

VIRGINIA:

In the Circuit Court of Loudoun County

Thomas Kasperek,

and

Richard Ryan,

Plaintiffs,

VS.

JUDY BROWN, 750 Miller Dr. SE, Suite C, Leesburg, VA, 20175,

and

RICHARD KEECH, 750 Miller Dr. SE, Suite C, Leesburg, VA, 20175,

and

KRISTEN KALINA, 750 Miller Dr. SE, Suite C, Leesburg, VA, 20175,

and

ROBERT MOSES, 750 Miller Dr. SE, Suite C, Leesburg, VA, 20175,

and

ELLEN HEALD, 750 Miller Dr. SE, Suite C, Leesburg, VA, 20175,

and

PHYLLIS J. RANDALL, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175

and

KORAN T. SAINES, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175

and

Case No. CL 22-6392

COMPLAINT

(For Injunction and Declaratory Judgment)

Jury Respectfully Demanded



JULI E. BRISKMAN, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175

and

MICHAEL R. TURNER, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175

and

TONY R. BUFFINGTON, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175

and

SYLVIA R. GLASS, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175

and

CALEB R. KERSHNER, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175

and

MATTHEW F. LETOURNEAU, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175

and

KRISTEN C. UMSTATTD, 1 Harrison Street, SE, 5th Floor, Leesburg, VA 20175,

Defendants.

Case No.

COMPLAINT

(For Injunction and Declaratory Judgment)

Jury Respectfully Demanded

I. COMPLAINT

Plaintiffs Thomas Kasperek ["Kasperek"], and Richard Ryan ["Ryan"], bring this action for a Mandatory Injunction and a Declaratory Judgment at law prohibiting the use of all electronic voting equipment in favor of voter-

verified hand counts of all physical paper ballots legally cast. Plaintiffs allege that defendants' malfeasance has caused both domestic and foreign corruption of the Loudoun County electoral administrative process, resulting in unsecure, uncertifiable, and inaccurate election results in the 2020 and 2021 elections, also affecting the pending 2022 elections.¹ Both Plaintiffs will vote in the 2022 elections.

II. THE PARTIES

- 1. Plaintiff Kasperek is an adult citizen of the United States, and a resident and domiciliary of Loudoun County, Virginia, acting on behalf of himself. Kasperek is and has been a qualified and registered voter in Loudoun County, Virginia, thus has standing to sue government officials.²
- 2. Plaintiff Richard Ryan, is an adult citizen of the United States and a resident and domiciliary of Loudoun County, Virginia, acting on behalf of himself. Ryan is and has been a qualified and registered voter in Loudoun County, Virginia, thus has standing to sue government officials.

¹ Unless otherwise indicated all references to Loudoun County shall mean Loudoun County, Commonwealth of Virginia.

² Howell v. McAuliffe, 788 S.E.2d 706, 712 (Va. 2016). Here, Plaintiffs base their alleged standing on their status as "qualified voters who live and are registered to vote in the Commonwealth, and who plan to vote in the 2016 General Election." Plaintiffs allege respondents have directly injured them by allowing the registration of unqualified voters pursuant to an "unconstitutional" Executive Order, thereby diluting their legal votes and infringing their right of suffrage guaranteed under Article I, Section 6 of the Constitution of Virginia. Article II, Section 1 sets forth the qualifications for voters and requires that each voter "be a citizen of the United States," "be eighteen years of age," and be "a resident of the Commonwealth and of the precinct where he votes."

- 3. Judy Brown, is the Loudoun County General Registrar,
- 4. Richard Keech, is the Loudoun County Deputy Registrar,
- 5. Kristen Kalina, Bob Moses, and Ellen Heald, are all on the Loudoun County Electoral Board, Kalina is Chair,
 - 6. Phyllis Randall, is the Loudoun County Supervisor, Chair at Large,
- Koran T. Saines, is the Loudoun County Supervisor Vice Chairman,Sterling District,
- 8. Juli E. Briskman, is the Loudoun County Supervisor, Algonkian District,
- 9. Michael R. Turner, is the Loudoun County Supervisor, Ashburn District,
- 10. Tony R. Buffington, is the Londoun County Supervisor, Blue Ridge District,
- 11. Sylvia R. Glass, is the Loudoun County Supervisor, Broad Run District,
- 12. Caleb A. Kershner is the Loudoun County Supervisor, Catoctin District,
- 13. Matthew F. Letourneau, is the Loudoun County Supervisor, Dulles District,
- 14. Kristen C. Umstattd, is the Loudoun County Supervisor, Leesburg District.

III. BACKGROUND

15. The Defendants and the Virginia Legislature seem at odds with the Plaintiffs and many other citizens around the Commonwealth, when it comes to tabulating the paper ballots. When a citizen fills an "official paper ballot" to cast their vote, the voting public want their paper ballots to be transparently counted, as the "vote of record." Honest citizens expect proper tabulation of their vote of record, a plain and logical reading of § 24.2, which states the "official paper ballot," which is the last thing that leaves the voters' hand, physical evidence of their vote cast. At the end of voting, Plaintiffs move that the official paper ballot be officially tabulated by voterverified hand count as proof of vote cast that is included in the final certified counts.

However, Defendants willingly integrated noncompliant and therefore deliberately and illegally certified "electronic voting equipment" ["equipment"] into a complete solution which is proven to be primarily from Chinese manufacturers known to insert backdoors, allowing nefarious actors

³ The "official paper ballot," Virginia Code §24.2-646.1, tabulated by election officials to determine winners of elections. We must consider a plain and logical reading of the law. Under the adopted voting laws, the Virginia Code § 24.2-101 the paper ballot is defined as "a tangible ballot that is marked by a voter and then manually counted." Virginia law plainly and logically says the official paper ballot is to be manually counted. That ballot is the "vote of record," the one that is counted in the final tabulations that determine winners of elections.

⁴ "Equipment" means all electronic voting equipment noted in Virginia Code 24.2, including all hardware, software, pad computers, desktop computers, wireless and networked routers, wireless modems, thumb drives, mini-SD cards, SD cards, networked and nonnetworked laptops and other workstations that comprise the entire election voting infrastructure in Loudoun County.

access to the equipment to manipulate data. The equipment was illegally certified for use in the 2020 as well as the 2021 elections. Plaintiffs have exhausted every attempt to abate the unlawful use of the voting machines. Plaintiffs sent written correspondence, scheduled meetings, made phone calls, submitted multiple Freedom of Information Act [FOIA] requests, all sent to Loudoun County officials as well as Virginia state legislative and executive level authorities opposing the deliberate use of the illegally certified equipment. These attempts to abate have been unlawfully ignored.

Further, the illegally certified Chinese-made equipment is likely infected with malware of foreign and domestic origin. Many technical experts have testified they have, "built in" to their hardware wireless modem chips. These modems can be programed to transmit voter statistics during and after voting hours through nationally networked routers installed by all Internet Service Providers (ISPs)⁵ and configured with ubiquitous network monitoring software. Therefore, extraordinary deliberate security risks expose the electronic votes cast that are accessible through any USB ports, allowing data manipulation by nefarious intruders.

16. To be clear, Chinese-manufactured electronic voting equipment was used in Loudoun County elections in 2020 and 2021. Plaintiffs allege illegally certified ePollbooks contain the Plaintiffs' personal information and

⁵ ISPs are equipped with routers configured to run integration software that allows for "network monitoring services" and "intrusion detection services" in exchange for county election data access.

are electronically networked to Loudoun County voter registration lists. The ePollbooks and tabulation scanners have extraordinary vulnerability via WiFi connectivity,⁶ which illegally allows electronic data transmission in-and-out of the databases and log history files. Thus, the equipment deliberately and unnecessarily exposes Plaintiffs' and more than a million other voters' private voter information, including Social Security Numbers, electronically over the Internet, to unverifiable suspect recipients.

17. When legal citizen voters cast their "official paper ballot," the citizens expect their vote to be accurately tabulated. It the end of voting, Plaintiff moves that the official paper ballot should be the artifact that is officially tabulated and included in the certified vote counts. Instead, in Loudoun County, local election officials, in collaboration with state election officials, deliberately used nonconforming and illegally certified electronic voting equipment to tabulate "vote cast records" (digital ballot images) produced by the ballot scanners in the 2020 and 2021 elections. Although the vulnerability of these machines has been repeatedly communicated to all

⁶ Virginia Code 24.2-625.2. Wireless communications at polling places. "There shall be no wireless communications on election day, while the polls are open, between or among voting machines within the polling place or between any voting machine within the polling place and any equipment outside the polling place. For purposes of this section, the term wireless communication shall mean the ability to transfer information via electromagnetic waves without the use of electrical conductors.

⁷ The "official" ballot counted by election officials to determines winners of elections. We must consider a plain and logical reading of the law. Under the adopted voting laws, the Virginia Code § 24.2-101 the paper ballot is defined as "a tangible ballot that is marked by a voter and then manually counted." Virginia law plainly and logically says the paper ballot is to be manually counted. That ballot is "vote of record," the one that counts.

levels of county and state electoral administrative officials, the response was, "there never has been even a hint of wrong-doing in Loudoun County elections," or, "we will look into it." Plaintiffs have exhausted every attempt to gain access to the "official paper ballots" to compare the actual paper ballot counts, to the votes cast records, verified with the "certified" state tabulations. Plaintiffs' requests have been ignored without factual response to their grievances, nor given redress to verify the official paper ballot counts. Plaintiffs assert willful negligence.

- 18. Plaintiffs allege the existing vote cast processing method is conducted via the Internet transmission of unverified digital tabulation data. This digital data is converted and then transmitted electronically from precincts and other county locations to a central aggregation desktop in the Registrar's office. From there, via the Internet, the unverified tabulation results are transmitted electronically to the state department of elections and ultimately to national enterprise reporting entities who aggregate the vote cast tabulations by which the processors electronically transmit the tabulations back to the states and counties. The immediate greater risk is the disclosure of Plaintiffs' private voter registration information to nefarious national and international actors. Vote cast electronic Internet files are unverifiable and thus subject to manipulation by political actors intent on determining the outcomes of electoral races, resulting in election fraud.
 - 19. Throughout Loudoun County and Virginia, the legislature enacted

statutes in 2014 leading to the use of automated voting equipment including ePollbooks, touch screens, and tabulation scanners. However, only two years later, in 2017, touch screens were abandoned because they were unsecured and subject to voter fraud. However, the newly adopted electronic voting equipment is even more vulnerable to security breaches and allows improved data manipulation. As a result, the published vote cast tabulations are not verifiable. The U.S. Government has publicly acknowledged that electronic voting equipment accessing the Internet is not secure, as proven by the widely publicized warnings about security breaches of Internet and intranet firewalls guarding financial institutions, state and local governments, businesses, and hospitals, via malware and ransomware attacks. The intrusions of Internet thieves gathering up confidential information including voter registration data and individual social security numbers is continually targeting enterprise-wide networks, including those in Loudoun County, even local "secure" intranets shared county-wide.

20. The US Department of Homeland Security Cybersecurity and Infrastructure Agency (DHS, CISA), on 3 June 2022, published a five-page Advisory that states that one ballot scanning software manufacturer used in approximately 32 of 133 jurisdictions in Virginia had nine (9) ways for security breach.⁸ Contrary to widely published reports and whistle-blower

⁸ See https://www.cisa.gov/uscert/ncas/current-activity/2022/06/03/cisa-releases-security-advisory-dominion-voting-systems-democracy

testimony about the vulnerabilities of voting equipment, all defendants have deliberately conspired or acquiesced to the use of illegally certified electronic voting equipment, allowing Plaintiffs' voter information to be disclosed to nefarious parties, domestic and foreign, without remedy.

21. Loudoun County election officials allowed absentee mail-in ballots to be processed in Central Absentee Processing centers (CAPs) during the 2020 and 2021 elections, which lack chain of custody. However, in reporting vote cast results, Loudon County electoral administration officials did not distinguish absentee mail-in ballots from other vote cast totals, nor were votes tabulated and credited to the precincts they were cast, nor were the outside envelops kept as election materials. In comparing absentee mail-in ballots with election day votes cast on the "official paper ballots," the absentee mail-in ballots cast are lopsided and statistically at odds with election day and early voting results. Such is possible when absentee mail-in ballots arrive after voting hours irregularly filling the gap between the number of actual ballots cast and the number of registered voters. The question is, "did outgoing transmissions from illegally certified voting equipment make that possible?" Irregular electoral administrative practices suggest significant voting anomalies were acceptable or encouraged but hidden by refusal to comply with FOIA requests. An investigation is needed to forensically examine all illegally certified equipment and log history files. USB drives must be forensically examined to validate the CVR files. All

official paper ballots [or statistically relevant quantity] must be forensically examined and hand counted to verify that the absentee ballot tabulations from the CAPs and from the precincts on election day can be reconciled numerically against the electronically tabulated "official" results.

IV. THE CLAIMS

For this Count, Plaintiffs incorporate paragraphs 1-21, supra.

Count I

- 22. Plaintiffs allege that the electronic voting equipment used in Loudoun County are noncompliant with the mandated state and federal laws. Across the Commonwealth, including Loudoun County, electronic voting equipment used was and is illegally certified. For the 2020 and 2021 elections, Defendants Judy Brown ("Brown"), General Registrar, Richard Keech, ["Keech",] Deputy Registrar, and Kristen Kalina, ["Kalina"], Electoral Board Chair, Bob Moses ("Moses"), and Ellen Heald ["Heald"], Electoral Board members, have a duty to ensure only certified electronic voting equipment is used during elections.
- A). Brown, Keech, Kalina, Moses, and Heald were well informed that the use of illegally certified electronic voting equipment is unlawful. Brown, Keech, Kalina, Moses, and Heald, did not conduct voter-verified hand counts of official paper ballots to ensure accurate tabulations of all votes legally cast

in the 2020 and 2021 elections, and deliberately allowed for the dilution of Plaintiffs' legitimate votes. Similar is expected in 2022.

- B) Brown, Keech, Kalina, Moses, and Heald are complicit in the approval of illegally certified voting equipment. Defendants Brown, Keech, Kalina, Moses, and Heald's actions prove intentional or unintentional cooperation with nefarious actors to alter the results of the 2020 and 2021 elections.
- C) As a direct and proximate result of such actions, Brown, Keech, and Kalina failed to carry out their duties of their appointed offices and engaged in malfeasance of their respective offices. ⁹ As direct and proximate the results of the 2020 and 2021 elections are null and void, forcing a hand count of the official paper ballots.

Count II

For this Count, Plaintiff incorporates paragraphs 1-22, supra

23. Plaintiffs allege that illegally certified electronic voting equipment is "inoperable" because it cannot function for its approved use per Virginia Code § 24.2-642. The defendant Supervisors, Phyllis Randall ["Randall"], Koran T. Saines ["Saines"], Juli E. Briskman ["Briskman"], Michael R. Turner

⁹ Further, if Brown, Keech, Moses, Heald and or Kalina advised the supervisor defendants the voting machines and scanner was safe and secure, that person(s) violated Virginia Code § 18.2-498.3. Defendants have the responsibility to ensure that the equipment used in elections meets all the standards as defined in the Voting Systems Certification Standard.

¹⁰ See https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-642/

["Turner"], Tony R. Buffington ["Buffington"], Sylvia R. Glass ["Glass"], Caleb A. Kershner ["Kershner"], Matthew F. Letourneau ["Letourneau"], and Kristen C. Umstattd ["Umstattd"] are complicit in allowing the noncompliant voting equipment to be used in the 2020 and 2021 elections, rejecting multiple requests from Plaintiffs to examine claims of evidence of malfeasance. Randall, Saines, Briskman, Turner, Buffington, Glass, Kershner, Letourneau and Umstattd collectively and individually, breached their duty to protect the voting rights of legally registered voters. Randall, Saines, Briskman, Turner, Buffington, Glass, Kershner, Letourneau and Umstatto breached their duty of fidelity to the voters of Loudoun County by ignoring the warnings and ratified the malfeasance of Brown, Keech, Kalina, Moses, and Heald. A full forensic examination of all electronic voting equipment is required which includes manual tabulation of the "official paper ballots" in each contest on each ballot used. As direct and proximate the results of the 2020 and 2021 elections are null and void, forcing a hand count of the official paper ballots.

Count III

For this count, plaintiff incorporates paragraphs 1-23, *supra*24. As a direct result of using foreign-designed and implemented equipment, the electronic voting process illegally exposed private voter registration information. Further, Brown failed to perform proper list maintenance of the voter rolls in 2020 and 2021 in violation of law and

breached all Loudoun County legally registered voter's civil rights guaranteed by the 14th Amendment to the U. S. Constitution.

Consequently, Plaintiffs allege a significant number of non-eligible voters were allowed to remain on the rolls and vote in 2020 and 2021. Coupled with the comingling of mail-in absentee ballots with in-person cast votes on "official paper ballots," the electoral administrative process appears deliberate to preclude a vote-by-precinct analysis. The resulting tabulated votes reported are incorrect which results in the dilution of the votes by legitimate voters. The vote cast tabulations indicated there may have been more votes cast than eligible U.S. citizens registered to vote in Loudoun County, thus, nullifying the election results.

25. The dilution of Plaintiffs' vote is a deliberate violation of their civil rights by infringing on their right to vote as guaranteed by the 14th Amendment, Constitution of the United States. By watering down Plaintiffs' vote and thousands of others, defendants violated Plaintiffs' right to the full and complete vote.

"Nothing in this chapter shall be construed to deny, impair, or otherwise adversely affect the right to vote of any registered voter." (Virginia Code § 24.2-127.)

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due

process of law; nor deny to any person within its jurisdiction the equal protection of the laws." 14th Amendment Sec. 1 [Emphasis added]

- 26. At the time of the ratification of the Virginia Constitution, one person, one vote, per U.S. Citizen voter, was long the custom by the law of the land. At that time and for two hundred years plus, every vote had *de jure* equal weight. U.S. electoral history has a long record of voting irregularities and malfeasance. These irregularities continued because the sanctions for that conduct were nearly non-existent to deter continuing fraudulent elections.
- 27. All Defendants have an obligation and legal duty to provide free and fair elections, securing the rights afforded by the U.S. and Virginia Constitutions, to protect every legally cast vote. Plaintiffs exercised their right to vote, which every Defendant breached by malfeasance, and or negligence. As direct and proximate, the results of the 2020 and 2021 elections conducted by Defendants are considered null and void.
- 28. Defendants have the legal duty to provide election transparency.

 Plaintiffs submitted numerous Freedom of Information Act ["FOIA"] requests to all Defendants, and Plaintiffs allege multiple FOIA violations. Despite repeated requests for the requested information, all Defendants either willfully neglected or by corrupt conduct denied and obstructed the Plaintiffs'

rights to the information requested in violation of Virginia Code §24.2-1001.¹¹

There also remains the effect of state laws, regulations, procedures and local ordinances on the 14th Amendment U. S. Constitutional rights and the historical rights when the U. S. Constitution was ratified. In *New York Rifle & Pistol Association v. Bruen*, the U.S. Supreme Court overruled the 2nd Circuit ruling by affirming the findings in *Heller*, which reaffirms Plaintiffs' 14th Amendment rights, quoting, "Constitutional rights are enshrined with the scope they were understood to have when the people adopted them."¹²

In *Howell*, we have a ruling on the question of diluting the votes of qualified Virginia voters. *HOWELL V. MCAULIFFE*, 788 S.E.2D 706, 712 (VA. 2016).

WHEREFORE, Plaintiffs request this Court issue a mandatory injunction directing the defendants to cease and desist from using any and all illegally certified electronic voting equipment¹³ in Loudoun County elections until legally certified.¹⁴ Plaintiffs request this Court to mandate delivery of all

¹¹ See https://law.lis.virginia.gov/vacode/title24.2/chapter10/section24.2-1001/

¹² New York Rifle & Pistol Association v. Bruen, 597 U. S., at 8-63, (2022); District of Columbia v. Heller, 554 U. S., at 634-635.

¹³ Meaning all electronic voting equipment, including hardware, software, pad computers, desktop computers, wireless and networked routers, wireless modems, thumb drives, mini-SD cards, networked and non-networked laptops and other workstations that comprise the entire election voting infrastructure.

¹⁴ Meaning all electronic voting equipment is examined forensically to be secure by independent, competent, and certified forensic analysts; and that all physical paper ballot votes cast are likewise examined and verified.

voting equipment and ePollbooks to the Loudoun County Clerk of Courts for safe keeping, forthwith; and all future Loudoun County electoral administration be according to Virginia Code 24.2-101, requiring handmarked and hand-counted official paper ballots. Plaintiffs further pray for a Declaratory Judgment ruling all electronic voting equipment is hereby disqualified for use in all Loudoun County elections until further Order of this Court.

Respectfully submitted, Thomas Kasperek and Richard Ryan by counse,

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SHERRIF'S SERVICE REPOESTED & CL22-6392

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COVER SHEET FOR FILING CIVIL ACTIONS

FORM CC-1416 (MASTER) PAGE ONE 02-16.

COMMONWEALTH OF VIKGINIA		(CLENCESCOLIKE CERTS ASSESSED
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GENERAL CIVIL	ADMINISTRATIVE LAW	PROBATE/WILLS AND TRUSTS
Subsequent Actions	Appeal Judicial Review of Decision of	[] Accounting
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[Monetary Damages	[] ABC Board	[] Appointment (select one)
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[] Counterclaim	Compensation Board	[] Standby Guardian/Conservator
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Annexation	Pleading	Settlement
[] Condemnation	[] Child Abuse and Neglect Unfounded	Bond Forfeiture Appeal
[] Ejectment	Complaint	(x) Declaratory Judgment
[] Encumber/Sell Real Estate	Civil Contempt	Declare Death
[] Enforce Vendor's Lien	Divorce (select one)	[] Driving Privileges (select one)
[] Escheatment	[] Complaint – Contested*	[] Reinstatement pursuant to § 46.2-427
[] Establish Boundaries	[] Complaint – Uncontested*	[] Restoration – Habitual Offender or 3 rd
[] Landlord Tenant	[] Counterclaim/Responsive Pleading	Offense
[] Unlawful Detainer	Reinstatement -	[] Expungement
[] Mechanics Lien	Custody/Visitation/Support/Equitable	Firearms Rights - Restoration
[] Partition	Distribution	[] Forfeiture of Property or Money
[] Quiet Title	[] Separate Maintenance	[] Freedom of Information
[] Termination of Mineral Rights	[] Separate Maintenance Counterclaim	[x] Injunction
Tort		[] Interdiction
[] Asbestos Litigation	WRITS	[] Interrogatory
[] Compromise Settlement	[] Certiorari	[] Judgment Lien-Bill 20 Enforce
[] Intentional Tort	[] Habeas Corpus	[] Law Enforcement Public Official Petition
[] Medical Malpractice	[] Mandamus	Name Change
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