

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

GARLAND FAVORITO, MICHAEL SCUPIN,  
TREVOR TERRIS, SEAN DRAIME,  
CAROLINE JEFFORDS, STACEY DORAN,  
CHRISTOPHER PECK, ROBIN SOTIR and  
BRANDI TAYLOR,  
PETITIONERS,

v.

CIVIL ACTION NO.: 2020CV-343938

ALEX WAN, VERNETTA KEITH  
NURIDDIN, KATHLEEN RUTH,  
AARON JOHNSON, AND  
MARK WINGATE,  
in their individual capacities,  
RESPONDENTS.

**3<sup>rd</sup> AMENDMENT TO PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF**

COME NOW, PETITIONERS GARLAND FAVORITO, MICHAEL  
SCUPIN, TREVOR TERRIS, SEAN DRAIME, STACEY DORAN,  
CHRISTOPHER PECK, and BRANDI TAYLOR (hereafter The Favorito Petitioners),  
by and through their attorneys of record, and file their 3<sup>rd</sup> amendment to petition for declaratory  
and injunctive relief pursuant to Ga. Code Ann. § 9-4-1 et seq. and Ga. Code Ann. § 9-11-65, as  
follows:

**THE PARTIES**

1.

Garland Favorito is a resident of Fulton County, Georgia and was an elector who was  
entitled to vote, and who voted in the November 3, 2020 General Election and whose vote was  
not counted in the Official Statement of Votes Cast or the published hand count audit results or  
the recount results.

2.

Michael Scupin is a resident of Hall County, Georgia and was an elector who was entitled  
to vote, and did vote, in the November 3, 2020, General Election.

3.

Trevor Terris is a resident of Fulton County, Georgia and was an elector who was entitled  
to vote, and did vote, in the November 3, 2020, General Election.

4.

Sean Draime is a resident of Upson County, Georgia and was an elector who was entitled to vote, and did vote, in the November 3, 2020, General Election.

5.

Stacey Doran is a resident of Whitfield County, Georgia and was an elector who was entitled to vote, and did vote, in the November 3, 2020, General Election.

6.

Christopher Peck is a resident of Fulton County, Georgia and was an elector who was entitled to vote, and did vote, in the November 3, 2020, General Election.

7.

Brandi Taylor is a resident of Fannin County, Georgia and was an elector who was entitled to vote, and did vote, in the November 3, 2020, General Election.

8.

Respondent Alex Wan is named in his individual capacity and he may be served at: 130 Peachtree Street, Suite 2186, Atlanta, GA 30303.

9.

Respondent Vernetta Keith Nuriddin is named in her individual capacity and may be served at: 130 Peachtree Street, Suite 2186, Atlanta, GA 30303.

10.

Respondent Kathleen Ruth is named in her individual capacity and she may be served at: 130 Peachtree Street, Suite 2186, Atlanta, GA 30303.

11.

Respondent Aaron Johnson is named in his individual capacity and may be served at: 130 Peachtree Street, Suite 2186, Atlanta, GA 30303.

12.

Respondent Mark Wingate is named in his individual capacity and he may be served at: 130 Peachtree Street, Suite 2186, Atlanta, GA 30303.

13.

The Respondents are the current members of the Fulton County Board of Elections and the Fulton County Elections Director.

## **JURISDICTION AND VENUE**

14.

Jurisdiction is proper in this Court pursuant to Ga. Code Ann. § 9-4-2 as the Respondents and the absentee ballots are located within Fulton County, Georgia.

15.

Venue is proper before this Court because the Respondents reside in Fulton County, Georgia and the absentee ballots are located within Fulton County, Georgia.

## **FACTUAL BACKGROUND**

16.

The Favorito Petitioners aver that Garland Favorito was a Fulton County tabulation observer for the 11/03/2020 General Election.

17.

The Favorito Petitioners aver that while Garland Favorito was performing the function of a Fulton County tabulation observer he detected an abnormal 20,000 vote increase for Joe Biden's vote tabulation and an apparent abnormal reduction in Donald J. Trump's vote tabulation (Exhibit "A").

18.

The Favorito Petitioners aver that the same day Garland Favorito detected the vote tabulation abnormalities he notified the Fulton County Director of the Elections, the Fulton County Elections Board, and the Fulton County attorney and made an Open Records Request for the interim upload results (Exhibit "B").

19.

The Favorito Petitioners aver that Garland Favorito's Open Records Request never received a response from any of these individuals.

20.

The Favorito Petitioners aver that Robin Hall observed three (3) boxes of 100% Biden ballots while performing as a hand count audit monitor on November 14th (Exhibit "C").

21.

The Favorito Petitioners aver that Judy Aube observed three (3) boxes of 98% + Biden ballots while performing as a hand count audit monitor on November 14th (Exhibit "D").

22.

The Favorito Petitioners aver that Susan Voyles personally observed as a hand count auditor what she believes are fraudulent or fabricated absentee ballots because the suspect absentee ballots were not creased (Exhibit “E”).

23.

The Favorito Petitioners aver that Susan Voyles personally observed as a hand count auditor what she believes are fraudulent or fabricated absentee ballots because the suspect ballots were not marked with a writing instrument but appeared to be marked with toner (Exhibit “E”).

24.

The Favorito Petitioners aver that Susan Voyles personally observed as a hand count auditor what she believes may be fraudulent or fabricated absentee ballots because the suspect ballots were different in the stock or paper used (Exhibit “E”).

25.

The Favorito Petitioners aver that Barbara Hartman personally observed as a hand count auditor what she believes are fraudulent or fabricated absentee ballots because the suspect absentee ballots were not creased (Exhibit “F”).

26.

The Favorito Petitioners aver that Barbara Hartman personally observed as a hand count auditor what she believes are fraudulent or fabricated absentee ballots because the suspect ballots were not marked with a writing instrument but appeared to be marked with toner (Exhibit “F”).

27.

The Favorito Petitioners aver that Barbara Hartman personally observed as a hand count auditor what she believes may be fraudulent or fabricated absentee ballots because the suspect ballots were different in the stock or paper used (Exhibit “F”).

28.

The Favorito Petitioners aver that Dr. Sonia Francis-Rolle personally observed as a hand count auditor what she believes are fraudulent or fabricated absentee ballots because the suspect absentee ballots were not creased (Exhibit “G”).

29.

The Favorito Petitioners aver that Dr. Sonia Francis-Rolle personally observed as a hand count auditor what she believes are fraudulent or fabricated absentee ballots because the suspect



ballots were not marked with a writing instrument but appeared to be marked with toner (Exhibit “G”).

30.

The Favorito Petitioners aver that Dr. Sonia Francis-Sonia Rolle personally observed as a hand count auditor what she believes may be fraudulent or fabricated absentee ballots because the suspect ballots were different in the stock or paper used (Exhibit “G”).

31.

The Favorito Petitioners aver that Gordon Rolle personally observed as a hand count auditor what he believes are fraudulent or fabricated absentee ballots because the suspect absentee ballots were not creased (Exhibit “H”).

32.

The Favorito Petitioners aver that Gordon Rolle personally observed as a hand count auditor what he believes are fraudulent or fabricated absentee ballots because the suspect ballots were not marked with a writing instrument but appeared to be marked with toner (Exhibit “H”).

33.

The Favorito Petitioners aver that Gordon Rolle personally observed as a hand count auditor what he believes may be fraudulent or fabricated absentee ballots because the suspect ballots were different in the stock or paper used (Exhibit “H”).

34.

The Favorito Petitioners aver that Garland Favorito filed an Open Records Request to inspect the absentee ballots while in the custody of the Fulton County Elections Board (Exhibit “I”).

35.

The Favorito Petitioners aver that Garland Favorito’s Open Records Request was not responded to in accordance and contrary to state law.

36.

The Favorito Petitioners aver that Bridget Thorne participated in ballot testing on live ballot stock for the November 3<sup>rd</sup> election and she determined that many test ballots were not secured (Exhibit “J”).

37.

The Favorito Petitioners aver that David Cross witnessed up to nine unsecured ballot bags as a monitor for the recount of the November 3<sup>rd</sup> election (Exhibit “K”).

38.

The Favorito Petitioners aver that the Respondents failed to ensure that the ballot processing center room center at the State Farm Arena 604 Suite Level Event Space 360 had full visibility so as to be in open view of the public, as required by state law. Ga. Code Ann. § 21-2-408; Ga. Code Ann. § 21-2-483 (b).

39.

The Favorito Petitioners aver that a ballot processing center at the State Farm Arena 604 Suite Level Event Space 360 was curved and would not allow an observer to complete view all aspects of ballot processing, as required by Ga. Code Ann. § 21-2-408; Ga. Code Ann. § 21-2-483 (b)

40.

The Favorito Petitioners aver that at or about 6:07 a.m. on 11/03/2020 a “water main break” was reported and the Supervisor delayed starting the mail-in ballot processing for approximately two (2) hours (Exhibits “L” and “M”).

41.

The Favorito Petitioners aver that at or about 8:21 a.m. on 11/03/2020 a skirted table is brought into the tabulating center room which obstructed observers view as to what was under the skirted table contrary to Ga. Code Ann. 21-2-483 (b). (Exhibits “L” and “M”).

42.

The Favorito Petitioners aver that at or about 9:30 a.m. on 11/03/2020 ballot processing begins and continues throughout the day (Exhibits “L” and “M”).

43.

The Favorito Petitioners aver that at or about 9:57 p.m. on 11/03/2020 a Supervisor announces to the media and observers that ballot processing will cease for the night (Exhibits “L” and “M”).

44.

The Favorito Petitioners aver that when ballot processing ceased after 9:57 p.m. on 11/03/2020 the observers and a Fox5 reporter remained on site until about 10:56 p.m. (Exhibits “L” and “M”).

45.

The Favorito Petitioners aver that four (4) ballot processors remained after the observers and Fox5 reporter depart at or about 10:56 p.m. (Exhibits “L” and “M”).

46.

The Favorito Petitioners aver that at or about 11:02 p.m. on 11/03/2020 one (1) ballot processor pulls a case of ballots from under the skirted table (Exhibits “L” and “M”).

47.

The Favorito Petitioners aver that at or about 11:03 p.m. on 11/03/2020 another ballot processor pulls a second case of ballots from under the skirted table (Exhibits “L” and “M”).

48.

The Favorito Petitioners aver that at or about 11:04 p.m. on 11/03/2020 another ballot processor pulls a third case of ballots from under the skirted table (Exhibits “L” and “M”).

49.

The Favorito Petitioners aver that by 11:11 p.m. on 11/03/2020 the ballot processors are illegally scanning ballots onto memory cards contrary to Ga. Code Ann. 21-2-483 (b), 21-2-492 and 21-2-493 (Exhibits “L” and “M”).

50.

The Favorito Petitioners aver that this illegal ballot processing continued until or about 12:51 a.m. on 11/04/2020 (Exhibits “L” and “M”).

51.

The Favorito Petitioners aver that five (5) scanners were used for the illegal ballot processing and that each DR-G2140 or comparable scanner has the capacity to scan 3,000 ballots per hour.

52.

The Favorito Petitioners aver that at or about 1:34 a.m. on 11/04/2020 Biden received approximately a 136,155 vote increase that erodes Trump’s lead (Exhibit “N”).

53.

The Favorito Petitioners aver that there was a similar occurrence in Michigan at or about 5:31 a.m. on 11/04/2020 (Exhibit “O”).

54.

The Favorito Petitioners aver that there was a similar occurrence in Wisconsin at or about 3:42 a.m. on 11/04/2020 (Exhibit “P”).

55.

The Favorito Petitioners aver that there was a similar occurrence in Pennsylvania at or about 4:55 a.m. on 11/04/2020 (Exhibit “Q”).

56.

The Favorito Petitioners aver that the observers returned to the State Farm Arena at or about 1:41 a.m. on 11/04/2020 after learning that ballot processing had continued in their absence (Exhibits “L” and “M”).

57.

The Favorito Petitioners aver that Susan Voyles testified about her election fraud concerns before a Georgia Senate Committee on December 3<sup>rd</sup>, 2020 (Exhibit “L”).

58.

The Favorito Petitioners aver that Susan Voyles testified about her election fraud concerns before a Georgia House Committee on December 10<sup>th</sup>, 2020 (Exhibit “M”).

59.

The Favorito Petitioners aver that Bridget Thorne testified about her election fraud concerns before the Georgia House Committee on Governmental Affairs on December 10<sup>th</sup>, 2020 (Exhibit “L”).

60.

The Favorito Petitioners aver that Bridget Thorne received a written request from Fulton County to train poll workers on or about August 21<sup>st</sup>, 2020 (Exhibit “T”).

61.

The Favorito Petitioners aver that Bridget Thorne received a termination notice for her poll manager services from Fulton County Elections on December 17<sup>th</sup>, 2020 (Exhibit “S”).



62.

The Favorito Petitioners aver that Susan Voyles received a termination notice for her poll manager services from Fulton County Elections on December 17<sup>th</sup>, 2020 (Exhibit “R”).

63.

The Favorito Petitioners aver that on December 18<sup>th</sup> the Secretary of State condemned the “political firing” of Voyles and Thorne stating that it was a “retribution against whistleblowers” that “poses a threat to the continued strength and vibrancy of our democracy” (Exhibit “U”).

64.

The Favorito Petitioners aver that the Respondents had a duty to investigate the election fraud concerns raised by Susan Voyles in accordance with their oath to “prevent any fraud, deceit or abuse” in carrying out an election under Ga. Code Ann. § 21-2-70.

65.

The Favorito Petitioners aver that the Respondents had a duty to investigate the election fraud concerns raised by Bridget Thorne in accordance with their oath to “prevent any fraud, deceit or abuse” in carrying out an election under Ga. Code Ann. § 21-2-70.

66.

The Favorito Petitioners aver that the Respondents had a duty under Ga. Code Ann. § 21-2-408 to not tell poll watchers that ballot processing was stopping for the night and then proceed to process ballots.

67.

The Favorito Petitioners aver that the Respondents had a duty to give notice to the observers before resuming the ballot processing pursuant to Ga. Code Ann. § 21-2-492 and Ga. Code Ann. § 21-2-493.

68.

The Favorito Petitioners aver that the Respondents had several agents that were under the authority of the Respondents to assist in implementing the Georgia Election Code and the rules and regulations of the State Election Board for the 2020 General Election.

69.

The Favorito Petitioners aver that the Respondents negligently supervised their agents.

70.

The Favorito Petitioners aver that the Respondents breached their duty owed to the Favorito Petitioners by failing to properly implement the provisions of the Georgia Election Code.

71.

The Favorito Petitioners aver that the Respondents breached their duty owed to the Favorito Petitioners by failing to properly supervise implementation of the provisions of the Georgia Election Code.

72.

The Favorito Petitioners aver that the duty owed to the Favorito Petitioners was ministerial in nature because it was created by state law and the State Election Board rules and regulations.

73.

The Favorito Petitioners aver that the Respondents failure to properly implement and supervise the application of the Georgia Election Code and Georgia State Election Board rules and regulations is not discretionary in nature.

74.

The Favorito Petitioners aver that the breach of this duty was the proximate cause of the Favorito Petitioners' injuries.

75.

The Favorito Petitioners aver that the breach of this duty was also the direct cause of the Favorito Petitioners' injuries.

76.

The Favorito Petitioners aver that if the Court finds the complained of acts are discretionary acts, that the Respondents intended to do wrong by violating state law when they failed to implement or properly supervise implementation of the Georgia Election Code and the State Elections Board's rules and regulations.

77.

The Favorito Petitioners aver that Garland Favorito cast his vote for qualified Constitution Party of Georgia statewide write-in candidate Don Blankenship.

78.

The Favorito Petitioners aver that Mr. Favorito's vote for write-in candidate Don Blankenship is not shown in the official statement of votes cast.

79.

The Favorito Petitioners aver that the official statement of votes cast contain write-in votes only for candidates Loren Collins and Gloria LaRiva.

80.

The Favorito Petitioners aver that totals for individual write-in candidates were not computed during the county's official hand count audit held on November 14<sup>th</sup> and 15<sup>th</sup>.

81.

The Favorito Petitioners aver that the computerized recount completed on or about December 4th did not declare any further votes for qualified write in candidates not shown in the official statement of votes cast.

82.

The Favorito Petitioners have a justiciable and actual case or controversy concerning the weight and value given to their votes during elections, because of the debasement and dilution of the value and weight of their votes by the insertion of counterfeit ballots during future elections in which they will participate.

83.

The Favorito Petitioners aver that this action is adverse. The Favorito Petitioners represent their interest in contending that they have a fundamental right to have their votes counted and given the same and equal weight as the votes of other electors in any future elections. The Respondents can adequately represent their interest in defending against the Favorito Petitioners' contentions.

84.

The Favorito Petitioners also contend that the Parties can adequately represent these interests.

85.

The Favorito Petitioners are currently uncertain as to their fundamental right to have their votes given the same and equal weight of other electors, and not be debased or diluted in future elections in which they would participate.

86.

The Favorito Petitioners aver that the declaration will resolve the current case or controversy, because it will provide guidance on the uncertainty of their fundamental right to have their votes counted and weighed and not debased or diluted by counterfeit ballots in future elections in which they would participate.

87.

The Favorito Petitioners aver that the insertion of counterfeit ballots into an election result is tantamount to and has the same effect on the weight and value of their votes as does ballot stuffing, which makes them uncertain in the participation in future elections.

88.

The Favorito Petitioners aver that future elections will be conducted on a regular basis within Fulton County, Georgia and the State of Georgia, and that the continued insertion of counterfeit ballots would debase and dilute the weight and value of these The Favorito Petitioners' votes in those future elections.

89.

The Favorito Petitioners hereby incorporate by reference Exhibits "A" through "U" of the notice of filing that was filed into the record on 12/23/2020 as if re-stated herein verbatim.

**COUNT I: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL  
PROTECTION CLAIM (SAME COUNTY)**

90.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 89 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

91.

The Constitution of the State of Georgia provides, "Protection and property is the paramount duty of government and shall be impartial and complete. "No person shall be denied the equal protection of the laws." Ga. Const. art. I, § I, para. II.

92.

Under Georgia's Equal Protection Clause, "the government is required to treat similarly situated individuals in a similar manner." State v. Jackson, 271 Ga. 5 (1999), Favorito v. Handel, 285 Ga. 795, 798 (2009) (citation and quotations omitted).



93.

This requires abiding by the process enacted by the Georgia General Assembly and State Elections Board, by applying a uniform procedure throughout the county to conduct ballot processing.

94.

Respondents, jointly and severally, failed to implement and ensure such uniform procedure for the visibility and transparency.

95.

Respondents, jointly and severally, failed to ensure their agents implemented the uniform treatment of absentee ballots within the county.

96.

The failure to perform ballot processing in accordance with state law created two (2) classes that had two (2) different standards applied to their absentee votes.

97.

Electors who had their ballots processed at times and at places in other parts of the county had state law applied to their ballot processing.

98.

Electors who had their ballots processed at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020 did not have state law applied to their ballot processing.

99.

Georgia voters were treated differently depending on when and where their ballots were processed.

100.

An elector in one part of the county would not have his or her ballot treated in a similar manner as a ballot being processed in another part of the county.

101.

Electors in the same county would not have their ballots treated in a similar manner as ballots processed at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020.

102.

Electors in the same precinct would not have their ballots treated in a similar manner as those votes processed at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020.

103.

Respondents, jointly and severally, failed to apply uniform procedures for treating similarly situated electors similarly within the county.

104.

Respondents' systemic failure to provide for uniformity across the county is a direct and flagrant violation of the Constitution of the State of Georgia.

105.

As a result, there is a substantial likelihood that fraudulent or fabricated ballots were introduced into the ballot processing at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020.

**COUNT II: DECLARATORY JUDGMENT FOR VIOLATION OF STATE DUE  
PROCESS CLAIM (SAME COUNTY)**

106.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 105 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

107.

Pursuant to the Constitution of the State of Georgia, "No person shall be deprived of life, liberty, or property except by due process of law." Ga. Const. art. I, § I, para. I.

108.

Moreover, "all citizens of the United States, resident in this state, are hereby declared citizens of this state; and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges, and immunities due to such citizenship." Ga. Const. art. I, § 1, para. VII.

109.

The right to vote is a fundamental right and the right to have his vote treated equally with all other voters in the state.

110.

The implementation or failure to implement the Georgia Election Code by the Respondents and their agents is state action.

111.

When a fundamental right is allegedly infringed by government action, substantive due process requires that the infringement be narrowly tailored to serve a compelling state interest. Old S. Duck Tours v. Mayor & Aldermen of City of Savannah, 272 Ga. 869, 872, 535 S.E.2d 751, 754 (2000).

112.

By failing to abide by state law when conducting ballot processing, the Respondents diluted the votes of qualified Georgia electors.

113.

By allowing illegal ballot processing, the Respondents, by and through their own misconduct or the negligent supervision of their agents, allowed the disenfranchisement of qualified Georgia electors.

114.

Respondents, jointly and severally, violated the Due Process protections of qualified Georgia Electors guaranteed by the Georgia State Constitution.

115.

As a result, there is a substantial likelihood that fraudulent or fabricated ballots were introduced into the ballot processing at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020.

**COUNT III: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL PROTECTION CLAIM (WITHIN STATE)**

116.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 115 of this Petition as set forth herein verbatim.

117.

The Constitution of the State of Georgia provides, “Protection and property is the paramount duty of government and shall be impartial and complete. “No person shall be denied

the equal protection of the laws.” Ga. Const. art. I, § I, para. II.

118.

Under Georgia’s Equal Protection Clause, “the government is required to treat similarly situated individuals in a similar manner.” State v. Jackson, 271 Ga. 5 (1999), Favorito v. Handel, 285 Ga. 795, 798 (2009) (citation and quotations omitted).

119.

This requires abiding by the process enacted by the Georgia General Assembly and State Elections Board, by applying a uniform procedure throughout the state to conduct ballot processing.

120.

Respondents, jointly and severally, failed to implement and ensure such uniform procedure for the visibility and transparency.

121.

Respondents, jointly and severally, failed to ensure their agents implemented the uniform treatment of absentee ballots within the state.

122.

The failure to perform ballot processing in accordance with state law created two (2) classes that had two (2) different standards applied to their absentee votes.

123.

Electors who had their ballots processed at times and at places in other parts of the state had state law applied to their ballot processing.

124.

Electors who had their ballots processed at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020 did not have state law applied to their ballot processing.

125.

Georgia voters were treated differently depending on when and where their ballots were processed.

126.

An elector in one part of the state would not have his or her ballot treated in a similar manner as a voter in other parts of the state.



127.

Electors in other parts of the state would not have their ballots treated in a similar manner as ballots processed at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020.

128.

Electors in the same precinct or same county would not have their ballots treated in a similar manner as those votes processed at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020.

129.

Respondents, jointly and severally, failed to apply uniform procedures for treating similarly situated electors similarly within the state.

130.

Respondents' systemic failure to provide for uniformity across the county is a direct and flagrant violation of the Constitution of the State of Georgia.

131.

As a result, there is a substantial likelihood that fraudulent or fabricated ballots were introduced into the ballot processing at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020.

**COUNT IV: DECLARATORY JUDGMENT FOR VIOLATION OF STATE DUE  
PROCESS CLAIM (WITHIN STATE)**

132.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 131 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

133.

Pursuant to the Constitution of the State of Georgia, "No person shall be deprived of life, liberty, or property except by due process of law." Ga. Const. art'. I, § I, para. I.

134.

Moreover, "all citizens of the United States, resident in this state, are hereby declared citizens of this state; and it shall be the duty of the General Assembly to enact such laws as will

protect them in the full enjoyment of the rights, privileges, and immunities due to such citizenship.” Ga. Const. art. I, § 1, para. VII.

135.

The right to vote is a fundamental right and the right to have his vote treated equally with all other voters in the state.

136.

The implementation or failure to implement the Georgia Election Code by the Respondents and their agents is state action.

137.

When a fundamental right is allegedly infringed by government action, substantive due process requires that the infringement be narrowly tailored to serve a compelling state interest. Old S. Duck Tours v. Mayor & Aldermen of City of Savannah, 272 Ga. 869, 872, 535 S.E.2d 751, 754 (2000).

138.

By failing to abide by state law when conducting ballot processing, the Respondents diluted the votes of qualified Georgia electors.

139.

By allowing illegal ballot processing, the Respondents, by and through their own misconduct or the negligent supervision of their agents, allowed the disenfranchisement of qualified Georgia electors.

140.

Respondents, jointly and severally, violated the Due Process protections of qualified Georgia Electors guaranteed by the Georgia State Constitution.

141.

As a result, there is a substantial likelihood that fraudulent or fabricated ballots were introduced into the ballot processing at State Farm Arena 604 Suite Level Event Space 360 between 11:02 p.m. on 11/03/2020 and 12:51 a.m. on 11/04/2020.

**COUNT V: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL  
PROTECTION CLAIM (THIRD PARTY)**

142.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 141 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

143.

The failure to perform ballot processing in accordance with state law created two (2) classes that had two (2) different standards applied to their votes.

144.

Electors who had cast their ballots for some third party candidates did not have their votes counted or recounted.

145.

Georgia voters were treated differently depending on which third party candidate they voted for in the November 3, 2020 General Election.

146.

An elector casting a ballot for certain third party candidates had their votes counted and recounted.

147.

Respondents, jointly and severally, failed to apply uniform procedures for treating similarly situated electors the same when it came to counting and recounting third party candidate ballots.

148.

Respondents' systemic failure to provide for uniformity across the county is a direct and flagrant violation of the Constitution of the State of Georgia.

**COUNT VI: DECLARATORY JUDGMENT FOR VIOLATION OF STATE DUE  
PROCESS CLAIM (THIRD PARTY)**

149.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 148 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

150.

The right to vote is a fundamental right and the right to have his vote treated equally with all other voters in the state and county.

151.

The implementation or failure to implement the Georgia Election Code by the Respondents and their agents is state action.

152.

When a fundamental right is allegedly infringed by government action, substantive due process requires that the infringement be narrowly tailored to serve a compelling state interest. Old S. Duck Tours v. Mayor & Aldermen of City of Savannah, 272 Ga. 869, 872, 535 S.E.2d 751, 754 (2000).

153.

By failing to abide by state law when conducting ballot processing, the Respondents disenfranchised qualified Georgia electors.

154.

By not counting and recounting certain ballots, the Respondents, by and through their own misconduct or the negligent supervision of their agents, allowed the disenfranchisement of qualified Georgia electors.

155.

Respondents, jointly and severally, violated the Due Process protections of qualified Georgia Electors guaranteed by the Georgia State Constitution.

#### **COUNT VII: TEMPORARY INJUNCTION**

156.

The Favorito Petitioners incorporate by reference and re-alleges paragraphs 1 through 155 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

157.

In the absence of a temporary restraining order, the Favorito Petitioners will suffer irreparable harm for which there is no adequate remedy at law, while injunctive relief will cause no harm to Respondents because if the suspect ballots are lost or tampered with it would undermine election integrity.



158.

Immediate and irreparable injury, loss, or damage will result to the Favorito Petitioners if the requested injunctive relief is not granted, because immediate access to the suspect ballots will improve the confidence in the state's election process and resolve skepticism about the validity of published election results.

159.

There will be immediate irreparable damage to the Citizens of Georgia through their loss of confidence in the integrity of the election process by virtue of the illegal votes included in the tabulations of the 2020 General Election, which outweighs any potential harm to Respondents.

160.

Granting the requested relief will not disserve the public interest.

161.

It is further in the public interest to grant the Favorito Petitioners' request for temporary injunctive relief, so that Georgia voters can have confidence that future elections are conducted in accordance with the Election Code.

162.

The Favorito Petitioners are entitled to the temporary injunctive relief sought herein, because there is a substantial likelihood of success on the merits.

163.

The damage to the Favorito Petitioners is not readily compensable by money, and no other remedy at law exists.

164.

The balance of equities favors entry of a temporary restraining order and injunctive relief against Respondents, and would not be adverse to any legitimate public interest.

165.

The Favorito Petitioners seek to have the Court maintain custody and control over the suspect ballots pending an immediate visual inspection and forensic review of the suspect ballots.

**COUNT XI: PERMANENT INJUNCTION.**

203.

The Favorito Petitioners incorporate by reference and re-alleges paragraphs 1 through 168 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

204.

In the absence of a permanent injunction, the Favorito Petitioners will suffer irreparable harm for which there is no adequate remedy at law, while injunctive relief will cause no harm to Respondents because if the Respondents are allowed to continue to receive and count counterfeit ballots, it would undermine election integrity and debase and dilute the Favorito Petitioners' votes in future elections.

205.

Immediate and irreparable injury, loss, or damage will result to the Favorito Petitioners if the requested permanent injunctive relief is not granted, because if the Respondents are allowed to continue to receive and count counterfeit ballots, it would undermine election integrity and debase and dilute the Favorito Petitioners' votes in future elections.

206.

There will be immediate irreparable damage to the Favorito Petitioners through their loss of confidence in the integrity of the election process and the debasement and dilution of their votes by virtue of the counterfeit ballots included in the tabulations of the 2020 General Election and future elections, which outweighs any potential harm to Respondents.

207.

Granting the requested relief will not disserve the public interest.

208.

It is further in the public interest to grant the Favorito Petitioners' request for permanent injunctive relief, so that the Favorito Petitioners have confidence in future elections.

209.

The Favorito Petitioners are entitled to the permanent injunctive relief sought herein, because there is a substantial likelihood of success on the merits.

210.

The damage to the Favorito Petitioners is not readily compensable by money, and no other remedy at law exists.

211.

The balance of equities favors entry of a permanent injunction and injunctive relief against the Respondents and would not be adverse to any legitimate public interest.

212.

The Favorito Petitioners seek to have the Court enjoin and prohibit the Respondents from counting counterfeit ballots in future elections.

**COUNT XII: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL PROTECTION AND STATE DUE PROCESS CLAIMS: AUDIT ERRORS**

213.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 212 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

214.

The Favorito Petitioners aver that about 923 of the 1539 mail-in ballot batch files contained votes incorrectly reported in official Fulton County November 3<sup>rd</sup>, 2020 results due to discrepancies in votes for Donald Trump, Joe Biden, and total votes cast compared to reported audit totals for their respective batches.

**COUNT XIII: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL PROTECTION AND STATE DUE PROCESS CLAIMS: FALSE AUDIT REPORTING**

215.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 214 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

216.

The Favorito Petitioners aver that 7 batches of Fulton County mail-in ballots containing a total of about 554 votes for Joe Biden, 140 votes for Donald Trump, and 11 votes for Jo Jorgenson were falsely reported in the hand count audit as having a total of 850 votes for Joe Biden, 0 votes for Donald Trump, and 0 votes for Jo Jorgenson.

**COUNT XIV: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL  
PROTECTION AND DUE PROCESS CLAIMS: AUDIT RESULTS WITHOUT  
BALLOTS**

217.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 216 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

218.

The Favorito Petitioners aver that Fulton County failed to include over 50,000 tally sheets when the results were originally published for the full hand count audit conducted by the office of the Secretary of State for the November 3<sup>rd</sup>, 2020 election, and these tally sheets continued to be missing until on or about February 24<sup>th</sup> 2021.

**COUNT XV: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL  
PROTECTION AND STATE DUE PROCESS CLAIMS: BALLOTS UNREPORTED IN  
AUDIT RESULTS**

219.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 148 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

220.

The Favorito Petitioners aver that over 200 Fulton County mail-in ballots containing votes were not included in the hand count audit results for the November 3<sup>rd</sup> election.

**COUNT XVI: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL  
PROTECTION AND STATE DUE PROCESS CLAIMS: DUPLICATE VOTES IN  
AUDIT RESULTS**

221.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 220 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

222.

The Favorito Petitioners aver that there are about 36 batches of mail-in ballots that contain about 4,255 total extra votes redundantly added into the Fulton County audit results for



the November 3<sup>rd</sup> election, including about 3,390 extra votes for Joe Biden, 865 extra votes for Donald Trump, and 43 extra votes for Jo Jorgenson.

**COUNT XVII: DECLARATORY JUDGMENT FOR VIOLATION OF STATE EQUAL  
PROTECTION AND STATE DUE PROCESS CLAIMS: MISSING CHAIN OF  
CUSTODY FORMS**

223.

The Favorito Petitioners incorporate by reference and re-allege paragraphs 1 through 222 of this 3<sup>rd</sup> Amendment to Petition as set forth herein verbatim.

224.

The Favorito Petitioners aver that Fulton County did not provide drop box transfer forms for at least three (3) pickup days, and the forms are needed to provide chain of custody proof for about 5,000 ballots.

**WHEREFORE, THE FAVORITO PETITIONERS** pray:

- a). that process **ISSUES** and service by **EFFECTUATED**;
- b). that the Court **CONDUCTS** an evidentiary hearing on the temporary injunction;
- c). that the Court **DECLARES** that the Respondents have violated the state equal protection clause;
- d). that the Court **DECLARES** that the Respondents have violated the state due process clause;
- e). that the Court **DECLARES** that the Respondents' state equal protection rights will be violated in future elections by the counting of counterfeit ballots;
- f). that the Court **DECLARES** that the Respondents' state due process rights will be violated in future elections by the counting of counterfeit ballots;
- g). that the Court **DECLARES** that the Respondents' state equal protection and state due process rights will be violated in future elections by the unconstitutional practices enumerated in Counts XII through XVII;
- h). that the Court **ISSUES** a temporary injunction preventing the removal or tampering with all paper ballots;
- i). that the Court **ORDERS** the Respondents to allow the Favorito Petitioners and

- their representatives immediate access to all mail-in paper ballots from the November 3, 2020 General Election for visual inspection;
- j). that the Court **ORDERS** that the Respondents to allow the Favorito Petitioners and their representatives to immediately scan all mail-in paper ballots from the November 3, 2020 General Election for technical inspection and validation;
- k). that the Court **ORDERS** the Respondents to produce the existing Dominion ballot images and election reports from the November 3, 2020 General Election for technical inspection and validation;
- l). that the Court **GRANTS** the Favorito Petitioners attorney fees for having to prosecute this civil action; **AND**
- m). for any other relief the Court **DEEMS** just and proper.

Respectfully submitted this the 2<sup>nd</sup> day of July, 2021.

**MADDOX & HARDING, LLC**

A handwritten signature in black ink, appearing to read 'Todd A. Harding', is written over a horizontal line.

Todd A. Harding, For the Firm  
Ga. Bar No.: 101562  
Attorney for The Favorito Petitioners

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770-229-4578  
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**IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA**

**GARLAND FAVORITO, MICHAEL SCUPIN,  
TREVOR TERRIS, SEAN DRAIME,  
CAROLINE JEFFORDS, STACEY DORAN,  
CHRISTOPHER PECK, ROBIN SOTIR,  
and BRANDI TAYLOR,  
PETITIONERS,**

**v.**

**CIVIL ACTION NO.: 2020CV343938**

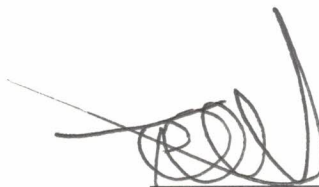
**ALEX WAN, VERNETTA KEITH  
NURIDDIN, KATHLEEN RUTH,  
AARON JOHNSON, AND  
MARK WINGATE,  
in their individual capacities,  
RESPONDENTS.**

**CERTIFICATE OF SERVICE**

**COME NOW, THE FAVORITO PETITIONERS,** notifies the Court that they have served a copy of **PETITIONERS FAVORITO, SCUPIN, TERRIS, DRAIME, DORAN, PECK, AND TAYLOR'S 3<sup>rd</sup> AMENDMENT TO PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF** via email to the contacts listed in the Odyssey Automated service system.

Respectfully submitted this the 2<sup>nd</sup> day of July, 2021.

**MADDOX & HARDING, LLC**



\_\_\_\_\_  
Todd A. Harding, For the Firm  
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Attorney for Favorito Petitioners

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