

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 and BRIAN JAY VAN
GUNDY,

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.

CASE NO.

1:20-cv-4809-TCB

NOTICE OF EMERGENCY INTERLOCUTORY APPEAL AS OF RIGHT

Plaintiffs Coreco Ja'Qan Pearson, et al., hereby file an emergency appeal to the United States Court of Appeals for the Eleventh Circuit from this Court's interlocutory order of November 29, 2020 (Doc.14) to the extent it denies the full relief Plaintiffs requested in their motion for a temporary restraining order. *See Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225 (11th Cir. 2005) ("Although we ordinarily do not have jurisdiction over

appeals from orders granting or denying temporary restraining orders, in circumstances such as these, ‘when a grant or denial of a TRO might have a serious, perhaps irreparable, consequence, and can be effectively challenged only by immediate appeal, we may exercise appellate jurisdiction.’” (quoting *Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995)).¹

Plaintiffs respectfully ask that this Court immediately transmit this notice of appeal to the Eleventh Circuit today so that that court may docket the matter, thus enabling Plaintiffs to file a motion for an expedited briefing schedule pursuant to which Plaintiffs propose to file their brief by midnight December 2, 2020, and Appellee’s brief by December 4, 2020.

Moreover, this Notice of Appeal as of right should divest the district court of jurisdiction. If not, Plaintiffs would request a stay of the hearing currently scheduled in the district court for December 4, 2020, until this Court has ruled on the questions raised by the appeal, including whether Plaintiffs must add to the suit each of the 600-plus county election officials in

¹ While this Court, pursuant to 42 U.S.C. §1292(b), has certified its order as involving a “controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation,” (Doc.15), Plaintiffs would seek permission to appeal under §1292(b) only in the alternative, if the Eleventh Circuit deems that necessary. Plaintiffs file this notice, however, as a matter of right, pursuant to *Schiavo*. (“In these circumstances we treat temporary restraining orders as equivalent to preliminary injunctions or final judgments, either of which are appealable.”) *Schiavo*, 403 F.3d at 1225 (citing 28 U.S.C. §§1291, 1292(a)(1)).

addition to the Secretary of State for Georgia, who by law is responsible for Georgia elections and spent \$107 million taxpayer dollars to purchase Dominion voting systems for the entire state.

/s Sidney Powell*

Sidney Powell PC

Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300

Dallas, Texas 75219

(214) 707-1775

*Application for admission pro hac vice forthcoming

/s 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

(Admitted pro hac vice)

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

Counsel for Plaintiffs

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

RETRIEVED FROM DEMOCRACYDOCKET.COM

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing **NOTICE OF EMERGENCY INTERLOCUTORY APPEAL AS OF RIGHT** with the Clerk of Court using the CM/ECF system which will cause service to be made upon counsel of record therein.

This 1st day of December 2020.

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

RETRIEVED FROM DEMOCRACYDOCKET.COM