

Erick G. Kaardal (WI0031)  
Special Counsel for Amistad Project of  
Thomas More Society  
Mohrman, Kaardal & Erickson, P.A.  
150 South Fifth Street, Suite 3100  
Minneapolis, Minnesota 55402  
Telephone: (612) 341-1074  
Facsimile: (612) 341-1076  
Email: kaardal@mklaw.com  
*Attorneys for Plaintiffs*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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Case No. \_\_\_\_\_

WISCONSIN VOTERS ALLIANCE  
E3530 Townline Road  
Kewaunee, Wisconsin 54216;

PENNSYLVANIA VOTERS ALLIANCE  
1621 Huddel Avenue Lower  
Chichester, Pennsylvania, 19061;

GEORGIA VOTERS ALLIANCE  
151 Main Street  
Senior, Georgia 30276;

ELECTION INTEGRITY FUND  
1715 Northumberland Drive  
Rochester Hills, Michigan 48309;

ARIZONA VOTER INTEGRITY ALLIANCE  
8019 East Tuckey Lane  
Scottsdale, Arizona 85250;

LYNIE STONE  
10410 East Prince Road  
Tucson, Arizona 85749;

BARON BENHAM  
8019 East Tuckey Lane  
Scottsdale, Arizona 85250;

DEBI HAAS  
5530 Rivers Edge Drive  
Commerce, Michigan 48382;

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BRENDA SAVAGE

1715 Northumberland Drive  
Rochester Hills, Michigan 48309;

MATTHEW DADICH

1621 Huddel Avenue  
Lower Chichester, Pennsylvania 19061;

LEAH HOOPE

241 Sulky Way  
Chadds Ford, Pennsylvania 19317;

RON HEUER

E3530 Townline Road  
Kewaunee, Wisconsin 54216;

RICHARD W. KUCKSDORF

W2289 Church Drive  
Bonduel, Wisconsin 54107;

DEBBIE JACQUES

1839 South Oneida Street  
Green Bay, Wisconsin 54304;

JOHN WOOD

151 Main Street  
Senior, Georgia 30276;

SENATOR SONNY BORRELLI

2650 Diablo Dr  
Lake Havasu City AZ 86406

REPRESENTATIVE WARREN PETERSON

2085 E Avenida del Valle Ct  
Gilbert AZ 85298

REPRESENTATIVE MATTHEW MADDOCK

1150 South Milford Road  
Milford, Michigan 48381;

REPRESENTATIVE DAIRE RENDON,

4833 River Wood Road  
Lake City, Michigan 49651;

REPRESENTATIVE DAVID STEFFEN

715 Olive Tree Court  
Green Bay, Wisconsin 54313;

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REPRESENTATIVE JEFF L. MURSAU

4 Oak Street  
Crivitz, Wisconsin 54114;

SENATOR WILLIAM T. LIGON

90 Bluff Road South  
White Oak, Georgia 31568; and

SENATOR BRANDON BEACH

3100 Brierfield Road  
Alpharetta, GA 30004

Plaintiffs,

v.

VICE PRESIDENT MICHAEL RICHARD PENCE,  
in his official capacity as President of the United States Senate,  
Office of the Vice President  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20500;

U.S HOUSE OF REPRESENTATIVES,  
U.S. Capitol  
First St SE  
Washington, DC 20004;

U.S. SENATE,  
U.S. Capitol  
First St SE  
Washington, DC 20004;

ELECTORAL COLLEGE,  
U.S. Capitol  
First St SE  
Washington, DC 20004;

GOVERNOR TOM WOLF OF PENNSYLVANIA,  
in his official capacity,  
508 Main Capitol Building  
Harrisburg, PA 17120;

SPEAKER BRYAN CARTER OF THE PENNSYLVANIA  
HOUSE OF REPRESENTATIVES, in his official capacity,  
139 Main Capitol Building  
PO Box 202100  
Harrisburg, PA 17120-2100;

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SENATE MAJORITY LEADER JAKE CORMAN  
OF THE PENNSYLVANIA SENATE,  
in his official capacity,  
Senate Box 203034  
Harrisburg, PA 17120-3034;

GOVERNOR GRETCHEN WHITMER OF MICHIGAN,  
in her official capacity,  
111 S Capitol Avenue  
Lansing, Michigan 48933;

SPEAKER LEE CHATFIELD OF THE MICHIGAN  
HOUSE OF REPRESENTATIVES,  
in his official capacity,  
124 N Capitol Avenue  
Lansing, Michigan 48933;

SENATE MAJORITY LEADER MIKE SHIRKEY  
OF THE MICHIGAN SENATE,  
in his official capacity,  
S-102 Capitol Building  
Lansing, Michigan 48933;

GOVERNOR TONY EVERS OF WISCONSIN,  
in his official capacity,  
P.O. Box 7863  
Madison, Wisconsin 53707;

SPEAKER ROBIN VOS OF THE WISCONSIN  
STATE ASSEMBLY,  
in his official capacity,  
960 Rock Ridge Road  
Burlington, Wisconsin 53105;

SENATE MAJORITY LEADER HOWARD MARKLEIN  
OF THE WISCONSIN SENATE,  
in his official capacity,  
PO Box 7882  
Madison, Wisconsin 53707;

GOVERNOR BRIAN KEMP OF GEORGIA,  
in his original capacity,  
111 State Capitol  
Atlanta, Georgia 30334;

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SPEAKER DAVID RALSTON OF THE GEORGIA HOUSE  
OF REPRESENTATIVES,  
in his official capacity,  
332 State Capitol  
Atlanta, Georgia 30334;

PRESIDENT PRO TEMPORE BUTCH MILLER OF THE  
GEORGIA SENATE,  
in his official capacity,  
321 State Capitol  
Atlanta, Georgia 30334;

GOVERNOR DOUG DUCEY OF ARIZONA,  
in his official capacity,  
1700 W. Washington Street  
Phoenix, Arizona 85007;

SPEAKER RUSSELL BOWERS OF THE  
ARIZONA HOUSE OF REPRESENTATIVES,  
in his official capacity,  
1700 West Washington  
Room 223  
Phoenix, Arizona 85007; and

SENATE MAJORITY LEADER RICK GRAY  
OF THE ARIZONA SENATE,  
in his official capacity,  
1700 West Washington  
Room 301  
Phoenix, Arizona 85007,

Defendants.

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## COMPLAINT

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The above-named Plaintiffs Wisconsin Voters Alliance, Pennsylvania Voters Alliance,  
Georgia Voters Alliance, Election Integrity Fund, Arizona Election Integrity Alliance, Lynie Stone,  
Baron Benham, Debi Haas, Brenda Savage, Matthew Dadich, Leah Hoopes, Ron Heuer, Richard W.  
Kucksdorf, Debbie Jacques, John Wood, Sonny Borrelli, Warren Peterson, Matthew Maddock,

Daire Rendon, David Steffen, Jeff L. Mursau, William T. Ligon and Brandon Beach, for their complaint allege as follows:

## INTRODUCTION

### **A. State Legislatures are Prohibited from Fulfilling Their Constitutional Responsibility.**

This lawsuit seeks protection of voters' rights in Presidential elections. Voters in Presidential elections have a constitutional right to have their respective state legislatures meet after the election and certify their votes and, based on the votes, certify the Presidential electors whose votes are counted in Congress to elect the President and Vice President.

In drafting Article II, the Framers of the Constitution reasoned state legislatures should select Presidential electors so as "to afford as little opportunity as possible to tumult and disorder" and to place "every practicable obstacle [to] cabal, intrigue, and corruption," including "foreign powers" that might try to insinuate themselves into our elections.<sup>1</sup>

Article II limited Congress's role in selecting the President and provided no constitutional role for Governors. Yet, at present state legislatures are unable to meet. This inability to meet has existed from election day and continues through various congressionally set deadlines for the appointment of presidential electors and the counting of presidential elector votes. The states legislatures of Pennsylvania, Michigan, Wisconsin, Georgia and Arizona ("Defendant States") are unable to review the manner in which the election was conducted, are prevented from exercising their investigative powers and are unable to vote, debate or as a body speak to the conduct of the election. In sum, State legislatures are impotent to respond to what happened in the November 3, 2020 election.

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<sup>1</sup> Hamilton, Alexander. Federalist No. 68, at 410-11 (C. Rossiter, ed. 1961).

This impotency is caused by the ministerial functions of Congress and the Vice President regarding the counting of the Presidential Elector's votes and also by state law prohibiting the legislative body from meeting without a supermajority or governor or leadership agreement during a time they can respond to what happened in the election. Accordingly, even if the state legislatures were aware of clear fraud by the executive branch – the state legislatures could not meet unless a supermajority, or a governor, or legislative leadership agreed they should meet.

This wholesale delegation of legislative authority operates contrary to the Constitution by inviting “cabal, intrigue and corruption” rather than operating to prevent the same. State legislative bodies have been relegated to observing the ministerial functions of a small group of executive officials who have refused various requests by legislators to be called into special session. Consequently, the legislative bodies as a whole of Defendant States have not engaged in any open discussion, review, investigation, or debate regarding the 2020 general election.

**B. A Cabal of Public-Private Partnerships Directed the Manner of the Election Contrary to State Law Creating Disorder the State Legislatures were Unable to Address.**

The management of elections is a core government function of Congress and state legislatures whose responsibilities are constitutionally defined.<sup>2</sup> “Safeguarding the integrity of the electoral process is a fundamental task of the Constitution, and [the courts] must be keenly sensitive to signs that its validity may be impaired.”<sup>3</sup>

This is especially so when state legislatures have abrogated their responsibilities through the improper delegation of their authority and when a cabal of state and local executives have partnered with private interests to undermine state statutes and plans designed to protect the integrity of the election.

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<sup>2</sup> U.S. Const. Art. II, Section 1, Cl. 1; U.S. Const. Art. 4, Section 1, Cl. 1.

<sup>3</sup> *Johnson v. FCC*, 829 F.2d 157, 163 (D.C. Cir. 1987).

“Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy”<sup>4</sup> and due to the wholesale delegation of legislative responsibility only judicial action restoring legislative authority can check unlawful conduct by the involved state executives.

**C. Unprecedented Private Monies Purchased Local Election Offices and Dictated Election Management Encouraging the Evasion of State Laws and Government Partisan Involvement.**

On March 27, 2020 President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES) which provided \$400 million to states to manage the 2020 elections during the pandemic.<sup>5</sup> This funding joined previous monies provided by the Help America Vote Act (HAVA) to afford states sufficient federal funding to assist in managing the election.

The CARES Act funding, however, was exceeded by one individual who passed \$400 million to local and state executives through a private charity that dictated how the recipient local government officials would manage the election.<sup>6</sup>

These dictates included the unprecedented use of drop boxes, mobile ballot retrieval, the location and number of polling places or satellite locations, and the consolidation of urban counting centers. Election judges, inspectors and poll workers were paid by these private funds and the tabulating machines purchased with private monies.<sup>7</sup>

The private funds flowed through the Center for Tech and Civic Life (CTCL) and were targeted to facilitate voter turnout of certain demographics in geographic areas dominated by one political

<sup>4</sup> *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006).

<sup>5</sup> Coronavirus Aid, Relief & Econ. Security Act, Pub. L. 116-136, §15003, 134 Stat. 281, 531.

<sup>6</sup> *Mark Zuckerberg donated \$400M to help local election offices during pandemic*, INDEPENDENT, Nov. 11, 2020. <https://www.independent.co.uk/news/world/americas/mark-zuckerberg-donation-election-facebook-covid-b1721007.html>.

<sup>7</sup> *Id.*



party.<sup>8</sup> CTCL recruited specific cities to apply for the grants and provided grants to select cities to assist those cities in their grant applications.<sup>9</sup>

The funding to local election officials in Democratic strongholds was provided simultaneously with executive decisions to close in-person voting locations in areas not receiving CTCL grants. The CTCL funding and local executive official acceptance created a two-tier election system in which geographic areas benefitting one political party were flush with cash used to increase voter opportunities and turnout, including one city's no-bid purchase of a \$250,000 Winnebago for local voter turnout efforts. The geographic areas dominated by the other party, however, experienced greater difficulty voting due to COVID emergency orders.<sup>10</sup>

For example, CTCL provided funds to 100% of the Pennsylvania counties carried by Hillary Clinton in 2016, including over \$10 million to Philadelphia County.<sup>11</sup> The charity required the heavily Democratic county to establish 800 "satellite" voting locations and implement the drop box collection of ballots. In neighboring Democratic Delaware County, Pennsylvania one drop box was available for every 4,000 voters and one drop box was placed for every four-square-miles.

On the other hand, President Trump carried 59 of 67 Pennsylvania counties in 2016. CTCL contributed to 22% of those counties providing much smaller grants. There was one drop box for every 72,000 voters and every 1,159 square-miles in those counties.

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<sup>8</sup> See, e.g., (city of Philadelphia grant communications), *Unconstitutional? Wisconsin city election officials sought private money to register voters*, <https://justthenews.com/politics-policy/elections/documents-show-wi-municipal-authorities-sought-use-grant-money-voter>; City of Green Bay – Center for Tech and Civic Life grant agreement (July 24, 2020).

<sup>9</sup> See Approval by Center for Tech and Civic Life of grant request for City of Racine, App. 247-48; see also Petition for Permanent Injunction and Declaratory Judgment on behalf of the State of Louisiana, App. 1504-1536.

<sup>10</sup> See Grant Spending Approval by City of Racine for Purchase of Winnebago, App. 1492; see also Carlson Report, App. 31-38.

<sup>11</sup> See Approval by Center for Tech and Civic Life of grant request for City of Philadelphia, App. 1493-1503.

CTCL funding produced similar results in the other Defendant States. Moreover, the use of drop boxes materially breached the chain of custody of ballots. For example, ballot transfer forms in Cobb County, Georgia show 78% of the 89,000 absentee ballots were not transported as Georgia election rules require.<sup>12</sup> Additionally, the use of drop boxes and changes in the signature comparison requirements for absentee ballots were approved by the Georgia Secretary of State without legislative approval.<sup>13</sup>

The presence of CTCL funds in other states facilitated conduct contrary to state law as well. In Wisconsin, at CTCL's request, five cities used CTCL seed monies to draft the "Wisconsin Safe Voting Plan 2020," so named despite the failure of the city leaders to include any other Wisconsin election officials. The plan, and communications relating to the plan, provided for extensive voter turnout efforts, considered state voter identification laws an obstacle and required the use of drop boxes, curbside voting and salaries for additional staffing."<sup>14</sup>

CTCL funding was used to "dramatically expand voter and community education and outreach, particularly to historically disenfranchised residents."<sup>15</sup>

<sup>12</sup> *Ballot Transfer Forms Show 78 Percent of 89,000 Absentee Ballots from Drop Boxes in Cobb County, Georgia Were Not Transported to the Registrar 'Immediately' As the Election Code Requires – The Georgia Star News*, <https://georgiastarnews.com/2020/12/11/ballot-transfer-forms-show-78-percent-of-89000-absentee-ballots-from-drop-boxes-in-cobb-county-were-not-transported-to-registrar-immediately-as-election-code-rule-requires/>.

<sup>13</sup> *Georgia Secretary of State and State Election Board Changed Absentee Ballot Signature Verification and Added Drop Boxes Without State Legislature's Approval*, <https://georgiastarnews.com/2020/12/16/georgia-secretary-of-state-and-state-election-board-changed-absentee-ballot-signature-verification-and-added-drop-boxes-without-state-legislatures-approval/>.

<sup>14</sup> *Wisconsin Safe Voting Plan 2020*, at 4 (submitted to the Center for Tech and Civic Life by the cities of Green Bay, Kenosha, Madison, Milwaukee and Racine)(June 15, 2020). The report states "[v]oting absentee by mail has been complicated by a fairly recent imposition of state law requiring voters to provide an image of their valid photo ID prior to first requesting an absentee ballot." *Id.*, at 6. The CTCL funding provided "voter navigators" and professional witnesses to increase turnout and \$2.5 million to "overcome these particular barriers." *Id.* at 8-11. The cities received over \$2 million for additional staffing, including pay for poll workers, election "chief inspectors." *Id.*, at 11-12 and 18-19. An additional \$216,500 was provided for drop boxes. *Id.*, at 10-11.

<sup>15</sup> *Id.*, at 13.

CTCL funding enabled urban areas in defendant states to consolidate counting facilities. This consolidation precipitated the exclusion of Republican officials from the ability to view the management, handling and counting of absentee and mail-in ballots.

Election transparency is a prophylactic to fraud. Each defendant state has laws requiring members of both major political parties be present in the location of the receipt, management and counting of ballots. Such common-sense policy is necessary due to the significant afforded election officials.

Local election officials determine the ballots to be received, the ballots eligible to be counted and supervise the count of the ballots. Legislatures have wisely determined the best way to bring accountability to such decisions is to require the participation, or at least the observation, of both political parties.

Yet, these laws were not followed. In Wayne County, Michigan, CTCL paid poll workers boarded up the windows to the counting facility to prevent observation.<sup>16</sup> Inside Detroit's *TCF Center*, election inspectors were receiving, counting and "curing" absentee ballots. The "curing" process involves discerning the voting intent of an absent voter and reflecting that intent on a newly ballot which is then cast and counted.

Michigan law requires representatives of both major political parties to view the process and then sign a form stating the "curing" was completed consistent with voter intent.<sup>17</sup> Yet, Republican inspectors were not appointed in Wayne County. Moreover, Republican poll watchers were kept at such a distance in the cavernous TCF Center they were unable to view the conduct of the inspectors

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<sup>16</sup> *There's a Simple Reason Workers Covered Windows at a Detroit Vote-Counting Site*, THE NEW YORK TIMES (Nov. 5, 2020) (<https://www.nytimes.com/2020/11/05/technology/michigan-election-ballot-counting.html>, retrieved Dec. 20, 2020) (windows covered to prevent "photographs").

<sup>17</sup> See *Mich. Comp. Laws* §168.674(2) (Thomson/West 2006).

at the 134 counting tables operating in the center.<sup>18</sup> City election officials later argued that allowing republicans in the “place” of the counting satisfied state law despite the “place” these poll watchers were required to stand was so remote they could not observe the activity of the democrat party officials.

Urban election officials in other Defendant States which received CTCL funding also restricted or prohibited Republican poll watchers from viewing the receipt, management, curing and counting of ballots.<sup>19</sup> Local election officials in each state represented here received significant funds from CTCL and each also engaged in election improprieties with local officials acting contrary to state law.

State hostility to Republican participation in reviewing the management of the 2020 general election manifested in threats to Republican officeholders and their counsel in Michigan. On December 14, 2020 Governor Gretchen Whitmer mobilized the state police to secure the state capitol to prevent Republican legislators entry to the building while allowing Democrat legislators to enter.<sup>20</sup>

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<sup>18</sup> See, e.g., *Watch, Detroit Absentee Ballot Counting Chaos As Workers Block Windows, Bar Observers*, BREITBART (Nov. 4, 2020) (<https://www.breitbart.com/politics/2020/11/04/watch-detroit-absentee-ballot-counting-chaos-as-workers-block-windows-bar-observers/>, retrieved Dec. 12, 2020); *Chaos erupts at TCF Center as Republican vote challengers cry foul in Detroit*, DETROIT FREE PRESS (Nov. 4, 2020) (<https://www.freep.com/story/news/politics/elections/2020/11/04/tcf-center-challengers-detroit-michigan/6164715002/>, retrieved Dec. 20, 2020).

<sup>19</sup> See, e.g., Affidavit of Gregory Stenstrom (date); ‘The Steal is On’ in Pennsylvania: Poll Watchers Denied Access, Illegal Campaigning at Polling Locations, Breitbart (Nov. 3, 2020) (<https://www.breitbart.com/politics/2020/11/03/the-steal-is-on-in-pennsylvania-poll-watchers-denied-access-illegal-campaigning-at-polling-locations/>, retrieved Dec. 20, 2020);

<sup>20</sup> Michigan governor Gretchen Whitmer and legislative leadership initially claimed COVID-19 necessitated the closing of the Michigan capitol building on December 14, 2020, the congressional deadline for the certification of the presidential electors. *Shirkey: ‘Bad Judgment’ to keep Michigan Capitol closed during electors meeting*, <https://www.detroitnews.com/story/news/politics/2020/12/14/shirkey-bad-judgment-capitol-closed-during-elector-meeting/6536863002/>. Later, Governor Whitmer claimed the closing occurred due to a security threat. *Michigan State House, Senate close over ‘threats of violence’ during Electoral College Meeting*, December 14, 2020, <https://www.usatoday.com/story/news/politics/2020/12/14/michigan-legislative-buildings->

Moreover, Democrat Michigan Attorney General Dana Nessel announced she was criminally investigating Republican legislators who voiced concerns regarding the election outcome and threatened those officials with criminal prosecution for “bribery, perjury, and conspiracy.”<sup>21</sup>

General Nessel also tweeted a claim “GOP efforts to overturn President Trump’s electoral defeat...and [t]hreats against election officials are domestic terrorism. My message to them is ‘We are looking for you. We will find you. You will be held accountable.’”<sup>22</sup> The Michigan State Police whom the Governor ordered to bar Republicans from entering the capitol on the fourteenth<sup>23</sup>, however, announced they “did not recommend the closure of legislative offices ahead of the Electoral College meeting and they were not aware of ‘any credible threats of violence related to Michigan....’”<sup>24</sup>

General Nessel continued her threats with calls for ethics investigations of Republican attorneys. She also chilled free speech during the election by issuing “cease-and-desist letters” to political organizations engaged in political speech.<sup>25</sup>

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closed-security-concerns-covid-19/6536919002/, see also <https://www.npr.org/sections/biden-transition-updates/2020/12/14/946243439/michigan-gov-whitmer-addresses-security-threat-to-electoral-college-vote>. Despite both claims, Democrats were allowed in the state capitol on December 14, 2020 while republican legislators were prohibited from entering. <https://www.prnewswire.com/news-releases/got-freedom-video-shows-police-preventing-gop-electors-in-michigan-from-performing-lawful-duties-301192474.html>. The Michigan State Police, however, revealed that they acted on the Governor’s orders and that the state police were not aware of any credible threat to the capitol or its occupants. <https://nbc25news.com/news/local/michigan-house-and-senate-offices-closed-tomorrow-because-of-safety-concerns>.

<sup>21</sup> *Michigan attorney general ponders criminal probes of state and local officials who bend to Trump’s will on overturning election results*, [https://www.washingtonpost.com/politics/michigan-attorney-general-canvassing-board-lawmakers/2020/11/20/87d19ce6-2b65-11eb-8fa2-06e7cbb145c0\\_story.html](https://www.washingtonpost.com/politics/michigan-attorney-general-canvassing-board-lawmakers/2020/11/20/87d19ce6-2b65-11eb-8fa2-06e7cbb145c0_story.html).

<sup>22</sup> <https://twitter.com/dananessel/status/1338494176883847170>.

<sup>23</sup> *Live Update: Denied to Perform Constitutional Duty in Michigan*, GOT FREEDOM? (December 14, 2020) (<https://www.youtube.com/watch?v=6nH6ZvfAD2w>, (video of entry denial)).

<sup>24</sup> *State Police say there were not aware of any credible threats to the capitol on Monday*, <https://nbc25news.com/news/local/michigan-house-and-senate-offices-closed-tomorrow-because-of-safety-concerns>.

<sup>25</sup> *Nessel issues cease-desist letters to those spreading misinformation during election*, <https://www.wxyz.com/news/election-2020/nessel-issues-cease-and-desist-letters-to-those-spreading-misinformation-during-election>.

Accordingly, the Plaintiffs who are voter groups, voters and state legislators in Pennsylvania, Michigan, Wisconsin, Georgia and Arizona file this complaint seeking to restore the constitutional authority and duty of the legislative bodies of their respective states in the selection of presidential electors to correct “the tumult and disorder”<sup>26</sup> and lawlessness

The federal laws regarding the Presidential electors, codified at 3 U.S.C. §§ 5, 6 and 15 are constitutionally unauthorized and violate Presidential voters’ rights to state legislative post-election certification. Article II of the Constitution establishes a non-delegable process where at least state legislative post-election certification of the state’s Presidential electors is constitutionally required for Presidential elector votes to be counted in the election of the President and Vice President. In contradiction, the federal laws, particularly 3 U.S.C. §§ 5 and 6, establish a different process where Presidential electors are designated by the Governor of each Defendant State without state legislative post-election certification. Then, 3 U.S.C. § 15 authorizes the Vice President and Congress to count those votes in contradiction of the constitutional obligation to only count votes of Presidential electors who have state legislative post-election certification.

Further, the Defendant States have legally acquiesced to the federal laws by enacting statutes transferring post-election certification from the state legislatures to state executive branch officials: Ariz. Rev. Stat. § 16-212 (B) (Arizona Secretary of State), Ga. Code Ann. § 21-2-499 (B) (Georgia Secretary of State and Governor), Mich. Comp. Laws Ann. § 168.46 (Michigan State Board of Canvassers and Governor), Wis. Stat. § 7.70 (5) (b) (Wisconsin Elections Commission); and 25 Pa. Cons. Stat. § 3166 (Secretary of Commonwealth and Governor). These state laws also violate Article II which establishes the state legislative prerogative to post-election certification of Presidential votes and of Presidential electors.

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<sup>26</sup> Federalist No. 68, at 410-11.

Plaintiffs hope a constitutional crisis can be avoided. There is time before the January 20, 2021 inaugural of the President and Vice President for the Court to require the state legislatures to meet and consider post-election certification of the Presidential electors. The people's representatives comprising the state legislatures of the respective states must be afforded the opportunity to act as a whole to fulfill their constitutional responsibilities and to restore faith in the election process.

Moreover, this Court has continuing jurisdiction, after this Presidential election, because the federal laws and state laws violating Article II have continuing force applied to future Presidential elections.

## **JURISDICTION**

1. The Court has jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (civil rights and elective franchise), 28 U.S.C. § 2201 (declaratory judgment), 28 U.S.C. § 1651 (“All Writs Act”), 42 U.S.C. § 1983 (civil rights) and D.C. Code § 16-3501, et seq (ouster of national officials).

2. The Court has venue under 28 U.S.C. § 1391 because many of the Defendants reside or are located in the District of Columbia and a substantial part of the events or omissions giving rise to the claim occurred or will occur there.

## **PARTIES**

### **A. Plaintiffs**

3. Plaintiffs Wisconsin Voters Alliance, Pennsylvania Voters Alliance, Georgia Voters Alliance, Election Integrity Forum and Arizona Election Integrity Alliance are election integrity entities and associations which have a purpose of promoting election integrity in Pennsylvania,

Wisconsin, Georgia, Michigan and Arizona, respectively. They do not support any particular candidate for any public office.

4. Plaintiffs Lynie Stone and Baron Benham are residents, voters and taxpayers of Arizona. They are members of the Arizona Election Integrity Alliance.

5. Plaintiffs Debi Haas and Brenda Savage are residents, voters and taxpayers of Michigan. They are members of the Election Integrity Forum.

6. Plaintiffs Matthew Dadich and Leah Hoopes are residents, voters and taxpayers of Pennsylvania. They are members of the Pennsylvania Voters Alliance.

7. Plaintiffs Ron Hueur, Richard W. Kucksdorf and Debbie Jacques are residents, voters and taxpayers of Wisconsin. They are members of the Wisconsin Voters Alliance.

8. Plaintiff John Wood is a resident, voter and taxpayer of Georgia. He is a member of the Georgia Voters Alliance.

9. Plaintiff Senator Sonny Borrelli member of the Arizona Senate.

10. Plaintiff Representative Warren Peterson is a member of the Arizona House of Representatives.

11. Plaintiff Representative Matthew Maddock is a member of the Michigan House of Representatives.

12. Plaintiff Representative Daire Rendon is a member of the Michigan House of Representatives.

13. Plaintiff Representative David Steffen is a member of the Wisconsin State Assembly.

14. Plaintiff Representative Jeff L. Mursau is a member of the Wisconsin State Assembly.

15. Plaintiff Senator William T. Ligon is a member of the Georgia Senate.

16. Plaintiff Senator Brandon Beach is a member of the Georgia Senate.



17. All of the individual Plaintiffs are residents, voters and taxpayers of their respective states.

18. All of the individual Plaintiffs voted in the November 3, 2020 election for President and Vice President and plan to vote in future Presidential elections.

**B. Defendants**

19. Vice President Michael Richard Pence is a Defendant sued in his official capacity as President of the United States Senate. As such, Pence is identified as having legal obligations under the Constitution and federal law regarding opening and counting the ballots of Presidential electors for President and Vice President.

20. The U.S House of Representatives, U.S. Senate, and Electoral College are Defendants. They are constituted under the Constitution and federal law.

21. Governor Tom Wolf of Pennsylvania is a Defendant sued in his official capacity. He has legal responsibilities under federal and state law in post-election certification of Presidential electors.

22. Speaker Bryan Carter of the Pennsylvania House of Representatives and Senate Majority Leader Jake Corman of the Pennsylvania Senate, are sued in their official capacities. They and their respective houses of their state legislature have legal responsibilities under federal and state law in post-election certification of Presidential electors.

23. Governor Gretchen Whitmer of Michigan is a Defendant sued in her official capacity. She has legal responsibilities under federal and state law in post-election certification of Presidential electors.

24. Speaker Lee Chatfield of the Michigan House of Representatives and Senate Majority Leader Mike Shirkey of the Michigan Senate are sued in their official capacities. They and their

respective houses of their state legislature have legal responsibilities under federal and state law in post-election certification of Presidential electors.

25. Governor Tony Evers of Wisconsin is a Defendant sued in his official capacity. He has legal responsibilities under federal and state law in post-election certification of Presidential electors.

26. Speaker Robin Vos of the Wisconsin State Assembly and Senate Majority Leader Howard Marklein of the Wisconsin Senate are sued in their official capacities. They and their respective houses of their state legislature have legal responsibilities under federal and state law in post-election certification of Presidential electors.

27. Governor Brian Kemp of Georgia is a Defendant sued in his official capacity. He has legal responsibilities under federal and state law in post-election certification of Presidential electors.

28. Speaker David Ralston of the Georgia House of Representatives and President Pro Tempore Butch Miller of the Georgia Senate are sued in their official capacities. They and their respective houses of their state legislature have legal responsibilities under federal and state law in post-election certification of Presidential electors.

29. Governor Doug Ducey of Arizona is a Defendant sued in his official capacity. He has legal responsibilities under federal and state law in post-election certification of Presidential electors.

30. Speaker Russell Bowers of the Arizona House of Representative and Senate Majority Leader Rick Gray of the Arizona Senate are sued in their official capacities. They and their respective houses of their state legislature have legal responsibilities under federal and state law in post-election certification of Presidential electors.

## STANDING

31. As voters, the Plaintiffs have legal standing to bring these constitutional claims to ensure that Presidential elections are constitutionally conducted by Defendants.<sup>27</sup>

32. The Plaintiffs claim that Article II of the U.S. Constitution provides a voter a constitutional right to the voter's Presidential vote being certified as part of the state legislature's post-election certification of Presidential electors. Absence such certification, the Presidential electors' votes from that state cannot be counted by the federal Defendants toward the election of President and Vice President. Because the Plaintiffs' votes are not counted as part of the constitutionally-required state legislative post-election certification of Presidential electors, the Defendants are causing the Plaintiffs to be disenfranchised. *See Bates v. McMaster*, 967 F.3d 345, 352–53 (4th Cir. 2020) (voters who vote in Presidential elections have standing on claims of government causing disenfranchisement).

33. When Defendants violate the Constitution as it relates to Presidential elections in the Defendant, all voters in Presidential elections suffer an injury-in-fact caused by the Defendants. Voters in a Presidential election, in this instance, have an injury-in-fact different than the public because when they voted and they had an interest that the election in which they voted is constitutionally-conducted. The same is true of future elections. Finally, the Court can redress the Plaintiffs' injuries by issuing a declaratory judgment and accompanying injunction to enjoin the Defendants' unconstitutional conduct.

34. As voters, each Plaintiff has a fundamental right to vote.<sup>28</sup> Thus, each Plaintiff has a recognized protectable interest. As the U.S. Supreme Court has long recognized, a person's right to

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<sup>27</sup> *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (U.S. 1992).

<sup>28</sup> *Reynolds v. Sims*, 377 U.S. 533, 554–55, 562 (1964).

vote is “individual and personal in nature.”<sup>29</sup> Thus, “voters who allege facts showing disadvantage to themselves as individuals have standing to sue” to remedy that disadvantage.<sup>30</sup> “Safeguarding the integrity of the electoral process is a fundamental task of the Constitution, and [the courts] must be keenly sensitive to signs that its validity may be impaired.”<sup>31</sup> “Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy.”<sup>32</sup>

35. By federal and state election laws, the federal and state governments have agreed to protect the fundamental right to vote by maintaining the integrity of an election contest as fair, honest, and unbiased to maintain the structure of the democratic process.<sup>33</sup> The voters, in turn, agree to accept the government’s announcement of the winner of an election contest, including federal elections, to maintain the integrity of the democratic system of the United States. “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.”<sup>34</sup> But the right to vote is the right to participate in an electoral process that is necessarily structured to maintain the integrity of the democratic system.”<sup>35</sup>

36. This arrangement constitutes a “social contract” between the voter and the government as an agreement among the people of a state about the rules that will define their government.<sup>36</sup> Social contract theory provided the background against which the Constitution was adopted. “Because of this social contract theory, the Framers and the public at the time of the

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<sup>29</sup> *Id.* 377 U.S. at 561.

<sup>30</sup> *Gill v. Whitford*, 138 S. Ct. 1916, 1929 (2018).

<sup>31</sup> *Johnson v. FCC*, 829 F.2d 157, 163 (D.C. Cir. 1987).

<sup>32</sup> *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006).

<sup>33</sup> *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 364 (1997) (“States certainly have an interest in protecting the integrity, fairness, and efficiency of their ballots and election processes as means for electing public officials.”).

<sup>34</sup> *Burdick v. Takushi*, 504 U.S. 428, 441 (1992) *quoting* *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964).

<sup>35</sup> *Id.* (citations omitted).

<sup>36</sup> *Dumonde v. U.S.*, 87 Fed. Cl. 651, 653 (Fed. Cl. 2009) (“Historically, the Constitution has been interpreted as a social contract between the Government and people of the United States,” *citing* *Marbury v. Madison*, 1 Cranch 137, 5 U.S. 137, 176 (1803).

revolution and framing conceived governments as resulting from an agreement among people to provide a means for enforcing existing rights.”<sup>37</sup> “The aim of a social contract theory is to show that members of some society have reason to endorse and comply with the fundamental social rules, laws, institutions, and/or principles of that society. Put simply, it is concerned with public justification, i.e., ‘of determining whether or not a given regime is legitimate and therefore worthy of loyalty.’”<sup>38</sup>

37. The uniformity of election laws is part of that contract to protect the right to vote. Hence, the right to vote is intertwined with the integrity of an election process. The loss of the integrity of the election process renders the right to vote meaningless.<sup>39</sup> Here, the Defendant States’ election irregularities and improprieties so exceed the razor-thin margins to cast doubt on the razor-thin margins of victory and, thus, threaten the social contract itself.

38. The same will happen in future elections too if it is not stopped.

39. The Article II social contract with the voters is, in part, the assurance of their state legislature voting for post-election certification of Presidential electors. Arising from the social contract is the integrity of the election process to protect the voter’s right to vote. In the state legislatures perpetually delegating post-election certification of Presidential electors to election officials—as a core government function—the state legislatures, required by federal law, delegated

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<sup>37</sup> Greg Serienko, *Social Contract Neutrality and the Religion Clauses of the Federal Constitution*, 57 Ohio St. L. J. 1263, 1269.

<sup>38</sup> *Contemporary Approaches to the Social Contract*, <https://plto.stanford.edu/entries/contractarianism-contemporary/> (last visited Dec. 21, 2020).

<sup>39</sup> “Legitimacy is the crucial currency of government in our democratic age. Only elections that are transparent and fair will be regarded as legitimate... But elections without integrity cannot provide the winners with legitimacy, the losers with security and the public with confidence in their leaders and institutions.” <https://www.kofiannanfoundation.org/supporting-democracy-and-elections-with-integrity/uganda-victory-without-legitimacy-is-no-victory-at-all/> (Last visited Dec. 8, 2020).

post-election certification to state executive branch officials when Article II requires the state legislatures to conduct post-election certification of every voter's vote.

40. This social contract is what is personally at risk for the Plaintiffs in the outcome of the controversy.<sup>40</sup> As much as the government has a compelling interest in fair and honest elections with accompanying laws and regulations to ensure that objective to preserve the democratic system of government, so too the voter has an interest in state and local election officials violating the election laws in favor of a pre-determined result.

41. Furthermore, the voter has a compelling interest in the maintenance of a democratic system of government under the Ninth Amendment through the election process, beyond controversies regarding governmental attempts to interfere with the right to vote. Here, the voter did not enter into a contract with the state election official to give them discretion for state election irregularities and improprieties—of any kind—regardless of how benign they might be. The voter's social contract is with the state legislature—who under Article II must conduct post-election certification of the Presidential electors. The Article II requirement of the state legislature casting a post-election certification vote for Presidential electors is the voters' constitutional "insurance policy" against the risk of state and local election officials engaging in election irregularities and improprieties in favor of a pre-determined outcome.

42. The voters have been willing to accept laws and regulations imposed upon an election process to serve the government's compelling interest in the integrity of that process. So, while it is fair to create public governmental regulatory schemes to promote the compelling interests to protect the right to vote, and therefore, a voter's right of associational choices under the First

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<sup>40</sup> *Gill*, 138 S.Ct. at 1923.

Amendment,<sup>41</sup> those rights are infringed when the state legislatures abdicate the constitutionally-required role of post-election certification of Presidential electors.<sup>42</sup>

43. For federal elections, state legislatures under Article II have no authority to delegate post-election certification of Presidential electors to state executive branch officials. Yet, they did. That is the harm for the voters. It is the Electors Clause that gives state legislatures the exclusive right to post-election certification of Presidential electors—not state executive branch officials.

44. This lawsuit is not about voter fraud. The harm here is the loss of a voter remedy under Article II conducted as a core *governmental* function under federal and state election laws to ensure the integrity of the election. In turn, the acceptance of the outcome without state legislative post-election certification of Presidential electors interferes with the social contract between the voter and the government—causing injury to the voter.

## BACKGROUND

### A. Legal background

45. Under the Supremacy Clause, the “Constitution, and the laws of the United States which shall be made in pursuance thereof ... shall be the supreme law of the land.”<sup>43</sup>

46. “The individual citizen has no federal constitutional right to vote for electors for the President of the United States unless and until the state legislature chooses a statewide election as the means to implement its power to appoint members of the electoral college.”<sup>44</sup>

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<sup>41</sup> *Anderson v. Celebrezze*, 460 U.S. 780, 788–89 (1983).

<sup>42</sup> *Id.*

<sup>43</sup> U.S. Const. Art. VI, cl. 2.

<sup>44</sup> *Bush v. Gore*, 531 U.S. 98, 104 (citing U.S. CONST. art. II, § 1).

47. State legislatures have plenary power to set the process for appointing presidential electors: “Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors.”<sup>45</sup>

48. At the time of the Founding, most States did not appoint electors through popular statewide elections. In the first presidential election, six of the ten States that appointed electors did so by direct legislative appointment.<sup>46</sup>

49. In the second presidential election, nine of the fifteen States that appointed electors did so by direct legislative appointment.<sup>47</sup>

50. In the third presidential election, nine of sixteen States that appointed electors did so by direct legislative appointment. *Id.* at 31. This practice persisted in lesser degrees through the Election of 1860.

51. Though “[h]istory has now favored the voter,” *Bush*, 531 U.S. at 104, “there is no doubt of the right of the legislature to resume the power [of appointing presidential electors] at any time, for *it can neither be taken away nor abdicated.*”<sup>48</sup>

52. Given the State legislatures’ constitutional primacy in selecting presidential electors, the ability to set rules governing the casting of ballots and counting of votes cannot be usurped by other branches of state government—nor the federal government.

53. The Framers of the Constitution decided to select the President through the Electoral College “to afford as little opportunity as possible to tumult and disorder” and to place

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<sup>45</sup> U.S. Const. Art. II, §1, cl. 2; *see also Bush v. Gore*, 531 U.S. at 104 (“[T]he state legislature’s power to select the manner for appointing electors is plenary.” (emphasis added)).

<sup>46</sup> *McPherson v. Blacker*, 146 U.S. 1, 29-30 (1892).

<sup>47</sup> *Id.* at 32.

<sup>48</sup> *McPherson*, 146 U.S. at 35 (emphasis added); *cf.* 3 U.S.C. § 2 (“Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct.”).



“every practicable obstacle [to] cabal, intrigue, and corruption,” including “foreign powers” that might try to insinuate themselves into our elections.<sup>49</sup> Federalist No. 68, at 410-11 (C. Rossiter, ed. 1961) (Madison, J.).

54. The Plaintiffs constitutional claims in this lawsuit are principally based on one sentence in Article II of the U.S. Constitution. The sentence has eighty-five words. The constitutional sentence provides:

He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows: Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

55. The Plaintiffs’ claims, based on this constitutional, imperative, sentence, are that post-election certification of Presidential votes and post-election certification of Presidential electors are exclusively state legislative decisions; accordingly, Governors, federal courts and state courts have no constitutionally-permitted role in post-election certifications of Presidential votes and of Presidential electors.

56. Accordingly, the Plaintiffs claim that 3 U.S.C. § 5, 6 and 15 and state laws (such as Ariz. Rev. Stat. § 16-212 (B), Ga. Code Ann. § 21-2-499 (B), Mich. Comp. Laws § 168.46, Wis. Stat. § 7.70 (5) (b) and 25 Pa. Cons. Stat. § 3166) eviscerating these state legislative prerogatives, every four years, are unconstitutional.

57. Under Article II, Congress lacks legal authority to enact laws interfering with the state-by-state state legislative post-election certifications of Presidential votes and of Presidential electors as it has done with 3 U.S.C. §§ 5, 6 and 15. There are textual and structural arguments for

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<sup>49</sup> See, *supra*, Note 14.

these federal statutes being unconstitutional.<sup>50</sup> The Plaintiffs claim that 3 U.S.C. §§ 5, 6 and 15 are unconstitutional interferences with the state legislative prerogatives guaranteed by the Constitution.

58. Analogously, under Article II, the state legislatures lack legal authority to enact state laws which are a perpetual and wholesale delegation of post-election certifications of Presidential votes and of Presidential electors to state executive branch officials—as they have done in Ariz. Rev. Stat. § 16-212 (B) (Arizona Secretary of State), Ga. Code Ann. § 21-2-499 (B) (Georgia Secretary of State and Governor), Mich. Comp. Laws Ann. § 168.46 (Michigan State Board of Canvassers and Governor), Wis. Stat. § 7.70 (5) (b) (Wisconsin Elections Commission); and 25 Pa. Cons. Stat. § 3166 (Secretary of Commonwealth and Governor).

59. Article II, and its non-delegation doctrine, left it to the state legislatures to “direct” post-election certification of Presidential electors—not to “delegate” post-election certifications, perpetually and in a wholesale fashion, to state executive branch officials as a ministerial duty. There are textual and structural arguments for these state statutes being unconstitutional. Plaintiffs claim that Ariz. Rev. Stat. § 16-212 (B), Ga. Code Ann. § 21-2-499 (B), Mich. Comp. Laws Ann. § 168.46, Wis. Stat. § 7.70 (5) (b), 25 Pa. Cons. Stat. § 3166 are unconstitutional delegation of the state legislative prerogatives of post-election certifications of Presidential votes and of Presidential electors.

60. Further, the state constitutions of the Defendant States do not require the state legislature to meet for post-election certification of the Presidential electors. Arizona’s, Georgia’s and Pennsylvania’s Constitutions have the state legislature adjourned until January 2021.<sup>51</sup> Michigan’s

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<sup>50</sup> Vasan Kesavan, *Is the Electoral Count Act Unconstitutional*, 80 N.C. L. Rev. 1653, 1696-1793 (2002).

<sup>51</sup> Ariz. Const. Art. IV, Part 2, Sec. 3; Ga. Const. Art. III, § IV, ¶ 1(a). Pa. Const. Art. II, § 4.

and Wisconsin's Constitutions permit the state legislature to be in session, but do not require a joint session of the state legislature to affirmatively vote for Presidential post-election certifications.<sup>52</sup>

61. Based on this legal background, Plaintiffs claim, under the Article II, that if there is no state legislative post-election certifications of Presidential votes and of Presidential electors in the Defendant States, then those Defendant States' Presidential electors votes, not so certified, cannot be counted by the federal Defendants for President and Vice President under Article II.

**B. The Defendants, except state legislatures, are involved in post-election certifications of Presidential votes and of Presidential electors or counting their ballots to elect the President and Vice President.**

62. Under 3 U.S.C. §§ 5, 6 and 12, each of the Defendants, except the state legislatures, have a role to play in state post-election certifications of Presidential votes and of a state's Presidential electors or counting of the Presidential Electors' votes.

63. Under 3 U.S.C. § 15, "Congress shall be in session on the sixth day of January succeeding every meeting of electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of 1 o'clock in the afternoon on that day."

64. Under 3 U.S.C. § 15, Vice President Michael Richard Pence is the presiding officer on January 6, 2021: "and the President of the Senate shall be their presiding officer."

65. Vice President Pence, the U.S. Senate and the U.S. House of Representatives are Defendants presume under 3 U.S.C. §§ 5 and 6, that each state's Presidential elector votes because they are designated by the Governor of each Defendant State can be counted without state legislative post-election certification.

66. 3 U.S.C. § 5 provides:

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or

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<sup>52</sup> Mich. Const. Art. IV, § 13; Wis. Const. Art. IV, § 11.

other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned.

67. 3 U.S.C. § 6 provides:

It shall be the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of the electors in such State by the final ascertainment, under and in pursuance of the laws of such State providing for such ascertainment, to communicate by registered mail under the seal of the State to the Archivist of the United States a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by section 7 of this title to meet, six duplicate-originals of the same certificate under the seal of the State; and if there shall have been any final determination in a State in the manner provided for by law of a controversy or contest concerning the appointment of all or any of the electors of such State, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate under the seal of the State to the Archivist of the United States a certificate of such determination in form and manner as the same shall have been made; and the certificate or certificates so received by the Archivist of the United States shall be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection; and the Archivist of the United States at the first meeting of Congress thereafter shall transmit to the two Houses of Congress copies in full of each and every such certificate so received at the National Archives and Records Administration.

68. The Plaintiffs claim that the presumption is constitutionally incorrect; under Article II, Defendants Vice President Pence, the U.S. House of Representatives and the United States Senate can only open up and count Presidential elector ballots if the state legislature has affirmatively voted to certify the Presidential electors; otherwise, the votes of the Presidential electors cannot be counted. The Plaintiffs claim that the Vice President and U.S. Congress act unconstitutionally in this election and future elections when they count votes of Presidential electors where the respective state legislature has not affirmatively voted in favor of post-election certification.

69. Similarly, the Defendant States' executives, Governor Tom Wolf of Pennsylvania, Governor Gretchen Whitmer of Michigan, Governor Tony Evers of Wisconsin, Governor Brian Kemp of Georgia, and Governor Doug Ducey of Arizona under 3 U.S.C. § 6 and their respective state's laws, have designated the Presidential electors under the assumption that state executive branch certification is all that is required.<sup>53</sup>

70. But, Governor Tom Wolf of Pennsylvania, Governor Gretchen Whitmer of Michigan, Governor Tony Evers of Wisconsin, Governor Brian Kemp of Georgia, and Governor Doug Ducey of Arizona are constitutionally mistaken because the designated by the Governor of each Defendant State cannot cure that the Presidential electors are without state legislative post-election certification. Until the state legislature certifies the Presidential electors, the respective Governor's designation under 3 U.S.C. § 6 and their respective state's laws have no legal effect.

71. Absent the state legislative post-election certification required by Article II, the Governor's designation of Presidential electors has no legal effect because their votes cannot be counted by the Vice President, U.S. Senate and U.S. House of Representatives.

72. Finally, Article II requires the Defendants' state legislative leaders to act to vote on post-election certification of the Presidential electors. But, instead, the state legislatures violate this constitutional duty because of their state laws which are a perpetual and wholesale delegation of post-election certifications to state executive branch officials—as they have done in Ariz. Rev. Stat. § 16-212 (B) (Arizona Secretary of State), Ga. Code Ann. § 21-2-499 (B) (Georgia Secretary of State and Governor), Mich. Comp. Laws Ann. § 168.46 (Michigan State Board of Canvassers and Governor), Wis. Stat. § 7.70 (5) (b) (Wisconsin Elections Commission); and 25 Pa. Cons. Stat. § 3166 (Secretary of Commonwealth and Governor).

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<sup>53</sup> See 25 Pa. Cons. Stat. § 3166; Mich. Comp. Laws Ann. § 168.46; W.S.A. § 7.70; Ga. Code Ann., § 21-2-499(b); Ariz. Rev. Stat. § 16-212.

73. The Plaintiffs claim that Article II, and its non-delegation doctrine, permanently left it to the state legislatures to “direct” post-election certifications of Presidential votes and of Presidential electors, not to delegate post-election certifications, perpetually and in a wholesale fashion, to state executive branch officials as a ministerial duty.

74. In this way, the Defendant States’ legislative leaders, including Speaker Bryan Carter of the Pennsylvania House of Representatives, Senate Majority Leader Jake Corman of the Pennsylvania Senate, Speaker Lee Chatfield of the Michigan House of Representatives, Senate Majority Leader Mike Shirkey of the Michigan Senate, Speaker Robin Vos of the Wisconsin State Assembly, Senate Majority Leader Howard Marklein of the Wisconsin Senate, Speaker David Ralston of the Georgia House of Representatives, Senate President Pro Tempore Butch Miller of the Georgia Senate, Speaker Russell Bowers of the Arizona House of Representatives, and Senate Majority Leader Rick Gray of the Arizona Senate are violating their duties under Article II by not voting on post-election certification of the Presidential electors so their votes can constitutionally count.

75. State legislative post-election certifications of Presidential votes and of Presidential electors are part of constitutionally-protected voting rights. Everyone who votes—distinguishable from those who don’t—have a constitutionally-protected interest in state legislative post-election certification of Presidential electors. The Defendants violate those voting rights by counting ballots of Presidential electors without the constitutionally-required state legislative post-election certification.

**C. Presidential post-election court proceedings—like the 2000 *Bush v. Gore* litigation, the 2020 Texas original action and the 2020 thirty post-election lawsuits in Defendant States—are in constitutional error and unnecessarily politicize the federal and state courts in a national way.**

76. The Presidential post-election court proceedings—like the 2000 *Bush v. Gore* litigation, the 2020 Texas original action and the 2020 thirty post-election lawsuits in Defendant

States—are in constitutional error and unnecessarily politicize the federal and state courts—and in a nationwide way. Under Article II, all of those Presidential post-election cases should have been dismissed for lack of jurisdiction—and the plaintiffs should have been instructed to file their Presidential election contests with their respective state legislatures.

77. The Defendant States have election contest or recount laws, which apply to Presidential elections, but unconstitutionally preclude state legislative post-election certifications of Presidential votes and Presidential electors: Ariz. Rev. Stat. § 16-672; Ga. Code Ann. § 21-2-521; Mich. Comp. Laws § 168.862; Wis. Stat. § 9.01; and 25 Pa. Cons. Stat. § 3351.

78. Interestingly, the Pennsylvania laws have a state legislative post-election certification process for its Governor and Lieutenant Governor elections—but not for President and Vice President. 25 Pa. Cons. Stat. § 3312, et seq.

**D. In 2000, the U.S. Supreme Court engaged in a Presidential post-election litigation in Florida.**

79. In 2000, the U.S. Supreme Court engaged in Presidential post-election litigation in Florida. *Bush v. Gore*, 531 U.S. 98 (2000).

80. Plaintiffs claim, under Article II, that this post-election case in 2000 likely should have been dismissed for lack of jurisdiction with instructions for the Plaintiffs to file their election claims with the Florida state legislature.

**E. In 2020, approximately thirty post-election lawsuits are filed in Defendants States regarding election official errors and improprieties.**

81. Approximately thirty post-election lawsuits regarding Pennsylvania, Michigan, Wisconsin, Georgia and Arizona election official errors and improprieties were filed.<sup>54</sup>

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<sup>54</sup>See “Postelection lawsuits related to the 2020 United States presidential election,” found at [https://en.wikipedia.org/wiki/Postelection\\_lawsuits\\_related\\_to\\_the\\_2020\\_United\\_States\\_presidential\\_election#Wood\\_v.\\_Raffensperger](https://en.wikipedia.org/wiki/Postelection_lawsuits_related_to_the_2020_United_States_presidential_election#Wood_v._Raffensperger) (last visited: Dec. 15, 2020). This complaint’s citations to the appendix, principally, detail lawsuit allegations found in these Pennsylvania, Michigan, Wisconsin, Georgia and

82. Plaintiffs claim, under Article II, that these post-election cases should have been dismissed for lack of jurisdiction with instructions that the Plaintiffs should file such claims with their respective state legislatures in Pennsylvania, Michigan, Wisconsin, Georgia and Arizona.

**F. In 2020, Texas sued Pennsylvania, Michigan, Wisconsin and Georgia in the U.S. Supreme Court to adjudicate election irregularities and improprieties.**

83. On December 7, 2020, Texas filed an original action in the U.S. Supreme Court, Case No. 20O155, against Pennsylvania, Michigan, Wisconsin and Georgia for election irregularities and improprieties. On December 9, Missouri and 16 other states filed a motion for leave to file an amicus curiae brief in support of Texas. On December 10, U.S. Representative Mike Johnson and 105 other members submitted a motion for leave to file amicus brief in support of Texas. On December 11, the U.S. Supreme Court dismissed the original action in a text order:

The State of Texas's motion for leave to file a bill of complaint is denied for lack of standing under Article III of the Constitution. Texas has not demonstrated a judicially cognizable interest in the manner in which another State conducts its elections. All other pending motions are dismissed as moot. Statement of Justice Alito, with whom Justice Thomas joins: In my view, we do not have discretion to deny the filing of a bill of complaint in a case that falls within our original jurisdiction. See *Arizona v. California*, 589 U.S. \_\_\_\_ (Feb. 24, 2020) (Thomas, J., dissenting). I would therefore grant the motion to file the bill of complaint but would not grant other relief, and I express no view on any other issue.<sup>55</sup>

84. Plaintiffs claim, under Article II, that this post-election case filed in the U.S. Supreme Court should have been dismissed for lack of jurisdiction with instructions that voter in each state could file their respective claims with their respective state legislatures in Pennsylvania, Michigan, Wisconsin and Georgia.

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Arizona lawsuits alleging election official errors and improprieties. In Defendants' states, voter allegations exist which allege that the election officials' errors and improprieties exceed the razor-thin margins of Presidential contests—as further herein.

<sup>55</sup> Plaintiffs agree that the State of Texas lacked standing, but the original action itself begs the question, "Is the U.S. Supreme Court the final adjudicator for certification of Presidential electors?" The Plaintiffs' answer is no; the respective state legislatures are the final determiner of post-election certifications of Presidential votes and of Presidential electors—and, in a non-delegable way.



**G. The Presidential electors for Biden and Trump in the Defendant States voted on December 14, but none of the Presidential Electors received state legislative post-election certification.**

85. Under 3 U.S.C. §§ 5 and 6, the Presidential electors for Biden and Trump met and voted in their Defendant States on December 14.

86. The Presidential electors for Biden in the Defendant States were certified by state executive branch officials in the Defendant States under 3 U.S.C. §§ 5 and 6 and the respective state laws.

87. Neither the Presidential electors for Biden nor the Presidential electors for Trump in the Defendant States received a state legislative post-election affirmative vote for certification.

88. The Presidential electors for Biden in the Defendant States voted for Biden as President and Harris as Vice President.

89. The Presidential electors for Trump in the Defendant States voted for Trump as President and Pence as Vice President.<sup>56</sup>

90. Plaintiffs claim that none of these Presidential electors' votes should be counted by federal Defendants in the election of President and Vice President until the Presidential electors receive from their respective state legislatures an affirmative vote for post-election certification.

**H. Under federal and state law, in the Defendant States, the respective state legislatures do not vote on post-election certification of Presidential electors.**

91. Congress has enacted 3 U.S.C. §§ 5, 6 and 15 which significantly restrict state legislatures' constitutional prerogative to post-election certification of Presidential electors.

92. In turn, the state legislatures in the Defendant States have enacted state laws which are a perpetual and wholesale delegation of post-election certification to state executive branch officials—as they have done in Ariz. Rev. Stat. § 16-212 (B) (Arizona Secretary of State), Ga. Code

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<sup>56</sup> See Michigan Trump Electors Certificate, *Appendix* 1471.

Ann. § 21-2-499 (B) (Georgia Secretary of State and Governor), Mich. Comp. Laws Ann. § 168.46 (Michigan State Board of Canvassers and Governor), Wis. Stat. § 7.70 (5) (b) (Wisconsin Elections Commission); and 25 Pa. Cons. Stat. § 3166 (Secretary of Commonwealth and Governor).

93. Further, the state constitutions of the Defendant States fail to require the state legislature to meet for post-election certification of the Presidential electors in violation of state legislative constitutional duties under Article II of the U.S. Constitution. Arizona's, Georgia's and Pennsylvania's Constitutions have the state legislature adjourned until January 2021.<sup>57</sup> Michigan's and Wisconsin's Constitutions permit the state legislature to be in session, but do not require a joint session of the state legislature to affirmatively vote for post-election certification of Presidential electors.<sup>58</sup>

**I. Voters' allegations in each of the Defendant States—alleging election officials' absentee ballot errors and improprieties exceed Presidential vote margins—are constitutionally resolved by state legislative post-certifications of Presidential votes and Presidential electors—not in this Court or any other court.**

94. Plaintiffs allege that voters allege in each of the Defendant States that election officials' absentee ballot errors and improprieties exceed Presidential vote margins.

95. The Defendant States' voters' claims should be constitutionally resolved by state legislative post-certifications of Presidential votes and Presidential electors—as Article II requires.

96. None of the voters' allegations in each of the Defendant States—that is the allegations stated further below—should be adjudicated in this Court or any other Court, because it is the exclusive constitutional prerogative of the state legislatures to determine post-election certifications of Presidential votes and of Presidential electors.

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<sup>57</sup> Ariz. Const. Art. IV, Part 2, Sec. 3; Ga. Const. Art. III, § IV, ¶ 1(a). Pa. Const. Art. II, § 4.

<sup>58</sup> Mich. Const. Art. IV, § 13; Wis. Const. Art. IV, § 11.

**J. Defendant States' voters allege Zuckerberg moneys gifted to urban election officials in Defendant States who violated absentee ballot security measures.**

97. Defendant States' voters have alleged, in 2020, a systematic effort was launched in Defendant States, using \$350,000,000 in private money sourced to Mark Zuckerberg, the Facebook billionaire, to illegally circumvent absentee voting laws to cast tens of thousands of illegal absentee ballots.<sup>59</sup>

98. Defendants States' votes have alleged that the Zuckerberg-funded private organization, the Center for Technology and Civic Life (CTCL), gifted millions of dollars to election officials in Democratic Party urban strongholds in Georgia, Wisconsin, Pennsylvania, Michigan and Arizona in order for those cities to facilitate the use of absentee voting: Fulton County (GA), Milwaukee (WI), Madison (WI), Philadelphia (PA), Wayne County (MI) and Maricopa County (AZ).<sup>60</sup>

99. Defendant States' voters have alleged that in these counties and cities receiving CTCL funds, election officials adopted various respective policies and customs eviscerating state law absentee ballot security measures such as witness address, name and signature requirements and voter address, name and signature requirements.<sup>61</sup>

100. Defendant States' voters have alleged that these urban election officials also used the CTCL funds for absentee ballot drop boxes treating urban voters preferentially to small-town and rural voters.<sup>62</sup>

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<sup>59</sup> See App. 21-30; 31-38; and 1079-1112.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

**K. The government's pre-election certification error rate of voting system's software and hardware is 0.0008%.**

101. The federal government has a pre-election standard for state voting system's software and hardware.<sup>63</sup>

102. Under federal law, this maximum-acceptable error rate is one in 500,000 ballot positions, or, alternatively one in 125,000 ballots—0.0008 %.<sup>64</sup>

103. Section 3.2.1 of the voting systems standards issued by the Federal Elections Commission (FEC) which were in effect on the date of the enactment of the Help America Vote Act (HAVA) provides that the voting system shall achieve a maximum acceptable error rate in the test process of one in 500,000 ballot positions.<sup>65</sup>

104. A ballot position is every possible selection on the ballot, to include empty spaces. As stated in the voting systems standards (VSS), "[t]his rate is set at a sufficiently stringent level such that the likelihood of voting system errors affecting the outcome of an election is exceptionally remote even in the closest of elections."<sup>66</sup>

105. An update to the FEC VSS was made by the Election Assistance Commission (EAC) to enhance the FEC VSS standards, which each state has adopted by law.<sup>67</sup>

106. The FEC VSS standard provides for an error rate of one in 125,000 ballots (0.0008%) as an alternative to the one in 500,000 ballot positions to make it easier to calculate the error rate.<sup>68</sup>

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<sup>63</sup> See Expert Report of Dennis Nathan Cain (I), App. 52-59; 1411-1418.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

107. The FEC standards, which are incorporated into the Help America Vote Act § 301(a)(5), require that all systems be tested in order to certify that they meet the maximum-acceptable error rate set by federal law.<sup>69</sup>

**L. Voters’ allegations in each of the Defendant States support that election officials’ absentee ballot errors and improprieties exceed Presidential vote margins.**

108. The use of absentee and mail-in ballots skyrocketed in 2020, not only as a public-health response to the COVID-19 pandemic but also at the urging of mail-in voting’s proponents, and most especially executive branch officials in Defendant States. According to the Pew Research Center, in the 2020 general election, a record number of votes—about 65 million—were cast via mail compared to 33.5 million mail-in ballots cast in the 2016 general election—an increase of more than 94 percent.<sup>70</sup>

109. In the wake of the contested 2000 election, the bipartisan Jimmy Carter-James Baker commission identified absentee ballots as “the largest source of potential voter fraud.”<sup>71</sup>

110. Concern over the use of mail-in ballots is not novel to the modern era,<sup>72</sup> but it remains a *current* concern.<sup>73</sup>

111. Absentee and mail-in voting are the primary opportunities for unlawful ballots to be cast.

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<sup>69</sup> *Id.*

<sup>70</sup> Desilver, Drew. Most mail and provisional ballots got counted in past U.S. elections – but many did not. Pew Research Center. 10 November 2020. <https://www.pewresearch.org/fact-tank/2020/11/10/most-mail-and-provisional-ballots-got-counted-in-past-u-s-elections-but-many-did-not/> Accessed 12.18.20.

<sup>71</sup> *Building Confidence in U.S. Elections: Report of the Commission on Federal Elections*, at 46 (Sept. 2005).

<sup>72</sup> Dustin Waters, *Mail-in Ballots Were Part of a Plot to Deny Lincoln Reelection in 1864*, Wash. Post (Aug. 22, 2020)

<sup>73</sup> *Cramford v. Marion Cty. Election Bd.*, 553 U.S. 181, 194-96 & n.11 (2008); *see also* Texas Office of the Attorney General, *AG Paxton Announces Joint Prosecution of Gregg County Organized Election Fraud in Mail-In Balloting Scheme* (Sept. 24, 2020); Harriet Alexander & Ariel Zilber, *Minneapolis police opens investigation into reports that Ilhan Omar's supporters illegally harvested Democrat ballots in Minnesota*, Daily Mail, Sept. 28, 2020.

112. Defendant States voters allege that as a result of expanded absentee and mail-in voting in Defendant States, combined with Defendant States' unconstitutional modification of statutory protections designed to ensure ballot integrity, Defendant States created a massive opportunity for fraud.

113. Defendant States voters allege that the Defendant States have made it difficult or impossible to separate the constitutionally tainted mail-in ballots from all mail-in ballots.

114. Defendant States voters allege that rather than augment safeguards against illegal voting in anticipation of the millions of additional mail-in ballots flooding their States, Defendant States materially weakened, or did away with, security measures, such as witness or signature verification procedures, required by their respective legislatures. Their legislatures established those commonsense safeguards to prevent—or at least reduce—fraudulent mail-in ballots.

115. Defendant States voters allege, in Defendant States, that Democrat voters voted by mail at two to three times the rate of Republicans. Thus, the Democratic candidate for President thus greatly benefited from this unconstitutional usurpation of legislative authority, and the weakening of legislative mandated ballot security measures.

116. Defendant States voters allege that the outcome of the Electoral College vote is directly affected by the constitutional violations committed by Defendant States. Defendant States violated the Constitution in the process of appointing presidential electors by unlawfully abrogating state election laws designed to protect the integrity of the ballots and the electoral process, and those violations proximately caused the unconstitutional appointment of presidential electors.

117. Plaintiffs will therefore be injured if Defendant States' unlawful certification of these Presidential electors, because the Presidential electors have not received state legislative post-election certification, is allowed to stand.

**1. Commonwealth of Pennsylvania voters allege election official errors and improprieties which exceed the Presidential vote margin.<sup>74</sup>**

118. Commonwealth of Pennsylvania voters allege election official errors and improprieties which exceed the Presidential vote margin.

119. Pennsylvania has 20 electoral votes, with a statewide vote tally currently estimated at 3,363,951 for President Trump and 3,445,548 for former Vice President Biden, a margin of 81,597 votes.<sup>75</sup>

120. Pennsylvania voters have alleged the number of votes affected by the various constitutional violations exceeds the margin of votes separating the candidates.

121. By letter dated December 13, 2019, the Auditor General of the Commonwealth of Pennsylvania, Eugene A. DePasquale, issued to the Governor of the Commonwealth of Pennsylvania a Performance Audit Report of the Pennsylvania Department of State's Statewide Uniform Registry of Electors.<sup>76</sup>

122. The Performance Audit Report was conducted pursuant to an Interagency Agreement between the Pennsylvania Department of State and the Pennsylvania Department of the Auditor General.

123. The Performance Audit Report contained seven Findings, to wit:

- i. Finding One: As a result of the Department of State's denial of access to critical documents and excessive redaction of documentation, the Department of the Auditor General was severely restricted from meeting its audit objectives in an audit which the Department of State itself had requested.

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<sup>74</sup> See Timeline of Electoral Policy Activities, Issues, and Litigation Pennsylvania, Michigan, Wisconsin, Georgia, Arizona, and Nevada August 2003 to November 2020, App. 1-20 (demonstrating full extent of inappropriate activities).

<sup>75</sup> WNWP 2020 Pennsylvania Election Results. <https://www.wnep.com/elections> (last visited Dec. 18, 2020).

<sup>76</sup> See Auditor General's Performance Audit Report, App. 413-604; *see also* App. 397-412.

- ii. Finding Two: Data analysis identified tens of thousands of potential duplicate and inaccurate voter records, as well as voter records for nearly three thousand potentially deceased voters that had not been removed from the SURE system.
- iii. Finding Three: The Department of State much implement leading information technology security practices and information technology general controls to protect the SURE system and ensure the reliability of voter registration.
- iv. Finding Four: Voter record information is inaccurate due to weakness in the voter registration application process and the maintenance of voter records in the SURE system.
- v. Finding Five: Incorporating edit checks and other improvements into the design of the replacement system for SURE will reduce data errors and improve accuracy.
- vi. Finding Six: A combination of a lack of cooperation by certain county election offices and PennDOT, as well as source documents not being available for seventy percent of our test sample, resulted in our inability to form any conclusions as to the accuracy of the entire population of voter records maintained in the SURE system.
- vii. Finding Seven: The Department of State should update current job aids and develop additional job aids and guidance to address issues such as duplicate voter records, records of potentially deceased voters on the voter rolls, pending applications, and records retention. See Auditor General's Performance Audit Report.

124. In addition to the Findings, the Performance Audit Report contained specific detailed Recommendations to correct the significant deficiencies identified in the Findings of the Performance Audit Report.

125. In 2018, Secretary Boockvar was quoted as stating "Rock the Vote's web tool was connected to our system, making the process of registering through their online programs, and those of their partners, seamless for voters across Pennsylvania."<sup>78</sup>

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<sup>77</sup> *Supra.*

<sup>78</sup> *Rock the Vote, 2018 Annual Report*, pg. 12. <https://www.rockthevote.org/wp-content/uploads/Rock-the-Vote-2018-Annual-Report.pdf>. (last visited Dec. 18, 2020).



126. In addition, Plaintiffs have obtained a sworn Affidavit from Jesse Richard Morgan, who was contracted to haul mail for the United States Postal Service within the Commonwealth of Pennsylvania. Mr. Morgan's Affidavit alleges that he was directed to transport from New York to Pennsylvania what he believes to be completed Pennsylvania ballots in the 2020 General Election.<sup>79</sup>

127. Plaintiffs based on Pennsylvania voters' allegations that this matter is currently under investigation by various entities and that such investigation is essential to the determination of whether or not approximately 200,000 ballots were delivered into the Pennsylvania System improperly or illegally. Pending such determination, there is no possible way that the validity of Pennsylvania's Presidential Election could possibly be certified by anyone.

128. Based on Pennsylvania voters' allegations, there is evidence of possible back-dating of ballots in the United States Postal facility at Erie, Pennsylvania. And, further, Francis X. Ryan's Report, discussed in detail below, evidences thousands of questionable or improper ballots cast in the 2020 Presidential Election in Pennsylvania.<sup>80</sup>

129. In addition, Plaintiffs have obtained a Declaration from Ingmar Njus in support of Mr. Morgan's Affidavit.<sup>81</sup>

130. Based on Pennsylvania voters' allegations, in the run-up to the election, the Pennsylvania Supreme Court usurped the powers of the General Assembly when it permitted county boards of election to accept hand-delivered mail-in ballots at locations other than the respective offices of the boards of election, including through the use of drop-boxes arbitrarily located

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<sup>79</sup> See Jesse Richard Morgan Declaration, App. 152-179; 605-632; *see also* Declaration of Leslie J. Brabandt, App. 187-189; *see also* Expert Declaration of Roland Smith, App. 190-200.

<sup>80</sup> See Francis X. Ryan Declaration, App. 660-666. For additional evidence, *see* App. 667-834.

<sup>81</sup> See Ingmar Njus Declaration, App. 183-186; 633-636.

throughout the county; and, when it extended the deadline for receipt of absentee and mail-in ballots by three days from 8:00 p.m. on Election Day to 5:00 p.m. on November 6, 2020.<sup>82</sup>

131. In the same Opinion, the Court held that "although the Election Code provides the procedure for casting and counting a vote by mail, it does not provide for the 'notice and opportunity to cure' ..."<sup>83</sup>

132. The Court went on to state "... we agree that the decision to provide a 'notice and opportunity to cure' procedure ... is one best suited for the Legislature."<sup>84</sup>

133. Of note, Secretary Boockvar agreed with the Court that Pennsylvania's Election Code does not provide a notice and opportunity to cure procedure.

134. Based on Pennsylvania voters' allegations, despite the lack of any statutory authorization or legal authority, county boards of elections in democratic counties, such as, Montgomery County, routinely helped identify, facilitate and permitted electors to alter their defective absentee and mail-in ballots in violation of Pennsylvania's Election Code.<sup>85</sup>

135. In an October 31, 2020, e-mail, Frank Dean, Director of Mail-in Elections of Montgomery County emailed the latest list of confidential elector information to two other Montgomery County election officials, Lee Soltysiak and Josh Stein, and wrote:

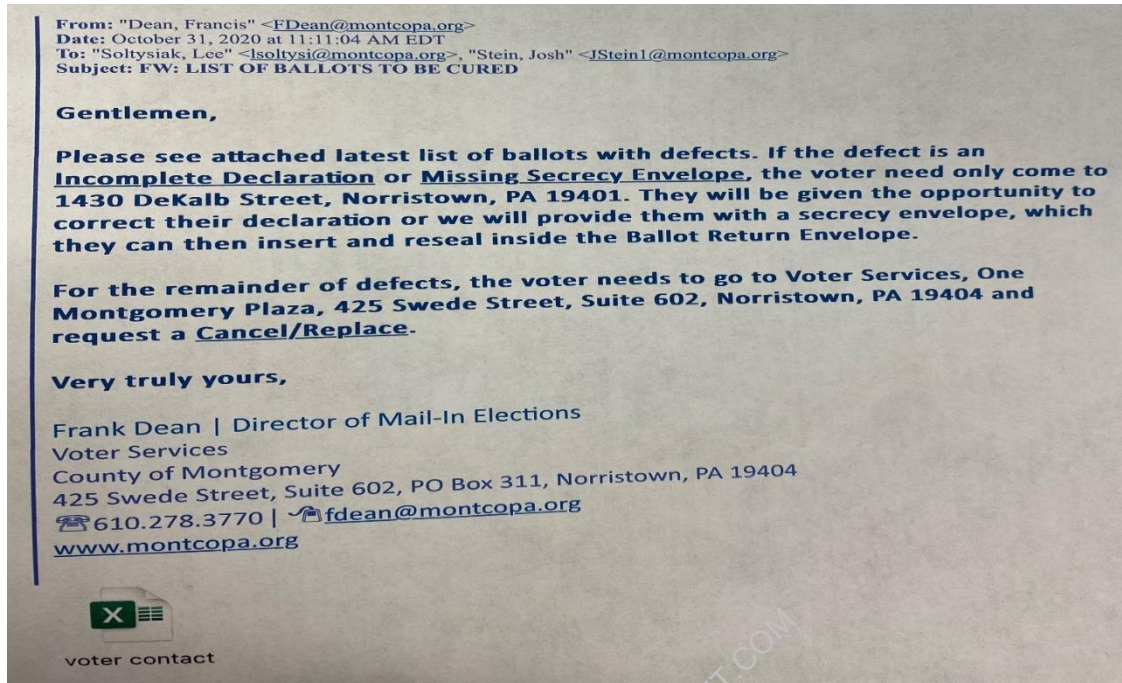
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<sup>82</sup> *Pennsylvania Democratic Party v. Boockvar*, No. 133 MM 2020, 2020 WL 5554644, at \*20 (Pa. Sept. 17, 2020); *see also In re: November 3, 2020 General Election*, 2020 WL 6252803, at \*7 (Pa. Oct. 23, 2020).

<sup>83</sup> *Id.* at 20.

<sup>84</sup> *Id.* at 20.

<sup>85</sup> *See* Carlson Report on Voter Suppression through Executive and Administrative Actions, App. 31-38.



136. Based on Pennsylvania voters' allegations, there is no authority within Pennsylvania's Election Code that authorizes election officials to manually alter the information contained within the SURE system for the purposes described by Director Dean.

137. In order to cancel or replace an elector's absentee or mail-in ballot, election officials would be required to manually alter or override the information contained in the Commonwealth's Statewide Uniform Registry of Electors ("SURE").

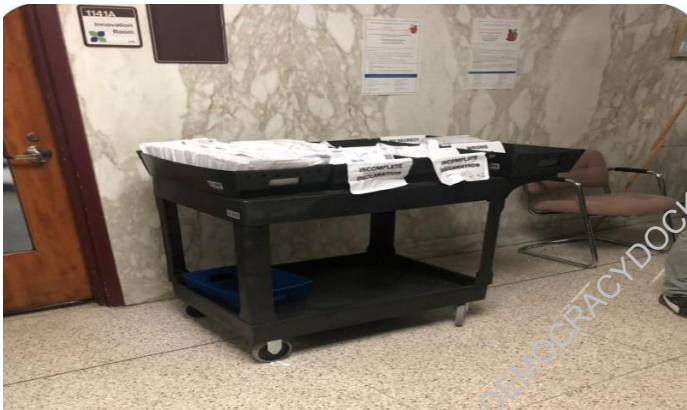
138. Based on Pennsylvania voters' allegations, there is no authority within Pennsylvania's Election Code that authorizes election officials to cancel and/or replace an elector's absentee or mail-in ballot as described by Director Dean.

139. Further, based on Pennsylvania voters' allegations, in violation of electors' right to secrecy in their ballots, election officials in democratic counties, such as Montgomery County, used the information gathered through their inspection of the ballot envelopes to identify the names of electors who had cast defective absentee or mail-in ballot envelopes.<sup>86</sup>

<sup>86</sup> *Art. VII, Error! Main Document Only.* §4 PA Const.

140. Based on Pennsylvania voters' allegations, the Excel spreadsheet attached to Director Dean's October 31, 2020, e-mail notes that when mail-in or absentee ballot envelopes were found to be defective, some electors were provided with the opportunity to alter their ballot envelopes.

141. Based on Pennsylvania voters' allegations, the photograph below shows some of the thousands of absentee and mail-in ballots pre-canvassed by the Montgomery County Board of Elections in violation of the Election Code.<sup>87</sup> These defective ballots were not secured in any way and were easily accessible to the public.<sup>88</sup>



142. Further, based on Pennsylvania voters' allegations, the next picture shows page 1 or 124 pages that include thousands of defective ballot envelopes that Montgomery County elections officials were trying to "cure" in violation of Pennsylvania's Election Code and Constitution.

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<sup>87</sup> This "Ballots for Sale" photo was taken on 11/01/2020 by Robert Gillies during a tour of the Montgomery County mail-in ballot storage and canvass facility.

<sup>88</sup> See Expert Declaration of Gregory Moulthrop, App. 48-51.



	A	B	C	D	E	F	G	H	I	J	K	L	M
	ID	Start time	Completion time	Email	Name	Number	Address	Last Name	First Name	Address Line 1	Address Line 2	Issue	
1	1	10/21/20 14:35:37	10/21/20 14:40:34	anonymous		006318866-46	130203-1	Young	Celia	611 Green St	Norristown, PA 19401	No secrecy envelope	
2	2	10/21/20 14:40:36	10/21/20 14:41:39	anonymous		005931654-46	530301-1	Crist	Suk Kyung	2237 Dock Dr	Lansdale, PA 19446	No secrecy envelope	
3	3	10/21/20 14:41:41	10/21/20 14:41:44	anonymous		003575847-46	010100-1	Crist	Gayle	419 Haywood Road	Ambler PA 19002	No secrecy envelope	
4	4	10/21/20 14:41:43	10/21/20 14:41:16	anonymous		103920993-46	401202-2	Kohn	Ralph Jr	509 Oak Road	Merion Station, 19066	Incomplete Declaration	
5	5	10/21/20 14:41:54	10/21/20 14:43:48	anonymous		015211425-46	300201-1	Clark Jr.	Thomas	273 Hoyt Rd	Huntington Vly, PA 19006	Incomplete Declaration	
6	6	10/21/20 14:43:19	10/21/20 14:44:39	anonymous		005940134-46	58G0101-1	Wells	Hedy S	1010 Boxwood Ct	King of Prussia, PA 19406	No secrecy envelope	
7	7	10/21/20 14:43:55	10/21/20 14:45:13	anonymous		015625135-46	410100-1	Evans	Mildred	753 Welsh Rd APT 403	Huntington Vly, PA 19006	Incomplete Declaration	
8	8	10/21/20 14:44:41	10/21/20 14:45:50	anonymous		103935579-46	460003-1	Oh	Sun C	904 Barbaras Ct	North Wales, PA 19454	No secrecy envelope	
9	9	10/21/20 14:45:21	10/21/20 14:46:31	anonymous		005961588-46	100200-1	Sorens	Audrey	160 West Ave Apt W603	Jenkintown, PA 19046	Incomplete Declaration	
10	10	10/21/20 14:45:52	10/21/20 14:47:31	anonymous		102728890-46	460008-1	Sin	Song S	115 Damson Ln	North Wales, PA 19454	No secrecy envelope	
11	11	10/21/20 14:46:39	10/21/20 14:47:39	anonymous		003625566-46	460005-1	Yenchu	Virginia	301 Stockton Ct	North Wales, PA 19454	Incomplete Declaration	
12	12	10/21/20 14:47:33	10/21/20 14:48:11	anonymous		006373261	460008-1	Hong	James	101 Jonathan Dr	North Wales, PA 19454	No secrecy envelope	
13	13	10/21/20 14:48:12	10/21/20 14:49:07	anonymous		005822555-46	590301-1	Mooney Sr	Donald	1120 York Rd APT 205	Willow Grove, PA 19090	Incomplete Declaration	
14	14	10/21/20 14:48:12	10/21/20 14:49:07	anonymous		103746637-46	400061-1	Giongoli	Suzanne K	211 Broughton Ln	Villanova, PA 19085	No secrecy envelope	
15	15	10/21/20 14:49:09	10/21/20 14:50:06	anonymous		006173491-46	120002-1	Stricker	Carrie T	203 Stepney Pl	Narberth, PA 19072	No secrecy envelope	
16	16	10/21/20 14:49:10	10/21/20 14:50:38	anonymous		006061195-46	540501-1	Palme	Robert	1650 Susquehanna Rd 219	Dresher, PA 19025	Incomplete Declaration	
17	17	10/21/20 14:50:17	10/21/20 14:51:28	anonymous		006413561-46	010100-1	Hoover	Carolyn	110 Forest Ave Apt A	Ambler, PA 19002	No secrecy envelope	
18	18	10/21/20 14:50:43	10/21/20 14:51:55	anonymous		110209001-46	490303-1	Nauman	Haseeb	134 Plymouth Rd Uni 1108	Plymouth Mtg, PA 19462	Resolved	
19	19	10/21/20 14:51:30	10/21/20 14:52:42	anonymous		006070883-46	310404-1	Szczurek	Genevieve L	26 North Ave	Wyncote, PA 19095	No secrecy envelope	
20	20	10/21/20 14:52:43	10/21/20 14:54:04	anonymous		110837405-46	420002-1	Rhowdarmar	Gary	none	none	Resolved	
21	21	10/21/20 14:52:06	10/21/20 14:54:57	anonymous		005737265-46	08502-1	Becker	Joan	Woodland Towers, 36 Moreland Ave E, 802	Hatboro, PA 19040	Incomplete Declaration	
22	22	10/21/20 14:54:06	10/21/20 14:55:24	anonymous		110454289-46	460003-1	Prabhadesai	Anuya Sachin	102 Sterling Dr	North Wales, PA 19454	Resolved	
23	23	10/21/20 14:55:06	10/21/20 14:56:05	anonymous		005787995-46	360301-1	Stewart	Mary	454 Avenue A B	Horsham, PA 19044	Incomplete Declaration	
24	24	10/21/20 14:55:36	10/21/20 14:56:38	anonymous		006205876-46	401003-1	Powers	Constance	102 Pennsylvania Ave	Bryn Mawr, PA 19010	Resolved	
25	25	10/21/20 14:56:10	10/21/20 14:57:21	anonymous		006275737-46	410100-1	Wright	Walter	Gloria Del Mar, 753 Welsh Rd 116	Huntington Vly, PA 19006	Incomplete Declaration	
26	26	10/21/20 14:56:40	10/21/20 14:57:47	anonymous		016220045-46	300202-1	Brill	Karen D	1551 Huntingdon Pike APT A320	Huntington Vly, PA 19006	Incomplete Declaration	
27	27	10/21/20 14:57:49	10/21/20 14:58:27	anonymous		005797771-46	310404-1	Wilson	Earnestine	n/a	n/a	Incomplete Declaration	
28	28	10/21/20 14:57:27	10/21/20 14:58:42	anonymous		016044690-46	300202-1	Kaufman	Marie	1551 Huntingdon Pike APT A217	Huntington Vly, PA 19006	Incomplete Declaration	
29	29	10/21/20 14:58:31	10/21/20 14:59:24	anonymous		006116803-46	300401-1	McGinley	Marguerite E	229 Ray St	Jenkintown, PA 19046	Incomplete Declaration	
30	30	10/21/20 14:59:28	10/21/20 15:00:13	anonymous		107744416-46	460006-1	Buckenberger	Nicole	n/a	n/a	Incomplete Declaration	
31	31	10/21/20 15:00:17	10/21/20 15:01:06	anonymous		014817048-46	300402-1	McShane	Brian Stephen	933 Creffield Ave	Elkins Park, PA 19027	Incomplete Declaration	
32	32	10/21/20 14:58:49	10/21/20 15:01:45	anonymous		021049107-46	400403-1	Altman-McMahon	Michael	260 Montgomery Ave W, APT 301	*None	resolved	
33	33	10/21/20 15:01:06	10/21/20 15:01:48	anonymous		005997845-46	430304-1	Masters	Arlene N	15322 Shannondell Dr	Audubon, PA 19403	Incomplete Declaration	
34	34	10/21/20 15:01:51	10/21/20 15:02:34	anonymous		006238072-46	300702-1	Stein	Sandra E	1250 Greenwood Ave APT 520	Jenkintown, PA 19046	Incomplete Declaration	
35	35	10/21/20 15:01:48	10/21/20 15:02:49	anonymous		006163995-46	300601-1	Keim	John	628 Harrison Ave APT A	Glenside, PA 19038	Incomplete Declaration	
36	36	10/21/20 15:02:38	10/21/20 15:03:17	anonymous		009596705-46	510002-1	Beese	Mary Ann	702 Twining Way	Collegeville, PA 19426	Incomplete Declaration	
37	37	10/21/20 15:02:55	10/21/20 15:03:58	anonymous		015045166-46	590302-1	McAndrew	Mariann	1113 Easton Rd N	Willow Grove, PA 19090	Incomplete Declaration	
38	38	10/21/20 15:03:18	10/21/20 15:04:03	anonymous		005726801-46	65W02-1	Barnett	Ronald B	2062 Julia Dr	Conshohocken, PA 19428	Resolved	
39	39	10/21/20 15:01:58	10/21/20 15:04:24	anonymous		107222281-46	050300-1	Mackowski	Matthew	309 Washington St APT 3107	Conshohocken, PA 19428	USPS Issue	
40	40	10/21/20 15:04:05	10/21/20 15:04:58	anonymous		005902791-46	65W02-1	Gallo-Barnett	Judy Marie	2062 Julia Dr	Conshohocken, PA 19428	resolved	
41	41	10/21/20 15:04:26	10/21/20 15:05:44	anonymous		104093627-46	050300-1	Roney	Jason	301 Washington ST APT 1129	Conshohocken, PA 19428	USPS Issue	
42	42	10/21/20 15:04:04	10/21/20 15:06:19	anonymous		020676726-46	400403-1	Altman-McMahon	Elizabeth	*None	*None	resolved	
43	43	10/21/20 15:05:00	10/21/20 15:06:21	anonymous		006383410-46	320002-1	Tillman	Delores	217 Montgomery Ave Hillcrest Village	Boyerstown, PA 19512	Incomplete Declaration	
44	44	10/21/20 15:06:24	10/21/20 15:07:07	anonymous		102877706-46	110302-1	Delconte	Ralph Jr	1008 Third St W	Lansdale, PA 19446	Incomplete Declaration	
45	45	10/21/20 15:05:55	10/21/20 15:07:25	anonymous		110662625-46	350301-1	Harrington	Erika Eden	2058 Maple Ave APT G3-11	Hatfield, PA 19440	USPS Issue	

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143. Based on Pennsylvania voters' allegations, in a further effort to circumvent Pennsylvania's Election Code and the prohibition against efforts to "cure" absentee and mail-in ballot envelopes, Secretary Boockvar, issued guidance, through Jonathan Marks, the Deputy Secretary of Elections and Commissions, just hours before Election Day directing county boards of elections to provide electors who have cast defective absentee or mail-in ballots with provisional ballots and to promptly update the SURE system.

144. The Deputy Secretary for Elections and Commissions issued an email which stated:

**Sent:** Monday, November 2, 2020 8:38 PM

**To:** Marks, Jonathan

**Subject:** Important DOS Email - Clarification regarding Ballots Set Aside During Pre-canvass

\*\*\* This is an external email. Please use caution when clicking on links and downloading attachments \*\*\*

Dear County Election Directors,

The Department of State has been asked whether county boards of elections can provide information to authorized representatives and representatives of political parties during the pre-canvass about voters whose absentee and mail-in ballots have been rejected. The Department issued provisional ballot guidance on October 21, 2020, that explains that voters whose completed absentee or mail-in ballots are rejected by the county board for reasons unrelated to voter qualifications may be issued a provisional ballot. To facilitate communication with these voters, the county boards of elections should provide information to party and candidate representatives during the pre-canvass that identifies the voters whose ballots have been rejected and should promptly update the SURE system.

Kind regards,

Jonathan M. Marks

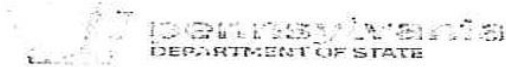
Deputy Secretary for Elections & Commissions

Pennsylvania Department of State

302 North Office Building | Harrisburg, PA 17120

☎ 717.783.2035 📠 717.787.1734

✉ [jmarks@pa.gov](mailto:jmarks@pa.gov)



145. Based on Pennsylvania voters' allegations, in order to obtain a provisional ballot on Election Day, an elector who previously requested an absentee or mail-in ballot must sign an affidavit stating "I do solemnly swear or affirm that my name is ... and that this is the only ballot that I cast in this election."<sup>89</sup>

146. Based on Pennsylvania voters' allegations, if an elector has already submitted an absentee or mail-in ballot and that ballot was received by his or her county board of elections, the elector cannot truthfully affirm that the provisional ballot is the only ballot cast by them in the election. The provisional ballot would in fact be a second ballot cast by the elector.

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<sup>89</sup> 25 Pa. Cons. Stat. §3146.8; 25 Pa. Cons. Stat. §3050.

147. Based on Pennsylvania voters' allegations, Secretary Boockvar's actions appear conveniently timed with the actions of the Democratic Party who apparently considered the matter to be URGENT.



148. Based on Pennsylvania voters' allegations, Deputy Secretary Marks issued his email at 8:38 p.m. on November 2, 2020, on the eve of Election Day. Under the Election Code, provisional ballots are only used on Election Day. Less than twelve hours after Deputy Secretary Marks' email, the Democratic Party had printed handbills telling electors "Public records show that your ballot had errors and was not accepted." and to "Go in person to vote at your polling place today by 8:00 EST and ask for a provisional ballot."



149. Based on Pennsylvania voters' allegations, the effect to utilize provisional ballots to "cure" defective absentee and mail-in ballots is in clear violation of Pennsylvania's Election Code. The number of provisional ballots cast in Pennsylvania is approximately 90,000 which is significantly higher than previous General Elections.

150. Further, based on Pennsylvania voters' allegations, it is not clear what Deputy Secretary Marks intended when he stated "To facilitate communication with these voters, the county boards of elections should provide information to party and candidate representatives during the pre-canvassing that identifies the voters whose ballots have been rejected and should promptly update the SURE system."

151. Based on Pennsylvania voters' allegations, Pennsylvania's Election Code makes no provision for the acceptance or rejection of ballots during the pre-canvassing process, nor does the Election Code provide boards of elections with the authority to "update the SURE system" so that an electors who previously submitted an absentee or mail-in ballot may vote with a provisional ballot.

152. The Pennsylvania Supreme Court ruled that county boards of elections are prohibited from using signature comparison to challenge and reject absentee or mail-in ballots.<sup>90</sup>

153. Based on Pennsylvania voters' allegations, the Court's decision is contrary to the applicable provisions of Pennsylvania's Election Code.

154. In addition, the Pennsylvania Supreme Court ruled that county boards of elections could prevent and exclude designated representatives of the candidates and political parties, who are authorized by the Election Code to observe the pre-canvassing and canvassing of ballots, from being in the room during pre-canvassing and canvassing of ballots.<sup>91</sup>

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<sup>90</sup> *In Re: November 3, 2020, General Election*, 149 MM 2020 (Oct. 23, 2020).

<sup>91</sup> *See In Re: Canvassing Observation*, 30 EAP 2020 (Nov. 17, 2020).



155. Based on Pennsylvania voters' allegations, in predominantly Democratic counties, such as Philadelphia, Delaware and Montgomery Counties, authorized representative of the candidates and the Republican Party attempted to observe the actions of election officials; however, the authorized representatives were routinely denied the access necessary to properly observe the handling of ballot envelopes and ballots during the pre-canvassing and canvassing process.

156. Plaintiffs have obtained a sworn Affidavit from Gregory Stenstrom, who was appointed by the Delaware County Republican Party to observe the election process within Delaware County. Mr. Stenstrom attests to numerous election code violations by the Delaware County Board of Elections. Plaintiffs have numerous other Declarations regarding similar election code violations in other predominantly Democratic counties.<sup>92</sup>

157. Based on Pennsylvania voters' allegations, absentee and mail-in ballots are required to be canvassed in accordance with subsection (g) of Section 3146.8 - Canvassing of official absentee and mail-in ballots.<sup>93</sup>

158. Based on Pennsylvania voters' allegations, Pennsylvania's Election Code defines the term "pre-canvass" to mean "the inspection and opening of all envelopes containing official absentee ballots or mail-in ballots, the removal of such ballots from the envelopes and the counting, computing and tallying of the votes reflected on the ballots. The term does not include the recording or publishing of the votes reflected on the ballots."<sup>94</sup>

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<sup>92</sup> See Gregory Stenstrom Declaration, Appendix pgs. 129-151; 637-659; see Expert Opinion of Anthony J. Couchenor, App. 42-47; see also expert opinion of Jovan Hutton Pulitzer, App. 90-118.

<sup>93</sup> 25 Pa. Cons. Stat. §3146.8(g) (1)(i-ii) & (1.1).

<sup>94</sup> 25 Pa. Cons. Stat. § 2602(q.1).

159. Prior to any pre-canvassing meeting, county boards of elections are required to provide at least forty-eight hours' notice by publicly posting a notice of a pre-canvass meeting on its publicly accessible Internet website.<sup>95</sup>

160. Each candidate and political party is entitled to have one designated and authorized representative in the room any time absentee and mail-in ballots are being canvassed by a board of elections.<sup>96</sup>

161. The candidates' watchers or other representatives are permitted to be present any time the envelopes containing absentee and mail-in ballots are opened.<sup>97</sup>

162. The candidates and political parties are entitled to have watchers present any time there is canvassing of returns.<sup>98</sup>

163. Based on Pennsylvania voters' allegations, in predominantly Democratic counties, such as Montgomery, election would weigh absentee and mail-in ballot envelopes to determine whether secrecy envelopes were contained within the outer envelopes. Election officials would also review and inspect the absentee and mail-in ballot envelopes to determine whether they complied with the requirements of the Election Code.

164. Based on Pennsylvania voters' allegations, this pre-canvassing of ballot envelopes is in direct violation of Pennsylvania's Election Code.

165. Based on Pennsylvania voters' allegations, under the Election Code, county boards of elections are required, upon receipt of sealed official absentee and mail-in ballot envelopes, to

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<sup>95</sup> 25 Pa. Cons. Stat. § 3146.8(g)(1.1).

<sup>96</sup> 25 Pa. Cons. Stat. §3146.8(g)(2).

<sup>97</sup> 25 Pa. Cons. Stat. §3146.8.

<sup>98</sup> 25 Pa. Cons. Stat. §2650(a).

"safely keep the ballots in sealed or locked containers until they are to be canvassed by the county board of elections."<sup>99</sup>

166. County boards of elections are prohibited from pre-canvassing absentee and mail-in ballots prior to 7:00 a.m. of Election Day.<sup>100</sup>

167. As such, from the time ballot envelopes are received by county boards of elections through 7:00 a.m. on Election Day, the ballot envelopes are to be safely kept in sealed or locked containers.<sup>101</sup> Stated in a different way, county boards of elections are not permitted to remove absentee and mail-in ballot envelopes from their sealed or locked containers until the ballots are pre-canvassed at 7:00 a.m. on Election Day.

168. Based on Pennsylvania voters' allegations, the Pennsylvania Supreme Court ruled that county boards of elections were not required to enforce or follow Pennsylvania's Election Code requirements for absentee and mail-in ballot envelopes, including the requirements related to elector signatures, addresses, dates, and signed declarations.<sup>102</sup>

169. During pre-canvassing, county boards of elections are required to examine each ballot cast to determine if the declaration envelope is properly completed and to compare the information with the information contained in the Registered Absentee and Mail-in Voters File.<sup>103</sup>

170. Only then are county boards of elections authorized to open the outer envelope of every unchallenged absentee or mail-in envelope in such a manner so as not to destroy the declaration executed thereon.<sup>104</sup>

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<sup>99</sup> 25 Pa. Cons. Stat. § 3146.8(a).

<sup>100</sup> 25 Pa. Cons. Stat. § 3146.8(g)(1.1.)

<sup>101</sup> 25 Pa. Cons. Stat. § 3146.8(a).

<sup>102</sup> *In Re: Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 31 EAP 2020 (Nov. 23, 2020).

<sup>103</sup> 25 Pa. Cons. Stat. § 3146.8(g)(3).

<sup>104</sup> 25 Pa. Cons. Stat. § 3146.8(g)(4)(i).

171. Based on Pennsylvania voters' allegations, in predominantly Democratic counties, such as Allegheny County, election officials disregarded the requirements of the Election Code and counted absentee and mail-in ballot ballots with defective elector signatures, addresses, dates, and signed declarations.<sup>105</sup> In other counties, such as Westmoreland, such ballots were not counted by the county board of elections.

172. In addition to substantial evidence of the violations of Pennsylvania's Election Code, as set forth above, Plaintiffs have produced an expert report authored by Francis X. Ryan who could testify and identify significant and dispositive discrepancies and errors which call into questions the results of the Presidential Election in Pennsylvania.<sup>106</sup>

173. Based on Pennsylvania voters' allegations, as described above, the 2020 General Election in Pennsylvania was fraught with numerous violations of Pennsylvania's Election Code perpetrated by predominantly Democratic county election officials. In addition, there are countless documented election irregularities and improprieties that prevent an accurate accounting of the election results in the Presidential election.

174. Based on Pennsylvania voters' allegations, many of the irregularities directly relate to the county boards of elections' handling of absentee and mail-in ballots; the pre-canvassing and canvassing of ballots; the failure to permit legally appropriate and adequate oversight and transparency of the process; and, the failure to maintain and secure ballot integrity and security throughout the election process.

175. Based on Pennsylvania voters' allegations, as such, the 2020 General Election results are so severely flawed that it is impossible to certify the accuracy of the purported results.

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<sup>105</sup> *In Re: Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 31 EAP 2020 (Nov. 23, 2020).

<sup>106</sup> See Francis X. Ryan Declaration, App. 660-666. For additional evidence see App. 667-834.

176. Based on analysis by data analyst Matthew Braynard and Professor Steven J. Miller, in Pennsylvania, the government data shows election officials' absentee ballot errors of 121,297 far exceed the margin of victory of 81,749.<sup>107</sup>

177. According to the Braynard-Miller analysis, the government data shows election officials' absentee ballot error rate of at least 1.43% which far exceeds federal law's pre-election certification error rate for voting systems' hardware and software of 0.0008%.<sup>108</sup>

Pennsylvania Voter Election Contest		
Type of error*	Description	Margin
1) Unlawful Ballots	Estimate of ballots requested in the name of a registered Republican by someone other than that person <sup>109</sup>	53,909
2) Legal Votes Not Counted	Estimate of Republican ballots that the requester returned but were not counted <sup>110</sup>	44,892
Total Votes: 98,801	Error Rate (Compared to Total Vote)	1.43%
3) Illegal Votes Counted	Electors voted where they did not reside <sup>111</sup>	14,328
4) Illegal Votes Counted	Out of State Residents Voting in State <sup>112</sup>	7,426
5) Illegal Votes Counted	Double Votes <sup>113</sup>	742
TOTAL		121,297
	Of total votes cast 6,924,006	

\*May overlap.

<sup>107</sup> See Chart and Pennsylvania Declaration of Matthew Braynard, App. 1331-1340 ¶3.

<sup>108</sup> See Expert Report of Dennis Nathan Cain (III), App. 1433-1445.

<sup>109</sup> See Declaration of Steven J. Miller, App. 1325-1330.

<sup>110</sup> *Id.*

<sup>111</sup> See Pennsylvania Declaration of Matthew Braynard, App. 1331-1340 ¶3.

<sup>112</sup> See Pennsylvania Declaration of Matthew Braynard, App. 1331-1340.

<sup>113</sup> See Pennsylvania Declaration of Matthew Braynard, App. 1331-1340 ¶4.

**2. State of Georgia voters allege election official errors and improprieties which exceed the Presidential vote margin.<sup>114</sup>**

178. State of Georgia voters allege election official errors and improprieties which exceed the Presidential vote margin.

179. Georgia has 16 electoral votes, with a statewide vote tally currently estimated at 2,458,121 for President Trump and 2,472,098 for former Vice President Biden, a margin of approximately 12,670 votes.

180. The number of votes affected by the various constitutional violations exceeds the margin of votes dividing the candidates.

181. Based on Georgia voters' allegations, Georgia's Secretary of State, Brad Raffensperger, without legislative approval, unilaterally abrogated Georgia's statute governing the signature verification process for absentee ballots.<sup>115</sup>

182. O.C.G.A. § 21-2-386(a)(2) prohibits the opening of absentee ballots until after the polls open on Election Day: In April 2020, however, the State Election Board adopted Secretary of State Rule 183-1-14-0.9-.15, Processing Ballots Prior to Election Day.

183. Based on Georgia voters' allegations, that rule purports to authorize county election officials to begin processing absentee ballots up to three weeks before Election Day.

184. Based on Georgia voters' allegations, Georgia law authorizes and requires a single registrar or clerk—after reviewing the outer envelope—to reject an absentee ballot if the voter failed to sign the required oath or to provide the required information, the signature appears invalid, or the

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<sup>114</sup> For full extent of inappropriate activities, *see* Timeline of Electoral Policy Activities, Issues, and Litigation Pennsylvania, Michigan, Wisconsin, Georgia, Arizona, and Nevada August 2003 to November 2020, *Appendix 1-20*.

<sup>115</sup> *See* Expert Declaration of Harry Haury, *Appendix 69-89*.

required information does not conform with the information on file, or if the voter is otherwise found ineligible to vote.<sup>116</sup>

185. Georgia law provides absentee voters the chance to “cure a failure to sign the oath, an invalid signature, or missing information” on a ballot’s outer envelope by the deadline for verifying provisional ballots (*i.e.*, three days after the election).<sup>117</sup> To facilitate cures, Georgia law requires the relevant election official to notify the voter in writing: “The board of registrars or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of which notification shall be retained in the files of the board of registrars or absentee ballot clerk for at least two years.”<sup>118</sup>

186. Based on Georgia voters’ allegations, on March 6, 2020, in *Democratic Party of Georgia v. Raffensperger*, No. 1:19-cv-5028-WMR (N.D. Ga.), Georgia’s Secretary of State entered a Compromise Settlement Agreement and Release with the Democratic Party of Georgia (the “Settlement”) to materially change the statutory requirements for reviewing signatures on absentee ballot envelopes to confirm the voter’s identity by making it far more difficult to challenge defective signatures<sup>119</sup> beyond the express mandatory procedures.<sup>120</sup>

187. Based on Georgia voters’ allegations, among other things, before a ballot could be rejected, the Settlement required a registrar who found a defective signature to now seek a review by two other registrars, and only if a majority of the registrars agreed that the signature was defective could the ballot be rejected but not before all three registrars’ names were written on the ballot envelope along with the reason for the rejection. These cumbersome procedures are in direct

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<sup>116</sup> O.C.G.A. § 21-2-386(a)(1)(B)-(C).

<sup>117</sup> O.C.G.A. §§ 21-2-386(a)(1)(C), 21-2-419(c)(2).

<sup>118</sup> O.C.G.A. § 21-2-386(a)(1)(B).

<sup>119</sup> See Expert Report of A.J. Jaghori, *Appendix* 39-41. See Settlement Agreement, *Appendix* 1222-1229.

<sup>120</sup> O.C.G.A. § 21-2-386(a)(1)(B).

conflict with Georgia's statutory requirements, as is the Settlement's requirement that notice be provided by telephone (*i.e.*, not in writing) if a telephone number is available. Finally, the Settlement purports to require election officials to consider issuing guidance and training materials drafted by an expert retained by the Democratic Party of Georgia.

188. Based on Georgia voters' allegations, Georgia's legislature has not ratified these material changes to statutory law mandated by the Compromise Settlement Agreement and Release, including altered signature verification requirements and early opening of ballots. The relevant legislation that was violated by Compromise Settlement Agreement and Release did not include a severability clause.

189. Based on Georgia voters' allegations, this unconstitutional change in Georgia law materially benefitted former Vice President Biden. According to the Georgia Secretary of State's office, former Vice President Biden had almost double the number of absentee votes (65.32%) as President Trump (34.68%).

190. Based on Georgia voters' allegations, specifically, there were 1,305,659 absentee mail-in ballots submitted in Georgia in 2020. There were 4,786 absentee ballots rejected in 2020. This is a rejection rate of .37%. In contrast, in 2016, the 2016 rejection rate was 6.42% with 13,677 absentee mail-in ballots being rejected out of 213,033 submitted, which more than *seventeen times greater* than in 2020.<sup>121</sup>

191. Based on Georgia voters' allegations, if the rejection rate of mailed-in absentee ballots remained the same in 2020 as it was in 2016, there would be 83,517 less tabulated ballots in 2020. The statewide split of absentee ballots was 34.68% for Trump and 65.2% for Biden. Rejecting at the higher 2016 rate with the 2020 split between Trump and Biden would decrease Trump votes

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<sup>121</sup> See Charles J. Cicchetti Declaration at ¶ 24, *Appendix* pgs. 1315-1324.



by 28,965 and Biden votes by 54,552, which would be a net gain for Trump of 25,587 votes. This would be more than needed to overcome the Biden advantage of 12,670 votes, and Trump would win by 12,917 votes. Regardless of the number of ballots affected, however, the non-legislative changes to the election rules violated Article II.

192. Further, based on Georgia voters' allegations, the Zuckerberg-funded absentee drop boxes caused a disparate impact in Georgia.<sup>122</sup>

193. Georgia is comprised of 159 counties. In 2016, Hillary Clinton garnered 1,877,963 votes in the state of Georgia.<sup>123</sup> Clinton won four counties in major population centers, Fulton (297,051), Cobb (160,121), Gwinnett (166,153), and Dekalb Counties (251,370).<sup>124</sup> These four counties represented 874,695 votes for Hillary Clinton.<sup>125</sup>

194. Georgia has 300 total drop boxes for electors to submit absentee ballots.<sup>126</sup>

195. In 2020, Georgia counties utilized CTCL funding to install additional drop boxes in areas that would make it easier for voters to cast their absentee ballot. The four counties won by the Clinton campaign contain a plurality of the drop boxes.

196. Fulton County was home to 39 drop boxes<sup>127</sup>, Cobb County provided 16 drop boxes,<sup>128</sup> 23 drop boxes in Gwinnett County<sup>129</sup>, and Dekalb County has 34 boxes.<sup>130</sup>

<sup>122</sup> See App. 1168-1234; 1477-1491.

<sup>123</sup> Georgia Election Results 2016 – The New York Times (nytimes.com)

<sup>124</sup> Georgia Election Results 2016 – The New York Times (nytimes.com)

<sup>125</sup> Georgia Election Results 2016 – The New York Times (nytimes.com)

<sup>126</sup> <https://georgiapeanutgallery.org/2020/09/28/drop-box-locations-for-november-3-2020-election/>

<sup>127</sup> Fulton County nearly doubles number of ballot drop off boxes (fox5atlanta.com)

<sup>128</sup> <https://www.cobbcounty.org/elections/news/6-additional-absentee-ballot-drop-boxes-available-september-23rd>

<sup>129</sup> [https://www.gwinnettcountry.com/static/departments/elections/2020\\_Election/pdf/BallotDropBoxMap\\_2020.pdf](https://www.gwinnettcountry.com/static/departments/elections/2020_Election/pdf/BallotDropBoxMap_2020.pdf)

<sup>130</sup> <https://www.dekalbcountyga.gov/sites/default/files/users/user304/DeKalb%20Dropbox%20Locations%20103120%20V7.pdf>

197. These four localities account for 112 drop boxes, spread out over 1,587 square miles.<sup>131</sup> Meaning, voters in these four Clinton strongholds have one drop box for every 14 square miles. Meanwhile, in the remaining 155 counties, spread out over 55,926 square miles, a republican voter will find one drop box for every 294 square miles.

198. Based on Georgia voters' allegations, the effect of this unconstitutional change in Georgia election law, which made it more likely that ballots without matching signatures would be counted, had a material impact on the outcome of the election.<sup>132</sup>

199. Finally, in Georgia, analysis of government data by data analyst Matthew Braynard and Professor Qianying (Jennie) Zhang shows election officials' absentee ballot errors of 204,143 far exceed the margin of victory of 12,670.<sup>133</sup>

200. And, the Braynard-Zhang analysis of the government data shows election officials' absentee ballot error rate of at least 1.28% which far exceeds federal law's pre-election certification error rate for voting systems' hardware and software of 0.0008%.<sup>134</sup>

Georgia Voter Election Contest  
Margin +12,670

Type of error*	Description	Margin
1) Unlawful Ballots	Estimate of the minimum number of absentee ballots requested which were not requested by the person identified in the state's database <sup>135</sup>	20,431
		43,688

<sup>131</sup> The areas for the respective counties are: Fulton 534 square miles; Cobb 345 square miles; Gwinnett 437 square miles; and DeKalb 271 square miles.

<sup>132</sup> See Appendix 1235-1311.

<sup>133</sup> See Chart and Georgia Expert Report of Matthew Braynard, *Appendix* pgs. 1350-1374.

<sup>134</sup> See Expert Report of Dennis Nathan Cain (III), *Appendix* 1433-1445.

<sup>135</sup> See Georgia Expert Report of Qianying (Jennie) Zhang, *Appendix* pgs. 1341-1349 ¶ 1.

2) Legal Votes Not Counted	Estimate of the minimum number of absentee ballots that the requester returned but were not counted <sup>136</sup>	
Category 1 & 2 Total Votes: 64,119	Error Rate (Compared to Total Vote)	1.28%
3) Illegal Votes Counted	Electors voted where they did not reside <sup>137</sup>	138,221
4) Illegal Votes Counted	Out of state residents voting in Georgia <sup>138</sup>	20,312
5) Illegal Votes Counted	Double Votes <sup>139</sup>	395
TOTAL		204,143
	of total votes cast 4,998,482	

\*May overlap.

### 3. State of Michigan voters allege election official errors and improprieties which exceed the Presidential vote margin.<sup>140</sup>

201. State of Michigan voters allege election official errors and improprieties which exceed the Presidential vote margin.

<sup>136</sup> See Georgia Expert Report of Qianying (Jennie) Zhang, Appendix pgs. 1341-1349.

<sup>137</sup> See Georgia Expert Report of Matthew Braynard, Appendix pgs. 1350-1374. ¶3.

<sup>138</sup> See Georgia Expert Report of Matthew Braynard, Appendix pgs. 1350-1374.

<sup>139</sup> See Georgia Expert Report of Matthew Braynard, Appendix pgs. 1350-1374. ¶4.

<sup>140</sup> For full extent of inappropriate activities See Timeline of Electoral Policy Activities, Issues, and Litigation Pennsylvania, Michigan, Wisconsin, Georgia, Arizona, and Nevada August 2003 to November 2020, Appendix 1-20.

202. Michigan has 16 electoral votes, with a statewide vote tally currently estimated at 2,650,695 for President Trump and 2,796,702 for former Vice President Biden, a margin of 146,007 votes. In Wayne County, Mr. Biden's margin (322,925 votes) significantly exceeds his statewide lead.

203. Based on Michigan voters' allegations, the number of votes affected by the various constitutional violations exceeds the margin of votes dividing the candidates.

204. Michigan law generally allows the public the right to observe the counting of ballots. See MCL 168.765a(12) ("At all times, at least 1 election inspector from each major political party must be present at the absent voter counting place and the policies and procedures adopted by the secretary of state regarding the counting of absent voter ballots must be followed.").

205. The Michigan Constitution provides all lawful voters with "[t]he right to have the results of statewide elections audited, in such a manner as prescribed by law, to ensure the accuracy and integrity of elections."<sup>141</sup>

206. Indeed, "[a]ll rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes."<sup>142</sup>

207. The public's right to observe applies to counting both in-person and absentee ballots.<sup>143</sup>

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<sup>141</sup> Mich. Const. 1963, art 2, § 4(1)(h).

<sup>142</sup> *Id.* (emphasis added).

<sup>143</sup> Regrettably, Defendants and their agents have exclusive possession of the ballots, ballot boxes, and other indicia of voting irregularities so a meaningful audit cannot timely occur. Normally, "[a] person requesting access to voted ballots is entitled to a response from the public body within 5 to 10 business days; however, the public body in possession of the ballots may not provide access for inspection or copying until 30 days after certification of the election by the relevant board of canvassers." Op. Atty. Gen. 2010, No. 7247, 2010 WL 2710362.

208. Based on Michigan voters' allegations, Michigan's election officials failed to grant meaningful observation opportunities to the public over the absentee ballots.<sup>144</sup>

209. Wayne County is the most populous county in Michigan.

210. Detroit is the largest city in Wayne County.

211. Based on Michigan voters' allegations, the City of Detroit's observation procedures, for example, failed to ensure transparency and integrity as it did not allow the public to see election officials during key points of absentee ballot processing in the AVCBs at TCF Arena (f/k/a Cobo Hall). *Id.*

212. Based on Michigan voters' allegations, these irregularities were repeated elsewhere in Wayne County, including in Canton Township, and throughout the State.<sup>145</sup>

213. Based on Michigan voters' allegations, for instance, when absentee ballots arrived, the ballots should have been in an envelope, signed, sealed (and delivered) by the actual voter. Often it was not.

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<sup>144</sup> See Michigan Petitioners Appendix, Appendix 835; Affidavit of Andrew John Miller, *Appendix* 1313-1314 at ¶12; Affidavit of Angelic Johnson, *Appendix* 860-861 at ¶12; Affidavit of Zachary C. Larsen, *Appendix* 836-845 at ¶¶37-55; Affidavit of G Kline Preston IV, *Appendix* 886-889 at ¶8; Affidavit of Articia Boomer, *Appendix* 897-900 at ¶21; Affidavit of Phillip O'Halloran, *Appendix* 901-910 at ¶¶18-19; Affidavit of Robert Cushman, *Appendix* 928-930 at ¶3; Affidavit of Jennifer Seidl, *Appendix* 931-938 at ¶6; Affidavit of Andrew Sitto, *Appendix* 890-893 at ¶¶23; Affidavit of Kristina Karamo, *Appendix* 894-896 at ¶5; Affidavit of Jennifer Seidl, *Appendix* 931-938 at ¶35, 932 at ¶42; Affidavit of Cassandra Brown *Appendix* 939-944 at ¶33; Affidavit of Adam di Angeli, *Appendix* 951-967 at ¶30; Affidavit of Kayla Toma *Appendix* 977-983 at ¶¶14-15, 978 at ¶21, 979 at ¶¶31-32; Affidavit of Matthew Mikolajczak, *Appendix* 985-991; Affidavit of Braden Giacobazzi, *Appendix* 995-1000 at ¶¶3, 5, 996 at ¶8; Affidavit of Kristy Klammer *Appendix* 1006-1009 at ¶¶4-5, 1007 at ¶¶6-9.

<sup>145</sup> See, generally, Affidavits of Cassandra Brown *Appendix* 939-944 at ¶34; Lucille Ann Huizinga, *Appendix* 1016-1020 at ¶31; Laurie Ann Knott, *Appendix* 1010-1015 at ¶¶34-35; Marilyn Jean Nowak *Appendix* 1021-1023 at ¶17; Marlene K. Hager, *Appendix* 1024-1027 at ¶¶19-23; and Sandra Sue Workman *Appendix* 1028-1032 at ¶33 (allegedly sending ballots from Grand Rapids to TCF Center to be processed and counted).

214. Based on Michigan voters' allegations, ballots were taken from their envelopes and inspected to determine whether any deficiencies would obstruct the ballot from being fed through a tabulation machine. If any deficiencies existed (or were created by tampering), the ballot was hand duplicated.

215. Based on Michigan voters' allegations, Democrat officials and election workers repeatedly scanned ballots in high-speed scanners, often counting the same ballot more than once.<sup>146</sup>

216. Based on Michigan voters' allegations, the evidence will also show that these hand duplication efforts ignored the legislative mandate to have one person from each major party sign every duplicated vote (*i.e.*, one Republican and one Democrat had to sign each "duplicated" ballot and record it in the official poll book).

217. Based on Michigan voters' allegations, several poll watchers, inspectors, and other whistleblowers witnessed the surge of unlawful practices described above.<sup>147</sup>

218. Based on Michigan voters' allegations, these unlawful practices provided cover for careless or unscrupulous officials or workers to mark choices for any unfilled elections or questions on the ballot, potentially and substantially affecting down ballot races where there are often significant undervotes, or causing the ballots to be discarded due to overvotes.

**a. Michigan Voters Allege Election Malfeasance at the TCF Center Shows Widespread Problems.<sup>148</sup>**

219. Based on Michigan voters' allegations, there were many issues of mistake, fraud, and other malfeasance at the TCF Center during the Election and during the counting process

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<sup>146</sup> Affidavit of Articia Boomer, Appendix 897-899 at ¶¶10-11, 13; Affidavit of William Carzon, Appendix 973-976 at ¶8; Affidavit of Matthew Mikolajczak Appendix 985-991; Affidavit of Melissa Carone, Appendix 992-994 at ¶¶3-4.

<sup>147</sup> Affidavit of Melissa Carone, Appendix 992-994 at ¶9.

<sup>148</sup> See Expert Declaration of Dennis Nathan Cain (II), *Appendix* 60-68.

thereafter.<sup>149</sup>

220. Based on Michigan voters' allegations, on election day, election officials at the TCF Center systematically processed and counted ballots from voters whose names failed to appear in either the Qualified Voter File ("QVF") or in the supplemental sheets. When a voter's name could not be found, the election worker assigned the ballot to a random name already in the QVF to a person who had not voted.<sup>150</sup>

221. Based on Michigan voters' allegations, on election day, election officials at the TCF Center instructed election workers to not verify signatures on absentee ballots, to backdate absentee ballots, and to process such ballots regardless of their validity.<sup>151</sup>

222. Based on Michigan voters' allegations, after the statutory deadlines passed and local officials had announced the last absentee ballots had been received, another batch of unsecured and unsealed ballots, without envelopes, arrived in unsecure trays at the TCF Center.

223. Based on Michigan voters' allegations, there were tens of thousands of these late-arriving absentee ballots, and apparently every ballot was counted and attributed only to Democratic candidates.<sup>152</sup>

224. Based on Michigan voters' allegations, election officials at the TCF Center instructed election workers to process ballots that appeared after the election deadline and to inaccurately report or backdate those ballots as having been received before the November 3, 2020, deadline.<sup>153</sup>

225. Based on Michigan voters' allegations, election officials at the TCF Center

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<sup>149</sup> See Affidavit of Senator Ruth Johnson, *Appendix* at 849-850.

<sup>150</sup> See Affidavit of Zachary C. Larsen, *Appendix* 836-845 at ¶33; Affidavit of Robert Cushman, *Appendix* 928-930 at ¶7.

<sup>151</sup> See Affidavit of Jessy Jacobs, *Appendix* 846-848 at ¶15.

<sup>152</sup> See Affidavit of John McGrath *Appendix* 968-972 at ¶8.

<sup>153</sup> See Affidavit of Jessy Jacobs, *Appendix* 846-848 at ¶17.

systematically used inaccurate information to process ballots.<sup>154</sup>

226. Based on Michigan voters' allegations, many times, the election workers overrode the software by inserting new names into the QVF after the election deadline or recording these new voters as having a birthdate of "1/1/1900," which is the "default" birthday.<sup>155</sup>

227. Based on Michigan voters' allegations, each day before the election, City of Detroit election workers and employees coached voters to vote for Joe Biden and the Democratic Party candidates.<sup>156</sup>

228. Based on Michigan voters' allegations, these workers, employees, and so-called consultants encouraged voters to vote a straight Democratic Party ticket. These election workers went over to the voting booths with voters to watch them vote and to coach them as to which candidates they should vote for.<sup>157</sup>

229. Based on Michigan voters' allegations, before and after the statutory deadline, unsecured ballots arrived at the TCF Center loading garage, loose on the floor not in sealed ballot boxes—with no chain of custody and often with no secrecy envelopes.<sup>158</sup>

230. Based on Michigan voters' allegations, election officials and workers at the TCF Center duplicated ballots by hand without allowing poll challengers to check if the duplication was accurate.<sup>159</sup>

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<sup>154</sup> Affidavit of Cassandra Brown, Appendix 939-944 at ¶33.

<sup>155</sup> See Affidavit of John McGrath Appendix 968-972 at ¶8; Affidavit of Kristina Karamo Appendix 894-896 at ¶6; Affidavit of Robert Cushman, Appendix 928-930 at ¶¶10-12, 929 at ¶16; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶¶52-53; Affidavit of Braden Giacobazzi Appendix 995-1000 at ¶10; Affidavit of Kristy Klammer Appendix 1006-1009 at ¶13.

<sup>156</sup> See Affidavit of Jessie Jacobs, Appendix 846-848 at ¶8.

<sup>157</sup> See Affidavit of Jessie Jacobs, Appendix 846-848 at ¶8.

<sup>158</sup> Affidavit of Articia Boomer, Appendix 897-900 at ¶8, 898 at ¶¶9, 18.

<sup>159</sup> See Affidavit Andrew Sitto, Appendix 890-893 at ¶9; Affidavit of Phillip O'Halloran Appendix 901-910 at ¶22; Affidavit of Cynthia O'Halloran Appendix 911-914; Affidavit of Eugene Dixon, Appendix 947-948 at ¶5; Affidavit of Jason Humes Appendix 918-922.



231. Based on Michigan voters' allegations, election officials repeatedly obstructed poll challengers from observing.<sup>160</sup>

232. Based on Michigan voters' allegations, election officials violated the plain language of the law MCL 168.765a by permitting thousands of ballots to be filled out by hand and duplicated on site without oversight from bipartisan poll challengers.

233. Based on Michigan voters' allegations, after poll challengers started uncovering the statutory violations at the TCF Center, election officials and workers locked credentialed challengers out of the counting room so they could not observe the process, during which time tens of thousands of ballots, if not more, were improperly processed.<sup>161</sup>

**b. Michigan voters Allege Suspicious Funding and Training of Election Workers**

234. Based on Michigan voters' allegations, in September, the Detroit City council approved a \$1 million contract for the staffing firm P.I.E. Management, LLC to hire up to 2,000 workers to work the polls and to staff the ballot counting machines at the TCF Center. P.I.E. Management, LLC is owned and controlled by a Democratic Party operative.

235. Based on Michigan voters' allegations, a week after approval, P.I.E. Management, LLC began advertising for workers, stating, "Candidates must be 16 years or older. Candidates are required to attend a 3-hour training session before the General Election. The position offers two shifts and pay-rates: 1) From 7 am to 7 pm at \$600.00; and 2) From 10 pm to 6 am at \$650."

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<sup>160</sup> See Affidavit of Zachary C. Larsen, Appendix 836-845 at ¶¶37-55; Affidavit of Janice Hermann, Appendix 915-917 at ¶5; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶29, 932 at ¶42; Affidavit of Cassandra Brown, Appendix 939-944 at ¶33.

<sup>161</sup> See Affidavit of Zachary C. Larsen, Appendix 836-845 at ¶¶37-55; Affidavit of Janice Hermann, Appendix 915-917 at ¶5; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶29, 932 at ¶32, 933 at ¶42; Affidavit of Cassandra Brown, Appendix 939-944 at ¶¶33; Affidavit of Anna England, Appendix 949-950 at ¶¶5,7; Affidavit of Matthew Mikolajczak Appendix 985-991; Affidavit of Braden Giacobazzi, Appendix 995-1000 at ¶6.

Consequently, these temporary workers were earning at least \$50 per hour—far exceeding prevailing rates at most rural communities.

236. Based on Michigan voters' allegations, the evidence exists to show that this money and much more came from a single private source: Mark Zuckerberg and his spouse, through the charity called Center for Tech and Civic Life (CTCL), which paid over \$400 million nationwide to Democrat-favoring election officials and municipalities.<sup>162</sup>

237. Based on Michigan voters' allegations, the improper private funding to Michigan exceeded \$9.8 million.<sup>163</sup>

**c. Michigan Voter Allege Forging Ballots on the QVF**

238. Based on Michigan voters' allegations, whistleblowers observed election officials processing ballots at the TCF Center without confirming that the voter was eligible to vote.<sup>164</sup>

239. Based on Michigan voters' allegations, whistleblowers observed election officials assigning ballots to different voters, causing a ballot being counted for a non-eligible voter by assigning it to a voter in the QVF who had not yet voted.<sup>165</sup>

**d. Michigan Voters Allege Changing Dates on Ballots**

240. All lawful absentee ballots were supposed to be in the QVF system by 9:00 p.m. on November 3, 2020.

241. This deadline had to be met to ensure an accurate final list of absentee voters who returned their ballots before the statutory deadline of 8:00 p.m. on November 3, 2020.

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<sup>162</sup> See, generally, Expert Report of James Carlson, Appendix pgs. 21-30.

<sup>163</sup> See Expert Report of James Carlson, Appendix pgs. 1079-1111.

<sup>164</sup> See Affidavit of Zachary C. Larsen, Appendix 836-845 at ¶12.

<sup>165</sup> See Affidavit of John McGrath Appendix 968-972 at ¶8; Affidavit of Kristina Karamo Appendix 894-896 at ¶6; Affidavit of Robert Cushman, Appendix 928-930 at ¶¶10-12, 929 at ¶16; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶¶52-53; Affidavit of Braden Giacobazzi Appendix 995-1000 at ¶10; Affidavit of Kristy Klammer Appendix 1006-1009 at ¶13.

242. To have enough time to process the absentee ballots, election officials told polling locations to collect the absentee ballots from the drop-boxes every hour on November 3, 2020.

243. Based on Michigan voters' allegations, on November 4, 2020, a City of Detroit election whistleblower at the TCF Center was told to improperly pre-date the receive date for absentee ballots that were not in the QVF as if they had been received on or before November 3, 2020. The Whistleblower swore she was told to alter the information in the QVF to inaccurately show that the absentee ballots had been timely received. She estimates that this was done to thousands of ballots.<sup>166</sup>

**e. Michigan Voters allege Double Voting.**

244. Based on Michigan voters' allegations, an election worker in the City of Detroit observed several people who came to the polling place to vote in-person, but they had already applied for an absentee ballot.<sup>167</sup>

245. Based on Michigan voters' allegations, election officials allowed these people to vote in-person, and they did not require them to return the mailed absentee ballot or sign an affidavit that the voter lost or "spoiled" the mailed absentee ballot as required by law and policy.

246. Based on Michigan voters' allegations, this illicit process allowed people to vote in person and to send in an absentee ballot, thereby voting twice. This "double voting" was made possible by the unlawful ways in which election officials were counting and inputting ballots at the TCF Center from across the City's several polling places.

247. Based on Michigan voters' allegations, the Secretary of State's absentee ballot scheme exacerbated this "double voting," as set forth further in this Petition.<sup>168</sup>

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<sup>166</sup> See Affidavit of Jessy Jacobs, Appendix 846-848 at ¶17.

<sup>167</sup> See Affidavit of Jessy Jacobs, Appendix 846-848 at ¶10; Affidavit of Anna England, Appendix 949-950 at ¶45.

<sup>168</sup> See, also, Expert Report of Matthew Braynard, Appendix 1112-1122 at ¶6.

**f. Michigan Voters Allege Problems With First Wave of New Ballots at TCF Center.**

248. Based on Michigan voters' allegations, early in the morning of November 4, 2020, tens of thousands of ballots were suddenly brought into the counting room at the TCF Center through the back door.<sup>169</sup>

249. Based on Michigan voters' allegations, these new ballots were brought to the TCF Center by vehicles with out-of-state license plates.<sup>170</sup>

250. Based on Michigan voters' allegations, whistleblowers claim that all of these new ballots were cast for Joe Biden.<sup>171</sup>

251. Based on Michigan voters' allegations, these ballots still do not share or have the markings establishing the proper chain of custody from valid precincts and clerks and are among the approximately 70% of unmatched AVCB errors identified by Palmer and Hartmann.

**g. Michigan Voters Allege Problems With Second Wave of New Ballots at TCF Center.**

252. Based on Michigan voters' allegations, the ballot counters needed to check every ballot to confirm that the name on the ballot matched the name on the electronic poll list—the list of all persons who had registered to vote on or before November 1, 2020 (the QVF).

253. Based on Michigan voters' allegations, the ballot counters were also provided with supplemental sheets which had the names of all persons who had registered to vote on either November 2, 2020 or November 3, 2020.

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<sup>169</sup> See Affidavit of John McGrath Appendix 968-972 at ¶4 (around 3:00 a.m.); Affidavit of Articia Boomer, Appendix 897-900 at ¶18 (around 4:00 a.m.); Affidavit of William Carzon, Appendix 973-976 at ¶11 (around 4:00 a.m.); Affidavit Andrew Sitto, Appendix 890-893 at ¶16 (alleges about 4:30 a.m.).

<sup>170</sup> See Affidavit of Andrew Sitto, Appendix 890-893 at ¶15.

<sup>171</sup> See Affidavit of Andrew Sitto, Appendix 890-893 at ¶¶17-18.

254. Based on Michigan voters' allegations, the validation process for a ballot requires the name on the ballot match with a registered voter on either the QVF or the supplemental sheets.

255. Based on Michigan voters' allegations, at around 9:00 p.m. on Wednesday, November 4, 2020, several more boxes of ballots were brought to the TCF Center. This was a second wave of new ballots.

256. Based on Michigan voters' allegations, election officials instructed the ballot counters to use the "default" date of birth of January 1, 1900, on all of these newly appearing ballots.<sup>172</sup>

257. Based on Michigan voters' allegations, none of the names on these new ballots corresponded with any registered voter on the QVF or the supplemental sheets.<sup>173</sup>

258. Based on Michigan voters' allegations, despite election rules requiring all absentee ballots to be inputted into the QVF system before 9:00 p.m. the day before, election workers inputted these new ballots into the QVF, manually adding each voter to the list *after* the deadline.

259. Based on Michigan voters' allegations, almost all of these new ballots were entered into the QVF using the "default" date of birth of January 1, 1900.<sup>174</sup>

260. Based on Michigan voters' allegations, these newly received ballots were either fabricated or apparently cast by persons who were not registered to vote before the polls closed at 8:00 p.m. on election day.

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<sup>172</sup> See Affidavit of John McGrath Appendix 968-972 at ¶8; Affidavit of Kristina Karamo Appendix 894-896 at ¶6; Affidavit of Robert Cushman, Appendix 928-930 at ¶¶10-12, 929 at ¶16; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶¶52-53; Affidavit of Braden Giacobazzi Appendix 995-1000 at ¶10; Affidavit of Kristy Klammer Appendix 1006-1009 at ¶13.

<sup>173</sup> See Affidavit of John McGrath, Appendix 968-972 at ¶¶7, 14, 969 at ¶¶16-18.

<sup>174</sup> See Affidavit of John McGrath, Appendix 968-972 at ¶8; Affidavit of Kristina Karamo, Appendix 894-896 at ¶6; Affidavit of Robert Cushman, Appendix 928-930 at ¶¶10-12, 929 at ¶16; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶¶52-53; Affidavit of Braden Giacobazzi, Appendix 995-1000 at ¶10; Affidavit of Kristy Klammer, Appendix 1006-1009 at ¶13.

261. Based on Michigan voters' allegations, these ballots still do not share or have the markings establishing the proper chain of custody from valid precincts and clerks and are among the approximately 70% of unmatched AVCB errors identified by Palmer and Hartmann.<sup>175</sup>

262. Based on Michigan voters' allegations, this means there were more votes tabulated than there were ballots in over 71% of the 134 AVCBs in Detroit. That equates to over 95 AVCB being significantly "off." *Id.*

263. Based on Michigan voters' allegations, according to public testimony before the state canvassers on November 23, City of Detroit Election Consultant Daniel Baxter admitted in some instances the imbalances exceeded 600 votes per AVCB. He did not reveal the total disparity.

**h. Michigan Voters Allege a Concealment of the Malfeasance in Violation of Michigan law.**

264. Based on Michigan voters' allegations, many election challengers were denied access to observe the counting process by election officials at the TCF Center.<sup>176</sup>

265. Based on Michigan voters' allegations, after denying access to the counting rooms, election officials at the TCF Center used large pieces of cardboard to block the windows to the counting room, thereby preventing anyone from watching the ballot counting process.<sup>177</sup>

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<sup>175</sup> See *generally* Affidavits of Monica Palmer and William Hartman, Appendix 851-859 at ¶6 and 852 at ¶14.

<sup>176</sup> See Affidavit of Angelic Johnson, Appendix 860-861 at ¶12; Affidavit of Zachary C. Larsen, Appendix 836-845 at ¶¶37-55; Affidavit of G Kline Preston IV, Appendix 886-889 at ¶8; Affidavit of Articia Boomer, Appendix 897-900 at ¶21; Affidavit of Phillip O'Halloran, Appendix 901-910 at ¶¶18-19; Affidavit of Robert Cushman, Appendix 928-930 at ¶3; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶6; Affidavit of Andrew Sitto, Appendix 890-893 at ¶23; Affidavit of Kristina Karamo, Appendix 894-896 at ¶5; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶35, 932 at ¶42; Affidavit of Cassandra Brown Appendix 939-944 at ¶33; Affidavit of Adam di Angeli Appendix 951-967 at ¶30; Affidavit of Kayla Toma Appendix 977-983 at ¶¶14-15, 979 at ¶21, 980 at ¶¶31-32; Affidavit of Matthew Mikolajczak Appendix 985-991; Affidavit of Braden Giacobazzi Appendix 995-1000 at ¶¶3, 5, 996 at ¶8; Affidavit of Kristy Klammer Appendix 1006-1009 at ¶¶4-5, 1007 at ¶¶6-9.

<sup>177</sup> See Affidavit of Zachary C. Larsen, Appendix 836-845 at ¶52; Affidavit of John McGrath Appendix 968-972 at ¶10; Affidavit of Andrew Sitto, Appendix 890-893 at ¶22.

266. Based on Michigan voters' allegations, election officials have continued to conceal their efforts by refusing meaningful bipartisan access to inspect the ballots. Even if Republicans were involved in oversight roles by statute (such as with the Wayne County Canvassing Board), the Republican members have been harassed, threatened, and doxed (including publicly revealing where their children go to school) to pressure them to capitulate and violate their statutory duties. This conduct is beyond the pale and shocking to the conscience.<sup>178</sup>

**i. Michigan voters allege unsecured QVF Access further Violating MCL 168.765a, *et seq.***

267. Based on Michigan voters' allegations, whenever an absentee voter application or in-person absentee voter registration was finished, election workers at the TCF Center were instructed to input the voter's name, address, and date of birth into the QVF system.

268. Based on Michigan voters' allegations, the QVF system can be accessed and edited by any election processor with proper credentials in the State of Michigan at any time and from any location with Internet access.

269. Based on Michigan voters' allegations, this access permits anyone with the proper credentials to edit when ballots were sent, received, and processed from any location with Internet access.

270. Based on Michigan voters' allegations, many of the counting computers within the counting room had icons that revealed that they were connected to the Internet.

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<sup>178</sup> See Affidavit of William Hartman; Appendix 851-856 at ¶¶8; Affidavit of Monica Palmer, Appendix 857-859 at ¶¶18-22, and 24; Affidavit of Dr. Phillip O'Halloran, Appendix 901-910 at ¶¶24-25; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶¶23, 932 at ¶¶27, 30-31, 933 at ¶¶36-37; Affidavit of Eugene Dixon, Appendix 947-48 at ¶9; Affidavit of Matthew Mikolajczak, Appendix 985-991; Affidavit of Mellissa Carone Appendix 992-994 at ¶12; Affidavit of Braden Giacobazzi, Appendix 995-1000 at ¶3, 996 at ¶7, 997 at 12, 998 at ¶¶12-14; Affidavit of Kaya Toma Appendix 977-983 at ¶15; Affidavit of Kristy Klammer Appendix 1009-1009 at ¶¶4-5, 1010 at ¶¶6-9.

271. Based on Michigan voters' allegations, Secretary of State Benson executed a contract to give a private partisan group, Rock the Vote, unfettered real-time access to Michigan's QVF.<sup>179</sup>

272. Based on Michigan voters' allegations, Benson sold or gave Michigan citizens' private voter information to private groups in furtherance of her own partisan goals.

273. Based on Michigan voters' allegations, Benson and the State repeatedly concealed this unlawful contract and have refused to tender a copy despite several lawful requests for the government contract under FOIA.

274. Based on Michigan voters' allegations, improper access to the QVF was one of the chief categories of serious concern identified by the Michigan Auditor General's Report.<sup>180</sup>

275. Based on Michigan voters' allegations, a poll challenger witnessed tens of thousands of ballots, and possibly more, being delivered to the TCF Center that were not in any approved, sealed, or tamper-proof container.

276. Based on Michigan voters' allegations, large quantities of ballots were delivered to the TCF Center in what appeared to be mail bins with open tops.<sup>181</sup> See the photo of the TCF Center below:

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<sup>179</sup> See Rock the Vote Agreement, Appendix 1152-1167.

<sup>180</sup> See Appendix pgs. 1039-1078 at material finding #2

<sup>181</sup> See Affidavit of Daniel Gustafson, Appendix 945-946 at ¶¶4-6.





277. Based on Michigan voters' allegations, these ballot bins and containers did not have lids, were unsealed, and could not have a metal seal.<sup>182</sup>

278. Based on Michigan voters' allegations, some ballots were found unsecured on the public sidewalk outside the Department of Elections in the City of Detroit, reinforcing the claim that boxes of ballots arrived at the TCF Center unsealed, with no chain of custody, and with no official markings. A photograph of ballots found on the sidewalk outside the Department of Elections appears below:



279. Based on Michigan voters' allegations, the City of Detroit held a drive-in ballot drop off where individuals would drive up and drop their ballots into an unsecured tray. No verification

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<sup>182</sup> See Affidavit of Rhonda Webber, Appendix 877-879 at ¶3.

was done. This was not a secured drop-box with video surveillance. To encourage this practice, free food and beverages were provided to those who dropped off their ballots using this method.<sup>183</sup>

**j. Michigan Voters Allege a Breaking of the Seal of Secrecy Undermines Constitutional Liberties under Michigan Constitution Art 2, § 4(1)(a).**

280. Based on Michigan voters' allegations, many times, election officials at the TCF Center broke the seal of secrecy for ballots to check which candidates the individual voted for on his or her ballot, thereby violating the voter's expectation of privacy.<sup>184</sup>

281. Based on Michigan voters' allegations, voters in Michigan have a constitutional right to open elections, and the Michigan Legislature provided them the right to vote in secret. The election officials' conduct, together with others, violates both of these hallmark principles.<sup>185</sup>

282. Based on Michigan voters' allegations, in Michigan, it is well-settled that the election process is supposed to be transparent and the voter's ballot secret, not the other way around.

283. Based on Michigan voters' allegations, the election officials' absentee ballot scheme has improperly revealed voters' preferences exposing Petitioners' and similarly-situated voters to dilution or spoliation while simultaneously obfuscating the inner workings of the election process.

284. Based on Michigan voters' allegations, now the Michigan election officials seek to perform an "audit" on themselves.

**k. Michigan Voters Allege Statewide Irregularities Over Absentee Ballots Reveal Widespread Mistake or Fraud.**

285. When a person requested an absentee ballot either by mail or in-person, that person needed to sign the absentee voter application.

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<sup>183</sup> See Affidavit of Cynthia Cassell Appendix 862-876 at ¶3 and 863 ¶¶9-10.

<sup>184</sup> See Affidavit of Zachary C. Larsen; Appendix 836-845 at ¶16-18, 20.

<sup>185</sup> See Affidavit of Jennifer Seidl, Appendix 931-938 at ¶18.

286. When the voter returned their absentee ballot to be counted, the voter was required to sign the outside of the envelope that contained the ballot.

287. Election officials who process absentee ballots are required to compare the signature on the absentee ballot application with the signature on the absentee ballot envelope.<sup>186</sup>

288. Based on Michigan voters' allegations, election officials at the TCF Center, for example, instructed workers not to validate or compare signatures on absentee ballot applications and absentee ballot envelopes to ensure their authenticity and validity.<sup>187</sup>

289. Michigan law requires absentee votes to be counted by election inspectors in a particular manner. It requires, in relevant part:

(10) The oaths administered under subsection (9) must be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election, the oaths must be delivered to the city or township clerk. Except as otherwise provided in subsection (12), a person in attendance at the absent voter counting place or combined absent voter counting place shall not leave the counting place after the tallying has begun until the polls close. Subject to this subsection, the clerk of a city or township may allow the election inspectors appointed to an absent voter counting board in that city or township to work in shifts. A second or subsequent shift of election inspectors appointed for an absent voter counting board may begin that shift at any time on election day as provided by the city or township clerk. However, an election inspector shall not leave the absent voter counting place after the tallying has begun until the polls close. If the election inspectors appointed to an absent voter counting board are authorized to work in shifts, at no time shall there be a gap between shifts and the election inspectors must never leave the absent voter ballots unattended. At all times, at least 1 election inspector from each major political party must be present at the absent voter counting place and the policies and procedures adopted by the secretary of state regarding the counting of absent voter ballots must be followed. A person who causes the polls to be closed or who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a voting precinct before the time the polls can be legally closed on election day is guilty of a felony.<sup>188</sup>

290. Under MCL 168.31, the Secretary of State can issue instructions and rules consistent with Michigan statutes and the Constitution that bind local election authorities. Likewise, under

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<sup>186</sup> See Affidavit of Jennifer Seidl, Appendix 931-938 at ¶60.

<sup>187</sup> See Affidavit of Jessy Jacobs, Appendix 846-848 at ¶15.

<sup>188</sup> MCL 168.765a (10) (emphasis added).

MCL 168.765a(13), the Secretary can develop instructions consistent with the law for the conduct of Absent Voter Counting Boards (“AVCB”) or combined AVCBs. “The instructions developed under [] subsection [13] are binding upon the operation of an absent voter counting board or combined absent voter counting board used in an election conducted by a county, city, or township.”<sup>189</sup>

291. Benson also promulgated an election manual that requires bipartisan oversight:

Each ballot rejected by the tabulator must be visually inspected by an election inspector to verify the reason for the rejection. If the rejection is due to a false read the ballot must be duplicated by two election inspectors who have expressed a preference for different political parties. Duplications may not be made until after 8 p.m. in the precinct (place the ballot requiring duplication in the auxiliary bin). At an AV counting board duplications can be completed throughout the day. NOTE: The Bureau of Elections has developed a video training series that summarizes key election day management issues, including a video on Duplicating Ballots. These videos can be accessed at the Bureau of Elections web site at [www.michigan.gov/elections](http://www.michigan.gov/elections); under “Information for Election Administrators”; Election Day Management Training Videos. Election Officials Manual, Michigan Bureau of Elections, Chapter 8, last revised October 2020.<sup>190</sup>

292. Based on Michigan voters’ allegations, election officials at the TCF Center flouted § 168.765a because there were not, at all times, at least one inspector from each political party at the absentee voter counting place. Rather, the many tables assigned to precincts under the authority of the AVCB were staffed by inspectors for only one party. Those inspectors alone were deciding on the processing and counting of ballots.<sup>191</sup>

293. Based on Michigan voters’ allegations, this processing included the filling out of brand new “cure” or “duplicate” ballots. The process the election officials sanctioned worked in this way. When an absentee ballot was processed and approved for counting, it was fed into a counting machine. Some ballots were rejected—that is, they were a “false read”—because of tears, staining

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<sup>189</sup> MCL 168.765a(13).

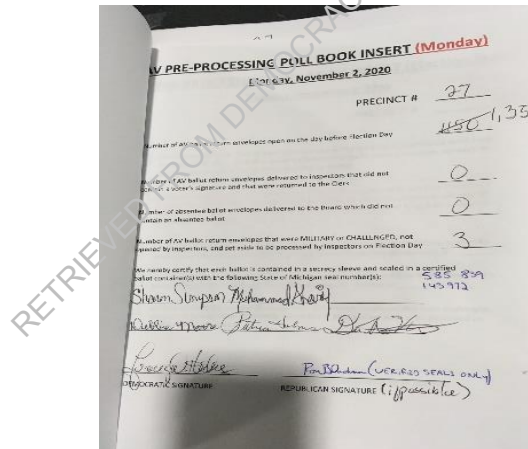
<sup>190</sup> [https://www.michigan.gov/documents/sos/VIII\\_Absent\\_Voter\\_County\\_Boards\\_265998\\_7.pdf](https://www.michigan.gov/documents/sos/VIII_Absent_Voter_County_Boards_265998_7.pdf) (emphasis added).

<sup>191</sup> See Affidavit of Jennifer Seidl, Appendix 931-938 at ¶9; Affidavit of Eugene Dixon, Appendix 947-948 at ¶5; Affidavit of Mellissa Carone, Appendix 992-994 at ¶5.

(such as coffee spills), over-votes, and other errors. In some of these cases, inspectors could visually inspect the rejected ballot and determine what was causing the machine to find a “false read.” When this happened, the inspectors could duplicate the ballot, expressing the voter’s intent in a new ballot that could then be fed into the machine and counted.

294. Under § 168.765a and the Secretary of State’s controlling manual, as cited above, an inspector from each major party must be present and must sign to show that they approve of the duplication.

295. Based on Michigan voters’ allegations, rather than following this controlling mandate, the AVCB was allowing a Democratic Party inspector only to fill out a duplicate. Republicans would sign only “if possible.”<sup>192</sup> A photograph evidencing this illicit process appears below:



296. Based on Michigan voters’ allegations, the TCF Center election officials allowed hundreds or thousands of ballots to be “duplicated” solely by the Democratic Party inspectors and then counted in violation of Michigan election law.<sup>193</sup>

<sup>192</sup> See Affidavit of Patricia Blackmer, Appendix 923-927 at ¶11.

<sup>193</sup> See Affidavit of Zachary C. Larsen, Appendix 836-845 at ¶¶37-55; Affidavit of Janice Hermann, Appendix 915-917 at ¶¶4-5; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶29, 933 at ¶42; Affidavit of Cassandra Brown, Appendix 939-944 at ¶¶33; Affidavit of Phillip O’Halloran, Appendix 901-910 at ¶22; Affidavit of Anna England, Appendix 949-950 at ¶8.

297. Based on Michigan voters' allegations, according to eyewitness accounts, election officials at the TCF Center habitually and systematically disallowed election inspectors from the Republican Party to be present in the voter counting place and refused access to election inspectors from the Republican party to be within a close enough distance from the absentee voter ballots to see for whom the ballots were cast.

298. Based on Michigan voters' allegations, election officials at the TCF Center refused entry to official election inspectors from the Republican Party into the counting place to observe the counting of absentee voter ballots. Election officials even physically blocked and obstructed election inspectors from the Republican party by adhering large pieces of cardboard to the transparent glass doors so the counting of absent voter ballots was not viewable.<sup>194</sup>

299. Based on Michigan voters' allegations, absentee ballots from military members, who tend to vote Republican in the general elections, were counted separately at the TCF Center. All (100%) of the military absentee ballots had to be duplicated by hand because the form of the ballot was such that election workers could not run them through the tabulation machines used at the TCF Center.<sup>195</sup>

300. Based on Michigan voters' allegations, these military ballots were supposed to be the last ones counted, but there was another large drop of ballots that occurred during the counting of the military absentee ballots.<sup>196</sup>

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<sup>194</sup> See Affidavit of Zachary C. Larsen, Appendix 836-845 at ¶¶37-55; Affidavit of Janice Hermann, Appendix 915-917 at ¶5; Affidavit of Jennifer Seidl, Appendix 931-938 at ¶29, 932 at ¶32, 933 at ¶42; Affidavit of Cassandra Brown, Appendix 939-944 at ¶¶33; Affidavit of Anna England, Appendix 949-950 at ¶¶5,7; Affidavit of Matthew Mikolajczak, Appendix 985-991; Affidavit of Braden Giacobazzi, Appendix 995-1000 at ¶6.

<sup>195</sup> See Affidavit of Janice Hermann, Appendix 915-917 at ¶16.

<sup>196</sup> *Id.* see also, Affidavit of Robert Cushman, Appendix 928-930 at ¶¶4-5.

301. Based on Michigan voters' allegations, the military absentee ballot count at the TCF Center occurred after the Republican challengers and poll watchers were kicked out of the counting room.<sup>197</sup>

302. The Michigan Legislature also requires City Clerks to post the following absentee voting information anytime an election is conducted that involves a state or federal office:

- a. The clerk must post before 8:00 a.m. on Election Day: 1) the number of absent voter ballots distributed to absent voters 2) the number of absent voter ballots returned before Election Day and 3) the number of absent voter ballots delivered for processing.
- b. The clerk must post before 9:00 p.m. on Election Day: 1) the number of absent voter ballots returned on Election Day 2) the number of absent voter ballots returned on Election Day which were delivered for processing 3) the total number of absent voter ballots returned both before and on Election Day and 4) the total number of absent voter ballots returned both before and on Election Day which were delivered for processing.
- c. The clerk must post immediately after all precinct returns are complete: 1) the total number of absent voter ballots returned by voters and 2) the total number of absent voter ballots received for processing.<sup>198</sup>

303. Based on Michigan voters' allegations, the clerk for the City of Detroit failed to post by 8:00 a.m. on "Election Day" the number of absentee ballots distributed to absent voters and failed to post before 9:00 p.m. the number of absent voter ballots returned both before and on "Election Day."

304. According to Michigan Election law, all absentee voter ballots must be returned to the clerk before polls close at 8 p.m.<sup>199</sup> Any absentee voter ballots received by the clerk after the close of the polls on election day should not be counted.

305. The Michigan Legislature allows for early counting of absentee votes before the closings of the polls for large jurisdictions, such as the City of Detroit and Wayne County.

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<sup>197</sup> *Id.* Affidavit of Jennifer Seidl, Appendix 931-938 at ¶42.

<sup>198</sup> *See* MCL 168.765(5).

<sup>199</sup> MCL 168.764a.



306. Based on Michigan voters' allegations, receiving tens of thousands more absentee ballots in the early morning hours after Election Day and after the counting of the absentee ballots had already concluded, without proper oversight, with tens of thousands of ballots attributed to just one candidate, Joe Biden, confirms that election officials failed to follow proper election protocols and established Michigan election law.<sup>200</sup>

307. Based on Michigan voters' allegations, missing the statutory deadline proscribed by the Michigan Legislature for turning in the absentee ballot or timely updating the QVF invalidates the vote under Michigan Election Law and the United States Constitution.

308. Based on Michigan voters' allegations, poll challengers observed election workers and supervisors writing on ballots themselves to alter them, apparently manipulating spoiled ballots by hand and then counting the ballots as valid, counting the same ballot more than once, adding information to incomplete affidavits accompanying absentee ballots, counting absentee ballots returned late, counting unvalidated and unreliable ballots, and counting the ballots of "voters" who had no recorded birthdates and were not registered in the QVF or on any supplemental sheets.<sup>201</sup>

**1. Michigan Voters Allege that Flooding the Election with Absentee Ballots was Improper.**

309. Michigan does not permit "mail-in" ballots *per se*, and for good reason: mail-in ballots facilitate fraud and dishonest elections.<sup>202</sup>

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<sup>200</sup> See Affidavit of John McGrath Appendix 968-972 at ¶4; Affidavit of Robert Cushman, Appendix 928-930 at ¶14.

<sup>201</sup> See Affidavit of Angelic Johnson Appendix 860-861 at ¶7; Affidavit of Adam di Angeli Appendix 951-967 at ¶61; see also, Affidavit of John McGrath, *supra*; Affidavit of Kristina Karamo, *supra*; Affidavit of Robert Cushman, *supra*; Affidavit of Jennifer Seidl, *supra*; Affidavit of Braden Giacobazzi, *supra*; Affidavit of Kristy Klammer, *supra*.

<sup>202</sup> See, e.g., *Veasey v Abbott*, 830 F3d 216, 256, 263 (5<sup>th</sup> Cir. 2016) (observing that "mail-in ballot fraud is a significant threat—unlike in-person voter fraud," and comparing "in-person voting—a form of



310. Based on Michigan voters' allegations, Secretary of State Benson's absentee ballot scheme, as explained above, achieved the same purpose as mail-in ballots—contrary to Michigan law. In the most charitable light, this was profoundly naïve and cut against the plain language and clear intent of the Michigan Legislature to limit fraud. More cynically, this was an intentional effort to favor her preferred candidates.

311. Based on Michigan voters' allegations, Benson put this scheme in place because it is generally understood that Republican voters were more likely to vote in-person. This trend has been true for decades and proved true with this Election too.<sup>203</sup>

312. Based on Michigan voters' allegations, to counter this (*i.e.*, the fact that Republicans are more likely than Democrats to vote in-person), Benson implemented a scheme to permit mail-in voting, leading to this dispute and the absentee ballot scheme that unfairly favored Democrats over Republicans.

313. Based on Michigan voters' allegations, in her letter accompanying her absentee ballot scheme, Benson misstated, "You have the right to vote by mail in every election." Playing on the fears created by the current pandemic, Benson encouraged voting "by email," stating, "During the outbreak of COVID-19, it also enables you to stay home and stay safe while still making your voice heard in our elections."<sup>204</sup>

314. Based on Michigan voters' allegations, prior to Election Day, the Democratic Party's propaganda was to push voters to vote by mail and to vote early. Democratic candidates used the fear of the current pandemic to promote this agenda—an agenda that would benefit Democratic

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voting with little proven incidence of fraud" with "mail-in voting, which the record shows is far more vulnerable to fraud").

<sup>203</sup> See Expert Report of John McLaughlin, Appendix 1135-1146.

<sup>204</sup> Affidavit of Christine Muise, Appendix 880-886 at ¶2, Ex A.

Party candidates. For example, on September 14, 2020, the Democratic National Committee announced the following:

Today Biden for President and the Democratic National Committee are announcing new features on IWillVote.com—the DNC’s voter participation website—that will help voters easily request and return their ballot by mail, as well as learn important information about the voting process in their state as they make their plan to vote.

Previously, an individual could use the site to check or update their registration and find voting locations. Now the new user experience will also guide a voter through their best voting-by-mail option . . . .<sup>205</sup>

According to the Associated Press:

“We have to make it easier for everybody to be able to vote, particularly if we are still basically in the kind of lockdown circumstances we are in now,” Biden told about 650 donors. “But that takes a lot of money, and it’s going to require us to provide money for states and insist they provide mail-in ballots.”<sup>206</sup>

315. Based on Michigan voters’ allegations, similar statements were repeatedly publicly on the Secretary of State’s website:

Voters are encouraged to vote at home with an absentee ballot and to return their ballot as early as possible by drop box, in person at their city or township clerk’s office, or well in advance of the election by mail.<sup>207</sup>

316. The Michigan Legislature set forth detailed requirements for absentee ballots, and these requirements are necessary to prevent voter fraud because it is far easier to commit fraud via an absentee ballot than when voting in person.<sup>208</sup> Michigan law plainly limits the ways you may get an absentee ballot:

(1) Subject to section 761(3), at any time during the 75 days before a primary or special primary, but not later than 8 p.m. on the day of a primary or special primary, *an elector may apply for an absent voter ballot. The elector shall apply in person or by mail* with the clerk of

<sup>205</sup> (available at <https://democrats.org/news/biden-for-president-dnc-announce-new-vote-by-mail-features-on-iwillvote-com/> (last visited Dec. 21, 2020)).

<sup>206</sup> (available at <https://apnews.com/article/6cf3ca7d5a174f2f381636cb4706f505> (last visited Nov. 17, 2020)).

<sup>207</sup> [https://www.michigan.gov/sos/0,4670,7-127-1633\\_101996---,00.html](https://www.michigan.gov/sos/0,4670,7-127-1633_101996---,00.html) (emphasis added).

<sup>208</sup> See, e.g., *Griffin v Roupas*, 385 F3d 1128, 1130-31 (CA7, 2004) (“Voting fraud is a serious problem in U.S. elections generally . . . and it is facilitated by absentee voting”).

the township or city in which the elector is registered. The clerk of a city or township shall not send by first-class mail an absent voter ballot to an elector after 5 p.m. on the Friday immediately before the election. Except as otherwise provided in section 761(2), the clerk of a city or township shall not issue an absent voter ballot to a registered elector in that city or township after 4 p.m. on the day before the election. An application received before a primary or special primary may be for either that primary only, or for that primary and the election that follows. An individual may submit a voter registration application and an absent voter ballot application at the same time if applying in person with the clerk or deputy clerk of the city or township in which the individual resides. Immediately after his or her voter registration application and absent voter ballot application are approved by the clerk or deputy clerk, the individual may, subject to the identification requirement in section 761(6), complete an absent voter ballot at the clerk's office.

(2) Except as otherwise provided in subsection (1) and subject to section 761(3), at any time during the 75 days before an election, but not later than 8 p.m. on the day of an election, an elector may apply for an absent voter ballot. *The elector shall apply in person or by mail with the clerk of the township, city, or village in which the voter is registered.* The clerk of a city or township shall not send by first-class mail an absent voter ballot to an elector after 5 p.m. on the Friday immediately before the election. Except as otherwise provided in section 761(2), the clerk of a city or township shall not issue an absent voter ballot to a registered elector in that city or township after 4 p.m. on the day before the election. An individual may submit a voter registration application and an absent voter ballot application at the same time if applying in person with the clerk or deputy clerk of the city or township in which the individual resides. Immediately after his or her voter registration application and absent voter ballot application are approved by the clerk, the individual may, subject to the identification requirement in section 761(6), complete an absent voter ballot at the clerk's office.

(3) An application for an absent voter ballot under this section may be made in any of the following ways:

- (a) By a written request signed by the voter.
- (b) On an absent voter ballot application form provided for that purpose by the clerk of the city or township.
- (c) On a federal postcard application.

(4) An applicant for an absent voter ballot shall sign the application. Subject to section 761(2), a clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A person shall not be in possession of a signed absent voter ballot application except for the applicant; a member of the applicant's immediate family; a person residing in the applicant's household; a person whose job normally includes the handling of mail, but only during the course of his or her employment; a registered elector requested by the applicant to return the application; or a clerk, assistant of the clerk, or other authorized election official. A registered elector who is requested by the applicant to return his or her absent voter ballot application shall sign the certificate on the absent voter ballot application.

(5) 'The clerk of a city or township shall have absent voter ballot application forms *available in the clerk's office* at all times and shall furnish an absent voter ballot application form to anyone *upon a verbal or written request*.'<sup>209</sup>

317. Based on Michigan voters' allegations, the Secretary of State sent *unsolicited* absentee ballot applications to every household in Michigan with a registered voter, no matter if the voter was still alive or lived at that address.

318. Based on Michigan voters' allegations, the Secretary of State also sent absentee ballot requests to non-residents who were temporarily living in Michigan, such as out-of-state students who are unregistered to vote in Michigan.

319. Based on Michigan voters' allegations, in many instances, the Secretary of State's absentee ballot scheme led to the Secretary of State sending ballot requests to individuals who did *not* request them.<sup>210</sup>

**m. Michigan Voters Allege that Expert Analysis of these Statutory Violations Reveals Widespread Inaccuracies and Loss of Election Integrity.**

320. Data analyst Matthew Braynard analyzed the State's database for the Election and related data sets, including its own call center results.<sup>211</sup>

321. Dr. Zhang, a statistician, analyzed the data to extrapolate the datasets statewide.<sup>212</sup>

**n. Unlawful unsolicited ballots cast in General Election**

322. Braynard opined to a reasonable degree of scientific certainty that out of the 3,507,410 individuals who the State's database identifies as applying for and the State sending an

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<sup>209</sup> MCL 168.759 (emphasis added).

<sup>210</sup> See Affidavit of Christine Muise, Appendix 880-885 at ¶¶3. Affidavit of Rena M. Lindevaldesen, Appendix 1001-1005 at ¶¶1,3 and 1002 ¶5.

<sup>211</sup> See, generally, Expert Report of Matthew Braynard, Appendix 1112-1122.

<sup>212</sup> See, generally, Expert Report of Dr. Quanying "Jennie" Zhang, Appendix 1123-1134.

absentee ballot, that in his sample of this universe, 12.23% of those absentee voters that did not request an absentee ballot to the clerk's office.<sup>213</sup>

323. These data extrapolate with 99% confidence interval that between 326,460 and 531,467 of the absentee ballots the State issued that were counted were not requested by an eligible State voter (unsolicited).<sup>214</sup>

**o. Unsolicited ballots not cast in General Election**

324. Out of the 139,190 individuals who the State's database identifies as having not requested (unsolicited) and not returned an absentee ballot, 24.14% of these absentee voters in the State did not request an absentee ballot.<sup>215</sup>

325. These data extrapolate with 99% confidence interval that between 28,932 and 38,409 of the absentee ballots the State issued were not requested by an eligible State voter (unsolicited).<sup>216</sup>

326. Using the most conservative boundary, taken together, these data suggest Michigan election officials violated Michigan Election Law by sending unsolicited ballots to at least 355,392 people.<sup>217</sup>

**p. Absentee ballots were also cast but not properly counted (improperly destroyed or spoiled)**

327. Out of the 139,190 individuals who the State's database identifies as having not returned an absentee ballot, 22.95% of those absentee voters did in fact mail back an absentee ballot to the clerk's office.<sup>218</sup>

328. This suggests many ballots were destroyed or not counted.

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<sup>213</sup> See Expert Report of Matthew Braynard, Appendix 1112-1122 at ¶1.

<sup>214</sup> Expert Report of Dr. Quanying "Jennie" Zhang, Appendix 1123-1134 at ¶1.

<sup>215</sup> See Expert Report of Matthew Braynard, Appendix 1112-1122 at ¶2.

<sup>216</sup> Expert Report of Dr. Quanying "Jennie" Zhang, Appendix 1123-1134 at ¶2.

<sup>217</sup> *Id.* See also, Affidavit of Sandra Sue Workman, Appendix 1028-1032 at ¶28.

<sup>218</sup> See Expert Report of Matthew Braynard, Appendix 1112-1122 at ¶3.

329. These data extrapolate with 99% confidence interval that between 29,682 and 39,048 of absentee ballots that voters returned but were not counted in the State's official records.<sup>219</sup>

330. Out of the 51,302 individuals that had changed their address before the election who the State's database shows as having voted, 1.38% of those individuals denied casting a ballot.<sup>220</sup>

331. This suggests that bad actors exploited election officials' unlawful practice of sending unsolicited ballots and improperly harvested ballots on a widespread scale.

332. Indeed, by not following the anti-fraud measures mandated by the Michigan Legislature, the Secretary of State's absentee ballot scheme invited the improper use of absentee ballots and promoted such unlawful practices as ballot harvesting.<sup>221</sup>

333. Using the State's databases, the databases of the several states, and the NCOA database, at least 13,248 absentee or early voters were not residents of Michigan when they voted.<sup>222</sup>

334. Of absentee voters surveyed and when comparing databases of the several states, at least 317 individuals in Michigan voted in more than one state.<sup>223</sup>

**q. Election officials ignored other statutory signature requirements**

335. The Secretary of State also sent ballots to people who requested ballots online, but failed to sign the request.<sup>224</sup>

336. As of October 7, 2020, Brater admits sending at least 74,000 absentee ballots without a signed request as mandated by the Michigan Legislature.<sup>225</sup>

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<sup>219</sup> Expert Report of Dr. Quanying "Jennie" Zhang, Appendix 1123-1134 at ¶3.

<sup>220</sup> *Id.* at ¶4.

<sup>221</sup> *See* Affidavit of Rhonda Weber, Appendix 877-879 at ¶7.

<sup>222</sup> *See* Expert Report of Matthew Braynard, Appendix 1112-1122 at ¶5.

<sup>223</sup> *See* Expert Report of Matthew Braynard, Appendix 1112-1122 at ¶6.

<sup>224</sup> *See* adverse Affidavit of Jonathan Brater, Head of Elections Appendix 1147-1151 at ¶10.

<sup>225</sup> *Id.*

337. By the Election, we must infer that the actual number of illegal ballots sent was much higher.

338. According to state records, another 35,109 absentee votes counted by Benson listed no address.<sup>226</sup>

339. As a result of the absentee ballot scheme, the Secretary of State improperly flooded the election process with absentee ballots, many of which were fraudulent.

340. The Secretary of State's absentee ballot scheme violated the checks and balances put in place by the Michigan Legislature to ensure the integrity and purity of the absentee ballot process and thus the integrity and purity of the 2020 general election.<sup>227</sup>

341. Without limitation, according to state records, 3,373 votes counted in Michigan were ostensibly from voters 100 years old or older.<sup>228</sup>

342. According to census data, however, there are only about 1,747 centenarians in Michigan,<sup>229</sup> and of those, we cannot assume a 100% voting rate.<sup>230</sup>

343. According to state records, at least 259 absentee ballots counted listed their official address as "email" or "accessible by email," which are unlawful *per se* and suggests improper ballot harvesting.<sup>231</sup>

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<sup>226</sup> See Braynard Report, *supra*.

<sup>227</sup> See, generally, Affidavits of Lucille Ann Huizinga, Appendix 1016-1020 at ¶¶31; Laurie Ann Knott, Appendix 1010-1015 at ¶¶34-35; Marilyn Jean Nowak Appendix 1021-1023 at ¶17; Marlene K. Hager, Appendix 1024-1027 at ¶¶19-23; and Sandra Sue Workman Appendix 1028-1032 at ¶33.

<sup>228</sup> See Braynard, *supra*.

<sup>229</sup> Based on the US Census, 0.0175 percent of Michigan's population is 100 years or older (1,729 centenarians of the total of 9,883,640 people in Michigan in 2010). Census officials estimated Michigan's population at 9,986,857 as of July 2019, which puts the total centenarians at 1,747 or fewer. Source:

<https://www.census.gov/content/dam/Census/library/publications/2012/dec/c2010sr-03.pdf>

<sup>230</sup> See McLaughlin, *supra*.

<sup>231</sup> See Braynard, *supra*.

344. According to state records, at least 109 people voted absentee from the Center for Forensic Psychiatry at 8303 PLATT RD, SALINE, MI 48176 (not necessarily ineligible felons, but the State does house the criminally insane at this location), which implies improper ballot harvesting.

345. According to state records, at least 63 people voted absentee at PO BOX 48531, OAK PARK, MI 48237, which is registered to a professional guardian and implies improper ballot harvesting.

346. When compared against the national social security and deceased databases, at least 9 absentee voters in Michigan are confirmed dead as of Election Day, which invalidates those unlawful votes.<sup>232</sup>

347. Taken together, these irregularities far exceed common sense requirements for ensuring accuracy and integrity.

**r. Election officials did not fix other recent errors or serious irregularities either.**

348. These are the same types of serious concerns raised by the Michigan Auditor General in December 2019.<sup>233</sup>

349. The Auditor General specifically found several violations of MCL 168.492:

- i. 2,212 Electors voted more than once;
- ii. 230 voters were over 122 years old;<sup>234</sup> *Id.*
- iii. Unauthorized users had access to QVF; *Id.*; and
- iv. Clerk and Elected Officials had not completed required training.<sup>235</sup>

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<sup>232</sup> See Braynard, *supra*.

<sup>233</sup> Appendix 1039-1078.

<sup>234</sup> The oldest living person confirmed by the *Guinness Book of World Records* is 117 years old and she lives in Japan, not Michigan.

<sup>235</sup> *Id.*



350. The Auditor General found election officials had not completed required training to obtain or retain accreditation in 14% of counties, 14% of cities, and 23% of townships.<sup>236</sup>

351. The Auditor General found 32 counties, 83 cities, and 426 townships where the clerk had not completed initial accreditation training or, if already accredited, all continuing education training as required by law.<sup>237</sup>

352. The Auditor General found 12 counties, 38 cities, and 290 townships where the clerk had not completed the initial accreditation or continuing education training requirements and no other local election official had achieved full accreditation.<sup>238</sup>

353. Not only were the Auditor General's red flags ignored by Benson, but she arguably made them worse through her absentee ballot scheme.

354. This not only suggests malfeasance, but the scheme precipitated and revealed manifest fraud and exploitation at a level Michigan has never before encountered in its elections.

355. The abuses permitted by the Secretary of State's ballot scheme were on display at the TCF Center, and elsewhere throughout the State.

356. Because this absentee ballot scheme applied statewide, it undermined the integrity and purity of the general election statewide, and it dilutes the lawful votes of millions of Michigan voters.

**s. Michigan Voters Allege Flooding Local Election Officials with Private Money**

357. Based on Michigan voters' allegations, inappropriate secrecy and lack of transparency began months before Election Day with an unprecedented and orchestrated infusion of hundreds of millions of dollars into local governments nationwide.

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<sup>236</sup> *Id.*

<sup>237</sup> *Id.*

<sup>238</sup> *Id.*

358. Based on Michigan voters' allegations, more than \$9.8 million in private money was poured into Michigan to create an unfair, two-tier election system in Michigan.<sup>239</sup>

359. Based on Michigan voters' allegations, the 2020 election saw the evisceration of state statutes designed to treat voters equally, thereby causing disparate treatment of voters and thus violating the constitutional rights of millions of Michiganders and Americans citizens.

360. Based on Michigan voters' allegations, to date, investigations have uncovered more than \$400 million funneled through a collection of non-profits directly to local government coffers nationwide dictating to these local governments how they should manage the election, often contrary to state law.<sup>240</sup>

361. Based on Michigan voters' allegations, these funds were mainly used to: 1) pay "ballot harvesters" bounties, 2) fund mobile ballot pick up units, 3) deputize and pay political activists to manage ballots; 4) pay poll workers and election judges (a/k/a inspectors or adjudicators); 5) establish drop-boxes and satellite offices; 6) pay local election officials and agents "hazard pay" to recruit cities recognized as Democratic Party strongholds to recruit other cities to apply for grants from non-profits; 7) consolidate AVCBs and counting centers to facilitate the movement of hundreds of thousands of questionable ballots in secrecy without legally required bi-partisan observation; 8) implement a two-tier ballot "curing" plan that unlawfully counted ballots in Democrat Party strongholds and spoiled similarly situated ballots in Republican Party areas; and 9) subsidized and designed a scheme to remove the poll watchers from one political party so that the critical responsibility of determining the accuracy of the ballot and the integrity of the count could be done without oversight.

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<sup>239</sup> See Carlson Report, *supra*.

<sup>240</sup> See Carlson Report, *supra*.

362. The Help America Vote Act of 2002 (HAVA) controls how money is spent under federal law. See 42 USC 15301, *et seq*; see also, MCL 168.18. In turn, Congress used HAVA to create the non-regulatory Election Assistance Commission (EAC), which was delegated the responsibility of providing information, training standards, and funding management to states. The mechanism for administrating HAVA is legislatively adopted state HAVA Plans.

363. Michigan's HAVA Plan is undisputed.<sup>241</sup>

364. Based on Michigan voters' allegations, these private funds exceeded the federal government's March 2020 appropriation under HAVA and CARES Acts to help local governments manage the general election during the pandemic.

365. Based on Michigan voters' allegations, as these unmonitored funds flowed through the pipeline directly to hand-picked cities, the outlines of two-tiered treatment of the American voter began to take place. Local governments in Democrat Party strongholds were flush with cash to launch public-private coordinated voter registration drives allowing private access directly to government voter registration files, access to early voting opportunities, the provision of incentives such as food, entertainment, and gifts for early voters, and the off-site collection of ballots. Outside the urban core and immediate suburbs, unbiased election officials were unable to start such efforts for lack of funding.

366. Based on Michigan voters' allegations, difficult to trace private firms funded this scheme through private grants, which dictated methods and procedures to local election officials and where the grantors retained the right to "claw-back" all funds if election officials failed to reach privately set benchmarks—thus entangling the private-public partnership in ways that demand transparency—yet none has been given.

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<sup>241</sup> See Certified Michigan HAVA State Plan of 2003, Terri Lynn Land Secretary, FR Vol. 69. No. 57 March 24 2004.

367. Based on Michigan voters' allegations, the state officials implicated, and the private interests involved, have refused repeated demands for the release of communications outlining the rationale and plan behind spending more than \$400 million provided directly to various election officials before the 2020 general election.

368. Based on Michigan voters' allegations, these funds greased the skids of Democrat-heavy areas violating mandates of the Michigan Legislature, the Michigan HAVA Plan, the dictates of Congress under HAVA, and equal protection and Separation of Powers demanded under the United States Constitution.

369. Based on Michigan voters' allegations, in Michigan specifically, CTCL had awarded eleven grants as of the time of this survey. CTCL funded cities were:

- i. Detroit (\$3,512,000);
- ii. Lansing (\$443,742);
- iii. East Lansing (\$43,850);
- iv. Flint (\$475,625);
- v. Ann Arbor (\$417,000);
- vi. Muskegon (\$433,580);
- vii. Pontiac (\$405,564);
- viii. Romulus (\$16,645);
- ix. Kalamazoo (\$218,869); and
- x. Saginaw (\$402,878).<sup>242</sup>

370. In the 2016 election, then candidate Donald Trump only won Saginaw; then candidate Hillary Clinton won the remaining cities.

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<sup>242</sup> See Expert Report of James Carlson, Appendix 1079-1111. (last updated November 25, 2020).

371. Based on Michigan voters' allegations, in 2020, CTCL funneled \$9,451,235 (95.7%) to the ten jurisdictions where candidate Clinton won and only \$402,878 (4.3%) to where candidate Trump won.<sup>243</sup>

**t. Michigan Voters Allege Unacceptable Antrim County Machine Error Rate.**

372. Based on Michigan voters' allegations, Antrim County, Michigan, reported errors arising from the November 3, 2020 election.

373. Based on Michigan voters' allegations, a report regarding Antrim County, Michigan, alleges that Dominion Voting Systems, the election technology used by Antrim County and elsewhere, "is intentionally and purposefully designed with inherent errors to create systemic fraud and influence election results." It's unclear how Allied Security Operations Group (ASOG) reached this conclusion, however.<sup>244</sup>

374. Based on Michigan voters' allegations, likewise, the report, authored by Russell James Ramsland, Jr., who is part of ASOG's management team, says the group found an "error rate" of 68% when examining "the tabulation log" of the server for Antrim County. It's also unclear what the "error rate" data refers to specifically and how it impacts the results.<sup>245</sup>

375. Based on Michigan voters' allegations, "The results of the Antrim County 2020 election are not certifiable," Ramsland wrote. "This is a result of machine and/or software error, not human error."<sup>246</sup>

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<sup>243</sup> *Id.*

<sup>244</sup> See Expert Report of Russell J. Ramsland, Jr., *Appendix* 1146-1168. See Expert Opinion of Anthony J. Couchenor, *Appendix* 42-47. See Expert Opinion of Dr. Navid Keshavarz-Nia, *Appendix* 119-128.

<sup>245</sup> *Id.*

<sup>246</sup> See Ramsland Report, *Appendix* pg. 2 ¶ 7.

**u. Michigan Voters Allege Absentee Ballot Errors.**

376. As mentioned above, the Braynard-Zhang analysis, in Michigan, based on the government data shows election officials' absentee ballot errors of 548,016 far exceed the margin of victory of 148,152.

377. The Braynard-Zhang analysis of the government data shows election officials' absentee ballot error rate of at least 6.05% which far exceeds federal law's pre-election certification error rate for voting systems' hardware and software of 0.0008%.<sup>247</sup>

Michigan Voter Election Contest		
Michigan Margin +148,152		
Type*	Description	Margin
1) Unlawful Ballots	Unsolicited Ballots <sup>248</sup>	355,392
Category 1	Error Rate (Based on Total Votes)	6.05%
2) Illegal Votes Counted	Estimate of ballots requested in the name of a registered voter. Registered Voter did not request ballot	27,825
3) Legal Votes Not Counted	Estimate of ballots that the requester returned but were not counted <sup>249</sup>	29,682
Category 2 and 3 <sup>250</sup>		
Total Votes: 53,968	Error Rate (Based on Total Votes)	0.97%
4) Illegal Votes Counted	Electors with no address. <sup>251</sup>	35,109
5) Illegal Votes Counted		259

<sup>247</sup> See Expert Report of Dennis Nathan Cain (III), *Appendix* 1433-1445.

<sup>248</sup> The number of unsolicited ballots come from the combination of 326,460 absentee ballots issued by the State but not requested by an eligible State voter and the 28,932 absentee ballots the State claims were not returned but who claim they in fact mailed their absentee ballot back. Both of these numbers are the conservative end of Dr. Zhang's 99% confidence interval. Expert Report of Dr. Quanying "Jennie" Zhang, *Appendix* 1123-1134 at ¶2-3.

<sup>249</sup> Expert Report of Dr. Quanying "Jennie" Zhang, *Appendix* 1123-1134 at ¶3.

<sup>250</sup> Categories 2 and 3 are mutually exclusive.

<sup>251</sup> See Expert Report of Matthew Braynard, *Appendix* 1112-1122.

6) Unlawful Ballots	Electors voted listing email only <sup>252</sup> No signature required to obtain ballot <sup>253</sup>	74,000
7) Illegal Votes Counted	Absentee or Early Voters Not Residents when they voted <sup>254</sup>	13,248
8) Illegal Votes Counted	Double Votes (Voted in multiple states) <sup>255</sup>	317
TOTAL		548,016
Of total votes cast in MI: 5,547,053		

**4. State of Wisconsin voters allege election official errors and improprieties which exceed the Presidential vote margin.<sup>256</sup>**

378. State of Wisconsin voters allege election official errors and improprieties which exceed the Presidential vote margin.

376. Wisconsin has 10 electoral votes, with a statewide vote tally currently estimated at 1,610,151 for President Trump and 1,630,716 for former Vice President Biden (*i.e.*, a margin of 20,565 votes). In two counties, Milwaukee and Dane, Mr. Biden's margin (364,298 votes) significantly exceeds his statewide lead.

379. In the 2016 general election some 146,932 mail-in ballots were returned in Wisconsin out of more than 3 million votes cast. In stark contrast, 1,275,019 mail-in ballots, nearly a 900 percent increase over 2016, were returned in the November 3, 2020 election.

380. Based on Wisconsin voters' allegations, on November 30, 2020, Governor Tony Evers certified Joe Biden's victory in Wisconsin in a Certificate of Ascertainment, soon after he received a certification from Ann Jacobs, chairwoman of the Wisconsin Election Commission.

<sup>252</sup> See Expert Report of Matthew Braynard, Appendix 1112-1122.

<sup>253</sup> See Declaration of Jonathan Brater, Appendix 1147-1151 at ¶ 10.

<sup>254</sup> See Expert Report of Matthew Braynard, Appendix 1112-1122 at ¶ 5.

<sup>255</sup> See Expert Report of Matthew Braynard, Appendix 1112-1122 at ¶ 6.

<sup>256</sup> For full extent of inappropriate activities See Timeline of Electoral Policy Activities, Issues, and Litigation Pennsylvania, Michigan, Wisconsin, Georgia, Arizona, and Nevada August 2003 to November 2020, *Appendix 1-20*.

Jacobs signed a statement of canvass to confirm who won the election. The Wisconsin Election Commission was due to meet on Tuesday, December 1, 2020. Republican Commissioners Dean Knudson had requested that Jacobs wait until Tuesday, when the Commission was to meet, to determine the results, the statutory deadline.<sup>257</sup>

381. Based on Wisconsin voters' allegations, by certifying the election on her own, Jacobs usurped power that belongs to the Wisconsin Election Commission. Wisconsin Statutes § 7.70 sets forth the proper procedure for certifying Wisconsin's election results. The chairperson is required to examine the certified statements of the county board of canvassers, and obtain input from the county boards if it appears material mistakes have been made. Thereafter, under § 7.70(3)(d), the chairperson is to "examine and make a statement of the total number of votes cast at any election for the offices involved in the election for president and vice president..." Under § 7.70(3)(f), these statements are to show the "persons' names receiving votes" and "the whole number of votes given to each...." § 7.70(3)(g) states that following "each other election [other than a primary election] the chairperson of the commission or the chairperson's designee shall prepare a statement certifying the results of the election and shall attach to the statement a certificate of determination which shall indicate the names of persons who have been elected to any state or national office .... The chairperson of the commission or the chairperson's designee shall deliver each statement and determination to the commission."<sup>258</sup>

382. Based on Wisconsin voters' allegations, Wisconsin Statutes § 7.70(5)(b) states what is supposed to come next in a presidential election. "For presidential electors, *the commission* shall prepare a certificate showing the determination of the results of the canvass and the names of the

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<sup>257</sup> See Supplement to Emergency Petition, *Appendix* 384-396. See Also Wisconsin Elections Committee Letter, *Appendix* 1469-1470.

<sup>258</sup> See Wisconsin Finance Committee E-mails and Wisconsin Republican Presidential Elector Signatures, *Appendix* 1473-1476.



persons elected, and the governor shall sign, affix the great seal of the state, and transmit the certificate by registered mail to the U.S. administrator of general services. The governor shall also prepare 6 duplicate originals of such certificate and deliver them to one of the presidential electors on or before the first Monday after the 2nd Wednesday in December.” (emphasis supplied).

383. Based on Wisconsin voters’ allegations, as set forth clearly in the statute, Wisconsin law requires the chairperson of the commission to prepare a certificate of the votes received by each candidate in the presidential election, and transmit these results to the commission. Thereafter, the commission is required to prepare a certificate showing the names of the persons elected, and transmit this certificate to the governor. Only then is the governor authorized to transmit this certificate to the U.S. administrator of general services.

384. Based on Wisconsin voters’ allegations, Chairwoman Jacobs certified these results, without authority, before the Wisconsin Election Commission meeting, in an attempt to bypass the Wisconsin Election Commission, who had a lawful duty to examine and certify the results for themselves. Chairwoman Jacobs’ certification is a usurpation of the statutory authority of the Wisconsin Election Commission. Furthermore, the Governor’s Certificate of Ascertainment, based on Chairwoman Jacobs’ certification, rather than the lawful certification of the Commission, is a usurpation of authority, and is legally null and void.

385. Further, based on Wisconsin voters’ allegations, Wisconsin statutes guard against fraud in absentee ballots: “[V]oting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place. The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for fraud or abuse[.]”<sup>259</sup>

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<sup>259</sup> Wis. Stat. § 6.84(1).

386. Based on Wisconsin voters' allegations, in direct contravention of Wisconsin law, leading up to the 2020 general election, the Wisconsin Elections Commission ("WEC") and other local officials unconstitutionally modified Wisconsin election laws—each time taking steps that weakened, or did away with, established security procedures put in place by the Wisconsin legislature to ensure absentee ballot integrity.<sup>260</sup>

387. Based on Wisconsin voters' allegations, for example, the WEC undertook a campaign to position hundreds of drop boxes to collect absentee ballots—including the use of unmanned drop boxes.

388. Based on Wisconsin voters' allegations, the mayors of Wisconsin's five largest cities—Green Bay, Kenosha, Madison, Milwaukee, and Racine, which all have Democrat majorities—joined in this effort, and together, developed a plan use purportedly "secure drop-boxes to facilitate return of absentee ballots." Wisconsin Safe Voting Plan 2020, at 4 (June 15, 2020).<sup>261</sup>

389. Based on Wisconsin voters' allegations, it was alleged in an action filed in United States District Court for the Eastern District of Wisconsin that over five hundred unmanned, illegal, absentee ballot drop boxes were used in the Presidential election in Wisconsin.

390. Based on Wisconsin voters' allegations, however, the use of any drop box, manned or unmanned, is directly prohibited by Wisconsin statute. The Wisconsin legislature specifically described in the Election Code "Alternate absentee ballot site[s]" and detailed the procedure by which the governing body of a municipality may designate a site or sites for the delivery of absentee ballots "other than the office of the municipal clerk or board of election commissioners as the

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<sup>260</sup> See *Appendix* 201-269; 378-383.

<sup>261</sup> See *Appendix* pgs. 270-290; 291-346.

location from which electors of the municipality may request and vote absentee ballots and to which voted absentee ballots shall be returned by electors for any election.”<sup>262</sup>

391. Based on Wisconsin voters’ allegations, any alternate absentee ballot site “shall be staffed by the municipal clerk or the executive director of the board of election commissioners, or employees of the clerk or the board of election commissioners.”<sup>263</sup> Likewise, Wis.Stat. 7.15(2m) provides, “[i]n a municipality in which the governing body has elected to establish an alternate absentee ballot site under s. 6.855, the municipal clerk shall operate such site as though it were his or her office for absentee ballot purposes and shall ensure that such site is adequately staffed.”

392. Based on Wisconsin voters’ allegations, thus, the unmanned absentee ballot drop-off sites are prohibited by the Wisconsin Legislature as they do not comply with Wisconsin law expressly defining “[a]lternate absentee ballot site[s].”<sup>264</sup>

393. Based on Wisconsin voters’ allegations, in addition, the use of drop boxes for the collection of absentee ballots, positioned predominantly in Wisconsin’s largest cities, is directly contrary to Wisconsin law providing that absentee ballots may only be “mailed by the elector, or delivered *in person* to the municipal clerk issuing the ballot or ballots.”<sup>265</sup>

394. Based on Wisconsin voters’ allegations, The fact that other methods of delivering absentee ballots, such as through unmanned drop boxes, are *not* permitted is underscored by Wis. Stat. § 6.87(6) which mandates that, “[a]ny ballot not mailed or delivered as provided in this subsection may not be counted.” Likewise, Wis. Stat. § 6.84(2) underscores this point, providing that Wis. Stat. § 6.87(6) “shall be construed as mandatory.” The provision continues—“Ballots cast in contravention of the procedures specified in those provisions may not be counted. *Ballots counted in*

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<sup>262</sup> Wis. Stat. 6.855(1).

<sup>263</sup> Wis. Stat. 6.855(3).

<sup>264</sup> Wis. Stat. 6.855(1), (3).

<sup>265</sup> Wis. Stat. § 6.87(4)(b)1 (emphasis added).

*contravention of the procedures specified in those provisions may not be included in the certified result of any election.*”<sup>266</sup>

395. Based on Wisconsin voters’ allegations, as a result of the Zuckerberg-funded absentee drop boxes, the Milwaukee County and Dane County had 1 drop box for every 30.7 square miles. But, the rest of Wisconsin had 1 drop box for every 145 square miles. Wisconsin localities provided approximately 514 ballot drop boxes leading up to the 2020 election.<sup>267</sup>

396. In 2016, Hillary Clinton received 1,382,536 votes in Wisconsin.<sup>268</sup> Of those 1.3M votes, Milwaukee and Dane Counties accounted for 506,519<sup>269</sup> of Clinton’s votes.<sup>270</sup>

397. Wisconsin is a total of 65,498 square miles. Milwaukee and Dane Counties represent a combined 2,427 square miles. These two counties received about one-sixth of the total number of ballot drop boxes with 79 boxes. Milwaukee received 25 drop boxes, while Dane County (Madison) had 54 drop boxes.<sup>271</sup> This left the rest of the state with 435 ballot drop boxes.<sup>272</sup>

398. Voters in Hillary Clinton’s two largest counties: Milwaukee and Dane, where she received 506,519 votes, received 79 drop boxes spread out over a combined 2,427 square miles, or 1 drop box for every 30.7 square miles. Meanwhile, voters in the rest of the state received 435 drop

<sup>266</sup> Wis. Stat. § 6.84(2) (emphasis added).

<sup>267</sup> <https://www.wisconsinwatch.org/2020/10/wisconsin-absentee-ballot-drop-box-search/>. See Expert Declaration of Dennis Nathan Cain (II), *Appendix* 60-68. See Also *Appendix* 353-377.

<sup>268</sup> <https://www.nytimes.com/elections/2016/results/wisconsin-president-clinton-trump>

<sup>269</sup> <https://www.nytimes.com/elections/2016/results/wisconsin-president-clinton-trump>

<sup>270</sup> The next eight largest Wisconsin counties gave Hillary Clinton an additional 346,352 votes. <https://www.nytimes.com/elections/2016/results/wisconsin-president-clinton-trump> Waukesha (Milwaukee area) had 5 drop boxes, Brown County (Green Bay) had 13 drop boxes, 13 in Racine, Outagamie 5, Winnebago 5, Kenosha 8, Rock 26, Marathon 10.<sup>270</sup>

Wisconsin has sixteen counties with over 100k residents: Milwaukee, Dane (Madison), Waukesha, Brown (Green Bay), Racine, Outagamie, Winnebago, Kenosha, Rock, Washington, Marathon, La Crosse, Sheboygan, Eau Claire, Walworth, Fond du Lac.<sup>270</sup>

<sup>271</sup> <https://www.wisconsinwatch.org/2020/10/wisconsin-absentee-ballot-drop-box-search/>

<sup>272</sup> 514-79 = 435

boxes to cover 63,071 square miles, meaning that the rest of Wisconsin had a single drop box for every 145 square miles.

399. Based on Wisconsin voters' allegations, these were not the only Wisconsin election laws that the WEC violated in the 2020 general election. The WEC and local election officials also took it upon themselves to encourage voters to unlawfully declare themselves "indefinitely confined"—which under Wisconsin law allows the voter to avoid security measures like signature verification and photo ID requirements.

400. Specifically, registering to vote by absentee ballot requires photo identification, except for those who register as "indefinitely confined" or "hospitalized."<sup>273</sup> Registering for indefinite confinement requires certifying confinement "because of age, physical illness or infirmity or [because the voter] is disabled for an indefinite period."<sup>274</sup> Should indefinite confinement cease, the voter must notify the county clerk,<sup>275</sup> who must remove the voter from indefinite-confinement status.<sup>276</sup>

401. Wisconsin election procedures for voting absentee based on indefinite confinement enable the voter to avoid the photo ID requirement and signature requirement.<sup>277</sup>

402. Based on Wisconsin voters' allegations, on March 25, 2020, in clear violation of Wisconsin law, Dane County Clerk Scott McDonnell and Milwaukee County Clerk George Christensen both issued guidance indicating that all voters should mark themselves as "indefinitely confined" because of the COVID-19 pandemic.<sup>278</sup>

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<sup>273</sup> Wis. Stat. § 6.86(2)(a), (3)(a).

<sup>274</sup> *Id.* § 6.86(2)(a).

<sup>275</sup> *Id.*

<sup>276</sup> *Id.* § 6.86(2)(b).

<sup>277</sup> *Id.* § 6.86(1)(ag)/(3)(a)(2).

<sup>278</sup> See Appendix pgs. 347-349.

403. Based on Wisconsin voters' allegations, believing this to be an attempt to circumvent Wisconsin's strict voter ID laws, the Republican Party of Wisconsin petitioned the Wisconsin Supreme Court to intervene. On March 31, 2020, the Wisconsin Supreme Court unanimously confirmed that the clerks' "advice was legally incorrect" and potentially dangerous because "voters may be misled to exercise their right to vote in ways that are inconsistent with WISC. STAT. § 6.86(2)."

404. Based on Wisconsin voters' allegations, on May 13, 2020, the Administrator of WEC issued a directive to the Wisconsin clerks prohibiting removal of voters from the registry for indefinite-confinement status if the voter is no longer "indefinitely confined."

405. Based on Wisconsin voters' allegations, the WEC's directive violated Wisconsin law. Specifically, WISC. STAT. § 6.86(2)(a) specifically provides that "any [indefinitely confined] elector [who] is no longer indefinitely confined ... shall so notify the municipal clerk." WISC. STAT. § 6.86(2)(b) further provides that the municipal clerk "shall remove the name of any other elector from the list upon request of the elector or upon receipt of reliable information that an elector no longer qualifies for the service."

406. Based on Wisconsin voters' allegations, according to statistics kept by the WEC, nearly 216,000 voters said they were indefinitely confined in the 2020 election, nearly a fourfold increase from nearly 57,000 voters in 2016. In Dane and Milwaukee counties, more than 68,000 voters said they were indefinitely confined in 2020, a fourfold increase from the roughly 17,000 indefinitely confined voters in those counties in 2016.

407. Under Wisconsin law, voting by absentee ballot also requires voters to complete a certification, including their address, and have the envelope witnessed by an adult who also must

sign and indicate their address on the envelope.<sup>279</sup> The sole remedy to cure an “improperly completed certificate or [ballot] with no certificate” is for “the clerk [to] return the ballot to the elector[.]”<sup>280</sup> “If a certificate is missing the address of a witness, the ballot *may not be counted*.”<sup>281</sup>

408. Based on Wisconsin voters’ allegations, however, in a training video issued April 1, 2020, the Administrator of the City of Milwaukee Elections Commission unilaterally declared that a “witness address may be written in red and that is because we were able to locate the witnesses’ address for the voter” to add an address missing from the certifications on absentee ballots. The Administrator’s instruction violated WISC. STAT. § 6.87(6d). The WEC issued similar guidance on October 19, 2020, in violation of this statute as well.<sup>282</sup>

409. Based on Wisconsin voters’ allegations, in the Wisconsin Trump Campaign Complaint, it is alleged, supported by the sworn affidavits of poll watchers, that canvas workers carried out this unlawful policy, and acting pursuant to this guidance, in Milwaukee used red-ink pens to alter the certificates on the absentee envelope and then cast and count the absentee ballot. These acts violated WISC. STAT. § 6.87(6d) (“If a certificate is missing the address of a witness, the ballot may not be counted”).<sup>283</sup>

410. Wisconsin’s legislature has not ratified these changes, and its election laws do not include a severability clause.

411. Based on Wisconsin voters’ allegations, in addition, Ethan J. Pease, a box truck delivery driver subcontracted to the U.S. Postal Service (“USPS”) to deliver truckloads of mail-in

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<sup>279</sup> See Wis. Stat. § 6.87.

<sup>280</sup> *Id.* § 6.87(9).

<sup>281</sup> *Id.* § 6.87(6d) (emphasis added).

<sup>282</sup> See Appendix pgs. 350-352.

<sup>283</sup> See also Wis. Stat. § 6.87(9) (“If a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector . . . whenever time permits the elector to correct the defect and return the ballot within the period authorized.”).

ballots to the sorting center in Madison, WI, testified that USPS employees were backdating ballots received after November 3, 2020.<sup>284</sup> Further, Pease testified how a senior USPS employee told him on November 4, 2020 that “[a]n order came down from the Wisconsin/Illinois Chapter of the Postal Service that 100,000 ballots were missing” and how the USPS dispatched employees to “find[] . . . the ballots.”<sup>285</sup> One hundred thousand ballots supposedly “found” after election day would far exceed former Vice President Biden margin of 20,565 votes over President Trump.

412. Finally, in Wisconsin, the Braynard-Zhang analysis of government data shows election officials’ absentee ballot errors of 159,559 far exceed the margin of victory of 20,608.<sup>286</sup>

413. The Braynard-Zhang analysis of government data shows election officials’ absentee ballot error rate of at least 0.89% which far exceeds federal law’s pre-election certification error rate for voting systems’ hardware and software of 0.0008%.<sup>287</sup>

Wisconsin Voter Election Contest Margin +20,608 votes		
Type of error*	Description	Votes
1) Unlawful Ballots	Estimate of the minimum number of absentee ballots requested which were not requested by the person identified in the state’s database <sup>288</sup>	15,423
2) Legal Votes Not Counted	Estimate of ballots that the requester returned but were not counted <sup>289</sup>	13,826
Category 1 & 2 Total Votes: 29,249	Error Rate (Compared to Total Vote)	0.89%

<sup>284</sup> Declaration of Ethan J. Pease, Appendix pgs. 180-182 at ¶¶ 3-13.

<sup>285</sup> *Id.* ¶¶ 8-10.

<sup>286</sup> See Chart and WI Declaration of Matthew Braynard, Appendix pgs. 1384-1395.

<sup>287</sup> See Expert Report of Dennis Nathan Cain (III), *Appendix* 1433-1445.

<sup>288</sup> See WI Zhang Declaration Appendix pgs. 1375-1383 ¶ 1.

<sup>289</sup> See WI Zhang Declaration Appendix pgs. 1375-1383 ¶ 2.



3) Illegal Votes Counted	Electors voted where they did not reside <sup>290</sup>	26,673
4) Illegal Votes Counted	Electors who avoided Wisconsin Voter ID laws by voting absentee as an “indefinitely confined” elector and were not indefinitely confined <sup>291</sup>	96,437
5) Illegal Votes Counted	Out of State Residents Voting in State <sup>292</sup>	6,848
6) Illegal Votes Counted	Double Votes <sup>293</sup>	234
TOTAL		159,559
	Of total votes cast 3,289,946	

\*May overlap.

**5. State of Arizona voters allege election official errors and improprieties which exceed the Presidential vote margin.<sup>294</sup>**

414. State of Michigan voters allege election official errors and improprieties which exceed the Presidential vote margin.

415. Arizona has 11 electoral votes, with a statewide vote tally currently estimated at 1,661,686 for President Trump and 1,672,143 for former Vice President Biden (*i.e.*, a margin of 10,457 votes).

416. Based on Arizona voters’ allegations, there was a disparate impact caused by absentee drop boxes.

417. Arizona is composed of fifteen counties.

<sup>290</sup> See WI Declaration of Matthew Braynard, Appendix pgs. 1384-1395.

<sup>291</sup> See WI Declaration of Matthew Braynard Appendix pgs. 1384-1395 ¶ 5. This number is derived from .4523 \* 213,215

<sup>292</sup> See WI Declaration of Matthew Braynard Appendix pgs. 1384-1395 ¶ 4.

<sup>293</sup> See WI Declaration of Matthew Braynard Appendix pgs. 1384-1395 ¶ 6.

<sup>294</sup> For full extent of inappropriate activities See Timeline of Electoral Policy Activities, Issues, and Litigation Pennsylvania, Michigan, Wisconsin, Georgia, Arizona, and Nevada August 2003 to November 2020, *Appendix* 1-20.

418. The state of Arizona is 113,998 square miles.

419. In 2016, Hillary Clinton received 1,161,167 votes from Arizona.<sup>295</sup> Over half of these votes came from Maricopa County with 702,907 votes in 2016.<sup>296</sup>

420. Based on Wisconsin voters' allegations, this vote-rich area of only 9,224 square miles, was given more drop boxes and early voting centers than the rest of Arizona's 104,764 square miles combined.

421. Maricopa County, only 9,224 square miles, has over 125 vote-by-mail drop boxes available to its citizens, leaving one drop box for every 73 square miles.<sup>297</sup> Conversely, the other fourteen counties had a total of 119 drop boxes and early voting sites combined, meaning every other non-Arizona county combined had one vote-by-mail drop box for every 880 square miles.<sup>298</sup>

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<sup>295</sup> <https://www.nytimes.com/elections/2016/results/arizona>

<sup>296</sup> <https://www.nytimes.com/elections/2016/results/arizona>

<sup>297</sup> <https://www.google.com/maps/d/u/0/viewer?ll=33.361088282128144%2C-112.03699115344182&z=11&mid=1MksFw9pIMM80IE-3WVkJXAr9a2BBizir7>

<sup>298</sup> Coconino Co., 8 drop boxes - <https://www.coconino.az.gov/DocumentCenter/View/36811/Coconino-County-Ballot-Drop-Box-Locations-2020-Primary?bidId=>

- Pinal Co., 7 drop boxes - <https://www.pinalcountyaz.gov/Recorder/Pages/EarlyVoteRegister.aspx>
- Gila Co., 8 drop boxes - [https://www.gilacountyaz.gov/government/recorder/drop\\_off\\_boxes.php](https://www.gilacountyaz.gov/government/recorder/drop_off_boxes.php)
- Pima Co., 14 dropbox/early voting sites - <https://www.recorder.pima.gov/EarlyVotingSites>
- Cochise Co., 5 drop boxes - <https://www.cochise.az.gov/recorder/ballot-box-locations>
- La Paz Co. 1 early voting site - [https://www.parkerpioneer.net/news/article\\_1a2fd0ee-1d4c-11eb-af74-5f2cf0d805cb.html](https://www.parkerpioneer.net/news/article_1a2fd0ee-1d4c-11eb-af74-5f2cf0d805cb.html)
- Maricopa Co., 125+ drop boxes - <https://www.google.com/maps/d/u/0/viewer?ll=33.361088282128144%2C-112.03699115344182&z=11&mid=1MksFw9pIMM80IE-3WVkJXAr9a2BBizir7>
- Mohave Co., 3 early voting sites - <https://mohavedailynews.com/news/11214/early-voting-begins-in-arizona/>
- Graham Co., 5 drop boxes - <https://www.graham.az.gov/314/How-To-Return-Your-Early-Ballot>
- Navajo Co., 16 drop boxes - <https://www.navajocountyaz.gov/Departments/Elections/Voter-Information/Early-Voting-Sites>

422. This strategy worked to benefit Democratic voters at a greater rate than republican voters.

423. In the 2020 November, election Vice-President Biden increased his vote total by almost more than 300,000 votes over Hillary Clinton's 2016 numbers in Maricopa with 1,040,774 votes.

424. Alternatively, President Trump gained only about 150,000 votes.<sup>299</sup>

425. This type of disparate impact by government officials in Maricopa County clearly favored Democratic voters, to the detriment of Republican voters

426. Additionally, in Arizona, the Braynard-Zhang analysis of the government data shows election officials' absentee ballot errors of 371,498 far exceed the margin of victory of 10,457.<sup>300</sup>

427. The Braynard-Zhang government data shows election officials' absentee ballot error rate of at least 10.2% which far exceeds federal law's pre-election certification error rate for voting systems' hardware and software of 0.0008%.<sup>301</sup>

**Arizona Voter Election Contest**  
**Margin +10,457**

<b>Type of error*</b>	<b>Description</b>	<b>Margin</b>
1) Unlawful Ballots	Estimate of the minimum number of absentee ballots requested which were not requested by the person identified in the state's database <sup>302</sup>	214,526
2) Legal	Estimate of ballots that the	

- Maricopa Co. - <https://www.12news.com/article/news/politics/elections/map-ballot-drop-box-maricopa-county-for-november-2020-general-election-list/75-81c64546-9092-4f8e-9531-f9f10e6d1aa8>

- Yavapai Co., 19 drop boxes - <https://www.yavapai.us/electionsvr/early-voting>

<sup>299</sup> <https://www.politico.com/2020-election/results/arizona/>

<sup>300</sup> See Chart and AZ Declaration of Matthew Braynard, Appendix pgs. 1419-1428

<sup>301</sup> See Expert Report of Dennis Nathan Cain (III), *Appendix* 1433-1445.

<sup>302</sup> See AZ Zhang Declaration Appendix pgs. 1396-1405 ¶ 1.

Votes Not Counted	requester returned but were not counted <sup>303</sup>	131,092
<b>Category 1 &amp; 2 Total Votes: 346,618</b>	<b>Error Rate (Compared to Total Vote)</b>	<b>10.2%</b>
3) Illegal Votes Counted*	Electors voted where they did not reside <sup>304</sup>	19,997
4) Illegal Votes Counted*	Out of State Residents Voting in State <sup>305</sup>	5,726
5) Illegal Votes Counted*	Double Votes <sup>306</sup>	157
<b>TOTAL</b>		371,498
	of total votes cast 3,397,388	

\*May overlap

**M. The government data, state-by-state, shows election officials' absentee ballot errors far exceed the margin of victory—and they far exceed the pre-election certification error rate of 0.0008%.**

428. The federal government has a pre-election standard for state voting system's software and hardware.

429. As explained above, this maximum-acceptable error rate is one in 500,000 ballot positions, or, alternatively one in 125,000 ballots—0.0008 %.<sup>307</sup>

430. Based on the Defendant States' voters' allegations, the government data shows Wisconsin, Pennsylvania, Michigan, Georgia and Arizona election officials' absentee ballot errors<sup>308</sup> far exceed the Presidential margins of victory.

<sup>303</sup> See AZ Zhang Declaration Appendix pgs. 1396-1405 ¶ 2.

<sup>304</sup> See AZ Declaration of Matthew Braynard, Appendix pgs. 1419-1428 ¶3.

<sup>305</sup> See AZ Declaration of Matthew Braynard, Appendix pgs. 1419-1428 ¶4.

<sup>306</sup> See AZ Declaration of Matthew Braynard, Appendix pgs. 1419-1428 ¶5.

<sup>307</sup> See Expert Report of Dennis Nathan Cain (III), Appendix 1433-1445.

<sup>308</sup> According to Plaintiffs' analysis, it is possible to have more than one type of error per ballot (e.g., double voting and voting while resident of another state).

431. Based on the Defendant States' voters' allegations, the government data in each of the states shows election officials' absentee ballot errors far exceed the federal law's pre-election certification error rate for voting systems' hardware and software.

**COUNT 1:  
ARTICLE II**

432. Plaintiffs repeat and re-allege the allegations above, as if fully set forth herein.

433. The Plaintiffs as voters file this complaint against federal and state officials in Arizona, Georgia, Michigan, Pennsylvania and Wisconsin seeking a declaratory judgment, and related injunction, for a constitutionally-compliant process for state-by-state post-election certification of Presidential votes and of Presidential electors and for counting of their votes for the November 3, 2020 Presidential election and future elections.

434. Under Article II, if a state has authorized a Presidential election in that state, voters have voting rights to state legislative post-election certifications of Presidential votes and of Presidential electors.

435. Since Defendant States have authorized Presidential elections, voters in the Defendant States, including Plaintiffs, have voting rights under Article II to state legislative post-election certification of their Presidential votes and of Presidential electors.

436. Part of Plaintiffs' voting rights in Defendant States under Article II is the right that their Presidential votes be counted by in their respective state legislatures' post-election certifications of Presidential votes and Presidential electors in the 2020 and future elections.

437. Under Article II, Congress lacks legal authority to enact laws interfering with the state-by-state state legislative post-election certification of Presidential electors as it has done with 3 U.S.C. §§ 5, 6 and 15.

438. The text and structure of the Constitution—as evidenced in Article II and the rest of the Constitution—preempts 3 U.S.C. §§ 5, 6 and 15 as unconstitutional interference with the state

legislative prerogative to post-election Presidential elector certification guaranteed by the Constitution.<sup>309</sup>

439. Therefore, Article II renders 3 U.S.C. §§ 5, 6 and 15, in the 2020 and future Presidential elections, as unconstitutional interference with the state legislative prerogative to post-election Presidential elector certification guaranteed by the Constitution—and a violation of voters’ rights.<sup>310</sup>

440. Analogously, under Article II, the Defendant States lack legal authority to enact state laws which are a perpetual and wholesale delegation of post-election certifications to state executive branch officials—as they have done in Ariz. Rev. Stat. § 16-212 (B) (Arizona Secretary of State), Ga. Code Ann. § 21-2-499 (B) (Georgia Secretary of State and Governor), Mich. Comp. Laws Ann. § 168.46 (Michigan State Board of Canvassers and Governor), Wis. Stat. § 7.70 (5) (b) (Wisconsin Elections Commission); and 25 Pa. Cons. Stat. § 3166 (Secretary of Commonwealth and Governor).

441. Article II, and its non-delegation doctrine, left it exclusively to the state legislatures to “direct” post-election certifications of Presidential voters and of Presidential electors—not to Defendant States to “delegate” post-election certifications, perpetually and in a wholesale fashion, to state executive branch officials as a ministerial duty.

442. The text of Article II preempts Ariz. Rev. Stat. § 16-212 (B), Ga. Code Ann. § 21-2-499 (B), Mich. Comp. Laws Ann. § 168.46, Wis. Stat. § 7.70 (5) (b), 25 Pa. Cons. Stat. § 3166 and similar state laws which delegate Presidential post-election certifications to state executive branch officials when it is constitutionally-required for state legislatures to conduct post-election Presidential election certifications.

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<sup>309</sup> Vasan Kesavan, *Is the Electoral Count Act Unconstitutional*, 80 N.C. L. Rev. 1653, 1759-1793 (2002).

<sup>310</sup> *Id.* at 1696-1759 (2002).

443. The structure of the Constitution, as evidenced in Article II and the rest of the Constitution, preempts Ariz. Rev. Stat. § 16-212 (B), Ga. Code Ann. § 21-2-499 (B), Mich. Comp. Laws Ann. § 168.46, Wis. Stat. § 7.70 (5) (b), 25 Pa. Cons. Stat. § 3166 and similar state laws which delegate Presidential post-election certifications to state executive branch officials when it is constitutionally-required for state legislatures to conduct post-election Presidential election certifications.

444. Therefore, the Court should hold Ariz. Rev. Stat. § 16-212 (B), Ga. Code Ann. § 21-2-499 (B), Mich. Comp. Laws Ann. § 168.46, Wis. Stat. § 7.70 (5) (b), 25 Pa. Cons. Stat. § 3166 and similar laws unconstitutional as they apply to Presidential state legislative post-election certifications.

445. The Defendant States' lack of state legislative post-election certifications of Presidential votes and Presidential electors in the 2020 and future Presidential elections violate the Plaintiffs' voting rights under Article II.

446. The Defendant States, in violation of Article II, have failed to provide state legislative post-election certifications of Presidential votes and of the Presidential Electors; so, voters' votes in the Defendant States do not count in the current and future elections—a disenfranchisement.

447. A declaratory judgment should issue, applicable to the current and future elections, declaring that Article II requires state legislative post-election certifications of Presidential votes and of Presidential electors for Presidential elector votes to count in the U.S. Congress for the election of the President and Vice President.

448. Further, any count of Presidential electors in the November 3, 2020 or future elections should be declared invalid if based on votes of Presidential electors who have not received state legislative post-election certification.

449. The Vice President and U.S. Congress should be enjoined from counting Presidential elector votes from any states in the current and future elections unless their respective state legislatures have voted affirmatively in a post-election vote to certify Presidential votes and their Presidential electors for the current and future Presidential elections.

**COUNT 2:  
EQUAL PROTECTION CLAUSE**

450. Plaintiffs repeat and re-allege the allegations above, as if fully set forth herein.

451. Plaintiffs are entitled to state legislative post-election certification of their Presidential votes and of Presidential electors so their votes count equally with other states' citizens' votes.

452. The Equal Protection Clause prohibits the use of differential standards in the treatment and tabulation of ballots within a State. *Bush*, 531 U.S. at 107.

453. The one-person, one-vote principle requires counting valid votes and not counting invalid votes. *Reynolds*, 377 U.S. at 554-55; *Bush*, 531 U.S. at 103 (“the votes eligible for inclusion in the certification are the votes meeting the properly established legal requirements”).

454. The Defendant States, in violation of the Equal Protection Clause, have failed to provide state legislative post-election certifications of Presidential votes and of the Presidential Electors as they do in other states; so, voters' votes in the Defendant States will not count—a disenfranchisement of that state's voters.

455. Absent the state legislative post-election certification of Presidential electors and of the Presidential Electors in the Defendant States, the Defendant States violate the one-person, one-vote principle because their Presidential votes and their state's Presidential electors' votes will not count toward the election of President and Vice President.



456. Plaintiffs are therefore harmed by Defendants' unconstitutional conduct in violation of the Equal Protection Clause.

457. A declaratory judgment should issue, applicable to the current and future elections, declaring that the Equal Protection Clause requires state legislative post-election certification of Presidential votes and of Presidential electors for Presidential elector votes to count in the U.S. Congress for the election of the President and Vice President.

458. Further, any count of Presidential electors in the November 3, 2020 or future elections should be declared invalid if based on votes of Presidential electors who have not received state legislative post-election certification.

459. The Vice President and U.S. Congress should be enjoined from counting Presidential elector votes from states in the current election and future elections unless the respective state legislatures has voted affirmatively in a post-election vote to certify Presidential votes and their Presidential electors.

### **COUNT 3: DUE PROCESS CLAUSE**

460. Plaintiff repeats and re-alleges the allegations above, as if fully set forth herein.

461. Plaintiffs as voters are entitled to state legislative post-election certifications of Presidential votes and of Presidential electors so their votes are subjected to the same due process as other citizens' votes.

462. When election practices reach "the point of patent and fundamental unfairness," the integrity of the election itself violates substantive due process. *Griffin v. Burns*, 570 F.2d 1065, 1077 (1st Cir. 1978); *Duncan v. Poythress*, 657 F.2d 691, 702 (5th Cir. 1981); *Florida State Conference of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1183-84 (11th Cir. 2008); *Roe v. State of Ala. By & Through Evans*, 43 F.3d 574, 580-82 (11th Cir. 1995); *Roe v. State of Ala.*, 68 F.3d 404, 407 (11th Cir. 1995); *Marks v. Stinson*, 19 F. 3d 873, 878 (3rd Cir. 1994).

463. Under this Court's precedents on procedural due process, not only intentional failure to follow election law as enacted by a State's legislature but also random and unauthorized acts by state election officials and their designees in local government can violate the Due Process Clause. *Parratt v. Taylor*, 451 U.S. 527, 537-41 (1981), overruled in part on other grounds by *Daniels v. Williams*, 474 U.S. 327, 330-31 (1986); *Hudson v. Palmer*, 468 U.S. 517, 532 (1984).

464. The difference between intentional acts and random and unauthorized acts is the degree of pre-deprivation review.

465. Defendants acted unconstitutionally by certifying Presidential electors and counting their votes without prior state legislative post-election certifications of Presidential votes and of Presidential electors.

466. Defendant States acted unconstitutionally by their state legislatures not voting for post-election certifications of Presidential votes and Presidential electors.

467. Federal Defendants acted unconstitutionally under federal laws requiring counting votes of Presidential electors who have not received state legislative post-election certification.

468. The actions set out in the paragraphs above constitute intentional violations of the law by Defendants in violation of the Due Process Clause.

469. The Defendants, in violation of the Due Process Clause, prohibit state legislative post-election certifications of Presidential votes and of the Presidential Electors.

470. Plaintiffs' voting rights are disenfranchised by Defendants' unconstitutional conduct in violation of the Due Process Clause.

471. A declaratory judgment should issue, applicable to current and future elections, declaring that the Due Process Clause requires state legislative post-election certification of Presidential votes and of Presidential electors for Presidential elector votes to count in the U.S. Congress for the election of the President and Vice President.

472. Further, any count of Presidential electors in the current and future elections should be declared invalid if based on votes of Presidential electors who have not received state legislative post-election certification.

473. The Vice President and U.S. Congress should be enjoined from counting Presidential elector votes, in the current and future elections, unless their respective state legislature has voted affirmatively in a post-election vote to certify Presidential votes and their Presidential electors.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court issue the following relief for the 2020 and future Presidential elections:

- A. Issue a declaratory judgment, applying to the current and future elections, declaring that 3 U.S.C. §§ 5, 6 and 15 were and are unconstitutional deprivations of the state legislatures' constitutional prerogative to post-election certification of the Presidential electors;
- B. Issue a declaratory judgment, applying to current and future elections, declaring that Ariz. Rev. Stat. § 16-212 (B), Ga. Code Ann. § 21-2-499 (B), Mich. Comp. Laws Ann. § 168.46, Wis. Stat. § 7.70 (5) (b), 25 Pa. Cons. Stat. § 3166 and similar state laws are unconstitutional delegations by the respective states of post-election Presidential election certification duties to their respective executive branch officers when Article II requires such certifications to be made by the respective state legislatures;
- C. Issue a declaratory judgment, applying to current and future elections, that the Plaintiff-voters' constitutionally-protected voting rights in Presidential elections are being violated by Defendants;
- D. Issue a declaratory judgment, applying to current and future elections, that the Plaintiffs' voting rights were violated under Article II, the Equal Protection Clause and the Due Process Clause;
- E. Enjoin the Vice President and U.S. Congress, in the current and future elections, from counting Presidential elector votes from states unless their respective state legislatures vote affirmatively in a post-election vote to certify their Presidential electors;
- F. Alternatively, enjoin, in the current and future elections, the State Defendants' state legislatures to meet in their respective States to consider post-election certification of their respective Presidential electors;
- G. Award attorney's fees and costs under 42 U.S.C. § 1988 to Plaintiffs against State Defendants; and

H. Grant such other relief as the Court deems just and proper.

DATED: December 22,, 2020

/s/Erick G. Kaardal  
Erick G. Kaardal (WI0031)  
Special Counsel for Amistad Project of  
Thomas More Society  
Mohrman, Kaardal & Erickson, P.A.  
150 South Fifth Street, Suite 3100  
Minneapolis, Minnesota 55402  
Telephone: (612) 341-1074  
Facsimile: (612) 341-1076  
Email: kaardal@mklaw.com

*Attorney for Plaintiffs*

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