in this way.

With these purposes in mind, Georgia's substantial interest in regulating the filing of false documents that harm its citizens in federal courts is, at a minimum, equal to the federal government's interest in regulating the filing of false liens and encumbrances against federal employees in state courts. Georgia's substantial interest cannot be disregarded, and the federal interests in the "fields" touched by 18 U.S.C. § 1001 and 18 U.S.C. § 1521 are not "so dominant that the federal system will be assumed to preclude enforcement of" O.C.G.A. § 16-10-20.1. *Rice*, 331 U.S. at 230. That is especially so when this Court must respect the historic police powers reserved to the states under the Tenth Amendment, which cannot be superseded by federal law "unless that was the clear and manifest purpose of Congress." *Id.* Additionally, the conduct charged in count 27 is not covered by 18 U.S.C. § 1001 because the false document at issue was filed in a civil action between Defendant Trump, in his private capacity, and Georgia's Governor and Secretary of State. As the Eleventh Circuit noted, 18 U.S.C. § 1001 "is not intended to apply to false statements made in civil actions in the United States Courts where the [federal] government is not a party to the lawsuit." *United States v. Lawson*, 809 F.2d 1514, 1518 (11th Cir. 1987).[6]

Moreover, the mere facts that the conduct charged in counts 14, 15, and 27, might also be chargeable under federal criminal law or that Congress may have constitutional authority to

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which, as noted above, is designed to protect citizens rather than the government. An offense committed under the statute therefore is not "merely an offence against the general government," as the Defendants attempt to claim. *Tennessee v. Davis*, 100 U.S. 257, 262 (1879). Nor do such charges penalize "offenses against the public justice of the United States," as perjury charges are described in *Loney*.

[6] The State is also not attempting to "make a violation of federal law into a crime," as described in *Arizona v. United States*, 567 U.S. at 402.

regulate such conduct does not render O.C.G.A. § 16-10-20.1 unenforceable. The Defendants urge this Court to view the jurisdictional inquiry as a zero-sum game. But, for nearly 200 years, the United States Supreme Court has recognized that "the same act might, as to its character and tendencies, and the consequences it involved, constitute an offence against both the State and Federal governments, and might draw to its commission the penalties denounced by either, as appropriate to its character in reference to each." *Gamble v. United States*, 139 S. Ct. 1960, 1966 (2019) (quoting *United States v. Marigold*, 50 U.S. 560 (1850)).[7] This concept has been applied numerous times to various categories of offenses including possession of firearms by convicted felons, possession of controlled substances, kidnapping, bank robbery, passing counterfeit United States currency, and even a state statute that prohibited advocacy against enlistment in the United States military. *Gamble*, 139 S. Ct. at 1964 (firearms); *Gonzales v. Raich*, 545 U.S. 1 (2005) (controlled substances); *Heath v. Alabama*, 474 U.S. 82 (1985) (kidnapping); *Bartkus v. Illinois*, 359 U.S. 121 (1959) (bank robbery); *Fox v. Ohio*, 46 U.S. 410 (1847) (counterfeit currency); *Gilbert v. Minnesota*, 254 U.S. 325 (1920) (advocacy against military enlistment).

Accordingly, neither 18 U.S.C. § 1001, 18 U.S.C. § 1521, nor any other federal law preempts Georgia's authority to fully enforce O.C.G.A. § 16-10-20.1.[8]

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[7] Again, the Defendants far overstate the implications of *Loney* by claiming that it suggests any acts relating in any way to the Electoral College must be the exclusive concern of the federal government. The Defendants would take *Loney*'s mention of "the public justice of the United States" or "the general government" and fashion a rule categorically barring the states from exercising any authority over presidential electors. This ignores the obvious and stated intent of the General Assembly in creating O.C.G.A. § 16-10-20.1 and also, as examined below in Part III, Georgia's manifest interest in the selection and activities of its presidential electors.

[8] Federal RICO does not provide a basis for preemption of state prosecutions, and even if this Court were to dismiss the three substantive counts at issue, it should find, as it has previously, that overt acts describing identical conduct should remain undisturbed. *See United States v. Turkette*, 452 U.S. 576, 586 n.10 (1981) (federal RICO "imposes no restrictions upon the criminal justice systems of the States" and "the States remain free to exercise their police powers to the fullest constitutional extent in defining and prosecuting crimes within their respective jurisdictions.").

III. In contrast to *Loney*, Georgia has a legitimate interest in this prosecution.

As discussed above, *Loney* turned largely on the fact that Virginia had no legitimate interest in prosecuting perjury committed in violation of a federal oath that merely happened to have been administered by a state licensed notary public. By contrast, Georgia's interest in prosecuting these Defendants for their attempts to interfere with the selection and voting of presidential electors, chosen and certified pursuant to state law, is conferred to the state *explicitly* by the federal constitution. The framers delegated to each state legislature—not to Congress—the exclusive authority to determine the manner of selecting presidential electors: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors … ." U.S. CONST. art. 2, § 1. Georgia clearly has a legitimate interest in enforcing a constitutional power not just reserved to it but explicitly delegated to it by the federal constitution. Likewise, Georgia has a legitimate interest in prosecuting those individuals who interfere with that constitutionally granted power.

Counts 14, 15, and 27 all concern legitimate prosecution of interference with Georgia's selection of its presidential electors.[9] Beginning with count 27, Defendants Trump and Eastman are charged with filing a verified complaint—one that Defendant Eastman admitted he knew contained false statements—against two of Georgia's highest ranking executive branch officials in their official capacities. The lawsuit sought to "de-certify" Georgia's presidential electors selected pursuant to Georgia law and to appoint new electors in a manner inconsistent with Georgia law. The lawsuit was filed against Georgia officials, sought to divest Georgia of its constitutional power to select its own presidential electors, and asked the federal court to entirely disregard

[9] As the Defendants have repeatedly been forced to confront, presidential electors are explicitly *not* federal officers: "Although the electors are appointed and act under and pursuant to the Constitution of the United States, they are no more officers or agents of the United States than are the members of the state legislatures when acting as electors of federal senators, or the people of the States when acting as electors of representatives in Congress." *In re Green*, 134 U.S. 377, 379 (1890).

Georgia law. Had the lawsuit succeeded, Georgia's citizens would have been disenfranchised. Georgia's interest in prosecuting a violation of O.C.G.A. § 16-10-20.1 committed in this manner speaks for itself, and it is consistent with the General Assembly's intent to protect against the use of the courts for the commission of fraud against Georgia citizens.

Likewise, counts 14 and 15 charge Defendants Shafer, Still, Latham, Trump, Giuliani, Eastman, Chesebro, Smith, Cheeley, and Roman with attempting and conspiring to submit a false slate of Electoral College votes to the Chief Judge of the United States District Court for the Northern District of Georgia, falsely purporting to have been acting under the authority of the State of Georgia as its duly elected and qualified presidential electors. The operation of the Electoral College in Georgia, like in all states, is a creation of shared federal and state responsibilities.[10] There are specific roles for state legislatures (the manner of selecting presidential electors), state executive branch officials (ascertaining the duly elected presidential electors, ratifying replacement electors, and acting as custodians of elector certificates), federal courts (custodians of elector certificates), and Congress (counting each state's electoral votes). The states have a definite and explicit role—and thereby a legitimate interest—in the operation and integrity of this process. In contrast, Virginia's role in the circumstances of *Loney* was not a product of any legal duty or right but instead was mere happenstance. Once again, Georgia's interest in prosecuting attempts or conspiracies to violate O.C.G.A. § 16-10-20.1 in this manner speaks for itself, and that interest is consistent with the General Assembly's intent to protect against the use of the courts as instrumentalities for the commission of fraud against Georgia citizens.

For these reasons, *Loney* does not apply to counts 14, 15, and 27.

[10] O.C.G.A. § 21-2-11 requires Georgia's presidential electors to "assemble at the seat of government of this state at 12:00 Noon of the day which is, or may be, directed by the Congress of the United States and shall then and there perform the duties required of them by the Constitution and laws of the United States."

Respectfully submitted this 6th day of May 2024.

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Exhibit A.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

UNITED STATES OF AMERICA	)	**INDICTMENT NO.**
	)	
v.	)	**18 U.S.C. § 1521**
	)	**Filing False Retaliatory Liens**
TIMOTHY JERMAINE PATE	)	**Against Federal Official**
a/k/a "AKENATEN ALI"	)	
	)	**18 U.S.C. § 152(3)**
	)	**False Bankruptcy Declaration**

THE GRAND JURY CHARGES THAT: CR118-045

COUNTS ONE & TWO
Filing False Retaliatory Lien Against Federal Official
18 U.S.C. § 1521

On or about March 6, 2018, in Richmond County, within the Southern District of Georgia, the defendant,

TIMOTHY JERMAINE PATE,
a/k/a "AKENATEN ALI,"

filed in a public record with the U.S. District Court for the Southern District of Georgia two documents entitled "Notice of Claim of Maritime Lien," which are false liens and encumbrances against the real and personal property of officers and employees of the United States Government described in 18 U.S.C. § 1114, on account of the performance of official duties by individuals listed below by their initials, knowing and having reason to know that such liens and encumbrances were false and contained materially false, fictitious, and fraudulent statements and representations, including a statement that the individuals listed below owed a debt to defendant in the following amounts:

COUNT	GOVERNMENT EMPLOYEE OR OFFICIAL	LIEN AMOUNT
1	J.A.K.	$33,000,000
2	B.K.E.	$15,000,000

All in violation of Title 18, United States Code, Section 1521.

COUNTS THREE THROUGH FIVE
Filing False Retaliatory Lien Against Federal Official
18 U.S.C. § 1521

On or about May 1, 2018, in Richmond County, within the Southern District of Georgia, the defendant,

TIMOTHY JERMAINE PATE,
a/k/a "AKENATEN ALI,"

filed in a public record with the U.S. District Court for the Southern District of Georgia three documents entitled "Notice of Claim of Maritime Lien," which are false liens and encumbrances against the real and personal property of officers and employees of the United States Government described in 18 U.S.C. § 1114, on account of the performance of official duties by individuals listed below by their initials, knowing and having reason to know that such liens and encumbrances were false and contained materially false, fictitious, and fraudulent statements and representations, including a statement that the individuals listed below owed a debt to defendant in the following amounts:

COUNT	GOVERNMENT EMPLOYEE OR OFFICIAL	LIEN AMOUNT
3	D.D.D.	$15,000,000
4	E.M.T.	$15,000,000
5	J.J.L.	$15,000,000

All in violation of Title 18, United States Code, Section 1521.

COUNTS SIX THROUGH TEN
Filing False Retaliatory Lien Against Federal Official
18 U.S.C. § 1521

On or about May 7, 2018, in Richmond County, within the Southern District of Georgia, the defendant,

TIMOTHY JERMAINE PATE,
a/k/a "AKENATEN ALI,"

filed in a public record with the Richmond County Clerk of Superior Court three Form UCC-1 Financing Statements, which are false liens and encumbrances against the real and personal property of officers and employees of the United States Government described in 18 U.S.C. § 1114, on account of the performance of official duties by those individuals, knowing and having reason to know that such liens and encumbrances were false and contained materially false, fictitious, and fraudulent statements and representations, including a statement that the individuals listed below owed a debt to defendant in the following amounts:

COUNT	GOVERNMENT EMPLOYEE OR OFFICIAL	LIEN AMOUNT
6	J.A.K.	$33,000,000
7	B.K.E.	$15,000,000
8	J.J.L.	$15,000,000
9	E.M.T.	$15,000,000
10	D.D.D.	$15,000,000

All in violation of Title 18, United States Code, Section 1521.

COUNTS ELEVEN THROUGH FIFTEEN
False Bankruptcy Declaration
18 U.S.C. § 152(3)

On or about May 21, 2018, in Richmond County, within the Southern District of Georgia, the defendant,

TIMOTHY JERMAINE PATE,
a/k/a "AKENATEN ALI,"

knowingly and fraudulently made a material false declaration, certificate, verification, and statement under penalty of perjury, as permitted under Section 1746 of Title 28, in and in relation to a case under Title 11, *In re Timothy Jermaine Pate a/k/a Akenaten Ali*, No. 18-00101, by submitting an Involuntary Petition falsely and fraudulently named the individuals listed below by their initials as debtors and the Defendant as a creditor, and in which petition defendant claimed the individuals listed below owed him the amounts listed and that such debt was not the subject of a bona fide dispute as to liability or amount, when, as defendant knew, the claimed debt was neither owed to him nor undisputed:

COUNT	NAMED DEBTOR	AMOUNT CLAIMED
11	J.A.K.	$33,000,000
12	J.J.L.	$15,000,000
13	B.K.E.	$15,000,000
14	D.D.D.	$15,000,000
15	E.M.T.	$15,000,000

All in violation of Title 18, United States Code, Section 152(3).

COUNTS SIXTEEN THROUGH EIGHTEEN
Filing False Retaliatory Lien Against Federal Official
18 U.S.C. § 1521

On or about June 15, 2018, in Richmond County, within the Southern District of Georgia, the defendant,

TIMOTHY JERMAINE PATE,
a/k/a "AKENATEN ALI,"

filed in a public record with the U.S. District Court for the Southern District of Georgia three documents entitled "Notice of Claim of Maritime Lien," which are false liens and encumbrances against the real and personal property of officers and employees of the United States Government described in 18 U.S.C. § 1114, on account of the performance of official duties by individuals listed below by their initials, knowing and having reason to know that such liens and encumbrances were false and contained materially false, fictitious, and fraudulent statements and representations, including a statement that the individuals listed below owed a debt to defendant in the following amounts:

COUNT	GOVERNMENT EMPLOYEE OR OFFICIAL	LIEN AMOUNT
16	L.B.R.	$15,000,000
17	B.K.E.	$100,000,000
18	S.D.B.	$33,000,000

All in violation of Title 18, United States Code, Section 1521.

A True Bill.

David H. Estes
First Assistant United States Attorney

Chris Howard
Assistant United States Attorney
*Lead Counsel

Brian T. Rafferty
Assistant United States Attorney
Chief, Criminal Division

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA	
	CASE NO.
v.	
	23SC188947
DONALD JOHN TRUMP,	
JOHN CHARLES EASTMAN,	
JEFFREY BOSSERT CLARK,	
RAY STALLINGS SMITH III,	
ROBERT DAVID CHEELEY,	
MICHAEL A. ROMAN,	
DAVID JAMES SHAFER,	
SHAWN MICAH TRESHER STILL,	
CATHLEEN ALSTON LATHAM,	
Defendants.	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this STATE'S SUPPLEMENTAL BRIEF ON THE INAPPLICABILITY OF IN RE LONEY TO COUNTS 14, 15, AND 27, upon all counsel who have entered appearances as counsel of record in this matter via the Fulton County e-filing system.

This 6th day of May 2024,

FANI T. WILLIS
District Attorney
Atlanta Judicial Circuit

/s/ Alex Bernick
Alex Bernick
Georgia Bar No. 730234
Deputy District Attorney
Fulton County District Attorney's Office
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