

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

DEKALB COUNTY REPUBLICAN
PARTY, INC.,

Applicant,

v.

BRAD RAFFENSPERGER, IN HIS
OFFICIAL CAPACITY AS GEORGIA
SECRETARY OF STATE,

Respondent.

Civil Action No. 24CV011028

ANSWER OF THE SECRETARY OF STATE

Respondent Secretary of State Brad Raffensperger, in his official capacity as Georgia Secretary of State (the "Secretary"), submits the following Answer to Applicant Dekalb Count Republican Party, Inc.'s ("Applicant") Application for Writ of Mandamus:

FIRST DEFENSE

Applicant does not have a clear legal right to the relief sought.

SECOND DEFENSE

Applicant has an adequate remedy at law.

THIRD DEFENSE

The Secretary has properly complied with all relevant provisions of the Georgia Election Code.

FOURTH DEFENSE

The Secretary specifically reserves the right to seek leave to amend and/or supplement its Answer to assert any affirmative defense, response, or other matter that may arise and become relevant during the course of proceedings.

The Secretary specifically responds to the individually numbered paragraphs of the Application as follows:

INTRODUCTION

1.

The Secretary admits that Dominion Voting System's Democracy Suite 5.5A voting system is in use in Georgia counties, and that the system is certified by the United States Election Assistance Commission ("EAC").¹

The Secretary further admits that on March 28, 2024, the General Counsel for the Secretary received an email from Kurt Olson, regarding an open investigation by the Secretary into potential unauthorized access to the state's voting system that was initiated after the Secretary's office became aware of a sworn statement signed by Mr. Cotton averring that he had

¹ See; [Democracy Suite 5.5-A \(Modification\) | U.S. Election Assistance Commission \(eac.gov\)](#), last visited on Sept. 24, 2024.

“forensically examined” voting system components from Bibb County, Georgia without the state’s authorization.

The Secretary denies the remaining allegations in Paragraph 1.

PARTIES, JURISDICTION AND VENUE

2.

The Secretary lacks sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 2 and therefore denies the same.

3.

The Secretary lacks sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 3 and therefore denies the same.

4.

Admitted.

5.

Admitted.

6.

Admitted.

7.

Admitted.

STANDING

8.

Denied.

FACTS

9.

The Secretary admits that Georgia counties are required by law to use a uniform voting system of ballot-marking devices that print verifiable paper ballots that are tabulated by scanner, and that the system purchased by the State of Georgia and used by Georgia's counties is the Democracy Suite 5.5A voting system.

10.

The Secretary denies the allegations in Paragraph 10 and states that the Master Solution Purchase and Services Agreement speaks for itself.

11.

Denied.

12.

The Secretary admits that on or about July 29, 2019, the Secretary entered into the contract with Dominion attached as Exhibit 1 to the Application. The Secretary denies the remaining allegations in Paragraph 12.

13.

Admitted.

14.

The Secretary admits that for federal certification, the EAC requires voting systems be tested to the Voluntary Voting Systems Guidelines,² and that the requirements of VVSG 1.0 are available on the EAC's website and that the guidelines speak for themselves. The Secretary further states that the Democracy Suit 5.5A voting system is certified by the EAC as in compliance with VVSG 1.0.

15.

The Secretary denies the characterization of the EAC's certification process as described in Paragraph 15.

16.

The Secretary states that the Master Solution Purchase and Services Agreement speaks for itself and, to the extent that the allegations in Paragraph 16 conflict with the Agreement, such allegations are denied.

17.

Denied.

² [Voluntary Voting System Guidelines | U.S. Election Assistance Commission \(eac.gov\)](https://www.eac.gov/vvsg), last visited on Sept. 24, 2024.

18.

Denied.

19.

The Secretary lacks sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 19 with respect to the conduct of “Applicant and its consultant,” and therefore denies the same. The Secretary admits, however, that the unauthorized access to the 2020 election database in Coffee County is the subject of an ongoing law enforcement investigation by the Attorney General and criminal prosecution pending in this Court.

20.

The Secretary lacks sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 20 with respect to the conduct of Applicant and its consultant, and therefore denies the same. On information and belief, one or more of the listed counties inadvertently produced election project files from the 2020 general election in response to an Open Records Act request. The Secretary’s office has an open investigation into this conduct. Counties are required by law not to release any data files that would compromise the security of the state’s voting system under O.C.G.A. § 21-2-379.24(g).

21.

Denied.

22.

Denied.

23.

The Secretary admits that O.C.G.A. § 21-2-300(a)(3) requires that the Secretary “furnish a uniform system of electronic ballot markers and ballot scanners for use in each county” and that “[s]uch equipment shall be certified by the United States Election Assistance Commission prior to purchase, lease, or acquisition.” The Secretary further admits that the Secretary must make a determination that the equipment used for casting and counting votes in county, state, and federal elections is “safe and practicable for use.” O.C.G.A. § 21-2-300(a)(2). The Secretary further admits that Paragraph 23 accurately quotes the text of Ga. Comp. R. & Regs. 590-8-1-.01. The Secretary denies any remaining allegations in Paragraph 23.

24.

Denied.

25.

Denied.

26.

The Secretary states that the Halderman report speaks for itself and denies the remaining allegations of Paragraph 26.

27.

The Secretary lacks sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 27 and therefore denies the same.

28.

Denied.

29.

The Secretary admits that on March 28, 2024, General Counsel for the Secretary received an email from Kurt Olson. The Secretary denies the remaining allegations in Paragraph 29.

30.

The Secretary states that the VVSG requirements speak for themselves and that the Democracy Suite 5.5A system is certified by the EAC as compliant with VVSG 1.0. The Secretary denies the remaining allegations of Paragraph 30.

31.

Denied.

COUNT ONE – MANDAMUS ABSOLUTE

32.

The Secretary hereby incorporates his affirmative defenses and responses to Paragraphs 1–31 as though fully set forth herein.

33.

Denied.

34.

The Secretary denies that Applicant is entitled to the relief sought in Paragraph 34. The Secretary further denies any factual allegations in Paragraph 34.

35.

Denied.

36.

The Secretary admits that the Dominion Democracy Suite 5.5A voting system has been used in Georgia since at least 2020. The Secretary admits that O.C.G.A. § 9-6-21(a) provides:

Mandamus shall not lie as a private remedy between individuals to enforce private rights nor to a public officer who has an absolute discretion to act or not to act unless there is a gross abuse of such discretion. However, mandamus shall not be confined to the enforcement of mere ministerial duties.

The Secretary denies that Applicant is entitled to the relief sought in Paragraph 36. The Secretary denies the remaining allegations in Paragraph 36.

37.

The Secretary denies that Applicant is entitled to the relief sought in Paragraph 37.

38.

The Secretary admits that Paragraph 38 accurately quotes the text of O.C.G.A. § 9-6-24, except that O.C.G.A. § 9-6-24 uses “plaintiff,” not “Applicant.”

39.

Denied.

40.

Denied.

41.

Denied.

42.

Denied.

43.

Denied.

44.

Denied.

45.

Denied.

46.

Denied.

47.

Denied.

48.

Denied.

49.

Denied.

50.

Denied.

PRAYER FOR RELIEF

51.

The Secretary responds to the WHEREFORE clauses of the Application by denying that Applicant is entitled to the requested relief or any relief whatsoever.

WHEREFORE, the Secretary respectfully pray as follows:

- a. that the Application be denied in its entirety;
- b. that all relief requested by Applicant be denied;
- c. that judgment be entered in favor of the Secretary;
- d. that all costs of this action be borne by Applicant; and
- e. that the Court grant such other relief in favor of the Secretary as it deems just and proper.

This 25th day of September, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **ANSWER OF THE SECRETARY OF STATE** with the Clerk of Court using the Odyssey e-filing system, which will send notification of such filing to the parties of record via electronic notification.

Dated: September 25, 2024.

/s/ Elizabeth T. Young
Elizabeth T. Young
Senior Assistant Attorney General