

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

TERESA CRAWFORD, VASU
ABHIRAMAN, LORETTA MIRANDOLA,
ANITA TUCKER, DEMOCRATIC
NATIONAL COMMITTEE, and
DEMOCRATIC PARTY OF GEORGIA,
INC.,

Petitioners,

v.

STATE ELECTION BOARD,

Respondent.

CIVIL ACTION FILE
NO. 24CV012349

**EMERGENCY MOTION FOR INTERLOCUTORY INJUNCTION
AND BRIEF IN SUPPORT**

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The Secretary of State is right: “It is far too late in the election process for counties to implement new rules and procedures.” Verified Pet. for Declaratory Relief (“Pet.”) Ex. B at 1. And yet, by a 3-2 vote just six weeks before the election, the State Election Board (“SEB”) passed a new “Hand Count Rule” set to go into effect as early as October 14, i.e., *as early voting starts*. The Rule is already disrupting election administration across Georgia and will bring further chaos on election day. Because an adjudication on the merits would come too late to prevent those irreparable harms, the Court should immediately enjoin the Rule.

If the Hand Count Rule is permitted to take effect, it would saddle Petitioners Teresa Crawford, Vasu Abhiraman, Loretta Mirandola, and Anita Tucker (the “BRE Petitioners”)—and election superintendents and election board members in every Georgia county—with a new, onerous requirement. At thousands of locations across Georgia, trios of poll workers will have to hand count every election day ballot to verify that they match machine-calculated totals. And if these poll workers identify an “inconsistency” (a term that is left undefined) between their count and the machine count, they must then “correct” it if possible (another term that is left undefined). This labor-intensive process happens either late at night on election day at precincts across the State (with anxious and agitating observers) or in the days that follow at election offices ill-equipped to add yet another task to the many they tackle during that time. The end result: tired, undertrained poll workers sorting through millions of ballots with scant guidance and no oversight, under immense time pressures.

The Secretary of State’s office recognized these harms when it warned SEB that the Hand Count Rule was one of the “most concerning rules under consideration,” because it would “require tremendous personnel resources and time,” “could lead to significant delays in reporting,” and “needlessly introduce the risk of error, lost ballots, or fraud.” Pet. Ex. B at 2. On

that last point, the Hand Count Rule would disrupt well-established chain of custody procedures and allow for thousands more people to handle ballots in thousands of locations, contrary to the clear intent of the General Assembly and core principles of election security. As the Secretary of State has previously stated, “[h]aving poll workers handle ballots at polling locations after they have been voted introduces a new and significant risk to chain of custody procedures.”¹

The Hand Count Rule also would unlawfully interfere with the General Assembly’s existing procedures to ensure the accurate, secure, and timely tabulation of ballots. For that reason, the Attorney General took the remarkable step of warning SEB that the Hand Count Rule “very likely exceed[s] the Board’s statutory authority and ... appear[s] to conflict with the statutes governing the conduct of elections.” Pet. Ex. A at 1–2. Indeed, as the BRE Petitioners attest, the Rule threatens their ability to fulfill their statutory duty to ensure the election is run “honestly, efficiently, and uniformly.” O.C.G.A. § 21-2-70(8).

Despite the Hand Count Rule’s many flaws, a final adjudication of the merits will come too late to remedy the harm the rule is already causing. Right now, county boards of elections like those on which the BRE Petitioners and DPG’s members sit must scramble to understand the Hand Count Rule’s requirements, shift resources to try to comply with them, develop new training materials, recall thousands of poll workers to train them, and make additional plans for staffing and logistics—all without any guidance from SEB or the Secretary of State. In fact, just yesterday, the Secretary of State notified BRE members that it would not be providing any training on the Hand Count Rule until a court addresses the rule “because poll worker training in many counties has already started and there is limited time remaining for additional training.”

¹ SOS Release (Aug. 15, 2024), <https://sos.ga.gov/news/raffensperger-defends-georgias-election-integrity-act-last-minute-changes-delaying-election> (“SOS Release”).

Ex. 4 (Tucker Aff.) & Ex. A (attached thereto). This is precisely the kind of circumstance that calls out for an interlocutory injunction to preserve the status quo. Such an order would allow elections staff across the State to focus on the myriad other tasks confronting them, stop the drain of resources that has already started, and avoid the additional irreparable injuries that threaten this election as workers strive to decipher and prepare for a new rule at the eleventh hour.

In short, the Hand Count Rule is a recipe for chaos—before, during, and after the election. Because the Rule undermines the public’s faith in the election, directly contradicts SEB’s own mission, and exceeds SEB’s statutory authority, Petitioners seek an immediate order enjoining the Rule from taking effect and SEB from enforcing it. That result preserves the status quo, prevents irreparable harm, and furthers the public interest. And because, as the Secretary of State recognized, the irreparable harm of the Hand Count Rule is manifesting now, Petitioners request expedited consideration and a hearing as soon as possible under Superior Court Rule 6.7. If this Court is unable to hold a hearing before October 11, Petitioners request that this matter be assigned to the presiding judge for immediate consideration. In support, Petitioners rely on this Memorandum of Law, their Verified Petition, and the Affidavits of the BRE Petitioners and a DPG representative (attached as Exhibits 1–5).

STATEMENT OF FACTS

I. The General Assembly has established a detailed method for swiftly, securely, and accurately counting ballots and mandating strict chain of custody procedures.

In enacting the Georgia Election Code, the General Assembly created a comprehensive, integrated system of election administration that ensures qualified voters cast proper votes and that such votes are accurately counted and reported. *See generally* O.C.G.A. §§ 21-2-1 through 21-2-604. As relevant here, the Code provides that once ballots are cast and polling locations close, county superintendents must start the process of counting, canvassing, tabulating, and

certifying the votes. O.C.G.A. § 21-2-493(a); *see also id.* §§ 21-2-490 through 21-2-504. This continues until all ballots have been tabulated, and the results are released to the public.

O.C.G.A. § 21-2-493(a). Superintendents ***must*** also report the total number of ballots cast within their jurisdiction to the Secretary of State and the public by 11:59 P.M. on election day.

O.C.G.A. § 21-2-421.

The superintendents' work cannot start, however, until the poll manager for each precinct transmits the precinct election materials. The Code and its implementing regulations lay out specific steps that the poll manager must follow before this transmission can begin, which are described in detail in the Petition. Pet. at 10–14 (citing various provisions of the Code including O.C.G.A. §§ 21-2-430 to 440, 21-2-450 to 470, 21-2-484, 21-2-493). The Code also ensures that ballots are accurately counted by mandating superintendents conduct specific precinct-level cross-checks and instructing them on how to resolve any numerical discrepancies detected by those cross-checks. *See, e.g.,* O.C.G.A. § 21-2-493, 495. The computation, canvassing, and tabulation process must be completed as quickly as possible, because election officials must certify results “not later than 5:00 P.M. on the Monday following the date on which such election was held.” O.C.G.A. § 21-2-493(k).²

The Election Code also ensures that proper votes cast by qualified voters are accurately counted and reported through a comprehensive security and chain of custody scheme. *See generally* O.C.G.A. §§ 21-2-1 through 21-2-604; *see also* Pet. at 14–15, ¶¶ 46–47. For example, in elections where optical scanners are used, the General Assembly has provided that poll managers must seal ballot containers at individual precincts, then securely deliver those

² Because November 11, 2024, is a legal holiday, election returns this year must be certified by election officials not later than 5:00 P.M. on November 12, 2024. *See* O.C.G.A. § 21-2-14.

containers with another poll officer to a centralized tabulation center. *See* O.C.G.A. § 21-2-484. The Election Code also prohibits commingling of ballots from various polling sites. O.C.G.A. § 21-2-483. Similarly, in elections where voting machines are used, when polls close, “the poll officers shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation.” O.C.G.A. § 21-2-454(a).

As these examples illustrate, the election code’s overall scheme maintains tight control over the handling of election materials and a limitation on the number of people who can do so. This makes sense. As Petitioner Abhiraman explains from his years of experience as a poll worker and now County BRE member, the well-established best practice in running elections is to limit hand counting to minimize opportunities for human error or malfeasance. Ex. 2 (Abhiraman Aff.) at 7, ¶ 21.

II. SEB issued the Hand Count Rule over the objections of stakeholders including the Secretary of State and Attorney General.

On August 21, 2024, SEB publicly posted a rule amendment that would increase exponentially how much and for how long workers must handle ballots at thousands of locations across the State. In its notice of the Hand Count Rule, SEB stated that “a public hearing w[ould] be held on Friday, September 20” to “[p]rovide the public an opportunity to comment upon and provide input into the proposed rule amendments.” Pet. Ex. G at 1. The Hand Count Rule amends Rule 183-1-12-.12, which addresses what poll workers must do after the polls close. Under the existing rule, a poll manager begins a “closing procedure on each ballot scanner so that no further votes are cast,” and then—using a “recap form” that the Secretary of State provides—records the number of ballots from each scanner. Rule 183-1-12-.12(a)(1). The scanner itself generates this number. *See* Ex. 2 at 7, ¶ 21. The poll manager also records other information the scanner provides, and then “[a]s soon as possible after the polls close and the last

elector votes,” the poll manager conveys this information to the election superintendent, Rule 183-1-12-.12(a)(3), which, in almost all counties, is the Board of Registration and Elections.

The Hand Count Rule substantially changes subsection (a)(5). Under the current provision, “the poll manager and two witnesses ... unseal and open each ballot box, remove the paper ballots from each ballot box, and place the paper ballots into a durable, portable, secure and sealable container to be provided for transport to the” election superintendent. Rule 183-1-12-.12(a)(5). The existing rule requires that the container then “be sealed and signed by the poll manager and the same two witnesses such that it cannot be opened without breaking the seal.” *Id.* This sealed container, along with tabulation information, then gets delivered to the election superintendent that night, so the county-run process of vote tabulation can begin promptly and end in time for certification, which by statute must occur “not later than 5:00 P.M. on the Monday following the date on which such election was held.” O.C.G.A. § 21-2-493(k); *see also* Ex. 1 (Crawford Aff.) at 6, ¶ 19; Ex. 2 (Abhiraman Aff.) at 5, ¶ 15; Ex. 3 (Mirandola Aff.) at 5, ¶ 15; Ex. 4 (Tucker Aff.) at 5, ¶ 18.

The Hand Count Rule disrupts this process. Instead of ensuring sealed ballots are promptly delivered to the superintendent, the Rule requires three poll officers to remove the paper backup ballots from the machines and each to “independently count the total number of ballots removed from the scanner, sorting into stacks of 50.” Pet. Ex. G at 2. Notably, the count enacted by the Hand Count Rule does not have to occur on election night. For scanners with more than 750 ballots, each poll manager has discretion to start the count the next day, in which case the ballots would be transferred to the county elections office. *Id.* at 3. In Fulton County, that could be more than an hour’s drive from a precinct. Ex. 1 at 3, ¶ 9. The counting cannot end until each of the three poll workers “arrive at the same total ballot count independently.”

Pet. Ex. G at 2. The poll workers have until the end of the “designated county certification period” to finish. *Id.* at 3.³

The Hand Count Rule does not address what happens if the count ends with insufficient time to complete the county’s mandatory certification. Nor does the Hand Count Rule contemplate what happens when poll workers do not finish the count at all, or how poll workers can resolve discrepancies between the machine counts and the hand counts. The Hand Count Rule is simply silent on both points; an incomplete statement of law that raises more questions than it answers.

In sum, the Hand Count Rule requires thousands of poll workers to hand count ballots at up to 2,715 locations throughout the state during a time when election workers are already tasked with numerous obligations to ensure the timely reporting of election results.⁴ And this new requirement comes with little time to train workers and no guidance regarding such training. *See* Ex. 1 at 4–5, ¶¶ 14–15; Ex. 2 at 4–5, ¶¶ 10–12; Ex. 3 at 4, ¶¶ 10–12; Ex. 4 at 4, ¶¶ 13–15.

Before SEB ever considered the Hand Count Rule, the Secretary of State had already warned against “hand count[ing] of ballots at polling location on election night,” because it conflicted with the Election Code and raised “security” concerns. Pet. Ex. C at 9. Then after SEB published the proposed Hand Count Rule, a range of individuals and organizations echoed these concerns. Similarly, the Attorney General, made clear that the Hand Count Rule “very likely exceed[s] the Board’s statutory authority.” Pet. Ex. A at 1–2. On top of all of that, the

³ The count must also “conclude prior to any scheduled or announced post-election audits.” *Id.* at 3.

⁴ There were 2,715 precincts across Georgia’s 159 counties used for voting in both the March 12, 2024 Presidential Preference Primary (<https://results.enr.clarityelections.com/GA/120015/web.317647/#/summary>) and the May 21, 2024 General Primary / Nonpartisan Election (<https://results.enr.clarityelections.com/GA/121186/web.317647/#/summary>).

Secretary of State and the Attorney General told SEB there was simply not enough time to implement this rule. *Id.* at 2; Pet. Ex. B at 2.

Petitioner DPG joined the chorus and further invoked its right under O.C.G.A. § 50-13-4(a)(2) to request “a concise statement of the principal reasons for and against [the Hand Count Rule’s] adoption” and, if adopted, a statement of SEB’s “reasons for overruling the consideration urged against its adoption.” *See* Pet. Ex. I at 8.

SEB disregarded these concerns and adopted the Hand Count Rule on September 20, 2024 by a 3-2 vote. Pet. at 21, ¶ 69. It did not provide the statement DPG requested. *Id.*, ¶ 70. Under O.C.G.A. § 50-13-6(a), the Hand Count Rule becomes effective 20 days after it is filed with the Secretary of State’s office. That could be as early as October 14. Pet. Ex. B at 1.

ARGUMENT AND CITATION OF AUTHORITY

I. Georgia law authorizes an interlocutory injunction to prevent imminent, irreparable harm caused by an invalid rule and permits a lawsuit against SEB under the circumstances presented here.

Petitioners bring suit under Georgia’s Administrative Procedure Act (“APA”). Specifically, this action is brought pursuant to O.C.G.A. § 50-13-10, the APA provision that authorizes declaratory judgment actions challenging the validity of state agency rules and prescribes that such actions “shall be in accordance with Chapter 4 of Title 9, relating to declaratory judgments.” In a declaratory judgment action governed by that Chapter, “the trial court is specifically authorized to grant injunctive relief to preserve the status quo pending the adjudication on the merits.” *Scott v. Prime Sales & Leasing, Inc.*, 276 Ga. App. 283, 287 (2005) (citing O.C.G.A. § 9-4-3(b)).

Under Georgia law, a trial court may issue an interlocutory injunction when:

(1) there is a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted; (2) the threatened injury to the moving party

outweighs the threatened harm that the injunction may do to the party being enjoined; (3) there is a substantial likelihood that the moving party will prevail on the merits of her claims at trial; and (4) granting the interlocutory injunction will not disserve the public interest.

SRB Inv. Servs., LLLP v. Branch Banking & Trust Co., 289 Ga. 1, 5 (2011).

It is “not incumbent upon [the moving party] to prove all four factors to obtain [an] interlocutory injunction.” *City of Waycross v. Pierce Cty. Bd. of Comm’rs*, 300 Ga. 109, 111 (2016).⁵ Nonetheless, all four factors are satisfied here. “Whether an interlocutory injunction is warranted is a matter committed to the discretion of the trial court.” *Jansen-Nichols v. Colonial Pipeline Co.*, 295 Ga. 786, 787 (2014); *see also* O.C.G.A. § 9-5-8 (“The granting and continuing of injunctions shall always rest in the sound discretion of the judge.”).

This lawsuit does not implicate any sovereign immunity concerns, as § 50-13-10 “specifically waive[s]” sovereign immunity, *Black v. Bland Farms, LLC*, 332 Ga. App. 653, 659–60 (2015), meaning it “authorizes a superior court to accept an action for a declaratory judgment on the validity of rules of a state agency, and for the state agency to be made a party with service of the petition on the attorney general,” *Olvera v. Univ. Sys. of Ga.’s Bd. of Regents*, 331 Ga. App. 392, 394–95 (2015). That is precisely the case here—this action is a declaratory judgment action regarding the validity of rules of a state agency brought under § 50-13-10, and both the Attorney General and SEB have been served with a copy of the petition. Tellingly, the State conceded earlier this week in another challenge to SEB rules that sovereign immunity poses no barrier to APA suits seeking a declaration that agency rules are invalid, and that this express waiver survived the adoption of Paragraph V in the Georgia Constitution. *See*

⁵ *See also SRB Inv. Servs.*, 289 Ga. at 5 n.7 (“To the extent that our opinion in *Bishop* ... may be read as requiring the moving party to prove all four of these factors to obtain an interlocutory injunction, it is hereby disapproved.”).

Abhiraman v. SEB (No. 24CV010786) Transcript at 78–79 (“You know, obviously under 50-13-10 there is a statutory waiver, under the declaratory judgment statute, there’s statutory waiver.”) (statement of Senior Assistant Attorney General) which is attached as an excerpt at Exhibit 6.⁶

II. Petitioners are entitled to an interlocutory injunction to enjoin SEB from enforcing the Hand Count Rule.

A. Petitioners face irreparable injury if this Court denies their Motion for Interlocutory Injunction.

“The first factor—substantial threat of irreparable injury if an interlocutory injunction is not entered—is the most important one, given that the main purpose of an interlocutory injunction is to preserve the status quo temporarily to allow the parties and the court time to try the case in an orderly manner.” *Bishop*, 288 Ga. at 604–05. As the Georgia Supreme Court made clear in *State v. Federal Defender Program, Inc.*, the question for this Court is whether the evidence demonstrates a “*substantial threat*” of irreparable injury, not that irreparable injury would necessarily follow absent an injunction. 315 Ga. 319, 346 (2022).

Here, the Hand Count Rule disrupts the status quo, causes each of Petitioners irreparable injury, and threatens further injury if the rule were applied to this election. The enormous burdens that the Rule imposes are obvious: it requires three poll workers at each precinct to count, *by hand*, the hundreds or thousands of ballots. There are more than 2,500 precincts across the state, which means that collectively, county election superintendents and BRE members—

⁶ Nor does Paragraph V have any import here. The constitutional basis for the APA’s waiver of sovereign immunity comes from Article I, Section II, Paragraph IX(e) of the Georgia Constitution. *See Olvera*, 331 Ga. App. at 394. No claim in this case is brought pursuant to Article I, Section II, Paragraph V of the Constitution, which requires that the State (or a local government)—and no other respondent—be named as a party. *See American Oversight v. Georgia Republican Party, Inc.*, No. 24-cv-009124 (Sept. 30, 2024) (ruling on motion to dismiss). By contrast, declaratory judgment claims brought pursuant to the APA *must* name the agency whose rules are at issue as a party to the action. O.C.G.A. § 50-13-10(b).

like the BRE Petitioners—must ensure that there are *at a minimum* 7,500 poll workers available to take on the onerous task of manually counting every single election day vote in the state.

The harms posed by the Rule divide into five categories: (1) staffing; (2) training; (3) diversion of financial resources; (4) interference with certification; and (5) introduction of errors.

1. Staffing. As the BRE Petitioners confirm, potential poll workers have begun warning counties that they will not serve in this election if they must hand count ballots. *See, e.g.*, Ex. 1 at 3, ¶ 8; Ex. 4 at 3, ¶ 10. These refusals make sense. Election workers already are expected to work tirelessly on election day, starting at five in the morning, while facing immense scrutiny on their every move. Ex. 1 at 2–4, ¶¶ 7, 10; Ex. 2 at 3, 6, ¶¶ 9 & 17; Ex. 3 at 3, ¶ 8; Ex. 4 at 3–4 ¶¶ 9 & 11. BRE Petitioners explain that potential poll workers in their counties have expressed fear that adding this new challenge to hand count paper ballots on the night of the election, with anxious and sometimes hostile public onlookers, would be just too much to bear. Ex. 1 at 3, ¶ 8; Ex. 2 at 3, ¶¶ 8–9; Ex. 3 at 3, ¶¶ 7–8; Ex. 4 at 3, ¶¶ 9–11. Absent immediate relief, Petitioners and their colleagues risk losing many experienced poll-workers *now* whom Petitioners will not have the opportunity to hire and retrain if this Court issues a decision on the merits of the petition just a few days before the election.⁷

These staffing issues will come to a head on election day if the Hand Count Rule is in effect. Under the status quo, votes are tabulated in a single tabulation center per county. *See* Pet. Ex. A at 5 (citing O.C.G.A. § 21-2-483); *see also* O.C.G.A. § 21-2-420 (calling for processing, counting, and tabulating votes after election materials are delivered to the election

⁷ These logistical challenges are exacerbated by the fact that the Hand Count Rule gives poll managers the authority to require hand counts take place at the County elections office. In Fulton County, for example, the elections office can be more than an hour's drive from certain precincts. Ex. 1 at 3, ¶ 9. Few poll-workers will want—or be able to—make that long drive from home every day the count continues. *Id.*

superintendent); O.C.G.A. § 21-2-408 (proscribing requirements for poll watchers to observe these procedures at the tabulating center in each county). But the Hand Count Rule would spread additional ballot counting among potentially thousands of locations, and large precincts can decide individually—on election night—whether to delay counting and transfer it to the County election office. As a result, DNC, DPG, and their members will not know where hand counting will occur until 10:00 pm on election day. *See* Pet. Ex. G at 3. As it stands, DPG lacks the ability to have monitors at every precinct across the State or to add additional monitors at precincts already slated for observation, Ex. 5 (Baldwin Aff.) at 3, ¶ 9, and things will only get worse if existing poll monitors quit. Moreover, if the hand count does not start until the day after the election, which is likely in large counties, the BRE Petitioners and their elections staff must run and supervise the hand counting process while also accomplishing other crucial tasks, including retrieving voting equipment, documenting items in compliance with law, and promptly processing provisional ballots. Ex. 1 at 6–7, ¶¶ 22–23; Ex. 2 at 6, ¶ 19; Ex. 3 at 5, ¶ 17; Ex. 4 at 6, ¶ 21. Preparing to address these uncertainties must begin now, and cannot be remedied ex post, on the eve of the election.

2. Training. The BRE Petitioners must also ensure that the poll workers who undertake the task of hand counting each vote are properly trained—*e.g.*, on the right way to handle ballots, best practices for ballot security, and how (and whether) to resolve any inconsistencies between the machine count and the hand count. But in each of the BRE Petitioners’ counties, preparing for this election started over a year ago, and the training of hundreds of poll workers began weeks ago. Ex. 1 at 4, ¶ 12; Ex. 2 at 4–5, ¶¶ 10 & 12; Ex. 3 at 4, ¶ 10; Ex. 4 at 4, ¶ 13. In light of this new Hand Count Rule, election staff must furiously develop new training, with no guidance from SEB or the Secretary of State, for more than 7,500 poll workers that must now

count by hand each and every election day ballot in the State. Ex. 1 at 4–5, ¶¶ 14–15; Ex. 2 at 4–5, ¶¶ 11–12; Ex. 3 at 4, ¶¶ 11–12; Ex. 4 at 4, ¶¶ 14–15. Again, this harm is irreparable absent immediate injunctive relief—the Petitioners and their colleagues across the state have finite time and resources to spend on training, and any money diverted to address the Hand Count Rule cannot be spent on other election-preparedness measures. Ex. 1 at 2 & 5, ¶¶ 5 & 18; Ex. 2 at 2–3 & 5, ¶¶ 7 & 13; Ex. 3 at 2–5, ¶¶ 6 & 13; Ex. 4 at 2 & 5, ¶¶ 7 & 16.⁸

3. Diversion of Financial Resources. The Hand Count Rule will require counties to take on additional financial burdens, including securing additional funding to pay poll workers’ time (to compensate them for the additional procedures added by the Hand Count Rule) and paying for increased security who may need to remain stationed at polling places longer than currently planned. *See, e.g.*, Ex. 1 at 5, ¶¶ 16–18. An immediate injunction is crucial because it will allow those financial resources to be diverted to other, urgent election-related needs, whereas a ruling on the merits after the election would come too late.

4. Interference with Certification. The Hand Count Rule will also interfere with the statutory requirement to promptly certify the election, potentially undermining voters’ confidence in the results. The BRE Petitioners must finish computation and canvassing by 5:00 P.M. on the Tuesday following the election to certify the results. O.C.G.A. § 21-2-497. The Hand Count Rule, however, interferes with this process and delays the tabulating of votes by injecting a time-consuming triple hand count of every ballot that could spread to several days and multiple locations, which could impede timely certification of the election. Pet. Ex. G at 2–3. Indeed, under the Hand Count Rule, the BRE Petitioners might not receive the ballots until the end of

⁸ The Secretary of State told the counties yesterday that it does not intend to introduce any new guidance on the Hand Count Rule in light of pending litigation. Ex. 1 at Ex. A (attached thereto).

“the week designated for county certification,” *id.* at 3, leaving the BRE Petitioners little time to complete tabulation. In Fulton County, for example, the hand count would likely occur in phases over several days. Ex. 1 (Crawford Aff.) at 6–7, ¶ 22.

5. Increasing The Likelihood Of Error. Finally, studies show that hand counts are prone to errors, *see* Pet. at 15, ¶ 48, which become even more likely when workers are exhausted. This concern is undoubtedly a reason the General Assembly has developed detailed chain of custody procedures in the Election Code that almost never authorize hand counting at any stage of the process, much less individual precincts. *See* Pet. at 14–15; *id.* at 23, ¶ 77 (observing that the election code allows only two narrow forms of hand counting prior to county superintendents’ certification of results) (citing O.C.G.A. §§ 21-2-435(c), 21-2-437(a), 21-2-483(f)(g)). And this is also why the Secretary of State has warned that hand counting “needlessly introduce[s] the risk of error, lost ballots, or fraud.” Pet. Ex. B at 2. The Hand Count Rule poses a distinct risk that the three (again, tired) poll workers hand counting ballots simply cannot reconcile their counts. The effect of the Hand Count Rule is therefore to make the election anything but orderly. And the sum of these problems threatens to undermine the public’s trust in the election.

All of this is in addition to the Rule’s express conflicts with the statutory obligations of county election board members like the BRE Petitioners, poll managers, assistant poll managers, and poll clerks—including those who are members of DPG. These conflicts are explained below in Part C and present Petitioners with an impossible choice between violating the Hand Count Rule and facing sanctions, O.C.G.A. § 21-2-33.2, or violating State law. An immediate injunction is necessary to prevent these serious and irreparable injuries.

B. The balance of equities favors Petitioners.

The second factor is satisfied when “the potential for harm to the [movant] outweighs any possible harm to the” other side. *City of Waycross*, 300 Ga. at 112. As explained above, the Hand Count Rule will harm Petitioners, the integrity of Georgia’s elections, and every Georgia voter. SEB, in contrast, faces no harm if the Rule is enjoined for this upcoming election. Most fundamentally, SEB has no legitimate interest in enforcing an unlawful rule and the Hand Count Rule exceeds SEB’s statutory authority. *See infra* Part C. But this Court does not need to reach the merits to conclude that enjoining the Hand Count Rule would cause SEB no harm. On its face, the Hand Count Rule does not further the only stated purpose SEB provided for passing it: “to ensure the secure, transparent, and accurate counting of ballots.” Pet. Ex. G at 2.

For one thing, and as the Secretary of State has explained, the General Assembly has already established rigorous ballot counting and tabulating procedures that our elected officials have determined sufficiently fulfill this purpose. *See, e.g.*, O.C.G.A. § 21-2-379.11 (providing procedures for secure and transparent counting of ballots when using DRE machines); O.C.G.A. § 21-2-483 (same for when optical scanners are used, mandating the use of tabulating machines); *see also* O.C.G.A. 21-2-493(e)–(h) (mandating precinct-level cross-checks by superintendent); O.C.G.A. § 21-2-495 (setting forth a process for the superintendent to order a recount or recanvass); *see also* Pet. at 29 ¶ 95 (“Georgia law already has secure chain of custody protocols for handling ballots . . .”) (quoting SOS Release). SEB has never explained why the already existing rules—which do *not* call for hand counting of ballots by poll workers—are inadequate.

Instead, the Hand Count Rule undermines each of SEB’s stated goals. As the Secretary of State has explained, “having poll workers handle ballots at polling locations after they have been voted introduces a new and significant risk to chain of custody procedures.” *Id.* (quoting

SOS Release). This is why the Secretary of State's office has historically cautioned counties *not* to hand count ballots: "In order to ensure maximum security for the voted ballots, poll workers should not prolong the process of removing ballots from ballot boxes and sealing them in transport containers." Pet. Ex. C at 9. This process must instead "be done efficiently, transparently, and immediately after the polls have closed and votes have been cast." *Id.*

The Hand Count Rule contravenes this guidance and threatens the efficiency and security of the count by disrupting the chain of custody. The Hand Count Rule requires thousands of individual poll managers at potentially thousands of locations across Georgia to open sealed ballot boxes, and then remove, reorganize, and pass around ballots. *See* Pet. Ex. G at 2; *see also* Pet. Ex. E at 220:25–221:13 (Alexander). As Fayette County Board of Elections member Sharlene Alexander—the person who proposed the Hand Count Rule—described it, this vote-counting process could devolve into a scramble. In her own telling based on her time as a poll worker, a hand count would require "pull[ing] the ballots out of the scanner" and placing the ballots "in a big pile" from which three poll workers would "just start pulling those ballots out of the pile" to "quickly" count the ballots "into stacks of fifty." Pet. Ex. E at 220:22–221:4. Then the poll worker "would push them to the next person" who would re-count the stack and so on until all three poll workers had counted each stack and confirmed they had "hand-counted" the same number of ballots. *Id.* at 221:6–12. And all of this could happen outside the supervision of the superintendent, in violation of State law. *See* Pet. Ex. G at 2–3. Such unguided handling poses a substantial risk that the ballots will be lost or (perhaps inadvertently) tampered with. *Cf. Collier v. Bd. of Comm'rs*, 240 Ga. App. 605, 605–06 (1999). As Petitioner Abhiraman explains, "it is best practice to limit the number of people handling ballots, because with each additional person, there is an increased chance of error and mishandling." Ex. 2 at 7, ¶ 21. "Even

insignificant errors could send the wrong message to the public that something is suspect with the election,” which could undermine the public’s confidence in the process. *Id.*

The Hand Count Rule further contemplates that poll officers may both move ballots to and count ballots at a “place other than the polling location” on a date after the election. Pet. Ex. G at 3. Although the Hand Count Rule provides that the ballots and other election materials shall be sealed, it does not specify where the sealed materials shall be stored until the hand count begins later. Moreover, the Hand Count Rule does not specify any procedure for inspecting and validating the seal prior to the hand count, and indeed introduces new opportunities for ballot tampering by permitting poll managers to engage in an undefined “correction” of discrepancies. And the Hand Count Rule’s scope is unclear, as it does not specify what measures a poll manager may or should take to perform such a correction. *See id.* at 2–3. The term “correct” is amorphous and susceptible to numerous interpretations and abuses. The lack of clarity for how to “correct” discrepancies in a hand count poses a significant risk of inconsistencies across precincts, mishandling of ballots, failure to count ballots, and confusion among poll managers, all in tension with SEB’s mission.

Finally, the Hand Count Rule could delay election results and sow distrust in the process, which is directly contrary to SEB’s stated goal of ensuring “[f]air, legal and orderly elections.” O.C.G.A. § 21-2-31(2); *see also* J. Cameron, *Raffensperger: Election board ‘destroying voter confidence’ in Georgia*, CHRISTIAN SCIENCE MONITOR (Sept. 26, 2024).⁹

Enjoining the Rule thus poses no harm to SEB. Instead, the requested injunction prevents the Hand Count Rule from disrupting the status quo at this critical time and furthers SEB’s statutory mandate.

⁹<https://www.csmonitor.com/USA/Politics/2024/0926/brad-raffensperger-georgia-election-board>.

C. Petitioners are substantially likely to prevail on the merits of their claims.

As explained above, the balance of equities demands an immediate injunction to prevent irreparable harm. That is enough to support Petitioners' requested relief, and Petitioners need not show they are substantially likely to prevail on the merits. *City of Waycross*, 300 Ga. at 111–12. But for several reasons, Petitioners satisfy this factor, too. As the Secretary of State and the Attorney General explained, the Hand Count Rule has no basis in the Georgia Election Code, and a rule issued without statutory authority is invalid. But the Hand Count Rule is not just devoid of authority, it exceeds it. SEB's rulemaking power is limited to passing rules that are "consistent with law," "conducive to the fair, legal, and orderly conduct of primaries and elections," and that "obtain uniformity in the practices and proceedings" of election officials. O.C.G.A. § 21-2-31(2). The Hand Count Rule fails on each front, conflicting with various code sections and injecting needless disorder into the election process. Moreover, SEB disregarded mandatory rulemaking procedures that, under binding Georgia law, render the Hand Count Rule invalid.

1. *The Hand Count Rule Improperly Adds Requirements to the Election Code that Conflict with the General Assembly's Comprehensive Canvassing, Computation, and Tabulation Scheme.*

a. *No statute authorizes the Hand Count Rule.*

Article III, Section I of the Georgia constitution provides that the legislative power of the state is vested exclusively in the General Assembly. SEB accordingly has "no inherent powers and no lawful right to act except as directed by the [enabling] statute." *Southern Co-op. Foundry Co. v. Drummond*, 76 Ga. App. 222, 224-25 (1947). SEB's authority to promulgate rules is instead limited "to carry[ing] into effect a law already passed" or otherwise "administer[ing] and effectuat[ing] an existing enactment of the General Assembly." *HCA Health Servs. of Ga., Inc. v. Roach*, 265 Ga. 501, 502 (1995); *see also Ga. Dep't of Cmty. Health v. Dillard*, 313 Ga.App.

782, 785 (2013) (“[A]n administrative rule which exceeds the scope of or is inconsistent with the authority of the statute upon which it is predicated is invalid.”).

Nothing in the Election Code permits the kind of hand counting contemplated by the Hand Count Rule. The Election Code specifies only two forms of hand counting prior to county superintendents’ certification of results. The first occurs during the tabulation of paper ballots marked by hand—a process that has nothing to do with the automated devices affected by the Hand Count Rule, O.C.G.A. §§ 21-2-435(c), 21-2-437(a). The second occurs at the tabulation center in those limited circumstances where a tabulating machine cannot read a ballot due to damage or unclear markings. *Id.* §§ 21-2-483(f), (g). None of this authorizes the additional hand count the Rule would require, and SEB does not contend otherwise.

Instead, SEB relies on three other Election Code provisions as “authority” for the Hand Count Rule. *See* Pet. Ex. G at 3. SEB provided no supporting explanation for this assertion, and none of the provisions supports its position.

First, SEB cited O.C.G.A. § 21-2-483(a), which provides that in “elections in which optical scanners are used, the ballots shall be counted at the precinct or tabulating center under the direction of the superintendent.” O.C.G.A. §21-2-483(a). It further provides that only persons “deputized by the superintendent” shall touch ballots, containers, papers, or machines used in the count. *Id.* This provision is inapposite. While some machine scanning of ballots may be permitted at the precinct in cases where optical scanners are used, O.C.G.A. § 21-2-483(a) provides that such counting is under the direction of the superintendent, not a poll manager. More broadly, O.C.G.A. § 21-2-483(c) envisions counting will take place at a tabulating center. O.C.G.A. §21-2-483(c) (“and the ballots shall be prepared for processing by the tabulating machines” (emphasis added)); *see also* Pet. Ex. A at 5 (Attorney General’s office noting that

Section 21-2-483 “details [counting] procedures at the tabulation center”) (emphasis added).

The Hand Count Rule, in contrast, would allow undeputized poll workers to count ballots without superintendent supervision.

Second, SEB cited O.C.G.A. § 21-2-436, but that statute applies only to precincts using paper ballots marked by hand, and thus grants SEB no authority to impose the Hand Count Rule for voting “conducted via ballots marked by electronic ballot markers and tabulated by ballot scanners,” as SEB is trying to do. Rule 183-1-12-.01; *see also* Pet. Ex. A at 6 (Attorney General’s office noting § 21-2-436 “contemplates the duties of poll officers ... in precincts in which ***paper ballots*** are used, not ballot scanners or voting machines” (emphasis added)).

Third, SEB cited O.C.G.A. § 21-2-420(a), which states that “the poll officials in each precinct shall complete the required accounting and related documentation for the precinct and shall advise the election superintendent of the total number of ballots cast at such precinct and the total number of provisional ballots cast.” O.C.G.A. § 21-2-420(a). Nothing in the Election Code defines the “required accounting” so broadly as to encompass hand counting. In particular, as the Attorney General’s office informed SEB, “neither the statutes that prescribe the duties of poll officers after the close of the polls for precincts using voting machines, *see* O.C.G.A. § 21-2-454, nor the precincts using optical scanners, *see* O.C.G.A. § 21-2-485, suggest that the General Assembly contemplated that a hand-count of the ballots would be part of the ‘required accounting.’” Pet. Ex. A at 6.

b. The Hand Count Rule conflicts with the General Assembly’s comprehensive canvassing, computation, and tabulation scheme.

The Hand Count Rule directly conflicts with the Election Code in at least six ways.

First, the Hand Count Rule requires that poll workers around the state create an election-related form—*i.e.*, a “control document” for recording the results of a hand count. *See* Pet. Ex.

G at 2. But under O.C.G.A. § 21-2-50(a)(5), only the Secretary of State has the authority to create “all blank forms” to be used in any election. *See* O.C.G.A. § 21-2-50(a)(5); *see also* Pet. Ex. B at 1 (letter from Secretary’s Office to SEB citing Section 21-2-50 for the proposition that “the form of the ballot is exclusively within the control of the Secretary of State under Georgia law.”).

Second, the Hand Count Rule transfers a portion of the superintendent’s statutory responsibilities over the computation and canvassing of the ballots, O.C.G.A. § 21-2-493(a), to poll managers. SEB—like any other agency—is not authorized to shift statutory responsibility from one official to another. *See Dept. of Human Res. v. Anderson*, 218 Ga. App. 528, 529 (1995) (regulation invalid where it purported to give court veto-power over certain Georgia Department of Human Resources decisions left to the Department’s discretion by statute).

Third, and relatedly, the Hand Count Rule interferes with county superintendents’ authority to “compare the registration figure with the certificates returned by the poll officers showing the number of persons who voted in each precinct or the number of ballots cast” and if there is a discrepancy, to “investigate[]” the issue. O.C.G.A. § 21-2-493(b). This is because the Hand Count Rule requires *poll managers* to “immediately determine the reason for the inconsistency” in hand count totals and “correct the inconsistency, if possible; and fully document the inconsistency or problem along with any corrective measures taken.” Pet. Ex. G at 2. In other words, even if the Hand Count Rule could be read as maintaining the statutory balance of power between county superintendents and poll managers, it gives poll managers the first (and perhaps only) opportunity to address numerical inconsistencies in the ballot tallies. This is improper because that duty rests solely with county superintendents, not poll managers. O.C.G.A. § 21-2-493(b).

Fourth, the Hand Count Rule conflicts with the statutory requirement that the superintendent report to the Secretary of State—and post in a public place—the “number of ballots cast at the polls on the day of the ... election” by “not later than 11:59 pm following the close of the polls *on the day of a[n] ... election.*” O.C.G.A. § 21-2-421(a)(1) (emphasis added). In contrast, the Hand Count Rule requires only that poll officers finish their count “during the week designated for county certification.” Pet. Ex. G at 3. In other words, the Hand Count Rule appears to give poll officers the ability (even if unintentionally) to prevent the superintendent from timely notifying the Secretary and the public regarding the number of ballots received.

Fifth, the Hand Count Rule frustrates the General Assembly’s clear mandate to tabulate results “as soon as possible,” O.C.G.A. § 21-2-240(a), setting up a conflict with the statutory requirement that the superintendent finish computation and canvassing by 5:00 P.M. on the Monday following the election in order to certify the results. O.C.G.A. § 21-2-497. If the hand counts are not completed until late in the certification process (for example, in large counties), it becomes far more difficult for county superintendents to complete the statutorily required tabulation by the certification deadline.

Sixth, the Hand Count Rule requires all poll managers and poll officers to handle ballots regardless of their relationship with the county supervisor. See Pet. Ex. G at 2. This cannot be squared with the requirement in O.C.G.A. § 21-2-483(a) that only those deputized by the superintendent may handle ballots. O.C.G.A. § 21-2-483(a).

In light of these conflicts with the Election Code, the Hand Count Rule is invalid.

2. *The Hand Count Rule exceeds SEB’s statutory rulemaking authority.*

The Hand Count Rule does not just impermissibly add new requirements to existing law. It also exceeds SEB’s statutory authority. The General Assembly authorized SEB to enact rules

only to promote “fair ... and orderly conduct” and “uniformity” during the primaries and elections. O.C.G.A. §§ 21-2-31(1), (2). For the reasons explained above in Part B, the Hand Count Rule will have the opposite effect, injecting inconsistency and disorder. *See also* Pet. at 27–30, ¶¶ 90–101.

3. *SEB violated the mandatory procedures of the Georgia APA.*

The Hand Count Rule is also procedurally invalid for two reasons. *First*, the APA requires that the agency shall, upon request “issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.” O.C.G.A. § 50-13-4(a)(2). Failure to comply with the statement of reasons requirements is fatal to any regulation. *See Outdoor Advertising Ass’n of Ga., Inc. v. Dep’t of Transp.*, 186 Ga. App. 550, 554 (1988) (“Inasmuch as we have concluded that [the agency] violated mandated precepts of the APA in its attempt to adopt amendments to [its] rules and regulations, we must ... hold that the amendments are invalid.”) (considering an agency’s violation of O.C.G.A. § 50-13-4(a)(2)). Despite DPG’s request, SEB has not issued any statement as to why comments against the Hand Count Rule were disregarded.

Second, the Hand Count Rule is invalid because it violates the Georgia APA’s notice requirement. The Code demands “***exact compliance***” with the notice rule, O.C.G.A. § 50-13-4(d) (emphasis added), requiring an agency to “[g]ive at least 30 days’ notice of its intended action.” O.C.G.A. § 50-13-Y(a). SEB’s notice informed the public only that the September 20, 2024 meeting would provide “an opportunity to comment upon and provide input into the proposed rule amendments,” including the Hand Count Rule. Pet. Ex. G at 1. Nothing in the notice suggested that SEB would actually reach a final decision on the Hand Count Rule at the

September 20 hearing. Because SEB did not strictly comply with the notice requirement, the Hand Count Rule is invalid. *See Outdoor Advertising*, 186 Ga. App. at 554.

D. Issuing an interlocutory injunction will not disserve the public interest.

Issuing the requested injunction further serves the public interest and SEB's mandate to promote orderly elections because proper election administration and basic fairness concerns weigh against making significant changes to the law in close proximity to elections. Federal courts have long recognized this principle. *See, e.g., Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006); *see also Democratic Nat'l Comm. v. Wisconsin State Legislature*, 141 S. Ct. 28, 30 (2020) (Gorsuch, J., concurring) (noting the danger posed by changing “longstanding election rules” shortly before or while voting is underway); *Republican Party of Pa. v. Degraffenreid*, 141 S. Ct. 732, 735 (2021) (Thomas, J., dissenting) (“Changing the rules in the middle of the game is bad enough. Such rules changes by officials who may lack authority to do so is even worse.”); *Grace, Inc. v. City of Miami*, 2023 WL 5286232, at *1 (11th Cir. Aug. 4, 2023) (applying principle to action taken a “little more than three months before City of Miami voters go to the polls”). Indeed, SEB itself has previously argued that “late change[s] to [election] law ... pose[s] a significant risk of voter confusion and harm to the electoral process.” Pet. Ex A at 2.

Although *Purcell* binds only federal courts, its logic applies to the facts of this case. Absent an injunction, the Hand Count Rule—which seeks to change longstanding election rules regarding security, counting, canvassing, and tabulation of ballots—will take effect as early as October 14, just 22 days before election day. For this reason, Georgia's Attorney General, Secretary of State, and local election officials alike have urged SEB to cease its last-minute rulemakings—including its passage of the Hand Count Rule—precisely because of the concerns raised by the *Purcell* principle. It is indeed “far too late in the election process for counties to

implement new rules and procedures,” as the Secretary of State has made clear. Pet. Ex. B at 1. Similarly, the Attorney General’s Office has cautioned against “the passage of any rules well- within the period where courts have agreed *Purcell* applies.” Pet. Ex. A at 2. And GAVREO requested a rulemaking pause because the “2024 General Election is less than 50 days away.” Pet. Ex. H at 1.

CONCLUSION

Without delay, this Court should enjoin SEB from enforcing the invalid Hand Count Rule to avoid upsetting the status quo before the 2024 election. The Hand Count Rule threatens irreparable injury to Petitioners in this action, requiring last-minute shifts of resources and hurried training with no standards. If allowed to go into effect, the Hand Count Rule will disrupt statutory processes designed to ensure public trust in the election by introducing breaks in the chain of custody and interfering with superintendents’ duty to timely certify results. The result could be the of Georgia voters. And all of this comes from a rule that is untethered to any statutory authority, in direct conflict with the statutory scheme the General Assembly has established, and beyond SEB’s rulemaking power. For these reasons, Petitioners request an interlocutory injunction to maintain the status quo.

This 2nd day of October, 2024.

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** Pro hac vice application forthcoming*

EXHIBIT 1

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

TERESA CRAWFORD, VASU
ABHIRAMAN, LORETTA MIRANDOLA,
ANITA TUCKER, DEMOCRATIC
NATIONAL COMMITTEE, and
DEMOCRATIC PARTY OF GEORGIA,
INC.,

Petitioners,

v.

STATE ELECTION BOARD,

Respondent,

Civil Case No. 24CV012349

AFFIDAVIT OF TERESA CRAWFORD

1. My name is Teresa K. Crawford. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I have been a member of the Fulton County Board of Registration and Elections (BRE) since 2021. I previously served as a poll worker in 2017 and as a ballot adjudicator from 2018 to 2020. I was also the Chair of the North Fulton Democrats from 2018 to 2020.
3. My duties as a member of the Fulton BRE include supervising the election supervisor and staff and ensuring that changes to the election procedures since the last election are being implemented and that all poll managers and other poll workers are properly trained to conduct the tasks required of them before, on, and after election day.

4. I have read and reviewed the State Election Board rule amending Rule 183-1-12-.12(a)(5) (the “Hand Count Rule”) and talked with our elections director and other elections staff about its implications. Based on my past experience, I believe it will be extraordinarily difficult for the County to adequately prepare for the challenge of having three people hand count every ballot in every precinct as the Rule requires, particularly in light of other demands on our time.

Preparation in Advance of Election Day

5. As I understand it, to comply with the Hand Count Rule, the Fulton County election director (under the oversight of the Fulton County BRE) needs to identify three poll workers in each precinct to hand count all the ballots cast in that precinct, swear them in for this task, and train them how to do it. Preparing for this will take an inordinate amount of time and divert resources the County has currently devoted to other election preparation tasks.
6. One major concern is actually finding enough workers to do the count. In Fulton County, there are 481 precincts. Thus, we need to identify over 1400 poll workers who agree to do this task, and additional backup workers in case they are needed. In response to the Hand Count Rule, the election director under the supervision of the County BRE has been trying to ensure that we have enough poll workers to do this job.
7. On the day of the election, poll workers are already expected to get to their precincts at about 5:00 A.M. and to stay on site until after the polls close at 7:00 P.M. I know from my personal experience and conversations with poll workers that, by 7:00 P.M., these workers are exhausted. Even so, the workers currently must complete detailed close-out procedures in compliance with Georgia law, which typically takes another hour or hour

and a half. The workers get paid a stipend for the day, and do not get anything extra for hours spent at the precinct after 7:00 P.M.

8. Potential poll workers have already started voicing concerns about the additional time it's going to take on election night to conduct a hand count of every ballot at their precincts.

Based on these expressed concerns, I am confident that if poll workers have to do this hand count on election night, some poll workers (including some of the most experienced poll workers) will simply sit this election out.

9. Conducting hand counts of ballots at the County elections office also poses staffing challenges. For Fulton County, the elections office, called the "Hub," is over an hour's drive from Johns Creek (and up to 2 hours depending on the time of day). That would mean that, for example, an election worker in Johns Creek would have to make this trek to and from the Hub the day after the election, when the worker is still recovering from the tasks of the day before. Plus, as currently planned, these workers would get a stipend of just \$20 for hand counting regardless of how long the count might take, giving workers yet another reason not to sign up for the job. Indeed, some of our most experienced poll workers have told me that they are simply not willing to do it. I am presently uncertain how we can effectively address these additional staffing challenges imposed by the Hand Count Rule.

10. The enhanced scrutiny that the ballot counters will face is another challenge in staffing.

Under the Hand Count Rule, the three poll workers would begin shuffling ballots into piles to conduct the hand count while poll watchers look on. But in the past, public observers in our county have not always been polite, and in some cases, they have gotten hostile, yelling or refusing to stay in appropriate areas. In my experience, poll workers

are dedicated and continue working through difficult conditions, but I am concerned that the Hand Count Rule will subject these workers to increased intimidation. In this way, requiring poll workers to manually count every single ballot under enhanced public scrutiny will affect our ability to find people to do the job and see it through.

11. One of my duties as a member of the Fulton BRE is to ensure that all poll managers and other poll workers are properly trained to conduct the tasks required of them before, on, and after election day. I have personally assisted in preparing training materials and, in my role as a BRE member, work to ensure that all election workers are trained in the same way to ensure consistency across Fulton voting precincts.
12. Election worker training begins long before an election. For this coming election, training for early voting has already passed and training for election day voting started Monday, September 16, 2024. Fulton County uses a training manual that we keep in a binder that's about one inch thick. The training materials have been developed over the course of the past two years since the last election, and they build upon training materials Fulton County used before then. Once training begins, Fulton County does not make changes to the training materials.
13. As part of the training, poll managers and other poll workers learn how to use the specific forms authorized for the election, which to my knowledge are exclusively provided by the Secretary of State's office. It is my understanding that we are not allowed to use any form unless the Secretary of State has approved it.
14. The County also needs to establish training and protocols for the hand count, and I am aware of no guidance on this from the SEB (beyond the limited instructions that the Hand Count Rule provides) or from the Secretary of State's office. On October 1, 2024, I

received a message, which is attached to my affidavit as Exhibit A, from the Georgia Secretary of State. It was sent to members and superintendents of the County Boards of Elections. It states that the Secretary of State will not provide additional training on the Hand Count Rule until after any court decisions are made. This lack of training guidance presents further challenges to preparing for the election.

15. Even once we have protocols, we need to actually train workers (and backup workers) to handle the hand count, but as I said above, training has already started. It is incredibly difficult for us to modify the training mid-stream. Forcing the County to implement training for all necessary workers on this short schedule imposes extreme pressures on our staff.
16. The Fulton County BRE and its election supervisor also begin planning financially and logistically for an election long before election day. For this coming election, we began preparing a year in advance, including by completing a budget, securing the necessary funds, and beginning to find the workers we need for early and election-day voting.
17. Because of the Hand Count rule, we also face other financial and logistical burdens. For example, in Fulton County, we pay for police officers to man each precinct for the safety of the workers and voters. If the Hand Count Rule goes into effect, we will need to secure additional law enforcement officers (or confirm that those we hire can stay late), and we'll need to find the money to pay them.
18. In sum, the preparation we must do for this new requirement under the Hand Count Rule is draining our already-limited time and resources. And we still have not had time to think through and plan for all potential hurdles we might face, given the last-minute passage of this Rule as the election fast approaches.

Election Day and Certification Concerns

19. Under the current rules and protocols, the Fulton County BRE receives all precinct-level election materials the night of the election, allowing us to promptly begin the process of tabulating votes so that if there are delays for any reason, we still have time to address those reasons and certify the election by the deadline set by law.
20. Complying with the Hand Count Rule risks significantly delaying the delivery of the materials we need to begin the process of tabulating the votes from individual precincts to the Fulton County BRE, as we are required to do by law. If three poll workers must conduct the hand count on election night before returning precinct election materials to the Fulton County BRE, I am not sure they will be able to complete the count in a timely fashion.
21. Moreover, once the Fulton County BRE receives the ballots and tabulation information from each precinct, there is still a lot of work to do to comply with chain-of-custody and documentation requirements. Thus, the Hand Count Rule will interfere our ability to meet our midnight deadline for reporting unofficial results. And that all assumes that the ballot counters are able to finish their hand counting task, but we have no guidance on what to do if they cannot.
22. The risk of interfering with certification is even greater if the hand count doesn't start until the day after the election. In that case, the count would happen at the Hub, but we may not have enough space for the count to happen simultaneously for all precincts that need it. The space must allow for public viewing, but we also need to ensure the space is secure and that only those with authority touch any ballots. That is a logistical challenge we are working to resolve, but again we have received no guidance from the SEB or the

Secretary of State about this. I believe this means we will need to conduct the hand count in phases, which will draw out the process over several days, potentially up to (or even past) the deadline for certification. We also don't know how much all of this will cost, and we have very little time to figure all this out and secure the funding we need before the election.

23. On top of all this, election workers in the days after the election are already required to conduct many mandatory tasks, including handling the ballot-cure process, leaving them little extra time for the hand count.

24. I also have concerns about what to do if an individual poll worker counting ballots attempts to derail the certification process by, for example, slowing down the count.

25. If the Fulton County BRE does not receive all precinct-level election materials in sufficient time to complete the tabulating of votes, I do not know how we can meet the deadline to certify the election set by Georgia law.


26. And I am concerned that inconsistencies in the hand count could cause members of the BRE to wrongly delay certification or even refuse to certify, threatening to disenfranchise voters in my county and across the State.

27. The Hand Count Rule seems to authorize the poll workers engaged in the hand count to take "corrective measures" if they encounter an inconsistency, either among themselves or as compared to the tally from the voting machine. We have no guidance on what corrective measures are allowed.

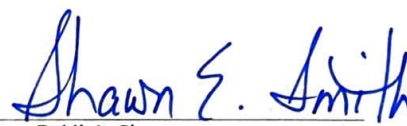
28. In addition, I understand that any counting of ballots must be done under the Fulton County BRE's supervision. I don't know how we could adequately do that at all precincts across our large county on election night.

29. I also do not know how to implement the Hand Count Rule, which requires that the three poll officers doing the count produce a “control document” with specified information about the ballots. The Secretary of State has not provided a form for this control document.
30. I am concerned, too, about how the Hand Count Rule might undermine the public’s trust in the election process. For one thing, the Hand Count Rule interferes with the chain of custody procedures that the State requires, increasing the number of hands that touch the ballots. In addition, if there are discrepancies in the hand count, even insignificant ones, it could give some voters the false impression that there is something wrong with how the election was run. And if certification is interfered with because of the Hand Count Rule, it likewise could undermine the public’s faith in the process.
31. I am also concerned that, given the limited time we have to prepare and the potential challenges we face in making sure the hand count runs smoothly, the hand counting process itself would give voters the false impression that the election was suspect in some way. This could undermine the public’s faith in our election, which is directly contrary to our duties as BRE members.
32. I do not want to violate the Hand Count Rule or any Georgia election laws, and accordingly I remain concerned about how to give proper effect to the Hand Count Rule while also following all other applicable legal requirements, including the statutory duty to certify election results by a specific date and time.
33. For all of these reasons, this recently adopted Hand Count Rule directly affects me in my role as a member of the BRE and threatens to cause me and the voters in my county irreparable harm.

FURTHER AFFIANT SAYETH NAUGHT.


Teresa K. Crawford
Date: October 1, 2024

Sworn to and subscribed before me by Teresa K. Crawford on this 1st day of October 2024.


Notary Public's Signature
My Commission Expires: _____

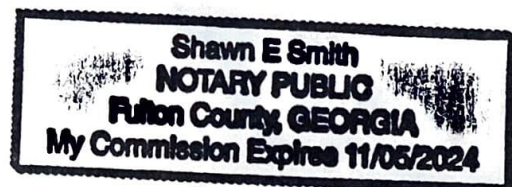


EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: SharePoint-DoNotReply@sos.ga.gov
To: DoNotReply@sos.ga.gov
Subject: The Buzz Post - Guidance on Recent SEB Rule Amendments to 183-1-12-.12(a)(5)

This Message Is From an External Sender

This message came from outside Fulton County Government. Use caution with links/attachments.

A [new discussion](#) has been posted in The Buzz by Evans, Blake on 10/1/2024 10:15 AM

Our office is continuing to review recent rule amendments voted on by the State Election Board (SEB) at their meetings on September 20th and 23rd, which are not yet effective. One of those amendments would change SEB Rule 183-1-12-.12(a)(5) to require hand counting of paper ballots after polls close on election night.

As you may be aware, there are pending court challenges to the legality of these rules, and hearings have been scheduled in these cases for this week. The Attorney General's office wrote in a memo to the SEB that the proposed rule amendment was “not tethered to any statute—and [is], therefore, likely the precise type of impermissible legislation that agencies cannot do.”

Because the SEB rules are tied up in litigation, and because poll worker training in many counties has already started and there is limited time remaining for additional training, the SOS Elections Division does not intend to provide additional training on SEB rules until after any court decisions are made.

If you would like to opt out of receiving email notifications for this discussion, click [here](#).

EXHIBIT 2

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

TERESA CRAWFORD, VASU
ABHIRAMAN, LORETTA MIRANDOLA,
ANITA TUCKER, DEMOCRATIC
NATIONAL COMMITTEE, and
DEMOCRATIC PARTY OF GEORGIA,
INC.,

Petitioners,

v.

STATE ELECTION BOARD,

Respondent,

Civil Case No. 24CV012349

AFFIDAVIT OF VASU ABHIRAMAN

1. My name is Vasu Abhiraman. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I have been a member of the DeKalb County Board of Registration and Elections (BRE) since July 2023. I am one of two nominees of the DeKalb County Democratic Party, having been appointed to the position by the Chief Judge of the Stone Mountain Judicial Circuit in DeKalb County on June 26, 2023. Before being appointed to the DeKalb County BRE, I served as a poll worker in DeKalb County for about a dozen elections and primaries since 2020, gaining experience serving in nearly every position at a polling location. I have personally checked in thousands of voters on election day and am familiar with the challenges faced by poll workers to run an election.

3. My duties as a member of the DeKalb BRE include supervising the election supervisor and staff and ensuring that changes to the election procedures since the last election are being implemented and that all poll managers and other poll workers are properly trained to conduct the tasks required of them before, on, and after election day.
4. I have read and reviewed the State Election Board rule amending Rule 183-1-12-.12(a)(5) (the “Hand Count Rule”) and spoken with our elections director and other elections officials about its implications. Based on my past experience as a poll worker and now a BRE member, I believe it will be extraordinarily difficult for the County to adequately prepare for the challenge of having three poll workers hand count every ballot in every polling location as the Rule requires, particularly in light of other demands on our time and resources.
5. I am also concerned that, given the limited time we have to prepare and the potential challenges we face in making sure the hand count runs smoothly, the hand counting process itself could undermine the public’s faith in our elections, which is directly contrary to our duties as BRE members. Finally, I have substantial concern that the hand count process could interfere with the certification of the vote, especially when combined with all of the other last-minute rules that our board and department are contending with.

Preparation in Advance of Election Day

6. Running an election takes a lot of advanced planning. For this election, the DeKalb BRE and election staff began preparing over a year ago, and the planning included addressing anticipated staffing needs and establishing a budget.
7. As I understand it, to comply with the Hand Count Rule, the DeKalb County elections director (under the oversight of the DeKalb County BRE) needs to identify three poll

workers who agree to handle the hand counting of ballots for each of the polling locations in the county, swear them in for this task, and train them how to do it. Preparing for this will take an inordinate amount of time and divert resources the County has currently devoted to other election preparation tasks.

8. I am concerned about whether we will be able to find enough workers to perform the hand count. In DeKalb County, there are around 167 polling locations. Thus, we need to identify over 500 poll workers who agree to performing this task, and additional backup workers in case they are needed. In response to the Hand Count Rule, the election director under the supervision of the County BRE has been trying to ensure that we have enough poll workers to do this job.
9. However, given the demands that the hand count rule places on poll workers, and the possibility that we may need to bring poll workers back for in person training, after they have already shown up once for an extensive poll worker training, we are concerned that a number of our poll workers may react to these burdens by dropping out and declining to participate this cycle. I am particularly concerned that any of our poll managers, whom we've already identified for every polling location, might opt out of their roles. These workers are already tasked with picking up materials the Sunday before election day, setting up the polling location the Monday before election day, serving at the polling location the entirety of election day, starting at around 5:00 A.M. and finishing usually around 8:30 p.m. or 9:00 p.m., and then driving elections materials back to the elections office after polls close. Nearly all of our poll workers and poll managers in particular have other jobs and demands on their time. And our county does not have election day poll workers (including poll managers) scheduled to go to the county elections office

after election day, so if the hand count must happen then, the County would have to arrange and pay for this additional burden.

10. I am also concerned about our ability to properly train poll workers. I take seriously the responsibility to make sure that the election is run uniformly across the County. Training for an election starts well in advance of the election, and we began training for this upcoming election in August by training trainers who then started training additional poll workers at the beginning of September. The training includes all aspects of running the election and varies based on the role of the trainee. We train workers on the many forms they must use in connection with the election. DeKalb County will have over a thousand poll workers for this coming election.
11. The County also must establish training and protocols for the hand count, and I am aware of no guidance on this from the SEB (beyond the limited instructions that the Hand Count Rule provides) or from the Secretary of State's office on how to do that. On October 1, 2024, I received a message from the Georgia Secretary of State. It was sent to elections staff and election workers, including members of the County Boards of Elections. It states that the Secretary of State will not provide additional training on the Hand Count Rule until after any court decisions are made. This lack of training guidance presents further challenges to preparing for the election.
12. Even once we have something resembling training protocols, we need to actually train the workers (and backup workers) to handle this hand count. But as I mentioned, training poll workers for election day is nearly complete in DeKalb County. It was difficult enough to train over a thousand workers the first time, given other scheduling demands. It would be incredibly difficult to recall workers for additional training at this late stage and

to modify the training mid-stream. Forcing the County to implement training for all necessary workers on this short schedule imposes extreme pressures on our staff.

13. The work we must do to get ready for the Hand Count Rule is on top of many other demands on our time and resources. For example, DeKalb staffers are working diligently on voter registration, absentee by mail balloting, and logistics/warehouse tasks, among other things. Our staff is working at near maximum capacity, and it is very difficult to add last-minute tasks this close to the election.
14. Moreover, there is undoubtedly much more we would have done to prepare for this new Hand Count Rule had we known about it months ago. As it stands, we were given far too little notice for the rule, which is causing unnecessary, increased stress on our election workers and staff.

Election Day Concerns

15. Under the current rules and protocols, the DeKalb County BRE receives election materials from polling locations the night of the election, allowing us to promptly begin the process of tabulating votes so that if there are delays or discrepancies for any reason, we have time to address those reasons and certify the election by the deadline set by law.
16. I believe complying with the Hand Count Rule risks significantly delaying the delivery from individual polling locations to the DeKalb County BRE of the materials we must account for by law. If three poll workers must conduct the hand count on election night before returning materials to the DeKalb County BRE, I am not sure they will be able to return materials in a timely fashion, particularly because the hand count must be conducted separately by three poll workers and continue until all three workers come to the same count.

17. Further, based on my experience as a poll worker, I am sure that the workers at polling locations on election night will be exhausted by the time polls close. Again, the poll workers arrive around 5:00 A.M. and do not finish their close-out procedures until about 8:30 P.M. or later. If exhausted poll workers must also hand count every paper ballot in their polling locations on top of all of their other work, I fear they are likely to make errors that further delay the close-out procedure for polling locations.
18. Moreover, once the DeKalb County BRE receives the ballots and tabulation information from each polling location, there is still a lot of work to do to comply with chain-of-custody and documentation requirements. And that all assumes that the ballot counters are able to finish their hand counting task, but we have no guidance on what to do if they cannot.
19. The risk of interfering with everything we need to do before certification is even greater if the hand count for one or more polling locations doesn't start until the day after the election. In that case, the count would likely happen at the county elections office, and I am not sure we have ample space to accommodate the hand count required under the Rule in an efficient way. The elections office the day after an election is a busy place, with workers spread out doing vital work for the election, ensuring all memory cards are accounted for, votes uploaded, and equipment accounted for. We will also have limited staff available to oversee the hand count process. But all this work requires precise attention to detail, and to accomplish that and the hand count it will take a lot of time.
20. The added burdens under the Hand Count Rule, on top of all our other obligations after the election, significantly interfere with everything we need to do before certification.

21. The Hand Count Rule requires needless handling of ballots. The scanner machines used in Georgia's election automatically count the number of ballots cast and thus there is no need for additional hand counting of the paper backups by three poll workers. This additional hand counting increases the possibility that voters will lose confidence in the election. In my experience, it is best practice to limit the number of people handling ballots, because with each additional person, there is an increased chance of error and mishandling. Even insignificant errors could send the wrong message to the public that something is suspect with the election, and in light of other rules recently passed by the SEB, could give BRE Members fodder to refuse to certify the election, despite certification being mandatory.
22. In addition, the Hand Count Rule provides no guidance on several of its requirements. For example, the Hand Count Rule seems to authorize the poll workers engaged in the hand count to take "corrective measures" if they encounter an inconsistency, either among themselves or as compared to the tally from the voting machine. We have no guidance on what corrective measures are allowed.
23. I also do not know how to implement the aspect of the Hand Count Rule that requires that the three poll workers doing the count produce a "control document" with specified information about the ballots. I am unsure whether the Secretary of State has provided a form for this control document.
24. I do not want to violate the Hand Count Rule or any Georgia election laws, and accordingly I remain concerned about how to give proper effect to the Hand Count Rule while also following all other applicable legal requirements, including the statutory duty to certify election results by a specific date and time.

25. For all of these reasons, this recently adopted Hand Count Rule directly affects me in my role as a member of the BRE and threatens to cause me and the voters in my county irreparable harm.

[Signatures appear on the following page.]

RETRIEVED FROM DEMOCRACYDOCKET.COM

FURTHER AFFIANT SAYETH NAUGHT.

Vasu Abhiraman

Vasu Abhiraman

Date: October 2nd, 2024

Sworn to and subscribed before me by Vasu Abhiraman on this 2nd day of October 2024.

CYNTHIA STIRNE
NOTARY PUBLIC
DeKalb County
State of Georgia
My Comm. Expires May 2, 2028

Cynthia Stirne
Notary Public's Signature
My Commission Expires: 05.02.2028

EXHIBIT 3

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

TERESA CRAWFORD, VASU
ABHIRAMAN, LORETTA MIRANDOLA,
ANITA TUCKER, DEMOCRATIC
NATIONAL COMMITTEE, AND
DEMOCRATIC PARTY OF GEORGIA,
INC.,

Petitioners,

v.

STATE ELECTION BOARD,

Respondent,

Civil Case No. 24CV012349

AFFIDAVIT OF LORETTA MIRANDOLA

1. My name is Loretta Mirandola. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I have been a member of the Gwinnett County Board of Registration and Elections (BRE) since December 2023. I am one of two appointees of the Gwinnett County Democratic Party. Previously, I served as a county liaison to the Gwinnett County BRE for the Democratic Party of Georgia during the 2018, 2020, and 2022 election cycles. I also previously served as a voter hotline captain for the Democratic Party of Georgia beginning in 2018.
3. One of my primary duties as a Gwinnett BRE member is to supervise the election so it is carried out in accordance with the law. The Gwinnett BRE hires the Elections Supervisor,

proposes budgets, develops policies to enable the efficient operation of elections, and generally advises the election staff.

4. I have read and reviewed the State Election Board rule amending Rule 183-1-12-.12(a)(5) (the “Hand Count Rule”) and discussed its implications with other Board members, our Elections Supervisor and other elections staff. Based on my past experience, I believe it will be very difficult for the County to adequately prepare for the challenge of having three people hand count every ballot in every precinct as required by the Rule, particularly in light of the heavy workload and limited time until election day. I am also concerned that, given the limited time to prepare and the potential challenges we face in making sure the hand count runs smoothly, the hand counting process itself would give voters the false impression that the election was suspect in some way. This could undermine the public’s faith in our election, which is directly contrary to our duties as BRE members. Finally, I have substantial concerns that the hand count process could interfere with the certification of the vote by making timely certification very difficult.

Preparation in Advance of Election Day

5. Gwinnett County begins planning financially and logistically for an election long before election day. For this coming election, the Board and staff began preparing a year in advance, by completing a budget, securing the necessary funds, preparing updated training materials for poll officials, and beginning to find the workers needed for early and election-day voting.
6. As I understand it, to comply with the Hand Count Rule, the Gwinnett County Elections Supervisor (under the oversight of the Gwinnett County BRE) needs to identify three poll workers who agree to handle the hand counting of ballots for each of the precincts in the

county, swear them in for this task, and train them how to do it. Preparing for this will take an inordinate amount of time and divert resources the County is currently devoting to other election preparation tasks.

7. I am concerned about our ability to find enough workers who are willing to do the count.

In Gwinnett County, there are 156 precincts. Thus, we need to identify at least 468 poll workers who agree to do this task, and dozens of additional backup workers in case they are needed. I am concerned that many of the poll workers will not want to perform the hand count.

8. On the day of the election, these poll workers are already expected to work approximately 14 hour-days. By the time the polls close, they are typically already exhausted, but they still have various close-out procedures. Thus, as it stands, poll workers do not typically end the night until about 8:00 to 10:00 p.m. on a Presidential Election Day. The workers get paid a stipend for the day, and do not get anything extra if they have to stay later for any reason. Securing the necessary personnel for this hand count, hoping that they will count accurately at the end of an exhausting day, and securing and returning the ballots are huge challenges for our County.

9. Another of the Gwinnett BRE's duties is to ensure that all poll managers and other poll workers are properly trained to conduct the tasks required of them before, on, and after election day. In Gwinnett County, we rely on our excellent elections staff to provide the actual trainings, but it is our ultimate responsibility as the BRE to ensure that the trainings sufficiently prepare election workers to carry out the election according to the law.

10. Training for an election starts long before election day. For the upcoming November election, training began on September 23. The trainers use a manual with hands-on training in Gwinnett's new training facility in the old Duluth library. In addition, some of the training is completed online. This training is important to ensure that the election is uniformly conducted across the County. Once training begins, it is difficult and burdensome for Gwinnett County to make changes to the training material. In addition, changes would require additional training hours at a cost to the County and a burden to the poll officials.
11. The County also needs to establish training and protocols for the hand count, and I am aware of no guidance on this from the SEB (beyond the limited instructions that the Hand Count Rule provides) or from the Secretary of State's office. On October 1, 2024, I received an email from the Georgia Secretary of State. It was sent to members and superintendents of the County Boards of Elections. It states that the Secretary of State will not provide additional training on the Hand Count Rule until after any court decisions are made. This lack of training guidance presents further challenges to preparing for the election.
12. Even once we have protocols, the County needs to actually train workers (and backup workers) to handle this hand count, but as I said above, training has already started. It is incredibly difficult for us to modify the training at this late stage. Forcing the County to implement training for all necessary workers on this short schedule imposes extreme pressures on our staff.
13. In sum, the preparation we must do for this new requirement under the Hand Count Rule is draining our already limited time and resources. We still have not had time to think

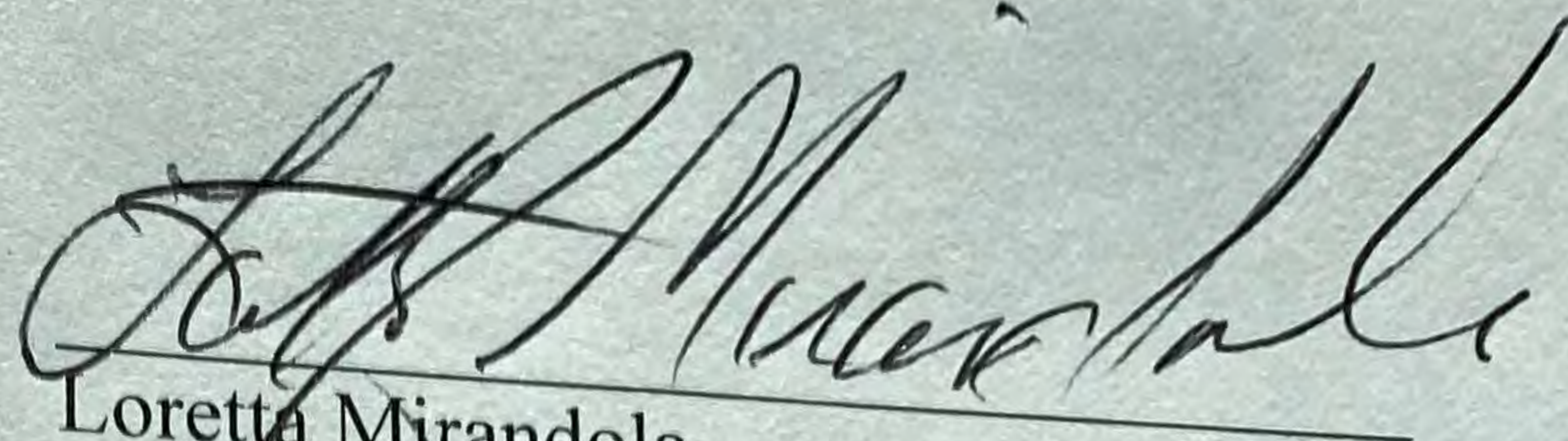
through and plan for all other potential hurdles we might face, given the last-minute passage of this Rule as the election fast approaches.

Election Day Concerns

14. I am also worried about overseeing the hand count consistent with my obligations to ensure that the election is run orderly, safely, and securely.
15. Under the current rules and protocols, the Gwinnett County BRE receives all precinct-level election materials the night of the election, allowing us to promptly begin the process of tabulating votes so that if there are delays for any reason, we still have time to address those reasons and certify the election by the deadline set by law.
16. After the hand count on election night, the ballots will have to be delivered to the County Elections Office and received by elections staff, who will have to remain until all of the ballots and chain of custody documentation are returned. While the memory cards will be returned before the ballots are turned in and will be used to tabulate the results, the County has received no guidance from the SEB or the SOS as to whether those results may be uploaded prior to all the ballots being counted under the Hand Count Rule.
17. The risk of interfering with certification is even greater if the hand count does not start until the day after the election. That is because the election staff after election day is already busy completing other mandatory tasks, like handling provisional ballots, leaving them almost no time to oversee a hand count. In addition, poll officials from each of those precincts would have to report to the election office the morning after election day. The poll officials may have personal conflicts on the day following election day, and they would want to be paid for their time, imposing increased costs on the County.

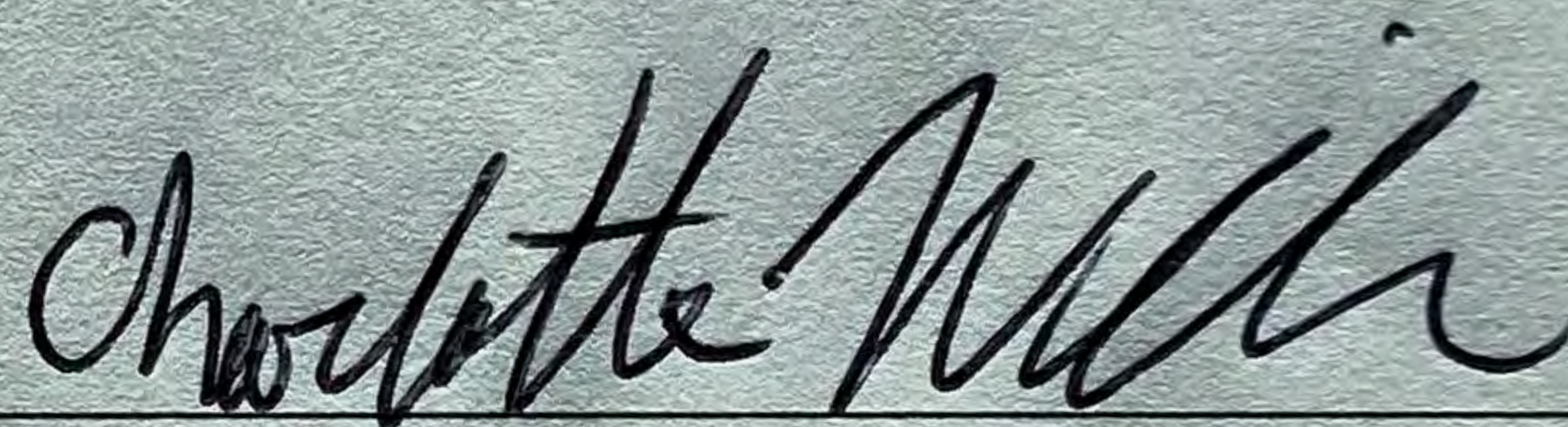
18. I have concerns about the security of the ballots. So many people handling them could result in damage to the ballots, which would require them to be duplicated in order to be scanned should an audit or recount be necessary. I also have concerns about what to do if an individual poll worker counting ballots attempts to derail the certification process by, for example, slowing down the count. Likewise, the Hand Count Rule seems to authorize the poll workers engaged in the hand count to take “corrective measures” if they encounter an inconsistency, either among themselves or as compared to the tally from the voting machine. We have no guidance on what corrective measures are allowed.
19. In addition, I understand that any counting of ballots must be done under the Gwinnett County BRE’s supervision. I do not know how we could adequately do that at all 156 precincts across our large county on election night.
20. I also do not know how to implement the Hand Count Rule, which requires that the three poll officers doing the count produce a “control document” with specified information about the ballots. The Secretary of State has not provided a form for this control document.
21. I do not want to violate the Hand Count Rule or any Georgia election laws, and accordingly I remain concerned about how to give proper effect to the Hand Count Rule while also following all other applicable legal requirements, including the statutory duty to report returns on election night and to certify election results by a specific date and time.
22. For all of these reasons, this recently adopted Hand Count Rule directly affects me in my role as a member of the BRE and threatens to cause me and my constituents irreparable harm.

FURTHER AFFIANT SAYETH NAUGHT.


Loretta Mirandola

Date: October 2nd, 2024

Sworn to and subscribed before me by Loretta Mirandola on this 2nd day of October 2024.



Notary Public's Signature

My Commission Expires: Aug 7, 2026

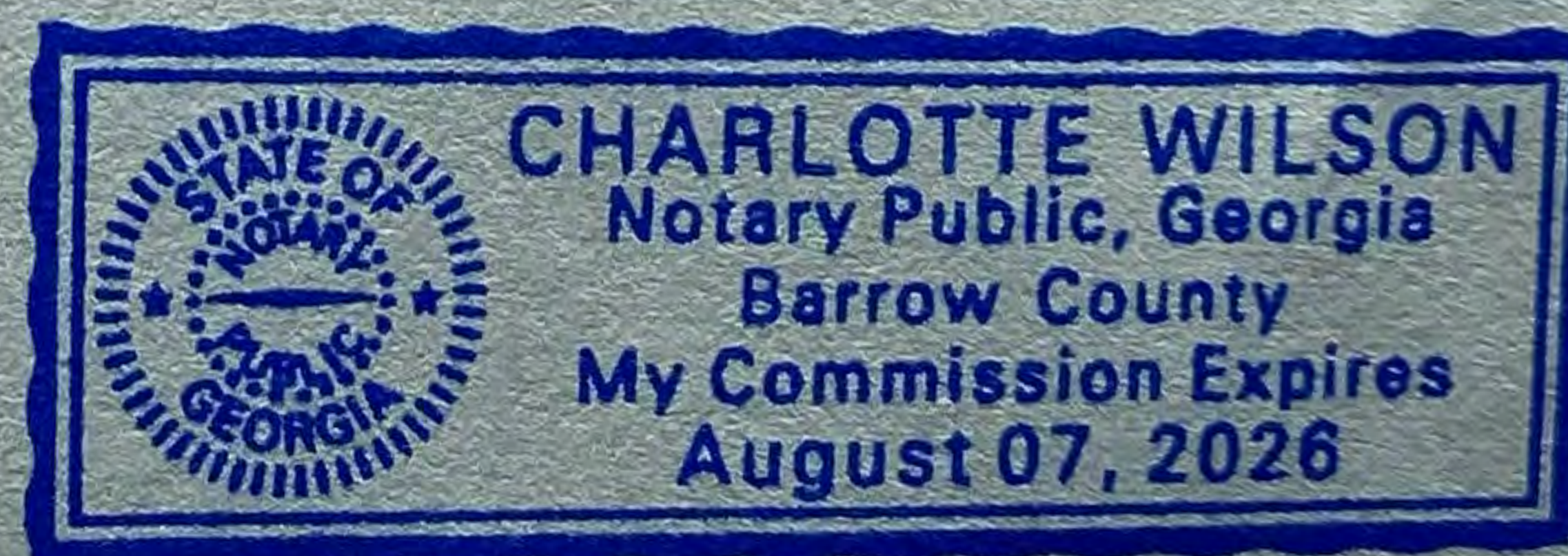


EXHIBIT 4

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

TERESA CRAWFORD, VASU
ABHIRAMAN, LORETTA MIRANDOLA,
ANITA TUCKER, DEMOCRATIC
NATIONAL COMMITTEE, AND
DEMOCRATIC PARTY OF GEORGIA,
INC.,

Petitioners,

v.

STATE ELECTION BOARD,

Respondent,

Civil Case No. 24CV012349

AFFIDAVIT OF ANITA TUCKER

1. My name is Anita Tucker. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I have been a member of the Forsyth County Board of Registration and Elections (BRE) since March 2022. I am one of two appointees of the Forsyth County Democratic Party. Additionally, I was a poll worker and poll manager in the 2020 election cycle as well as the 2020 run-off. I was also a poll manager in the 2021 city and county elections.
3. I have read and reviewed the State Election Board rule amending Rule 183-1-12-.12(a)(5) (the "Hand Count Rule") and talked with our elections staff about its implications. This Rule requires three poll workers to count the paper backup ballots from the scanners, but the official vote is on the memory cards from these machines, not in these paper backup

ballots. Thus, this Rule seems to me to be an unnecessary clerical step that I fear will cause needless disruption in the running of the election and leave some voters feeling unjustifiably concerned about the integrity of the election.

4. Based on my experience, the County will require significant time and resources to prepare for the obligations under this Hand Count Rule. But time and resources are already in short supply, because the County is in the midst of preparing for early voting, which starts on October 15, and for election day voting soon after that.
5. I am also worried that the Rule will force me to choose between fulfilling my obligations to the citizens of my county relating to the certification of the election or violating the Rule and facing a potential sanction.

Preparation in Advance of Election Day

6. Running an election requires a lot of advance planning. Forsyth County begins planning for an election essentially as soon as the previous one ends. Our elections director started planning both financially and logistically for the election this November immediately after the November 2022 election.
7. As I understand it, to comply with the Hand Count Rule, the Forsyth County election director (under the oversight of the Forsyth County BRE) needs to identify three poll officers who agree to handle the hand counting of ballots for each of the precincts in the county, swear them in for this task, and train them how to do it. Doing that requires significant time and resources, which are fast dwindling as the election approaches.
8. One major concern is actually finding enough workers to do the count. In Forsyth County, there are 29 precincts. Thus, the Forsyth County BRE must identify 87 poll

officers who agree to do this task, plus additional backup officers in the event someone cannot make it on election day.

9. I am also concerned that the burdens placed on the poll officers who would handle the counting are so great that they will deter some from signing up for the job. On election night, poll workers in our county get to their precincts at 5:30 A.M. and typically work the full day until a few hours after the polls close, with only a few 15-minute breaks. After polls close, the poll workers comply with strict procedures to cross-check all required forms and maintain the chain of custody of the memory cards and backup paper ballots. They typically don't finish their duties until 8:30 at night, and by that time they are exhausted. The poll workers get paid a stipend for the day and do not get paid anything extra based on how late they stay.
10. One experienced poll manager has already told me that if she has to conduct a hand count at the end of such a long election day, she will not agree to be a poll manager this cycle. I worry that others feel the same, and that we will struggle to adequately staff our precincts for the hand count. Many of our poll workers are retirees who lack the stamina to pull a 20-hour day, which may be required by the Hand Count Rule. Our elections director and other staff have also expressed frustration with the burdens of having to comply with this new Rule with limited time to prepare for it.
11. Our poll officers will face additional intimidation and threats because of the Hand Count Rule. I have witnessed very angry citizens in my county who come to board meetings to voice unfounded concerns about the integrity of our elections, often in hostile tones. This will undoubtedly be even greater if we must have three poll officers shift paper backup ballots across a table at the precinct while they count them in piles of 50, as the Rule

requires. That poll officers will be forced to count ballots in this way while impatient and potentially angry poll watchers look on is yet another deterrent for workers to agree to do this job.

12. One of the Forsyth BRE's duties is to ensure that all poll managers and other poll workers are properly trained to conduct the tasks required of them before, on, and after election day. Ideally, we try to hire and train a minimum of 10 poll workers per precinct.
13. Training of election workers begins long before an election. For this coming election, training began about three weeks ago, and includes instructing poll workers on their overall duties, the equipment, forms, laws, and rules. Forsyth County uses a training manual with training materials that have been developed over years. We have no system in place to institute new training protocols this close to an election.
14. We would also need to establish protocols to conduct the hand count in a manner that is secure, orderly, uniform, and transparent, as the County currently has no such training protocols. I am aware of no guidance on this from the SEB (beyond the limited instructions that the Hand Count Rule provides) or from the Secretary of State's office. On October 1, 2024, I received an email, which is attached to my affidavit as Exhibit A, from the Georgia Secretary of State. It was sent to members and superintendents of the County Boards of Elections. It states that the Secretary of State will not provide additional training on the Hand Count Rule until after any court decisions are made. This lack of training guidance presents further challenges to preparing for the election.
15. Even once we have training protocols, we need to actually train poll officers (and backup poll officers) to handle this hand count in a reliable, transparent, secure, and uniform way, but as I said above, training has already started. It is incredibly difficult for us to add

new trainings at this late hour, and doing so will further drain the limited time and resources the elections director and staff are currently devoting to ensuring a well-run and reliable election.

16. All of the preparation we need to do for this new requirement under the Hand Count Rule is draining our already limited time and resources. The director of elections is being forced to divert some of her attention away from preparing for early voting and other matters to address these needs. And we have not had sufficient time to think through and plan for all other potential hurdles we might face, given the last-minute passage of this Rule as the election fast approaches.

Election Day Concerns

17. I am also worried about overseeing the hand count consistent with my obligations to ensure that the election is run orderly, safely, and securely.
18. Under the current rules and protocols, the Forsyth County BRE receives all precinct-level election materials the night of the election, allowing us to promptly begin the process of tabulation to provide the unofficial results to the Secretary of State by 11:59 pm as the law requires.
19. But if three poll officers must also conduct the hand count on election night under high stress and/or with little sleep, I am not sure they will be able to complete the count in a timely fashion. The expectation of counting errors under these circumstances is also high, and I worry that the three poll officers, despite their diligence, will not be able to reconcile their counts among each other or with the scanner tapes, slowing things down further.

20. Moreover, on election night, election staff members wait at the office for the delivery of the precinct materials, including the paper backup ballots and memory cards in sealed containers, as well as chain-of-custody and other forms. When we receive that material in the election office, we cannot just simply upload the results. There are many steps we must complete before then, and we have a statutory obligation to send our unofficial results to the Secretary of State's office before midnight. It is not clear to me what happens if we receive the precinct-level material later in the night and are unable to meet this statutory deadline, which would be a harm to me as a member of the BRE as the entity tasked with ensuring we meet this deadline. And that all assumes that the poll officers are able to finish their counts, but we have no guidance on what to do if they cannot.
21. The risk of interfering with certification is even greater if the hand count doesn't start until the day after the election. For one thing, election staff is already spread thin handling post-election duties at that time. Among other tasks, we send workers out to all 29 precincts to retrieve equipment and other supplies, and then we document receipt of all such materials. We also handle the process of curing provisional ballots within the three-day time constraint the law imposes. This requires extensive research and follow up with voters who cast provisional ballots.
22. The County must also determine who will handle the ballot counting if it were to take place after election day. We are not sure that the same poll officers from election day will show up the next day for a hand count that might not end for several days afterwards, and we need sufficient time to plan for this.

23. I also have chain-of-custody concerns. Currently, after precincts close, the poll manager removes the paper backup ballots and secures them in sealed envelopes. The paper backup ballots remain in the poll manager's possession until they are delivered by the poll manager and one additional poll worker to the elections office. The Rule adds another, unnecessary step in this process and authorizes two additional workers to handle the backup ballots before they leave the precinct.
24. And I have concerns about what to do if an individual poll officer counting ballots attempts to derail the certification process by, for example, slowing down the count. Likewise, the Hand Count Rule seems to authorize the poll workers engaged in the hand count to take "corrective measures" if they encounter an inconsistency, either among themselves or as compared to the tally from the voting machine. We have no guidance on what corrective measures are allowed.
25. In addition, I understand that any counting of ballots must be done under the Forsyth County BRE's supervision. I don't know how we could adequately do that at all 29 precincts on election night.
26. I also do not know how to implement the Hand Count Rule, which requires that the three poll officers doing the count produce a "control document" with specified information about the ballots. The Secretary of State has not provided a form for this control document, which means there could be at least 159 different control documents, undermining the efforts to ensure consistency in the running of the election.
27. If the Forsyth County BRE does not receive all precinct-level election materials in sufficient time to complete the tabulating of votes, I do not know how we can meet our certification deadline.

28. I am particularly concerned that some of my fellow Board members will use this hand count requirement to purposefully attempt to delay certification or inject baseless doubt into the election, undermining the public's faith in the process.

29. And fundamentally, I fear that this Hand Count Rule, along with other rules recently passed by the SEB, will give voters the false impression that there is something wrong with our elections if, for example, a hand count of ballots is off by one ballot.

* * *

30. I do not want to violate the Hand Count Rule or any Georgia election laws, and accordingly I remain concerned about how to give proper effect to the Hand Count Rule while also following all other applicable legal requirements, including the statutory duty to certify election results by a specific date and time.

31. For all of these reasons, this recently adopted Hand Count Rule directly affects me in my role as a member of the BRE and threatens to cause me and my constituents serious irreparable harm.

[Signatures appear on the following page.]

FURTHER AFFIANT SAYETH NAUGHT.

Anita Tucker
Anita Tucker

Date: October 2, 2024

Sworn to and subscribed before me by Anita Tucker on this 2nd day of October 2024.

Curtis Troy Aldred
Notary Public's Signature

My Commission Expires: 10/19/27



EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: SharePoint-DoNotReply@sos.ga.gov
To: DoNotReply@sos.ga.gov
Subject: The Buzz Post - Guidance on Recent SEB Rule Amendments to 183-1-12-.12(a)(5)

This Message Is From an External Sender

This message came from outside Fulton County Government. Use caution with links/attachments.

A [new discussion](#) has been posted in The Buzz by Evans, Blake on 10/1/2024 10:15 AM

Our office is continuing to review recent rule amendments voted on by the State Election Board (SEB) at their meetings on September 20th and 23rd, which are not yet effective. One of those amendments would change SEB Rule 183-1-12-.12(a)(5) to require hand counting of paper ballots after polls close on election night.

As you may be aware, there are pending court challenges to the legality of these rules, and hearings have been scheduled in these cases for this week. The Attorney General's office wrote in a memo to the SEB that the proposed rule amendment was "not tethered to any statute—and [is], therefore, likely the precise type of impermissible legislation that agencies cannot do."

Because the SEB rules are tied up in litigation, and because poll worker training in many counties has already started and there is limited time remaining for additional training, the SOS Elections Division does not intend to provide additional training on SEB rules until after any court decisions are made.

If you would like to opt out of receiving email notifications for this discussion, click [here](#).

EXHIBIT 5

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

TERESA CRAWFORD, VASU
ABHIRAMAN, LORETTA MIRANDOLA,
ANITA TUCKER, DEMOCRATIC
NATIONAL COMMITTEE, AND
DEMOCRATIC PARTY OF GEORGIA,
INC.,

Petitioners,

v.

Civil Case No. 24CV012349

STATE ELECTION BOARD,

Respondent,

AFFIDAVIT OF CECILIA UGARTE BALDWIN

1. My name is Cecilia Ugarte Baldwin. I am over 18 years of age, competent to testify, and I make the following statements based on my own personal knowledge.
2. I currently serve as the Voter Protection Director for the Democratic Party of Georgia (“DPG”).
3. Many of the county election board members across Georgia are also members of DPG. Democratic members of a particular county’s election board are typically appointed or nominated by that county’s Democratic committee, which are all organs of DPG. Moreover, the people that county Democratic committees appoint or nominate to county election boards have often served as members of their county committees and have also often served as volunteers for DPG or their county committees. For example, it is not

uncommon for Democratic county election board members to have previously served as volunteers within DPG's county liaison program.

4. As Voter Protection Director for DPG, I help manage DPG's county liaison program. The county liaison program seeks to support county election officials and superintendents in running free and fair elections. It is composed of a network of volunteers who act as ambassadors to their county election boards, and who interact with and educate county election officials.
5. Through the county liaison program, DPG has expended significant time and resources understanding and conferring about election-related issues with county election officials in light of the State Election Board's new rules, including the recent amendments to Rule 183-1-12-.12(a)(5) (the "Hand Count Rule").
6. In particular, DPG has spent significant time trying to devise a procedure to help county election boards comply with the Hand Count Rule in a uniform and orderly way across precincts within a county and across counties in the State. DPG has also met with Democratic county board members from over 30 counties across the state to provide guidance and advice on this particular rule. Further, DPG is planning to convene similar meetings at least every other week until November to address the Hand Count Rule and other last-minute changes to the Rules of the State Elections Board.
7. Providing this advice to county board members is important to DPG's mission to ensure the election is run smoothly and consistently throughout the State and that all valid votes are counted. From my experience, inconsistency in how an election is run from county to county or precinct to precinct creates confusion and risks violating other rules or statutes or inviting litigation.

8. The time DPG has expended educating and advising county election officials and Democratic county board members regarding the Hand Count Rule has diverted time and resources away from DPG's core programming, including voter turnout initiatives, voter protection initiatives, recruiting poll watchers, running a voter assistance hotline, and ballot-curing initiatives. In other words, because of the new SEB Rules (including the Hand Count Rule), DPG (and Democratic candidates DPG supports) have been directly affected—including with respect to resource allocation decisions that have a present effect on campaign operations—by the need to allocate resources to post-election monitoring.
9. DPG is also having to adjust its deployment of resources to monitor the hand counting of ballots under this Rule at as many locations as it can, but that effort is constrained by time, money, and legal requirements. DPG simply does not have the resources to staff an observer at every one of the thousands of precincts across the state, or even at every county elections office. In addition, the law limits the number of poll watchers DPG may have at any precinct. This means that, even if DPG could secure more poll watchers, it could not add them to precincts where poll workers conduct the hand count on the night of the election. The result is that DPG must lengthen shifts for poll watchers on election day.
10. DPG has been preparing for this election for months. Had it learned of the Hand Count Rule earlier, it would have been able to engage in more advocacy, including one-on-one conversations with county officials, to understand challenges the counties would face and develop recommendations and procedures. Given how close to the election the Rule was noticed and passed, DPG has been deprived of the ability to do this.

11. In addition, had the SEB not noticed and passed the Rule this close to the election, county election boards would have been able to carefully consider the Hand Count Rule and DPG's recommendations and formally adopt procedures to ensure consistency. Many county boards lack the time to pass formal procedures now, this close to the election, while they are focused on other pressing issues including voter registration and issuing and processing absentee ballots.
12. DPG also has an interest in ensuring every vote counts in this election, but the Hand Count Rule undermines this effort by imposing onerous obstacles to certification by the statutory deadline. In particular, DPG is concerned that even a minor discrepancy in the hand counting of ballots that has nothing to do with the integrity of the election could give those wanting to delay certification grounds to stall the process and inject unfounded doubt. Democratic election board members have also expressed uncertainty regarding how other board members will interpret this and other new SEB rules, and about how to respond to and work with board members who interpret the new Rules differently. In particular, DPG understands from these expressed concerns that at least some Democratic board members perceive a likelihood that other members of their boards will use the Hand Count Rule to delay or vote against certification. If county boards fail to certify elections by the statutory deadline or refuse to certify altogether, DPG is concerned that voters across the State (including DPG members) will be disenfranchised.

[Signatures appear on the following page.]

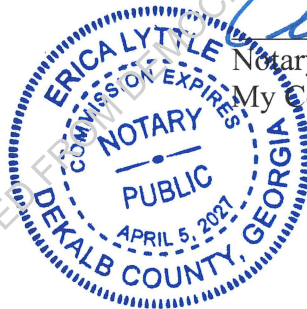
FURTHER AFFIANT SAYETH NAUGHT.



Cecilia Ugarte Baldwin

Date: October 2, 2024

Sworn to and subscribed before me by Cecilia Ugarte Baldwin on this 2nd day of October 2024.



Notary Public's Signature

My Commission Expires: 4/5/2027

EXHIBIT 6

RETRIEVED FROM DEMOCRACYDOCKET.COM

VASU ABHIRAMAN, et al.,)
)
 Petitioners,)
) Case No: 24CV010786
vs.)
)
STATE ELECTION BOARD,)
)
 Respondent.)

(Before Honorable Judge Robert C.I. McBurney)

9:27 a.m.

136 Pryor Street

Atlanta, Georgia

Reported by: Marsi Koehl, CCR-B-2424

October 1, 2024
ABHIRAMAN V. STATE ELECTION BOARD

1 And you know, that is something that I would
2 think that they would be doing with or
3 without this rule.

4 I'll talk really briefly about the
5 sovereign immunity oral argument.

6 THE COURT: Okay.

7 MS. YOUNG: You know, basically the --
8 our understanding of State versus Sass -- in
9 a case like the you've got to pick a lane
10 and --

11 THE COURT: Remind me, I know that the
12 primary provision under which petitioners
13 are traveling is the declaratory judgment
14 action pursuant to the APA, but you allude
15 that elsewhere they reference title line and
16 your argument is --

17 MS. YOUNG: Yes, they're --

18 THE COURT: -- oops, because you strayed
19 over there, then you need to be suing the
20 State and not the State Election Board.

21 MS. YOUNG: Correct.

22 THE COURT: And we all know the
23 consequences of getting that wrong.

24 MS. YOUNG: You know, obviously under
25 50-13-10 there is a statutory waiver, under

October 1, 2024
ABHIRAMAN V. STATE ELECTION BOARD

1 the declaratory judgment statute, there's
2 statutory waiver, the thing that caught the
3 attention of our office in reading the
4 additional paragraph 50 at 131 to 138.

5 Where it seems to suggest that there's a
6 declaratory judgment claim in addition.

7 We'll leave it to the Court to determine
8 whether that's the case. And in fact if the
9 Court does agree that that is an issue, we
10 would be happy to work with plaintiffs as I
11 understand as happened with the Adams case

12 --

13 THE COURT: Resurrected in a different
14 format.

15 MS. YOUNG: Correct.

16 THE COURT: Got it. Okay.

17 MS. YOUNG: And you know what? I think
18 that's all I've got for now unless you have
19 any questions.

20 THE COURT: No, you helped me work
21 through the questions that I had. I
22 appreciate your work.

23 MS. YOUNG: Thank you.

24 THE COURT: All right. Mr. Drennon.

25 MR. DRENNON: Good morning, Your Honor.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of October, 2024, a true and correct copy of the foregoing **EMERGENCY MOTION FOR INTERLOCUTORY INJUNCTION AND BRIEF IN SUPPORT** was electronically filed with the Clerk of Court using the Court's eFileGA electronic filing system, which will automatically send an email notification of such filing to all attorneys of record, and was additionally served by email to be followed by statutory overnight delivery to the following counsel and parties:

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/s/ Manoj S. Varghese
Manoj S. Varghese
Georgia Bar No. 734668