

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

FULTON COUNTY REPUBLICAN PARTY,	)	
	)	
Plaintiff,	)	
v.	)	
	)	Case No.
FULTON COUNTY BOARD OF	)	
COMMISSIONERS, ROBB PITTS,	)	25CV008083
BRIDGET THORNE, BOB ELLIS, DANA	)	
BARRETT, MO IVORY, MARVIN S.	)	HEARING REQUESTED
ARRINGTON, JR., and KHADIJAH	)	
ABDUR-RAHMAN,	)	
	)	
Defendants.	)	

**EMERGENCY MOTION FOR CONTEMPT OR, IN THE ALTERNATIVE, FOR
ORDER TO COMPLY WITH WRIT OF MANDAMUS BY DATE CERTAIN**

Plaintiff Fulton County Republican Party (“Fulton GOP”) moves this Court for a finding of contempt against Defendants Fulton County Board of Commissioners (the “Board of Commissioners”), Robb Pitts, Bridget Thorne, Bob Ellis, Dana Barrett, Mo Ivory, Marvin S. Arrington, Jr., and Khadijah Abdur-Rahman for their willful refusal to comply with the writ of mandamus issued by this Court on Monday, August 4, 2025 in its Order Granting the Writ of Mandamus (“Mandamus Order”). In the alternative, Fulton GOP requests this Court order the Defendants to comply with the Mandamus Order no later than August 13, 2025.¹

In its Order Granting Writ of Mandamus, this Court wrote:

The court grants the petitioner's request for a writ of mandamus directing the [Board of Commissioners] to comply with the statute: The Board shall appoint the two members as nominated by the county executive committee chairperson. Those nominees are Jason Frazier and Julie Adams.

¹ Upon information and belief, the Board of Commissioners has a special meeting scheduled on this date. *See* Video Recording of Fulton County Board of Commissioners Meeting, August 6, 2025, Regular Meeting, at 5:30:57, Available at https://fulton.granicus.com/player/clip/414?view_id=2&redirect=true (accessed on August 7, 2025).

The court notes that this court does not view this ruling as doing anything other than complying with the statutory mandate to appoint the persons nominated. The General Assembly placed the discretion in the county executive committee chairperson.

It is up to the Fulton County Commission to follow the law and honor that persons' nominations. The Writ of Mandamus is granted.

In its order, the Court did not delay the effective date of the writ of mandamus. Defendants likewise neither sought nor received any stay of the writ of mandamus. Thus, Defendants were commanded by extraordinary writ to appoint the nominees at the Board of Commissioners Meeting on Wednesday, August 6, 2025. Commissioner Bridget Thorne added the nominees' appointment to the agenda; however, the Defendants willfully defied the Court's command and refused to appoint the nominees. Defendants chose to defy the Court even though they were aware of their obligation to appoint the nominees at the Meeting on Wednesday, and without seeking or receiving a stay of the writ.

FACTS

1. The new term for the Fulton County Board of Registration and Elections (the "Board of Elections") began on July 1, 2025, and runs through June 30, 2027 (the "2025 Term").
2. Before the start of the 2025 Term, on June 12, 2025, the Fulton GOP filed this petition seeking a writ of mandamus ordering the Defendants to appoint its nominations to the Board of Elections in advance of the 2025 Term.
3. On August 4, 2025, the Court entered the Order Granting Writ of Mandamus.
4. On August 5, 2025, counsel for the Fulton GOP sought to confirm that the Defendants would appoint the nominees at the next regularly scheduled Board of Commissioners Meeting on Wednesday, August 6, 2025 (the "Meeting") and separately notified Defendants' counsel via email that the Board of Commissioners had a legal obligation to comply with the

Court's writ and to appoint the Fulton GOP nominees at the Meeting. Counsel for the Fulton GOP provided Georgia authority to Defendants stating that: (1) a writ of mandamus is treated as an injunction; (2) an injunction is not automatically stayed after issuance; and (3) even if the Defendants filed a notice of appeal in advance of the Meeting, a notice of appeal does not act as a supersedeas motion that automatically stays the enforcement of the writ pending the appeal.²

5. On Wednesday, August 6, 2025, the Board of Commissioners held its regularly scheduled Meeting. At the Meeting, Commissioner Thorne requested that the Board of Commissioners add the appointment of the Fulton GOP's nominees to the Board of Elections to the agenda, which subsequently occurred.³

6. The Board of Commissioners later proceeded to enter into an executive session with legal counsel⁴ to discuss the appointment of the Fulton GOP nominees.⁵

7. The public, including the Fulton County GOP, was barred from the executive session; however, after the conclusion of the executive session, the Board of Commissioners specified that it would not be appointing the Fulton GOP nominees at the Meeting and instead planned to "let the judicial process play out."⁶

8. That decision was made during the executive session where legal counsel was present and with knowledge that the writ of mandamus was in effect, that the writ commanded the appointment of the nominees, and that no stay of the writ of mandamus had even been sought, let alone granted by this Court.

² See Ex. A, Email, dated August 7, 2025, to counsel for Defendants.

³ *Id.* at 25:19.

⁴ Upon information and belief, the legal counsel present at the executive session on behalf of the Board of Commissioners was Soo Jo, Esq.. *Id.* at 26:49.

⁵ *Id.* at 4:46:54.

⁶ *Id.* at 5:30:39.

9. The 2025 Term for the Board of Elections is already underway and in effect, and the Board of Elections has current and impending elections to oversee.

10. For instance, early voting for a special election for Senate District 21 began on August 4, 2025, and runs through August 22, 2025, and the special election is set to occur on August 26, 2025.⁷

11. Further, a municipal general election and a special election for the Public Service Commissioner is to be held on November 4, 2025.⁸ The municipal candidate qualifying period begins on August 18, 2025, and the first day for registered voters to apply for an absentee ballot is August 18, 2025.

12. Moreover, the Board of Elections currently has four meetings scheduled over the next five (5) weeks (*i.e.*, on or before September 11, 2025) to carry out its function.⁹

13. As of the filing of this motion, Defendants have not sought a stay of the Mandamus Order.

LEGAL STANDARDS

A writ of mandamus “is, by its very nature, a solemn command from the judicial department and carries with it the authority vested in the court by the Constitution.” *Bankers Life & Cas. Co. v. Cravey*, 209 Ga. 274, 277 (1952). If the writ is not “obeyed promptly and completely,

⁷ [Advance Voting Underway in Fulton County for Upcoming Special Election](https://fultoncountyga.gov/News/2025/07/28/Advance-Voting-Underway-in-Fulton-County-for-Upcoming-Special-Election) (https://fultoncountyga.gov/News/2025/07/28/Advance-Voting-Underway-in-Fulton-County-for-Upcoming-Special-Election).

⁸ [Election Key Dates](https://fultoncountyga.gov/Inside-Fulton-County/Fulton-County-Departments/Registration-and-Elections/Election-Key-Dates) (https://fultoncountyga.gov/Inside-Fulton-County/Fulton-County-Departments/Registration-and-Elections/Election-Key-Dates).

⁹ The currently scheduled BOE meetings are as follows:

1. August 26, 2025 6:30pm Regular/ Special Meeting/ Election Night
2. August 29, 2025 3:00pm Special Meeting/ Pre-Certification
3. September 02, 2025 10:00am Certification
4. September 11, 2025 11:00am Regular Meeting.

the object of the writ is defeated, the authority of the judiciary is defied, and the power of the judge is discredited.” *Id.* The Georgia Supreme Court has stated, “[a]n action for contempt is the appropriate remedy when defendant fails to abide by the terms of the mandamus order” and that a contempt order is “a mechanism for enforcement of the original order.” *Bettis v. City of Atlanta Civil Serv. Bd.*, 249 Ga. 398, 399 (1982). A finding of civil contempt “imposes conditional punishment as a means of coercing future compliance with a prior court order.” *Moton v. State*, 332 Ga. App. 300, 301 (2015) (citation omitted).

An order granting a writ of mandamus is treated as an injunction under Georgia appellate law. *See* O.C.G.A. § 9-6-28(b) (“Mandamus cases shall be heard on appeal under the same laws and rules as apply to injunction cases.”). With respect to injunctions under Georgia law, there is no automatic stay following the entry of a judgment. *See* O.C.G.A. § 9-11-62(c) (“final judgment in an action for an injunction . . . shall not be stayed during the period after its entry and until an appeal is taken . . .”). Further, a notice of appeal does not act as a supersedeas motion that automatically stays the enforcement of the writ pending the appeal. *See Knapp v. Cross*, 279 Ga. App. 632, 634 (2006) (holding that O.C.G.A. § 9-11-62(a) operates as an exception to the supersedeas provision of O.C.G.A. § 5-6-46).

This Court’s power “to inflict summary punishment for contempt of court” extends to “[d]isobedience or resistance by any . . . party, . . . to any lawful writ, process, order, rule, decree, or command of the courts.” O.C.G.A. § 15-1-4(a)(3). A party may be held in contempt for violating a court order if it “inform[s] him in definite terms as to the duties thereby imposed upon him, and the command must therefore be express rather than implied.” *Hall v. Nelson*, 282 Ga. 441, 444 (2007). Civil contempt sanctions “provide a remedy for an injured party by imposing a conditional

punishment on the contemnor as a means to coerce future compliance with a prior court order.” *In re Orenstein*, 265 Ga. App. 230, 233 (2004).

Even if a party found to be in contempt obtains reversal of the underlying mandamus order on appeal,¹⁰ that does not excuse the party from complying with the order or negate the contempt sanctions. Indeed, the Georgia Supreme Court “has repeatedly held that one may be punished as for contempt for refusal to obey the order of the court notwithstanding that upon a review the order there disobeyed is, by the reviewing court, reversed.” *Cravey*, 209 Ga. at 275.

ARGUMENT

I. This Court Should Hold the Defendants in Contempt of the Mandamus Order.

The Defendants have unequivocally and intentionally defied the Court’s writ of mandamus. *See supra* ¶ 7. Their only public statement is that they intend to “let the judicial process play out,” but the pending judicial process concluded on August 4, 2025 when the Court issued an extraordinary writ that commanding the Defendants to appoint the nominees in compliance with their statutory obligations. Defendants neither sought nor received a stay of the Court’s writ.

Defendants also have not appealed the Mandamus Order. Even if they intend to, at some unspecified date, file an appeal from the Mandamus Order, that does not allow them to defy the Court’s writ while waiting for an appellate court’s ruling. *Id.* Georgia law provides Defendants no excuse refusing to comply with the Court’s command. First, there is no delay between the entry of a judgment and when it goes into effect. *See* O.C.G.A. § 9-11-62(c) (“final judgment in an action for an injunction . . . shall not be stayed during the period after its entry and until an appeal is taken . . .”).¹¹ Put simply – *the writ of mandamus has been in effect and commanded compliance*

¹⁰ Defendants have not appealed the Mandamus Order.

¹¹ *See* O.C.G.A. § 9-6-28(b) (“Mandamus cases shall be heard on appeal under the same laws and rules as apply to injunction cases.”).

Defendants’ compliance with their legal duties since its entry on Monday. At the time the Defendants met for a regularly scheduled meeting on Wednesday, August 6th, they were bound by the Court’s writ. Defendants were made aware of this obligation in advance of the Meeting. *See supra* ¶ 4. Instead, they met for an executive session and decided to shrug the Mandamus Order off and “let the judicial process play out.”

Second, although no notice of appeal has yet been filed, a notice of appeal does not automatically stay the Mandamus Order. *Knapp*, 279 Ga. App. at 634 (2006) (holding that O.C.G.A. § 9-11-62(a) operates as an exception to the supersedeas provision of O.C.G.A. § 5-6-46). Whatever their plans concerning an appeal, the Defendants may not defy the Court’s writ or be relieved of its binding effect unless they first obtain some stay of this Court’s Mandamus Order – either from this Court or an appellate court.¹² Again, Defendants were made aware of this legal obligation by Plaintiff and still chose to defy the Court’s writ. *See supra* ¶ 7.

To be clear, time is of the essence. A term of the Board of Elections lasts two years, and the current term began on July 1, 2025. Thus, the Defendants have now been in violation of 1989 Ga. Laws, p. 4577, as amended by 2019 Ga. Laws p. 4181 § 2, for five weeks and counting. Every day that passes without the Fulton GOP seating its two nominees of choice to the Board of Elections is a harm to the Fulton GOP. Furthermore, as set out above, there is a special election for Senate District 21 ongoing and activities for the impending municipal elections in November 2025 are set to begin in two weeks. *See supra* ¶¶ 10, 11.

¹² That said, this Court should not entertain relieving the Defendants from compliance with the Mandamus Order. The Georgia Supreme Court has said that any order staying a writ of mandamus “must embody ... conditions and terms that will fully preserve and protect the rights of the parties involved.” *Cravey*, 209 Ga. at 277. The relief obtained by the Fulton GOP – an order compelling appointment of its two nominees to the BOE – is not substitutable. No monetary relief or alternative arrangement can “preserve and protect” the rights of the Fulton GOP to have its two nominees appointed to the BOE.

It is well-established that this Court has the power to impose civil contempt on officials who willfully violate a writ of mandamus or other court order. *See, e.g., Smith v. Lott*, 156 Ga. 590, 119 S.E. 400, 400-01 (1923) (affirming contempt order requiring commissioners to pay party sums set out in mandamus order within five days and, in absence of compliance, ordering them to “be held in the county jail”); *Town of Adel v. Littlefield*, 149 Ga. 812, 102 S.E. 433, 433-34 (1920) (affirming order of attachment against town officials found to be in contempt for refusing to pay monetary award set out in mandamus order); *Cook v. Smith*, 288 Ga. 409, 412 (2010) (affirming four-day jail sentence for county school board chairman found in contempt for violating court order giving all board members right to include items on meeting agendas).

Generally, recurring monetary fines are the first step to coerce an official in contempt of a court order to comply. *City of Cumming v. Realty Dev. Corp.*, 268 Ga. 461, 462 (1997) (affirming “coercive sanction requiring payment of \$200 per day until [mayor and city council members] comply” with a zoning order). This Court may impose whatever amount is appropriate to coerce compliance. *Orenstein*, 265 Ga. App. at 233 (affirming recurring weekly fine for civil contempt until party complied with court order).

This Court should now hold the Defendants in contempt and schedule a hearing to determine the appropriate sanctions to compel obedience, including, at minimum, a daily fine of \$500 until the Defendants appoint Julie Adams and Jason Frazier to the Board of Elections.

II. In the Alternative, this Court Should Require the Defendants to Comply Within [X] Days or Face Contempt and Sanctions.

In the event that this Court is not inclined to find the Defendants in contempt at the present moment, it should issue an order requiring the Defendants to comply with the Mandamus Order by August 13, 2025. As stated above, time is of the essence. Every day that goes by without the Defendants’ compliance robs the Fulton GOP of the value of the relief awarded in the Mandamus

Order. The Fulton GOP did not seek monetary damages or any other relief that can be awarded retroactively. Rather, it sought to have its two qualified nominees appointed to the Board of Elections for the term that has already begun. There is no way to compensate the Fulton GOP for the loss of having its chosen nominees sitting on the Board of Elections. Allowing the Defendants to drag their feet and delay only rewards their intransigence.

Respectfully submitted this 7th day of August, 2025.

BRADLEY ARANT BOULT CUMMINGS, LLP

/s/ Thomas L. Oliver, III

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*Counsel for Plaintiff Fulton County Republican
Party*

CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2025, I electronically filed the foregoing **EMERGENCY MOTION FOR CONTEMPT OR, IN THE ALTERNATIVE, FOR ORDER TO COMPLY WITH WRIT OF MANDAMUS BY DATE CERTAIN** with the Clerk of Court using eFileGA which will automatically send notification to all counsel of record.

/s/ Justin P. Gunter
Justin P. Gunter

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Oliver, Trey](#)
To: [Don Samuel](#)
Subject: RE: Republican Party v. Fulton County Board of Commissioners
Date: Tuesday, August 5, 2025 5:02:05 PM

Don –

Thanks for the quick reply and attempt to reach out to your client on this issue.

While we certainly recognize that the County may appeal, our position is that the Board of Commissioners has a legal obligation to comply with the Court's order tomorrow at the hearing. As background, the entry of the Order Granting Writ of Mandamus directing the Board of Commissioners to comply with the election statute is treated as an injunction under Georgia appellate law. See O.C.G.A. § 9-6-28(b) ("Mandamus cases shall be heard on appeal under the same laws and rules as apply to injunction cases."). With respect to injunctions under Georgia law, there is not a 10-day automatic stay following the entry of a judgement. See O.C.G.A. § 9-11-62(c) ("final judgment in an action for an injunction . . . shall not be stayed during the period after its entry and until an appeal is taken . . ."). Further, notice of appeal does not act as a supersedeas motion that automatically stays the enforcement of the writ pending the appeal. See *Knapp v. Cross*, 279 Ga. App 632, 634 (2006) (holding that O.C.G.A. § 9-11-62(a) operates as an exception to the supersedeas provision of O.C.G.A. § 5-6-46).

Please let me know as soon as you hear back. I will be available to discuss at your convenience.

Best,
Trey

Trey Oliver

Partner | [Bradley](#)
toliver@bradley.com
d: 205.521.8141

From: Don Samuel <dfs@gsllaw.com>
Sent: Tuesday, August 5, 2025 3:42 PM
To: Oliver, Trey <toliver@bradley.com>
Subject: Re: Republican Party v. Fulton County Board of Commissioners

Trey: I sent you email to Ms. Burwell and Ms. Soo as soon as I received your message. I have been with a client in jail, and traveling back from Columbia County, but have not heard back anybody. I will try to call them first thing in the morning to see if they reached the

Commissioner. And I assume some County Attorney will be at the Commission meeting.

At least tentatively, I was told yesterday that the County would likely authorize an appeal, but we have not received any final word on that.

Don Samuel
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From: Oliver, Trey <toliver@bradley.com>

Date: Tuesday, August 5, 2025 at 12:26 PM

To: Don Samuel <dfs@gsslaw.com>

Subject: RE: Republican Party v. Fulton County Board of Commissioners

Hey Don –

I hope you are having a nice week.

We understand that the next Board of Commissioners' meeting is scheduled to be held tomorrow at 10:00am. In reviewing the posted meeting agenda, it appears that the BOC is not currently planning to take up the appointment of Jason Frazier and Julie Adams. Our general understanding of Georgia law is that, barring a Court order staying the mandamus, the appointments should occur at the next scheduled hearing, which would be tomorrow. Can you please confirm that the Board of Commissioners plan to appoint Ms. Adams and Mr. Frazier at the BOC meeting being held August 6 at 10:00am?

Please call me if you would like to discuss.

Best,

Trey

Trey Oliver

Partner | [Bradley](#)
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d: 205.521.8141

From: Don Samuel <dfs@gslaw.com>
Sent: Friday, July 18, 2025 10:18 AM
To: Oliver, Trey <toliver@bradley.com>
Subject: Republican Party v. Fulton County Board of Commissioners

Here is our pre-hearing brief.

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From: Hassan High <hh@gslaw.com>
Date: Friday, July 18, 2025 at 11:15 AM
To: Don Samuel <dfs@gslaw.com>
Subject: Fulton County Board of Commissioners

Here you go.

--

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