

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

John Wood,

Contestant,

v.

Brad Raffensperger, in his official capacity of
Secretary of State of the State of Georgia; and Brian
Kemp, in his official capacity as Governor of the
State of Georgia,

Defendants.

Civil Action No. 2020CV342959

Proposed Intervenors' Motion to Expedite Hearing

Proposed Intervenor-Defendants ("Intervenors") by and through their attorneys, move this Court for an expedited hearing on their Motion to Dismiss Plaintiff's Petition for Election Contest and/or an expedited hearing on the substance of Contestant's claims. As discussed below, the expeditious hearing of this matter is necessary to ensure that this contest concludes before the constitutional "safe harbor" date of December 8, 2020, and before the electors vote at the Electoral College on December 14, 2020.

BACKGROUND

On November 20, 2020, after the completion of the 2020 general election and a statewide hand recount of all presidential ballots, Secretary of State Raffensperger certified the election, which showed that President-Elect Joseph R. Biden, Jr. had won the presidential race in Georgia. On that same day, Governor Kemp issued a certificate of ascertainment declaring that the Biden Electors were appointed Electors of President and Vice President of the United States for the State of Georgia. The next day, President Trump, through his campaign, sought another recount, which is currently underway and set to conclude on December 2.

On November 25, Contestant John Wood filed his Petition for Election Contest. The Petition is predicated in large part on allegations that have already been made and handily rejected in other cases, *see Ga. Voter All. v. Fulton Cnty.*, No. 1:20-CV-4198-LMM, 2020 WL 6589655, at *1 (N.D. Ga. Oct. 28, 2020); *Op.*, *Wood v. Raffensperger*, No. 1:20-cv-04651, ECF No. 54 at 26-27 (N.D. Ga. Nov. 20, 2020), or are wholly unsupported by factual allegations. On these specious and unsupported grounds, Wood seeks the unprecedented relief of nullifying the entire election and having the Georgia General Assembly, by majority vote, certify a new slate of electors, or, in the alternative, to hold a new presidential election. Pet., Prayer for Relief.

Notably, any slate of electors—the current, duly elected slate or the hypothetical slate that Wood requests—must cast their votes for the President and Vice-President on December 14. 3 U.S.C. § 7. And, most critically, all contests over such electors need to be settled by the December 8 “safe harbor” deadline. 3 U.S.C. § 5. Intervenors are now before the Court to request an expedited hearing schedule to resolve Plaintiff’s Petition before the December 8 “safe harbor” deadline. No schedule has been set in this case.

DISCUSSION

This Court has the authority to and should expedite the proceedings in this matter to ensure that this contest is resolved prior to the December 8 “safe harbor” deadline.

The Georgia Supreme Court has recognized that the Election Code specifically authorizes this Court to expedite the schedule of an election contest. *See Martin v. Fulton Cnty. Bd. of Registration & Elections*, 307 Ga. 193, 212 (2019) (citing OCGA §§ 21-2-523 (e), 21-2-525(a), (b), (c)). Indeed, “an election contest is, by statutory design, an expedited proceeding—and one that vests in trial courts broad authority to manage the proceeding, including to ‘proceed without delay to the hearing and determination of’ the election contest.” *Id.* at 194 (quoting OCGA § 21-

2-525 (b)); *Payne v. Chatman*, 267 Ga. 873, 875, 485 S.E.2d 723, 725 (1997) (“The Election Code gives a trial court ample power and discretion to control the election contest process to insure that the proceedings are resolved in a timely manner.”).

Here, there is a pressing need to resolve this contest expeditiously: the federally imposed December 8 “safe harbor” deadline and corresponding December 14 electoral college meeting. A ruling from this Court by December 8 on either Intervenors’ Motion to Dismiss or the merits of the contest will ensure the finality of the election, facilitate Georgia’s participation in the electoral colleges, and resolve any public uncertainty which is in the public interest and precisely why contests were designed. *See, e.g., Plymn v. Glynn Cnty.*, 276 Ga. 426, 427 (2003) (finding that in enacting the election contest statutes, the legislature had a “strong desire to avoid election uncertainty and the confusion and prejudice which can come in its wake. Certainly, the swift resolution of election contests is vital for the smooth operation of government.”). This Court should accordingly expedite the hearing in this matter such that it is resolved prior to December 8, 2020.

CONCLUSION

For the foregoing reasons, Intervenors respectfully ask this Court for an expedited hearing on Intervenors Motion to Dismiss or, in the alternative, to resolve Plaintiff’s Petition for Election Contest.

Dated: November 30, 2020.

Respectfully submitted,

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**Pro Hac Vice Application Forthcoming*

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Civ. Act. No. 2020CV342959

Certificate of Service

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court via *Odyssey eFileGA*, which will provide notice and service to all counsel of record, and by email to the following:

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This 30th day of November 2020.

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