

**IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA**

DONALD J. TRUMP, in his capacity as a  
Candidate for President, *et al.*,

Petitioners,

v.

BRAD RAFFENSPERGER, in his official  
capacity as Secretary of State of Georgia, *et al.*,

Respondents.

Civ. Act. No. 2020CV343255

**Proposed Intervenor’s Emergency Motion for Oral Argument**

Pursuant to Uniform Superior Court Rule 6.7, Proposed Intervenor respectfully move for immediate argument on their Motion to Intervene and Motion to Dismiss in the above-captioned matter, preferably to be held as early as possible **today, December 8**. Plaintiffs’ decision to wait weeks after the Governor certified the election on November 20 and until the end of the third count of ballots, and then file this patently frivolous lawsuit reasserting claims that have been thoroughly considered and rejected by the state and federal courts of Georgia on the very eve of the “safe harbor” date smacks of an effort to sow the groundwork for a later argument that Georgia did not meet the “safe harbor” date under 3 U.S.C. § 5, which this year is **today**.

To be clear: the petition is improper and meritless on its face. Any argument that Plaintiffs or their allies might later make to argue that Georgia did not qualify for the “safe harbor” would be flatly wrong. Nevertheless, Americans—and the voters of Georgia specifically—have lived too long now suffering attacks on the integrity and outcome of their election, which although baseless, cause real damage to our most vital democratic institutions and values. By convening an emergency hearing and issuing a ruling today, this Court can avoid setting the stage for yet another

meritless and cynical attack on the results of Georgia's presidential election and bring needed finality to this parade of frivolous litigation.

### **FACTUAL BACKGROUND AND COURSE OF PROCEEDINGS**

President-Elect Joseph R. Biden, Jr. won the popular vote in Georgia. The initial reported results were subsequently confirmed by a hand recount of every one of the nearly five million ballots cast in the presidential race. On November 20, the Secretary certified the results of the election. That same day, the Governor certified the slate of Democratic electors, officially appointing the Proposed Intervenors to the Electoral College to cast ballots in support of President-Elect Biden. Seventeen days later, and at the end of the second recount, Petitioner Donald J. Trump, in his capacity as a candidate for President, together with his campaign committee Donald J. Trump for President, Inc. and David J. Shafer, in his capacity as a registered voter and presidential elector pledged to Donald Trump for President, filed this petition to "contest" Georgia's presidential election results, results which have now been confirmed by three counts. Pet. ¶¶ 6-9. Among other things, Petitioners request that the Court *order an entirely new election*, declare a March 2020 Consent Decree entered in the Northern District of Georgia as unconstitutional, and strike down State Election Board Rule 183-1-14-0.9-.15 and guidance promulgated by the Secretary of State months ago invalid. *See* Pet. Prayer for Relief at 6, 9, 14.

Proposed Intervenors promptly filed an Emergency Motion to Intervene and proposed a Motion to Dismiss requesting that the Court dismiss Petitioners' baseless claims outright. The deficiencies of the Petition are numerous, as among other things, the claims are barred by Georgia's contest statute itself, the doctrine of laches, raises claims that have already been thoroughly rejected by other courts, fails to state cognizable claims, and is contradicted by elementary constitutional doctrine. The deficiencies of the Petition are numerous, as among other things, the claims are barred

by Georgia's contest statute itself and the doctrine of laches, have already been thoroughly rejected by other courts, are not cognizable, and are contradicted by elementary constitutional doctrine. The Petition should be swiftly and thoroughly dismissed with prejudice.

### **ARGUMENT AND CITATION TO LEGAL AUTHORITY**

Uniform Superior Court Rule 6.7 provides as follows:

Upon written notice and good cause shown, the assigned judge may shorten or waive the time requirement applicable to emergency motions, except motions for summary judgment, or grant an immediate hearing on any matter requiring such expedited procedure. The motion shall set forth in detail the necessity for such expedited procedure.

On the eve of the "safe harbor" deadline, Petitioners bring this meritless and entirely improper action attempting to unilaterally reverse the will of the millions of voters who chose President-Elect Biden as the winner of the presidential race in Georgia by raising late, unsupported, and frivolous claims. Despite widespread acknowledgement that no fraud occurred, various similar lawsuits have been filed around the country in an attempt to sow confusion and cast doubt on the legitimacy of the election. Just here in Georgia there have been at least seven such suits, including several that raised many of the same claims that Petitioners now do, and none of which have been successful. *See, e.g., Wood v. Raffensperger*, No. 20-cv-04651, 2020 WL 6817513 (N.D. Ga. Nov. 20, 2020), *aff'd*, *Wood v. Raffensperger*, No. 20-14418, 2020 WL 7094866 (11th Cir. Dec. 5, 2020) (challenge brought by L. Lin Wood, Jr. as plaintiff, which made many claims similar to those here, in which the district court found Wood lacked standing and the claims were barred by laches, the Eleventh Circuit affirmed on jurisdictional and mootness grounds); *Wood v. Kemp*, No. 2020CV342959 (Ga. Super. Ct.) (election contest brought by Thomas More Society, also making similar claims, dismissed by court from the bench on December 7, 2020); *see also Boland v. Raffensperger*, No. 2020CV343018 (Ga. Super. Ct.) (election contest also making similar claims

to those here, scheduled to be heard *today* at 2:00 p.m. on motion to dismiss); *Pearson v. Kemp*, No. 20-cv-04809 (N.D. Ga.) (challenge to election brought by L. Lin Wood, Jr. as counsel, making similar claims, dismissed from the bench yesterday, December 7, 2020, on jurisdictional and laches grounds).

There is no reason why Petitioners could not have brought their claims earlier. Indeed, Georgia’s contest statutes required them to do so within five days of the election’s certification. Notably, nothing in their Petition ties their claims to the second machine recount that Georgia conducted at their request; all of their claims could have been brought within the statutory deadline for bringing such contests after the first certification and several of their claims could have—and *should* have—been brought months before the election. *Wood v. Raffensperger*, 2020 WL 6817513, at \*3 (“Wood could have, and should have, filed his constitutional challenge much sooner than he did, and certainly not two weeks after the General Election.”). Thus, the Court need not sort through the merits of their allegations (which on their face are baseless, in any event) to swiftly dismiss this action and end this charade.

Given the certification and *recertification* of Georgia’s election results, the *multiple recounts* already undertaken, and the timing of this Petition on the eve of the “safe harbor” deadline, immediate oral argument is needed on Proposed Intervenors’ Motion to Dismiss so that Petitioners are not allowed to further cast doubt on Georgia’s election.

Dated: December 8, 2020

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**Certificate of Service**

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

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This 8th day of December, 2020.

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