

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK
ALBANY DIVISION**

NY Citizens Audit Civic Fund, Inc., Marly Hornik, Executive
Director NY Citizens Audit Civic Fund, Inc., Karen Ambrosetti,
Patrick Wynn, Randall Barber, Joe Atkinson, Susan Herrington
and Diane Sare,

Case No. 1:25-cv-1447 (MAD/MJK)

Plaintiffs

v.

Letitia James, in her capacity as New York State Attorney General
(NYSAG) and individually, Lindsay McKenzie, in his capacity of
Section Chief, Voting Rights of the NYSAG's office and individually,
Rick Sawyer, in his capacity as Section Chief, Hate Crimes and Bias
Prevention Civil Rights Bureau of the NYSAG's office and individually,
New York State Board of Elections (NYSBOE), Kristen Zebrowski
Stavisky, in her capacity as Co-Executor Director, NYSBOE and
individually, Raymond J. Riley III, in his capacity as Co-Executive
Director of the NYSBOE and individually, Brian Quail, in his capacity
as Counsel for the NYSBOE and individually, Kathleen McGrath, in her
capacity as NYSBOE Director of Public Information and individually,
Jennifer Wilson, in her capacity as NYSBOE Assistant Public Information
Officer and individually, Peter S. Kosinski, in his capacity as Co-Chair of
the NYSBOE and individually, Douglas A. Kellner, in his capacity as
Co-Chair of the NYSBOE and individually, Anthony J. Casale, in his
capacity as Commissioner of the NYS BOE and individually, Andrew J.
Spano, in his capacity as Commissioner of the NYSBOE and individually,
and Henry T. Berger, in his capacity as Current Co-Chair of the NYSBOE.

Defendants

COMPLAINT FOR EQUITABLE RELIEF AND MONEY DAMAGES

Introduction

1. In America, the right to legitimate representative government, and the right to petition that
government for redress of grievances, are "obvious to everyone who will consider for a

moment the relation between a free people and the government of their own choice. The privilege belonged to the form of government—was united with it, and inseparable from it.”¹

2. The right to a republican form of government, and the ensuing right to petition “belong to the people as inseparably incident to their form of government; w[ere] acknowledged to exist by the language of the Constitution; and w[ere] guardedly secured by the provisions of that instrument.”²
3. This Complaint is brought under 42 U.S.C. § 1983 to address ongoing violations of Plaintiffs' rights to legitimate representative government through the freely exercised right to vote in fair elections, the right to petition for redress of grievances, and the right to speak about a government that fails to deliver on both counts, under Article 1 § 2 of the United States Constitution, the First, Fifth and Fourteenth Amendments, and 52 U.S.C. § 10101(b). These fundamental civil rights violations are rooted in Defendant NYSBOE's failure to maintain compliant voter rolls, count only compliant votes, and reconcile votes and voters before certifying election tallies, failures which Plaintiffs discovered through comprehensive audits of New York's statewide voter registration list, “NYSVoter,” following the 2020 election and continuing hereafter.
4. These violations reach the core of our unique governmental agreement born out of “a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States,” including the refusal to “Assent to Laws, the most wholesome and necessary for the public good.” (Jefferson, 1776)
5. According to Madison, in order to resolve such risks for a new nation, the “first question that offers itself,” he said, “To the People of the State of New York: ...is whether the general form

¹Elliot, Jonathan, ed. *The Debates in the Several State Conventions on the Adoption of the Federal Constitution as Recommended by the General Convention at Philadelphia in 1787*, 5 vols. 2d ed. 1888. Reprint. New York: Burt Franklin, n.d.

² *Supra*

and aspect of the government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of freedom, to rest all our political experiments on the capacity of mankind for self-government.”³

6. Plaintiffs, who are or were members of the all-volunteer New York Citizens Audit Civic Fund, Inc. (“New York Citizens Audit” or “NYCA”) group that includes specialists in auditing, data analytics, law and cyber security, assert that Defendants retaliated against NYCA reporting on the above failures by conspiring to suppress Plaintiffs’ clearly established constitutional rights when Plaintiffs sought redress for these inaccuracies through petitioning various representatives, including Defendants. Plaintiffs assert that Defendants, in collusion, conspired to and did use the power of state authority under color of law to defame Plaintiffs’ reports and activities as malicious and dangerous “misinformation,” despite admitting to never having reviewed them, further conspired to suppress Plaintiffs’ constitutional rights when Plaintiffs made the inaccuracies widely known, and, when Plaintiffs’ efforts continued unabated, finally retaliated by opening a pretextual, unsubstantiated but aggressively publicized criminal investigation under the “Ku Klux Klan Act” into Plaintiffs’ constitutionally protected canvassing activities, implying that NYCA activities and volunteers were motivated by racial animus. All of this was done in order to avoid answering for the serious evidence of election misconduct and criminality NYCA had documented and was continuing to research and document on behalf of the citizens of New York.

³ Madison, James. (1788). *Federalist No. 39: The Conformity of the Plan to Republican Principles*. Washington, D.C.: Library of Congress. Retrieved September 29, 2025 from <https://guides.loc.gov/federalist-papers/text-31-40>

7. Among the numerous, well-documented findings by NYCA that were dismissed, ignored, attacked and/or suppressed by the Defendants, and for which Defendants retaliated against Plaintiffs, were:

- The presence in NYSVoter of multiple steganographically masked (hidden in plain sight) algorithmic programs clandestinely controlling the assignment and structure of NYSVoter ID numbers for the apparent purpose of data injection, evidencing a Level 4 “Severe”⁴, “Total Loss of Control” cyber incident⁵ of NYSVoter by actors unknown, in violation of national critical infrastructure information security⁶ controls as described within the Federal Information Security Modernization Act of 2014 (FISMA, 44 U.S.C. § 3551, *et seq*). This research was peer-reviewed by cyber-intelligence experts and published in the May, 2023 Journal of Information Warfare (JIW) in an article authored by a NYCA volunteer. The article is titled: ‘The Caesar Cipher and Stacking the Deck in New York State Voter Rolls’ (Ex. 1) According to NYCA research, the algorithms appeared in NYSVoter on or about June 15, 2007.
- The assignment by NYSBOE of 2,427,827 unique state voter ID numbers (SBOEID) to 1,170,790 NYS voters despite black letter law forbidding the assignment of more than one unique state ID per voter, which single, unique ID number is supposed to follow the voter for life.⁷ NYCA audits show that the excess 1,170,790 ID numbers⁸ issued by NYSBOE

⁴ https://www.cisa.gov/sites/default/files/2023-01/cisa_national_cyber_incident_scoring_system_s508c.pdf

⁵ 44 U.S.C. § 3552(b)(2)(A) “The term “incident” means an occurrence that actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system.”

⁶ 44 U.S.C. § 3552(b)(3)(A) “The term “information security” means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity.”

⁷ N.Y. Comp. Codes R. & Regs. Tit. 9 § 6217.5(e) “NYSVoter shall assign a unique identifier to every voter that will remain with the voter for their voting life.”

⁸ Based on a copy of NYSVoter dated October 21, 2021. This number continues to increase and stood at 1,558,302 according to a copy of NYSVoter dated December 10, 2025.

enabled fraudulent votes. NYCA documented forged registrations and fraudulent votes associated with many of these excess SBOEID numbers.

- Large discrepancies between the number of votes certified by the NYSBOE as having been counted and the number of voters who actually voted in NYS elections in 2020, 2022 and 2024 as evidenced by NYSVoter official voting history records. The excess votes certified by NYSBOE totaled 272,435 in 2020, 35,235 in 2022 and 129,194 in 2024, for an aggregate excess total of 436,864 votes counted with no associated voter history record in NYSVoter.
- 254,713 votes cast by NYC residents in 2020, as documented by NYC Board of Election records, that are missing from the NYSBOE official voting history records for the election of 2020, representing the disenfranchisement of a quarter of a million NYC voters. The missing votes had been recorded in the voting history records of the NYC Board of Election data for New York, Kings, Queens, Bronx and Richmond Counties, but did not appear in the NYSBOE voting history records of the exact same voters, according to a copy of NYSVoter obtained from NYSBOE on October 21, 2021.
- The illegal overwriting of election records from the November 3, 2020 General Election in violation of 52 USC §20701, which requires the preservation of all election records for 22 months. The overwriting was admitted by Michael Chin, an IT professional with the NYSBOE in response to a NYCA FOIL request.⁹
- Large scale changes to the vote following certification of the 2020 NYS election results by the NYSBOE, including the addition of over 223,000 illegal *double votes* added to the voting history records of voters who had previously voted only once. These double votes were added sometime between December 19, 2022 and July 3, 2023, according to carefully

⁹ See footnotes 5 & 6, *supra*.

examined copies of NYSVoter obtained by NYCA on those dates. Plaintiffs allege these votes were an attempt to clean up the unreconcilable 2020 vote count of 272,435 more votes than voter history records in NYSVoter that Plaintiffs had widely reported on. Regardless, if the vote was accurate when it was certified, why did it change? If it wasn't accurate, why was it certified? Clearly, the formerly certified tally was corrupted with an enormous number of illegal double votes while under the control of Defendants.¹⁰

- Numerous victims of campaign finance law violations via smurfing,¹¹ involving tens of thousands of transactions resulting in millions of dollars' worth of fraudulent transactions, as documented by NYCA canvassers between May-August, 2023. This work was underway when Defendant NYS AG opened a retaliatory, pretextual criminal investigation against NYCA's canvassing efforts. NYCA's smurfing canvass documents were requested by Defendant NYS AG during said investigation, and are currently in her possession. The discoveries have since been reported to federal investigators as well.
- Literally millions of material errors and omissions¹² in NYSVoter registration records which should have precluded those alleged registrants from registering and voting but didn't. One in four registrations in NYSVoter lacks data required to properly assess eligibility under state law, and/or contains invalid or false data.¹³ This included 2,783,369 records with plainly false dates of registration at the time the 2024 election was certified

¹⁰ See footnotes 5 & 6, *supra*.

¹¹ "Smurfing is a money-laundering technique involving the structuring of large amounts of cash into multiple small transactions. Smurfs often spread these small transactions over many different accounts, to keep them under regulatory reporting limits and avoid detection. Smurfing is a form of structuring, in which criminals use small, cumulative transactions to remain below financial reporting requirements." Extracted on September 29, 2025 from <https://www.investopedia.com/terms/s/smurf.asp>

¹² 52 U.S.C. § 10101(a)(2)(B) "No person acting under color of law shall deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election."

¹³ See footnotes 5 & 6, *supra*.

due to the voter not being born yet, the date not having happened yet, registration coinciding with birth, the voter being over the age of 114, and registration occurring on January 1st, Christmas, Thanksgiving and the like. Votes counted from registrations with material errors and omissions contributed 10% of the certified votes in the general election of 2024, in what amounted to a Wild West process *supposed to* uphold the revolutionary, founding principle of government by consent.

8. Notably, a number of NYCA's contentions were, and remain, undisputed by the Defendants, effectively conceding them. This while the Defendants continue to publicly and conversely defame NYCA as the purveyor of disinformation.

Exhibits Annexed

9. NYCA issued a number of documents, including reports, studies, petitions and resolutions (hereinafter collectively "documents") in support of its contentions, which documents were provided by NYCA to the defendants, or which were accessible to and known of by defendants, before or while defendants defamed, attacked, silenced and sought to criminally prosecute plaintiffs for alleged disinformation and Ku Klux Klan violations.
10. These included the following, which are annexed as Exhibits and made part of the within complaint for all purposes pursuant to Federal Rule of Civil Procedure 10(c):
 - The article titled: "Caesar Cipher and Stacking the Deck in New York State Voter Rolls" that appeared in the Journal of Information Warfare- **Ex. 1**
 - Petition for Redress of Grievances signed by 5,000 New Yorkers- **Ex. 2**
 - Resolution For An Audit of the New York State 2022 General Election passed by 92 NYS Town Boards- **Ex. 3**
 - New York's 2020 General Election: A Study In Deficits- **Ex. 4**

- Identity Theft at the New York State Board of Elections- **Ex. 5**
- New York's 2022 General Election & The Reign of Error: Apathy, Incompetence or Malfeasance?- **Ex. 6**
- New York's 2022 General Election Validity Reconciliation- **Ex. 7**
- New York's 2020, 2022 and 2024 Election Validity Scorecards- **Ex. 8**
- Inexplicable Changes to The Voter Rolls (October 2021-December, 2022)- **Ex. 9**
- Affidavit statement of Diane Sare regarding her 2022 election returns, wherein tens of thousands of votes for Sare were removed from previously reported tallies, and manipulated to reflect corresponding increases in blank votes in over 40 counties statewide. **Ex. 10**
- SMURF Canvass Report- **Ex. 11**
- "Dear Fellow Citizens" Letter By Marly Hornik- **Ex. 12**
- NYCA's Response to NYSBOE's "False Claims Explained" Document- **Ex. 13**
- NYCA's Response to NYSBOE's "The Truth About Voter Registration List Maintenance in New York State" Document- **Ex. 14**
- NYCA's Response to Ontario County Board of Elections "Rebuttal to Citizen's Audit"- **Ex. 15**
- NYCA Chart titled "Impersonator Foils" Re its Attempts, via FOIL, to Obtain the Alleged "Impersonator" Complaints Against It As Recited By the NYS AG.- **Ex. 16**
- NYCA August 14, 2023 letter to NYSBOE accompanying NYCA's 2020/2022 Election Report- **Ex. 17**
- NYCA's September 22, 2023 Press Release Responding to NYS AG's September 21, 2023 Cease and Desist Letter- **Ex. 18**

11. Also annexed as Exhibits and made part of the within complaint are the following NYSBOE and NYS AG documents that targeted the plaintiffs:

- April 5, 2023 NYSBOE letter to County Board Commissioners, etc. by Kristen Zebrowski Stavisky, Co-Executive Director NYSBOE and chief election official for the state of New York with “False Claims Explained” document by Brian Quail- **Ex. 19**
- NYSBOE’s Press Release Concerning NYCA of August 31, 2023- **Ex. 20**
- Transcript of September 6, 2023 NYSBOE Meeting- **Ex. 21**
- September 21, 2023 Cease and Desist Letter and Document Request BY NYS AG’s Office, Lindsay McKenzie and Rick Sawyer, to Marly Hornik, Executive Director, NY Citizens Audit Civic Fund, Inc. – **Ex. 22**
- October 5, 2023 NYSBOE Letter to County Board Commissioners, etc. by Kristen Zebrowski Stavisky and Raymond J. Riley, Co-Executive Directors NYS BOE- **Ex. 23**
- November 22, 2023 Letter from NYS AG’s Office, Lindsay McKenzie and Rick Sawyer, to the attorneys for NYCA, with 14-page subpoena for NYCA- **Ex. 24**
- November 28, 2023 NYSBOE Letter to NYS Sheriffs Association by Kristen Zebrowski Stavisky and Raymond J. Riley, Co-Executive Directors NYSBOE- **Ex. 25**
- NYSBOE (McGrath) Denial of Richard Bednar FOIL Request- **Ex. 26**
- February 21, 2024 Letter from NYS AG’s Office, Lindsay McKenzie and Rick Sawyer, to the attorneys for NYCA, with 12-page subpoena for NYCA- **Ex. 27**
- April 25, 2024 Demand Letter from NYS AG’s Office, Lindsay McKenzie and Rick Sawyer- **Ex. 28**
- Copies of Newspaper Headlines Regarding NYS AG’s claims verse NYCA- **Ex. 29**

12. Finally, annexed as Exhibits and incorporated herein are two articles evidencing NYS’s ongoing/continuing indifference to election law violations, as well as whistle blower testimony regarding the insecurity of American elections generally, and the ability of clandestine operators

to manipulate records and votes, affecting election outcomes, and evidence from Plaintiff Diane Sare's 2022 election for US Senator from New York which was tainted by vote manipulation:

- New York City Bar Report August 2019: "Safeguarding New York's Elections: The Unfinished Business of the Moreland Commission to Investigate Public Corruption"- **Ex.30**
- Article- February 25, 2022- Sam Mellins: "More Than Three Thousand Campaigns Violated Campaign Finance Law. The State Board of Elections Brought Enforcement Actions Against Zero"- **Ex. 31**
- Richmond County Grand Jury Report from November, 2022 regarding documented forgery and the subsequent counting of fraudulent votes, pleading for statewide election reform in the interests of election security. – **Ex. 32**
- Sworn testimony from a former Venezuelan government official who programmed national voting equipment and manipulated election outcomes in Venezuela using hidden data injection systems, entered into Colorado State court on September 23, 2025, and reported publicly on September 24, 2025 at <https://joeoft.com/huge-breaking-exclusive-expert-testimony-in-tina-peters-case-describes-how-election-systems-are-not-secure-or-auditable-and-can-manipulate-election-results/> - **Ex. 33**

13. The result of the actions by the defendants in targeting NYCA as an organization, along with its members individually, was that the organization was decimated, research activity halted, and hundreds of its individual members terrified and intimidated into silence and inaction, their constitutional rights chilled in fear of retaliation by NYS. As a consequence, little progress has been made in repairing the broken, unsecured, and corrupted NYS voting system.

14. The purposes of the within suit are: to remove the cloud of criminal investigation and associated reputational harm that continues to hang over NYCA and its members, especially Executive Director Marly Hornik, to restore freedom of speech with respect to election issues

in New York State, to validate NYCA's findings, to remediate the wrong that was done to NYCA and its members by the Defendants and to set the NYS election apparatus on a course to correction and compliance.

Jurisdiction and Venue

15. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1343(a)(3) (civil rights).

16. Venue is proper in this district under 28 U.S.C. § 1391(b) because the events giving rise to the claims occurred in this judicial district, and Defendants are employed here.

Parties

17. Plaintiffs are: NY Citizens Audit Civic Fund, Inc., a 501(c)(3) nonprofit that performs research, education and litigation in election validity to protect the constitutional right to free and fair elections; Marly Hornik, a registered NYS voter, a regular NYS voter, a resident of Ulster County, New York and Executive Director of NY Citizens Audit Civic Fund (NYCA) at all pertinent times; Karen Ambrosetti, a registered NYS voter, a regular NYS voter, a resident of Orange County, New York and a NYCA volunteer at all pertinent times; Patrick Wynn, a registered NYS voter, a regular NYS voter, a resident of Suffolk County, New York and a NYCA volunteer at all pertinent times; Randall Barber, a registered NYS voter, a regular NYS voter, resident of Cattaraugus County, New York and a NYCA volunteer at all pertinent times; Joseph Atkinson, a registered NYS voter, a regular NYS voter, a resident of Chemung County, New York and a NYCA volunteer at all pertinent times; Susan Herrington, a registered NYS voter, a regular NYS voter, a resident of Washington County, New York and a NYCA volunteer at all pertinent times; and Diane Sare, a registered NYS voter, a regular NYS voter, a resident of Rockland County, New York and a candidate for the US Senate from New

York in 2022 and 2024 whose publicly reported vote counts were subsequently adjusted downwards and converted to blank votes (**Ex. 10**).

18. Defendants are: Letitia James, in her capacity as Attorney General of the State of New York and in her individual capacity; Lindsay McKenzie, in his capacity of Section Chief, Voting Rights of the New York State Attorney General's ("NYSAG") office and in his individual capacity; Rick Sawyer, in his capacity as Section Chief, Hate Crimes and Bias Prevention Civil Rights Bureau of the NYSAG's office and in his individual capacity; Kristen Zebrowski Stavisky, in her capacity as Co-Executor Director, New York State Board of Elections (NYSBOE), a chief state election official responsible for coordinating New York's responsibilities under federal law, and in her individual capacity; Raymond J. Riley III, in his capacity as Co-Executive Director of the NYSBOE, a chief state election official responsible for coordinating New York's responsibilities under federal law, and in his individual capacity; Brian Quail, in his capacity as Counsel to the NYSBOE and in his individual capacity; Kathleen McGrath, in her capacity as Director of Public Information for the NYSBOE and in her individual capacity; Jennifer Wilson, in her capacity as Assistant Public Information Officer for the NYSBOE and in her individual capacity; Peter S. Kosinski, in his capacity as Co-Chair of the NYSBOE, a chief state election official responsible for coordinating New York's responsibilities under federal law, and in his individual capacity; Douglas A. Kellner, in his capacity as Co-Chair of the NYSBOE, a chief state election official responsible for coordinating New York's responsibilities under federal law, and in his individual capacity; Anthony Casale, in his capacity as Commissioner of the NYS BOE, a chief state election official responsible for coordinating New York's responsibilities under federal law, and in his individual capacity; Andrew J. Spano, in his capacity as Commissioner of the NYSBOE, a chief state election official responsible for coordinating New York's responsibilities under federal law, and in his individual capacity; Henry T. Berger, in his official capacity as Co-Chair

of the NYSBOE, a chief state election official responsible for coordinating New York's responsibilities under federal law; and Essma Bagnuola, in her official capacity as Commissioner of the NYSBOE, a chief state election official responsible for coordinating New York's responsibilities under federal law.

Background/Chronology

19. In October of 2021, volunteers with Plaintiff NYCA, including experienced, professional data analysts and programmers, began auditing a copy of New York's statewide voter registration list "NYSVoter," obtained from the New York State Board of Elections (NYSBOE) through a Freedom of Information Law (FOIL) request.
20. NYSVoter is recognized under federal law¹⁴ as the official list of "legally registered voters" and voter participation history for the State of New York regarding all elections conducted by the State with a federal candidate on the ballot, as delegated to New York by the Composition Clause of the US Constitution, Article 1 § 2, and the Elections Clause, Article 1 § 4. NYSVoter is part of critical national security infrastructure, and therefore subject to federal data integrity and security standards established by the Federal Information Security Modernization Act of 2014 (FISMA). All NYCA findings within NYSVoter were rigorously peer-reviewed internally before publication of factual allegations and/or reports.
21. Findings within this official record were compared with certified 2020 election results, as reported on the website of Defendant NYSBOE. Significant anomalies were discovered and reported to Defendants NYSBOE and NYS AG on May 9, 2022, in the form of a Petition for Redress of Grievances Pursuant to the First Amendment of the United States Constitution, signed by over 5,000 New York State eligible voters, asking for a meaningful response within

¹⁴ Help America Vote Act, 52 U.S.C. § 21083(a)(1)(A)

30 days. The anomalies called into uncertainty the legitimacy of the 2020 general election results and the foundational right of the citizens of New York to choose their representatives.

(Ex. 2) These anomalies included the following election crimes alleged in the Petition:

- a) The official vote count for the 2020 general election certified by the Secretary of State, 8,690,614, did not match the number of voters who voted in the New York State voter rolls, 8,418,179, nor did it match the number of votes from the New York State precincts, 8,627,153, with a discrepancy of 272,435 votes counted;
- b) These violations, when examined by county, resulted in many races being certified where the discrepancies exceed the margin of victory, including the races of 89 New York State legislators and 10 US Congressional representatives;
- c) New York State Board of Elections voter rolls contained at least 61,976 unique registrations that were not present in 1 or more County voter rolls maintained by the corresponding County Board of Elections;
- d) There were 1,282 registrations present in the County voter rolls but missing from the State voter rolls;
- e) 37,362 votes were cast in the New York State 2020 general election from these unmatched state and county registrations;
- f) New York State voter rolls had 701,942 excess SBOEID numbers assigned to 299,920 voters, at least 5,229 of which appear to have voted more than once in the New York State 2020 general election;
- g) New York State voter rolls contained at least 1,488,224 purged voters with no purge date, of which at least 31,180 voted in the 2020 New York State general election.

22. No response was ever received, in flagrant disregard of the First Amendment Right to Petition the government for Redress of Grievances. “If the Constitution makes it our duty to receive, we

should have no discretion left to reject, as the motion presupposes. Our rules of proceeding must accord with the Constitution.”¹⁵

23. Further analysis was pursued, and more and more citizens began participating and sharing concerns over the volumes of facially invalid data discovered by NYCA within NYSVoter. A study of algorithms discovered within the database structure was completed by NYCA, scientifically peer-reviewed, and published in the cyber-espionage Journal of Information Warfare. (Ex. 1)
24. The same finding was reported in a meeting with the New York State Police Special Investigations Unit (NYSP SIU) on June 27, 2022, and subsequently transmitted through official channels to the Foreign Intelligence Task Force of the Federal Bureau of Investigations, as a breach of the nation’s critical infrastructure requiring federal investigation. The finding was also presented to the bicameral election law committees of the New York State Legislature on May 1, 2023 at a presentation by NYCA in the State Legislative Office Building Room 711A.¹⁶ Although this finding is obviously related to the countless anomalies NYCA had previously reported, no action was ever taken to investigate the reporting or examine the data within NYSVoter.
25. On November 8, 2022, Defendant NYSBOE proceeded to administer and certify the elections for Governor, Attorney General, 27 members of US Congress, one US Senator, the NYS Legislature, District Attorneys, and a host of other “representatives of the people,” using a system that had been widely reported to them as hopelessly and criminally marred by millions of material errors and omissions in the records, and reported by SIU to the FBI as breached. Defendant NYSBOE knowingly and defiantly ignored these egregious violations found within the records they maintain on behalf of the eligible voters of the State of New York and the

¹⁵ See footnote 1, *supra*.

¹⁶ <https://rumble.com/v2mar94-ny-citizens-audit-presents-to-nys-legislature-election-committees-may-1-202.html>

federal government. Defendant NYSBOE used an obviously broken and penetrated system, clearly incapable of generating legally valid election returns, to authorize representatives to both state and federal government whose legitimacy in those positions was factually uncertain according to NYSBOE's own "certified" records.

26. During the summer of 2022, prior to the November, 2022 election, Plaintiff NYCA's volunteers presented their above cited Petition to the County Legislatures of 18 counties, by both submitting it and reading it out loud in its entirety during the public comment period of official meetings, asking for official support of further investigation.
27. A second audit of NYSVoter was performed by NYCA following the 2022 election, using the official records dated four days after certification, which took place on December 15, 2022.
28. NYCA drafted their "Resolution for an End-to End Audit of New York's 2022 General Election" in January of 2023.
29. Beginning in February of 2023, NYCA volunteers began painstakingly gaining the support of 92 town boards across New York State for a comprehensive external audit of Defendant NYSBOE records of the 2022 general election. NYCA volunteers made presentations of the Resolution in public meetings to 363 individual town boards, and many county legislatures as well.
30. The Resolution presented the following aggregate alleged facts regarding the data underlying the certified 2022 midterm election:
 - a) 5,142,950 invalid or illegal registration violations found within the NY State voter roll database;
 - b) 745,294 illegal votes counted in the 2022 general election;
 - c) 35,312 more votes counted than voters who voted in the 2022 general election. No one knows who cast them;

d) 745,246 votes in error above the legal standard for a valid federal election. For the 2022 election in New York this number was 48.

31. There were 363 Resolution presentations in total statewide, from Montauk to Buffalo. Ninety-two (92) town boards signed the Resolution in agreement with NYCA, calling for an end-to-end audit of the 2022 election.
32. On April 5, 2023, in response to these presentations which were garnering statewide support for an external audit, Defendant NYSBOE penned and distributed their first official letter to statewide election officials, signed by Defendant Executive Director Stavisky, alleging that disinformation activists, “bad actors,” were seeking to undermine the work of election clerks statewide, either out of ignorance or malice. This was not based on an actual assessment of the reports provided by NYCA to NYSBOE and county offices, or actual knowledge of NYCA’s credentials or intentions, despite Stavisky confidently stating, “We know these claims are unequivocally false...and remind you that you are an integral part of protecting our democracy from bad actors, including those who create malicious claims to feed a false narrative predicated on a fictional analysis of voter data.” Stavisky continued on to state, “It should be noted that no one has seen the actual data used to create the false claims. Even members of the press have not been privy to the alleged voter list the group is using.” If no one had seen the data, how did NYSBOE know the claims were “unequivocally false”? (**Ex. 18**)
33. The letter was disingenuous on two further points. First, NYCA clearly communicated that they had specifically audited NYSVoter, the list NYSBOE is the custodian of and therefore should have no trouble accessing. Second, had NYCA shared this list with the media it would likely have been considered a violation of the signed agreement NYSBOE requires every FOIL requestor to sign before distributing a copy of NYSVoter, which is not to use the information

for anything other than an “election purpose.”¹⁷ The meaning of election purpose has traditionally been interpreted broadly and among other things includes campaigning, voter outreach, fundraising and academic research, but *not* media leakage. Stavisky pretended not to know that providing a voter list to the media would breach her actual requirement, and deviously implied that it was some kind of standard protocol NYCA had failed to adhere to, perhaps hoping NYCA would “defend” themselves by doing so and breaching a signed agreement.

34. As previously stated, NYSBOE never communicated with NYCA despite having been specifically requested to reply to NYCA’s Petition under the Grievance Clause of the First Amendment. (Ex. 2) NYSBOE chose instead to, on the one hand, flagrantly ignore the concerns of over 5,000 New York citizen voters who had signed the NYCA Petition, while on the other hand smearing them *in front of their own representatives*. This was an attack on First Amendment rights that intentionally and shamelessly interfered with the sacrosanct principle of representative government by abusing state authority to dissuade officials from listening to NYCA or its volunteers petitioning for redress of serious grievances. In the words of Justice Story, “[The First Amendment] would seem unnecessary to be expressly provided for in a republican government, since it results from the very nature of its structure and institutions. It is impossible, that it could be practically denied, until the spirit of liberty had wholly disappeared, and the people had become so servile and debased, as to be unfit to exercise any of the privileges of freemen.”¹⁸ Plaintiffs argue that it is not they, but Defendants, from whom the “spirit of liberty has wholly disappeared.”

¹⁷ <https://elections.ny.gov/freedom-information-requests-foil>, “New York State Election Law Sec 3-103(5) prohibits using information derived from voter registration records for non-election purposes. When submitting a request for voter registration data it must include a statement that the information requested will be used for an “elections purpose” in compliance with New York State Election Law Section 3-103.5. (An “elections purpose” has traditionally been interpreted broadly and among other things includes, campaigning, voter outreach, fundraising and academic research.)”

¹⁸ *Joseph Story, Commentaries on the Constitution 3: § 1887 (1833)*

35. The claims in the letter of April 5, 2023 were simply false.
36. This letter was accompanied by a document titled, “False Claims Explained,” written wholly or in part by Defendant Brian Quail as Counsel for NYSBOE, in which sweeping explanations for millions of voting anomalies and *ultra vires* registrations and votes reported in NYCA’s Study in Deficits report were offered without any factual support. (Ex. 19)
37. The April 5th letter and the accompanying “False Claims Explained” document were then used by officials and representatives statewide to preemptively discredit and dismiss NYCA volunteers and reports. When NYCA volunteers would present the Resolution, representatives at the town and county level would discuss and/or display copies of these documents, challenge individual NYCA volunteers on the basis of non-specific, speculative “explanations” provided by NYSBOE, and determine not to support NYCA and their own constituents as a result. These representatives likely believed that NYSBOE had followed a due process in investigating the veracity of the claims, when in fact NYSBOE simply constructed from thin air a means of suppressing and chilling protected speech about their own failings or misdeeds. NYSBOE confirmed this by stating that “no one” had seen NYCA data, including that they themselves as the custodians of the data in question had not bothered to look, yet they had absolute certainty NYCA reporting was “unequivocally false.” The April 5th letter and False Claims Explained document functioned like an invisible wall of authority blocking honest and credible citizens from getting a fair audience with their own representatives to exercise their right to petition.
38. In the face of stonewalling and mounting retaliation by responsible officials, NYCA volunteers worked statewide during late 2022 into 2023 to canvass particular registrants whose NYSVoter records appeared to NYCA to have become corrupted while in the custody of Defendant NYSBOE, asking the voters themselves if the records extracted from NYSVoter were correct.
39. The “constitutional right to engage in uninhibited debate in the context of door-to-door advocacy” was thoroughly examined by the US Supreme Court in 2002, *Watchtower v*

Stratton, 536 U.S. 150. The decision determined that, other than in circumstances where canvassers were actually soliciting money, were canvassing for the purpose of committing or planning violent crimes, or had trespassed across a “No Solicitations” sign, there was a well-established historical precedence protecting First Amendment rights, saying, “For over 50 years this Court has invalidated restrictions on door-to-door canvassing and pamphleteering. *Hynes v. Mayor and Council of Oradell*, 425 U. S. 610 (1976); *Martin v. City of Struthers*, 319 U. S. 141 (1943); *Murdock v. Pennsylvania*, 319 U. S. 105 (1943); *Jamison v. Texas*, 318 U. S. 413 (1943); *Cantwell v. Connecticut*, 310 U. S. 296 (1940); *Schneider v. State (Town of Irvington)*, 308 U. S. 147 (1939); *Lovell v. City of Griffin*, 303 U. S. 444 (1938).” *Id.* at 160. Continuing, the decision states, “In *Schneider v. State (Town of Irvington)*, 308 U.S. 147 (1939)... Justice Roberts stated that “pamphlets have proved most effective instruments in the dissemination of opinion. And perhaps the most effective way of bringing them to the notice of individuals is their distribution at the homes of the people. On this method of communication the ordinance,” requiring citizens to obtain a permit prior to canvassing, ““imposes censorship, abuse of which engendered the struggle in England which eventuated in the establishment of the doctrine of the freedom of the press embodied in our Constitution,”” (at 162) explicitly encompassing, “any special interest in protecting the electoral process.” (at 167) Further, “In *Grosjean v. American Press Co.*, 297 U. S. 233 (1936), while discussing the history of the Free Press Clause of the First Amendment, the Court stated that “[t]he evils to be prevented were not the censorship of the press merely, but any action of the government by means of which it might prevent such free and general discussion of public matters as seems absolutely essential to prepare the people for an intelligent exercise of their rights as citizens.” *Id.*, at 249-250 (quoting 2 T. Cooley, *Constitutional Limitations* 886 (8th ed. 1927)); see also *Lovell v. City of Griffin*, 303 U. S. 444 (1938).” *Id.* at 168.

40. NYCA's objective in canvassing, after being ignored by Defendants, was to determine whether there could be an innocent explanation for the volumes of allegedly invalid or illegal data in NYSVoter. NYCA also began a physical canvass prevalence study regarding voters with duplicate records who voted in 2022, of which there were over 440,000, a clear abrogation of list maintenance requirements.¹⁹ The prevalence study was a coordinated research effort by citizens to understand what percentage of those duplicates, on a statistically relevant and randomized basis, could or could not be shown to fall inside of the "explanations" provided by NYSBOE in the letter of April 5, 2023 and the False Claims Explained document. NYCA sought to resolve the question of whether there might be individual explanations for these problems by asking the voters directly, in the void created by official stonewalling and denouncement. More often than not, unfortunately, upon conversation with the particular voter, the records proved *worse* than they initially appeared.

41. For example, NYCA volunteers canvassed the home of an individual with 27 unique voter registration records assigned to him on the same day at the same address, and another with 11 unique voter registration records attributed to him in a 48-hour period. Neither individual had ever lived at the address in question; one of the addresses was a Western Union office, the other was a private home continuously occupied by the same owner for decades, including through the period of false registration. In another example, NYCA volunteers canvassed the home of a woman with two unique voter registrations that appeared to be a maiden name-married name error. When presented with the two registrations, the voter herself identified that the maiden name registration date post-dated the married name registration date. Additionally, the maiden

¹⁹ 52 U.S.C. § 20504(c)(2)(B)(i), "The voter registration application portion of an application for a State motor vehicle driver's license may require only the minimum amount of information necessary to prevent duplicate voter registrations." Also see 52 U.S.C. § 21083(a)(1)(A)(iii), "Under the computerized list, a unique identifier is assigned to each legally registered voter in the State," and (a)(2)(B)(iii), "duplicate names are eliminated from the computerized list."

name record had “voted” in an election more than a decade after her marriage, and the married name registration recorded a last voted date of 2008, despite the voter clearly stating in 2022 that she votes in every single election. Thirteen of her votes were *missing*.

42. NYCA never accused or suspected individual voters of fraud, rather, the sheer amount of improper data within the system indicated that it had been left unguarded and wide open to fraud by those with administrative access, or those who gained improper access through other illegal means, not fraud by individual voters. Exactly how NYSVoter has gotten this way, been taken advantage of, or by whom, NYCA does not know and has never speculated. NYCA has consistently maintained, however, that their audits document criminal activity and a national security emergency jeopardizing the legitimacy of US Congress, and Defendants NYSBOE and NYS AG must scrutinize, secure and repair their records.
43. Volunteers working with NYCA submitted over 800 FOIL requests to the county boards of elections, discovering yet more evidence that the voting system was not being administered lawfully. For example, NYCA received official registration documents for particular voters whose on-file signature (pixel-for-pixel match) had improperly been applied to multiple unique registration records each with a unique NYSBOE ID number, as well as documents for particular voters whose name did not match the signature at all. Many of these voters were canvassed by NYCA and confirmed the problems as well as often identifying further issues such as inaccurate registration dates (of which all of this documentation was turned over to Defendant NYS AG pursuant to subpoena requests and remains in her custody). The only counties where these problems were not documented by NYCA were those where the board of elections declined to respond to lawful FOIL requests.
44. A NYCA volunteer submitted two FOIL requests to NYSBOE for the NYSVoter audit logs, attempting to verify if there was a legitimate process underlying the countless inexplicable edits to birthdates, voter history, and other data fields that should be immutable once entered and

certified. Each of these edits should have a unique, timestamped log file identifying the official who performed it. These FOIL requests were denied, further demonstrating that Defendants believe it is their prerogative and privilege to do as they please and hide the evidence, while demanding that the public blindly accepts their absolute integrity and grants unearned absolute authority—or gets punished like NYCA. If NYSBOE has so much integrity, why don't their elections reconcile? (**Ex. 16, 26**)

45. NYCA volunteers canvassed numerous individuals whose bank accounts and/or personal identity were abused to launder campaign donations in a practice commonly known as “smurfing.”²⁰ For example, NYCA visited the home of a woman who had reportedly donated \$263,760.00 in campaign funds through 18,360 individual donations recorded by the FEC over a 36-month period. She was shocked, and denied having made an average of seventeen \$14.37 donations per day for three years. In another example, NYCA visited the home of a woman who had reportedly donated \$211,033.00 in campaign funds through 15,135 individual donations over the same 36-month period; she also denied having done so. In another example, NYCA attempted to speak with a gentleman who had reportedly donated \$1,800,538.00 in campaign funds through 8,293 individual donations recorded by the FEC over the same 36-month period, or an average of 8 daily donations of \$217.12 for three years. A total of 25 such canvassed cases were reported by NYCA to federal law enforcement.

46. On August 13, 2023 NYCA completed a comprehensive report of the 2022 general election in New York, and submitted this document to the NYSBOE Division of Election Law Enforcement, along with each underlying registration and voting record associated with the report, as extracted from copies of NYSVoter obtained via lawful FOIL requests. This comprehensive report contained the final analysis of the 2022 General Election findings by

²⁰ See footnote 11, *supra*.

NYCA, including over five million invalid registration records with material omissions and errors extracted from NYSVoter, and their 745,000+ votes cast and counted in the 2022 election.

47. This complete report, as well as the public version, “New York’s 2022 General Election: The Reign of Error,” (**Ex. 6**) demonstrated, among other facts, that there were more votes in question in the 2022 General Election than the margin of victory in the election of New York’s Attorney General Letitia James, throwing the outcome of that race into uncertainty as a matter of law and fact.

48. This report requested an official acknowledgment of receipt within ten days. It was accompanied by a cover letter (copy annexed) from plaintiff Marly Hornik, Executive Director of NYCA which, after summarizing the report’s findings, stated in the final paragraph:

We ask for a response of intentions from the NYSBOE within ten days. We have attached our summary report, our detailed method of analysis and extraction files containing all anomalies. This analysis used data provided under the State’s FOIL laws from the State and relevant counties. Please also provide a detailed explanation of the algorithm injecting voter registration into the voter rolls. (**Ex. 17**)

49. On August 31, 2023, the NYSBOE issued a press release warning of “election imposters” visiting homes and intimidating voters that was reprinted in dozens of outlets, as well as on the official websites of all county election offices. This statewide and nationwide media campaign was covered in front page news with the headline, “State Board of Elections warns New York voters against impersonation of County Board of Election Officials.” According to the release, “The State Board of Elections has recently become aware that individuals, across multiple counties throughout the state, have been going door-to-door impersonating County Board of Elections staff. These individuals are confronting voters regarding their registration status, and

erroneously accusing voters of committing a crime because of how they appear in the state voter database.” A quote from Defendant NYSBOE co-Executive Director Raymond J. Riley III claimed, “We are extremely alarmed by these actions. These individuals are impersonating government officials in an effort to intimidate voters based on inaccurate and misleading information. We strongly encourage those engaging in these activities to cease immediately.” The conclusory missive ended with an implied threat of punishment clearly intended to intimidate canvassers, “Criminal impersonation in the second degree is a class A misdemeanor in New York State. The State Board of Elections remains in close communication with the County Boards and law enforcement to monitor this situation.” (Ex. 20)

50. On September 6, 2023 during the public monthly meeting of Defendant NYSBOE (Ex. 19) NYCA’s 2022 Reign of Error report was discussed. Despite the fact that NYSBOE was in possession of all the data from that report, the claim was repeated by Defendant McGrath that no one had ever seen it. Additionally, the assertion was repeated that NYCA’s claims were false and malicious, despite no one in the meeting having investigated them, and all present simply operating from the presumption that they could not be true and NYCA could not be honestly defending constitutional rights. Defendant Stavisky added, “I would also like to say that to your point about being on the defensive, *I believe we are on the offensive now*, and we have to be going into a Presidential election because we cannot let mis- and disinformation stand, and we have to make sure that people have the faith that they should have in the integrity of our system.” (emphasis added) Unfortunately, NYSBOE digging their heels in about the infallibility of their process is not the same as proving their system has “integrity.” Nor is going on the warpath against credible citizens, who had done extensive auditing and research in NYSVoter, a way to engender faith, especially after ignoring those same citizens when they had formally requested a reply pursuant to the enshrined and foundational First Amendment right to petition eighteen (18) months earlier.

51. On September 21, 2023 NYCA learned that it was under a formal Cease and Desist Order by Defendant NYS AG Letitia James regarding NYCA canvass efforts. NYCA volunteers learned about this by *reading it on the front page of newspapers across the state*, which were obviously printed before any email was sent to NYCA's inbox that morning after the opening of business hours, clearly evidencing that the pending Order had been leaked. The Order read:

a. "The New York State Office of the Attorney General (OAG) has reviewed reports alleging that volunteers from the NY Citizens Audit Civic Fund have confronted voters across the state at their homes, falsely claimed to be Board of Elections officials, and falsely accused voters of committing felony voter fraud. These allegations, if true, could constitute unlawful voter deception under New York state law and unlawful voter intimidation under both state and federal law. You are hereby instructed to cease and desist any ongoing or contemplated voter deception and intimidation efforts, including instructing or otherwise causing volunteers to falsely represent themselves as government officials or falsely accuse voters of voter fraud. Voter deception and intimidation have no place in New York, and the OAG will use every tool at its disposal to protect New York voters. Voters across the state have reported that individuals have visited them at their homes and accused them of criminal voter fraud." (Ex. 19)

52. The Cease and Desist letter was covered by national news outlets as well as making the front pages of publications statewide with millions of readers. (Ex. 29)

53. In response, on September 22, 2023 NYCA issued a Press Release which stated, in part:

NYCA Executive Director Marly Hornik commented: "The allegations are puzzling. NYCA has seen no evidence of the accusations, despite prior board of election inquiries. The whole thing has developed from a purposeful board of elections attempt to create public hysteria about unidentified canvassers, then the board started naming NYCA as 'public lawbreaker no. 1,' then the press beat the drum with nothing but unsupported allegations, and the next thing we know the NY Attorney

General is involved and naming NYCA. It all sounds like a Soviet-era propaganda move to discredit and then attack NYCA, calculated to stop the news of serious anomalies in NY voter rolls discovered during our review of official data”

. . . . Despite many attempts, New York Citizens Audit has been unable to meet with the New York State board of elections over the last two years about our concerns regarding the legality of election conduct in 2020 and 2022. NYCA has repeatedly offered to provide extracts from SBOE data concerning what appears to be a massive number of irregularities in the conduct of elections during these periods. As of August 17, 2023, NYCA has now submitted and formally asked the New York State board of elections to investigate each of these millions of suspected illegal registrations, the apparent existence of an algorithm injecting synthetic voters into the voter rolls, the large discrepancy between the number of votes counted and the number of voters who voted, and the voters with apparently non-compliant registrations who were permitted to vote. Their response? Suddenly, they accuse New York Citizen’s Audit of voter intimidation during our canvassing efforts. (Ex. 18)

54. Despite knowing full well there was nothing to the allegations against NYCA, in the ensuing weeks Defendant Letitia James publicly escalated the Cease and Desist to a criminal investigation for alleged conspiratorial violations of the “Ku Klux Klan Act,” or the post-Civil War Enforcement Acts more technically referred to in the *current* era as 18 U.S.C. § 241, again leveraging statewide frontpage media access afforded to her in her official position to broadcast a racially charged, politicized message. (Ex. 21) It must be noted that this message was aligned with James’ public feud with President Trump, who has also questioned the integrity of elections, and therefore served the purpose of elevating her national status. Defendant James’ political opportunism blinded her from observing that NYCA is a fully independent nonpartisan organization making unique claims.

55. Further actions regarding NYCA were also taken in October and November of 2023 by Defendant NYSBOE and specifically Defendants Kristen Zebrowski Stavisky and Raymond Riley III, the co-Executive Directors of NYSBOE, in signing more official written statements defaming NYCA specifically, and distributing these to the county board commissioners and staff, as well as the NYS Association of Counties, the NYS Association of Sheriffs, and the

NYS Association of District Attorneys, requesting that they assist NYSBOE in, “arming your members with information to help dispel these malicious claims.” All of this was done while, again, simultaneously acknowledging that no official had ever reviewed NYCA’s work or the data in question within NYSVoter. (**Ex. 23, 24**)

56. In their October 5, 2023 letter to county board of elections commissioners and staff, Defendants Stavisky and Riley claimed that, “Our letter [of April 5, 2023] provided reasonable explanations and hard truths about voter list maintenance in an effort to combat the group’s [NYCA] misinformation campaign.” (**Ex. 23**) They continued, “The importance of our correspondence is made further pressing after recent reports of individuals impersonating board of elections’ employees, and confronting voters at their homes about the status of their registration. We are extremely alarmed by these actions. These individuals are impersonating government officials in an effort to intimidate voters based on inaccurate and/or misleading information. We continue to encourage you to collect as much information about these incidents as possible, and to communicate with your local law enforcement whenever necessary.”

57. After making this conclusory statement about the outcome of an ongoing investigation, trampling yet another cherished American principle of innocence until proven guilty, Stavisky and Riley ended by once again acknowledging that they were standing on false conclusions and deceptive statements, saying, “As was noted in our previous letter, no one has seen the actual raw data used to create these allegations. Even members of the press have not been privy to the voter lists the group is using. Without seeing their “data”, it is difficult to explain every supposed anomaly. In place of those explanations, we continue to provide a list of facts regarding your list maintenance processes. We hope you find these clarifications helpful as you continue to cull the spread of misinformation in your county.”

58. The choice of the word “cull” is disturbing, coming from officials charged with the public trust and presumed to be operating under a due process of honest assessment. It is a short leap from culling the “spread” to culling the now dehumanized and falsely demonized “spreaders” of purported misinformation, ie American citizens exercising liberty rights. It begs the question, what are Defendants so afraid of from an external audit, which is routine in every other industry?

59. In their November 28, 2023 letter sent to the NYS Association of Sheriffs, the NYS Association of Counties, and the NYS Association of District Attorneys, Defendants Stavisky and Riley once again defamed the credible and protected actions of NYCA without having bothered to review the NYSVoter database, to which they have unfettered access. They stated, “Over the last year and a half, the group – New York Citizens Audit – has presented their fabricated claims throughout our state. Most recently, they have brought their embellished and misleading reports before Town Boards and County Legislatures requesting that these bodies take up resolutions to support their cause. The resolutions are framed around their ill-informed reports, misinterpreted passages of state and federal law, and an allegation that the 2020 and 2022 elections were fraudulent.” (Ex. 25)

60. The last sentence from the November 28, 2023 letter cited above is particularly misleading, as the *actual* claim by NYCA was that the state’s data shows massive material errors, anomalies and uncertainties, and therefore to *certify those election returns as accurate* was a fraudulent act. Naturally, “In our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power.”²¹ How can something inaccurate, and both facially and materially non-compliant be certified by

²¹ *Yick Wo v Hopkins*, 118 US 370 (1888)

government *as accurate*? This is the question NYCA asked, and Stavisky and Riley once again deliberately misrepresented to major agencies and organizations of state power, in order to avoid answering it.

61. Perhaps ironically regarding the controversy at hand, Defendants, state actors who obtained their positions through election outcomes, or by partisan appointment in the case of Defendant NYSBOE, have acted to chill speech and abuse the power of their offices to crush concerns about election validity in New York, no matter how factual the claims. Yet the US Supreme Court has determined that, “One’s right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.”²² Regarding the circumstances here, fulfilling this lofty aspirational proclamation clearly requires the intervention of this court.
62. NYCA repeatedly stated that the issue is not that election *outcomes* were definitively fraudulent, the issue is that election certifications rest upon non-compliant records containing millions of facially false or deficient entries as defined and upheld²³ (here in the specific case of identifying mail-in voters) in the Materiality Clause of the Civil Rights Act of 1964, affecting 25% of the official voter list and as much as 10% of the actual vote. Defendants sought nothing less than to avoid their duty to the unique American agreement between citizens and their state

²² *West Virginia State Board of Education v. Barnette*, 319 U.S. 638 (1943)

²³ *United States of America v Ken Paxton*, No. 23-50885, August 4, 2025, ‘The Election Protection and Integrity Act of 2021 combats mail-in ballot fraud in Texas by generally requiring voters who wish to vote by mail to provide an identification number—such as a driver’s license, social security, or other personal identification number—first, on their mail-in ballot applications, and second, on the mail-in ballots themselves.

‘We have no difficulty concluding that this ID number requirement fully complies with a provision of federal law known by the parties as the materiality provision of the 1964 Civil Rights Act. Under that provision, “[n]o person acting under color of law shall . . . deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is *not material in determining whether such individual is qualified under State law to vote in such election.*” 52 U.S.C. § 10101(a)(2)(B) (emphasis added).

‘The ID number requirement is obviously designed to confirm that each mail-in ballot voter is precisely who he claims he is. And that is plainly “material” to “determining whether such individual is qualified under State law to vote.” *Id.*’

and federal governments as ratified in the first two sentences of the US Constitution: That the law rules the land, legislators write and pass those laws, and legislators are chosen exclusively by those citizens the state deems eligible through statute, not by mere “explanations.” As to conflating explanations with law, “In a world like that, agencies could churn out new laws more or less at whim. Intrusions on liberty would not be difficult and rare, but easy and profuse.”²⁴ The APA “requires courts to ‘hold unlawful and set aside agency action, findings, and conclusions found to be . . . not in accordance with law.’ ...See §706(2)(A) (agency action to be set aside if “arbitrary, capricious, [or] an abuse of discretion”)...The text of the APA means what it says.”²⁵ And further, also from *Loper-Bright*, “A rule of law that is so wholly “in the eye of the beholder,” *Exxon Mobil Corp.*, 545 U. S., at 572 (Stevens, J.,dissenting), invites different results in like cases and is therefore “arbitrary in practice,” *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U. S. 271, 283 (1988).”²⁶ Defendants are hostile to the legal boundary of their authority, yet they are responsible to both US citizens and US Congress for upholding it. The act of administering and finally certifying a mixed state and federal election is a pivotal moment that sets both governments into action. “Other rights, even the most basic, are illusory if the right to vote is undermined.”²⁷ At every turn Defendants chose to politically attack and destroy NYCA, a citizen effort to repair a clearly broken election process touching every part of citizens’ lives, instead of acknowledging and repairing their obvious errors.

63. The letter of November 28, 2023 goes on to outright state that, “The claims being made by the organization are false,” while once again admitting that NYSBOE had not bothered to review the claims within SBOE’s official records, “It should be noted that no one has seen the actual

²⁴ *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022), Concurring opinion by J. Gorsuch joined by J. Alito

²⁵ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024)

²⁶ *Supra*

²⁷ *Wesberry v Sanders*, 376 US 17 (1964)

data used by this group. Even members of the press have not been privy to the alleged voter list the group is using.” Finally, Defendants Stavisky and Riley resort to that ultimate authority, name-calling and ad hominem attacks, “Election deniers are prevalent throughout our country, and their efforts to spread mis- and disinformation have unfortunately yielded the intended goal of confusing voters and eroding their trust in our democratic processes,” all while ignoring the truth that their own doubling down on the accuracy of facially invalid election records, and their denial of fundamental civil rights and deliberate chilling of protected speech, is both confusing to voters *and* corrosive of democratic and constitutionally designated processes. (Ex. 25)

64. If NYSBOE has nothing to hide, why not counter the “false claims” with evidence? Why not proudly dispel concerns with the dispositive results of a thoroughly conducted investigation of NYSVoter? ‘What [the Due Process of Law Clause in the Fourteenth Amendment] does require is that state action, whether through one agency or another, shall be consistent with the fundamental principles of liberty and justice which lie at the base of all our civil and political institutions and not infrequently are designated as “law of the land.”’²⁸ Instead, Defendants chose to abuse the public trust, conspire against protected rights, and simultaneously launch their retaliatory, pretextual criminal investigation against NYCA and defamatory campaign.
65. The criminal investigation by Defendants Letitia James, MacKenzie and Sawyer actively continued for 11 months, involving multiple subpoenas and deficiency letters designed to shut up and shut down NYCA. NYCA fully complied with extensive document requests and timelines, and demonstrated that the allegations made against NYCA, of training and unleashing volunteers disguised as officials in a campaign of racially charged and deliberate

²⁸ *Hebert v. Louisiana*, 272 U.S. 312 (1926)

voter suppression under color of law, were simply false. Despite this, Plaintiffs allege that in a purely retaliatory fashion, the investigation continued until NYCA was totally humiliated, financially exhausted, and defamed statewide and nationally, as well as Executive Director Plaintiff Marly Hornik personally, by extensive and ongoing media reporting on the Attorney General's politically motivated allegations.

66. Voters who had previously been willing to volunteer with NYCA in support of their right to a fairly administered election became terrified of having their names and their work-product, stored within NYCA records, subjected to subpoena and turned over to a clearly hostile, racially charged, politicized effort by a powerful state official who campaigned for her very office on the basis of going after her political enemies. Over 1000 volunteers left NYCA in fear. The statewide media campaign accusing NYCA of criminal violations of the Ku Klux Klan Act, emblazoned on the front page of newspapers from Montauk to Buffalo and as far as California, effectively suppressed the willingness of citizens to defend their right to vote, according to the definition of the word in the Voting Rights Act of 1965, which includes "having their vote counted in the appropriate total of votes."²⁹ NYCA alleges that the broadly publicized and politicized behavior of Defendants NYSBOE and NYAG were the real acts of a conspiracy to suppress and intimidate voters under color of law. Because the investigation was never closed, and therefore presumed to be ongoing, these citizens continue to feel intimidated against speaking out and protecting their personal voting rights, as well as those of all New Yorkers. NYCA, and the important work being done to seek redress and repair of gross failures in election administration on behalf of all New Yorkers, was effectively shut down by the twin hammers of intimidation and defamation including criminal allegations.

²⁹ 52 U.S.C. § 10101(e)

67. The media claimed that reports had been filed in 13 counties by voters NYCA had canvassed and allegedly intimidated. NYCA submitted FOIL requests for these reports. (**Ex 16, 26**), “Impersonator FOILS,” lists the responses received, indicating that these claims were either false or grossly exaggerated.
68. Plaintiffs allege that Defendants NYS AG and NYSBOE conspired to use an attack campaign statewide alleging criminal behavior in order to intimidate and silence voters working together as NYCA to verify and report on election crimes, effectively crushing NYCA. The criminal allegations against NYCA were a pretext to shut it down.
69. Contrary to what defendants claimed, NYCA did not allege voter fraud by individual voters. Rather, its findings show widespread, systemic election fraud requiring insider access.
70. The effect of the conspiracy between officials was to deny citizens carrying factual information about serious, criminal breaches of election security a fair hearing with their very representatives. This injury to rights is reminiscent of one of the twenty-seven injuries cited in the Declaration of Independence as just cause for creating a new nation, one that guarantees republican government in every state and to every citizen.³⁰ Jefferson stated that the King had, “...dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.” If Defendants’ similar deliberate interference with the sacrosanct relationship between citizens and their representatives remains unaddressed, it will result in further harms regarding the NYC mayoral race of 2025, the congressional midterm election in 2026, the Presidential election in 2028, and all future elections in New York.
71. Given the well documented history of non-action by NYS officials of both major political parties regarding election corruption, (**Ex. 30, 31**), it is likely that, absent remediation obtained

³⁰ US Constitution, Article 4 § 4, the Guarantee Clause

via litigation, as proposed within, the election problems documented by NYCA, which affect both federal and state races, will continue to plague New York.

72. This represents a shameful downfall from the great tradition in New York of protecting legitimate representative government prior even to the ratification of the US Constitution, exemplified in the following quote from an address of the General Assembly of New York to Lt. Governor George Clarke delivered on September 7, 1737:

“Persons that are fairly and freely chosen, have only right to represent the People, and are most likely to do the most effectual, as well as the most acceptable Service to the Publick: Whereas those who have recourse to Frauds and unbecoming Arts, to procure themselves to be raised to those Stations, must be under the Government of narrow and selfish Views, unworthy any Representation of a free People, and will no doubt basely submit to the same detestable Measures, to continue themselves (by any Means) in the Exercise of a Trust unjustly acquired. It is by such as these, that the Liberties of the most free People have been in various Ages of the World, undermined and subverted: And it is to prevent this, as much as we may, that we gave Leave to bring in the Bill, for regulating of Elections.”³¹

73. Plaintiffs seek relief under the Voter Intimidation Provision of the Civil Rights Act of 1964, 52 U.S.C. § 10101(b), alleging that Defendant’s efforts to defame and malign citizens verifying that their votes were fairly counted, and then reporting on the gross inaccuracies discovered, was a deliberate, malicious conspiracy to suppress and intimidate voters, effectuated under color of law without basis in fact.

³¹ Extracted from https://press-pubs.uchicago.edu/founders/documents/a1_2_1s2.html on August 22, 2025.

74. Plaintiffs seek relief under the Free Speech Clause of the First Amendment to the United States Constitution, alleging that Defendants' official actions to publicly label Plaintiffs' claims as false was a suppression of Plaintiffs' constitutional rights to a respectful public debate about Defendants' conduct, and that these violations were effectuated under color of law. Plaintiffs' concerns were grounded in extensive, rigorous, expert review of Defendants' official work-product, not mere grousing or slander that could baselessly harm trust in government.
75. Plaintiffs seek relief under the Right to Petition for Redress of Grievances Clause of the First Amendment to the United States Constitution, alleging that Defendants' combined actions publicly defaming and criminally investigating Plaintiffs' work constituted a conspiracy to interfere with the sacrosanct relationship between Plaintiffs and their representatives. Defendants conspired under color of law to attack the credibility of Plaintiffs in front of every official and representative to whom Plaintiffs could faithfully petition. These choices harmed Plaintiffs personally, and harmed New York generally, by undermining public faith in the righteousness and fairness of their government.
76. Plaintiffs seek relief under the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution, alleging that Defendants pursued all of the foregoing actions on an arbitrary and dishonest basis, without review of the facts presented by Plaintiffs, while Defendants were in direct service of the right of legitimate representation regarding both state and federal governments. Without any procedural or substantive basis for their actions, Defendants simply pointed their narrative at Plaintiffs' incorporated rights and pulled the trigger, resulting in all of the above injuries to Plaintiffs personally, and to the system of guaranteed republican government Defendants are sworn to uphold and protect in their official roles, that Plaintiffs were diligently seeking to verify and secure.

Legal Claims

Count I: Violation of the First Amendment – Free Speech Clause

77. Plaintiffs incorporate the foregoing paragraphs as though fully set forth herein.

78. The First Amendment's Free Speech Clause ensures that, "above all else...government has no power to restrict expression because of its message, its ideas, its subject matter, or its content,"³² including when that speech is critical of the government. "If there be a government then which prides itself in maintaining the inviolability of property; which provides that none shall be taken *directly* even for public use without indemnification to the owner, and yet *directly* violates the property which individuals have in their opinions, their religion, their persons, and their faculties... such a government is not a pattern for the United States."³³

79. Defendants' conduct in preemptively suppressing Plaintiffs' speech before their representatives and their peers resulted in prejudicial bias based on the trust those representatives and peers rightly place first in government, silencing Plaintiffs in the minds of the public and in front of their very representatives before they even spoke, thereby infringing Plaintiffs' First Amendment Rights.

80. The result of the actions by the defendants in offensively targeting NYCA as an organization, along with its members individually, was that the organization and its individual members were intimidated into silence and inaction, their First Amendment rights chilled in fear of further retaliation, including the overt prospect of criminal charges. The extraordinarily public nature of Defendants' collective actions also effectively intimidated *all* New Yorkers into silence regarding the subject of elections, in fear of criminal prosecution by the government.

³² *Police Department of Chicago v. Mosley*, 408 U.S. 92 (1972)

³³ *Madison, James, "Property," Papers 14:266—68*, 29 Mar. 1792

Count II: Violation of the First Amendment – The Right to Petition Clause

81. Plaintiffs incorporate the foregoing paragraphs as though fully set forth herein.
82. Defendants' silencing of Plaintiffs' First Amendment Rights was no mere accident. Nor was it conducted with mere reckless disregard for the truthfulness of Defendants' very public statements, although this is plainly evidenced by their own conflicting assertions that Plaintiffs' reports were, "unequivocally false," while simultaneously repeating, "no one has seen their data."
83. By directly and maliciously interfering with the relationship between citizens and their representatives statewide, as well as defying their own responsibility to review what NYCA reported to them, Defendants' acts constituted a deliberate conspiracy against Plaintiffs' First Amendment right to petition the government for redress of grievances, effectuated under 42 U.S.C. § 1983 in order to avoid public admission of election errors, be compelled to repair them, and/or face consequences. In the case of Defendant James, this included her own electio

**Count III: Violation of 52 U.S.C. § 10101(b) - Voter Intimidation
Provision of the Civil Rights Act of 1964**

84. Plaintiffs incorporate the foregoing paragraphs as though fully set forth herein.
85. Under 52 U.S.C. § 10101(b), it is unlawful for any person, whether acting under color of law or otherwise, to intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote.
86. The definition of the word "vote" in 52 U.S.C. § 10101(e) "includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election."

87. The National Voter Registration Act, under 52 U.S.C. § 20507(i)(1), further allows that, “Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.”
88. Plaintiffs’ therefore assert that all of their activities to verify the accuracy of official lists of eligible voters, review audit logs of NYSVoter, and to question whether their votes were counted and included in the appropriate totals of votes cast, are encompassed within the legal definition of their individual right to vote.
89. Defendants’ actions in deliberately and knowingly conspiring to defame and suppress Plaintiffs’ right to vote, in order to avoid embarrassment, effort or sanctions, and to open a publicized, pretextual, unsubstantiated criminal investigation into Plaintiff’s voting activities, was nothing more than a conspiracy under 42 U.S.C. § 1983 to intimidate and terrify Plaintiffs, all other NYCA volunteers, and, due to the extraordinary public nature of Defendants’ campaigns, all New Yorkers against verifying that their votes had been fairly counted, and reporting publicly on any findings that indicated they were not. “Every voter in a federal . . . election, . . . whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, without its being distorted by fraudulently cast votes.” *Anderson v. United States*, 417 U.S. 211, 227 (1974)
90. Defendants’ actions constitute a direct politically, racially and criminally charged threat to Plaintiffs’ defined voting rights, which Plaintiffs allege is deliberate voter intimidation effectuated under color of law.

Count IV - Defamation

91. Plaintiffs incorporate by reference as though fully set forth herein all preceding paragraphs.
92. In their public communications about the plaintiff NYCA to each other and/or amongst themselves, and/or as made by them to New York State District Attorneys, Sheriffs, County Officials, the media, the public generally and/or otherwise, the defendants, acting with malice and/or with a reckless disregard for truth, made false statements of fact about the plaintiff NYCA, defaming it and causing it ongoing organizational, reputational and financial harm.
93. Defamatory statements made by the defendants about NYCA included those in the NY AG's press release of August 31, 2023 (**Ex. 20**) public communication to various NYS officials by the NYS BOE dated April 5, 2023 (**Ex. 19**), October 5, 2023 (**Ex. 23**) and November 28, 2023 (**Ex. 25**), those in the September 21, 2023 NY AG's Cease and Desist letter to NYCA (**Ex. 22**) and those in its November 22, 2023 letter and subpoena to NYCA/Marly Hornik. (**Ex. 24**)
94. The statements in foregoing documents made by defendants, acting in collusion, were false and defamatory and haven't been retracted. Meanwhile, the AG's criminal investigation of NYCA, its leaders and canvassers continues, rendering the defamation and its damaging effect ongoing.

Count V: Violation of Fourteenth Amendment – Due Process Clause

95. Plaintiffs incorporate by reference as though fully set forth herein all preceding paragraphs.
96. The duty of Defendants to uphold Plaintiffs incorporated First Amendment rights of free speech³⁴ and petition³⁵ is without question under the Fourteenth Amendment Due Process Clause.

³⁴ *Gitlow v. New York*, ^[27] 268 U.S. 652 (1925) and *Stromberg v. California*, 283 U.S. 359 (1931)

³⁵ *Edwards v. South Carolina*, 372 U.S. 229 (1963)

97. That Defendants outright trampled these rights without reflection upon nor concern for their actions against the national aspirations of liberty and justice for all, using their authority in official positions to effectuate the violations, is self-evident.

98. Defendants' conduct amounts to a denial of Due Process, thereby infringing Plaintiffs' Fourteenth Amendment rights.

Count VI: Violation of Fifth Amendment – Due Process Clause

99. Plaintiffs incorporate by reference as though fully set forth herein all preceding paragraphs.

100. Defendants admitted continuously over a period of years that they had “never seen” Plaintiff NYCA’s data. This was despite Defendant NYSBOE being the custodian of that data, and NYCA providing comprehensive data extractions from NYSVoter to the NYSBOE Division of Election Law Enforcement with their official complaint submitted on August 14, 2023.

101. The duty of Defendants, whom Congress makes “for the purposes of the election of representatives in Congress its officers,”³⁶ to review NYCA petitions submitted under the First

³⁶ “While the federal government has not thought it advisable to provide for separate elections for Congressmen nor to interfere with the general laws for the conduct of those elections passed by the states, it has enacted the sections above referred to, and among others, those for the punishment of persons who violate the election laws at an election where votes are cast for a member of Congress. In doing this, they have adopted the laws of the state, and they have provided that persons who violate them at such an election -- that is, where a member is voted for -- shall be punished by the provisions of the statutes of the United States and by proceedings in the federal courts.

“This anomalous condition makes the question of the applicability of the laws of Congress on this subject to offenses under the state statutes for the regulation of the casting, returning, and counting of votes somewhat complex, but the power, under the Constitution of the United States, of Congress to make such provisions as are necessary to secure the fair and honest conduct of an election at which a member of Congress is elected, as well as the preservation, proper return, and counting of the votes cast thereat, and in fact whatever is necessary to an honest and fair certification of such election, cannot be questioned. The right of Congress to do this by adopting the statutes of the states and enforcing them by its own sanctions is conceded by counsel to be established. In regard to this they say in their brief:

“It is, perhaps, since the decision in *Ex Parte Clarke*, [100 U. S. 399](#), past debate that Congress has the power under the Constitution to adopt the laws of the several states respecting the mode of electing members of Congress, and, as resulting from that power, the right to prescribe punishment for infractions of the laws so adopted. This Court has held more than once that Congress has exercised this power, and has adopted these laws, and, with them, the officers created under them,

Amendment Petition Clause was not discretionary. “The proposition [the right of petition] is almost too plain for argument, that, if the people have a constitutional right to petition, a corresponding duty is imposed upon us to receive their petitions. From the very nature of things, rights and duties are reciprocal. The human mind cannot conceive of the one without the other.”³⁷

102. The expectation among other government bodies and the public, that Defendants had properly examined Plaintiffs’ reports and claims before decrying them, is natural. It is the righteous product of living in a country where the government is trusted to be both responsive and accountable.

103. In reality, Defendants made no such effort before ignoring, smearing, defaming, attacking, interfering with, and criminally investigating Plaintiffs credible concerns and actions regarding their fundamental right to vote.

104. Defendants outright denied Plaintiffs’ rights to petition by refusing to review or repair credible concerns about New York’s voting apparatus that had even been reported by SIU to the FBI as a breach of critical infrastructure, as claimed in Count II above. Defendants then, deliberately and maliciously, sought to prevent Plaintiffs from exercising the right to petition anywhere in New York State, also in Count II above. When Plaintiffs persisted in researching and reporting on Defendant NYSBOE’s apparent failures, Defendant NYS AG attacked those efforts with a pretextual, unsubstantiated criminal investigation.

making them for the purposes of the election of representatives in Congress its officers, and has added new sanctions to such laws, and subjected such officers to the penalties of these sanctions. All this is conceded.” *In re Coy*, 127 U.S. 731 (1888)

³⁷ See footnote 1, *supra*.

105. In doing so, Plaintiffs aver that Defendants violated their Fifth Amendment right to a due process of law in the defense of their cherished federal voting rights, which Defendants are directly charged with ensuring as officers of Congress.

Count VII: Violation of Article 1 § 2 – The Right to Legitimate Representative Government

106. Plaintiffs incorporate the foregoing paragraphs as though fully set forth herein.

107. The first two sentences of the US Constitution, Article 1 §§ 1,2 establish that:

- i. Only elected legislators write law,
- ii. States define who qualifies to vote in congressional elections, and
- iii. Only those statutorily defined citizens choose the legislators.

108. The exact language of Article 1 § 2, the Composition Clause, is, “The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.”

109. Plaintiffs made every reasonable effort to communicate to Defendants, and to their other representatives, that NYCA’s audits documented the failure of New York’s voting system to meet the agreements in Article 1 § 2, where the entire unique American system of representative government by the consent of the governed is established, and to which Defendants clearly answer when administering federal elections in their role as officers of US Congress, as established above (see footnote 36, *supra*) and per Madison, “Were [elections for members of Congress] exclusively under the control of the state governments, the general government might easily be dissolved.”³⁸

³⁸ See footnote 1, *supra*.

110. There is no more essential right of American citizenship, and it is the only right in the original Constitution. “The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the convention, therefore, to define and establish this right in the Constitution.”³⁹ “Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.” *Reynolds v Sims*, 377 U.S. 533 (1964)

111. Defendants consistently and deliberately acted to ignore, deny, refute, attack, and criminally investigate evidence indicating that the delicate balance of authorities in the first two sentences of the US Constitution had failed on their watch. This was despite Defendant NYSBOE’s role generally, and Defendant Stavisky’s role specifically as chief election official, in overseeing accuracy and compliance in voter registration and voting in federal elections on behalf of New York’s lawfully qualified voters. Defendants chose to act with gross negligence and in collusion against their responsibility to restrict registration and voting to those defined by New York’s own laws. Defendants abused the public’s trust and jeopardized national sovereignty when they rejected the possibility that citizen watchdogs had uncovered a national security breach of the systems Defendants are charged with custody over. Defendants showed deliberate gross negligence, indifference, and outright hostility toward their duty to uphold Plaintiffs’ individual rights, and the rights of all qualified voters in New York, to legitimate representative government, in a conspiracy defined under 42 U.S.C. § 1983 against Plaintiffs’ constitutional right under Article 1 § 2. While Plaintiffs cannot say with certainty that any election *outcomes* were false, official records in the custody of Defendants plainly demonstrate

³⁹ Madison, James. (1788). *Federalist No. 52: The House of Representatives*. Washington, D.C.: Library of Congress. Retrieved September 29, 2025 from <https://guides.loc.gov/federalist-papers/text-51-60>

that *neither can Defendants prove their truth* according to any reasonable standard. Yet it was Defendants who nonetheless certified those returns as true, despite every effort having been made by Plaintiffs to warn Defendants of serious and credible problems in New York's voting apparatus and seek redress. By their arbitrary and negligent actions Defendants effectively chose the representatives, instead of the people.

112. Defendants violated their duty as agents of both US Congress and the New York State Legislature to unquestionably deliver Article 1 § 2 compliant elections to the people, and in doing so violated the foundational constitutional right of Plaintiffs and all New York State voters to legitimate representative government.

Remediation of Uncontested Claims

113. It is submitted that but for the defendants' violation of plaintiffs' constitutional rights to speech, petition, redress of grievances and/or otherwise, which effectively shut down NYCA, it is likely that plaintiffs would have established the accuracy of their contentions and would have achieved remediation of same.

114. This especially with respect to several NYCA contentions the defendants have never contested, including the contention that there are present within NYSVoter several "alien" algorithms, as set forth in the peer reviewed article titled: "*Caesar Cipher and Stacking the Deck in New York State Voter Rolls*" that appeared in the Journal of Information Warfare (**Ex. 1**), which algorithms represent a severe, total loss of control cyber breach of the NYS voter registration system as it falls within critical infrastructure, by actors unknown in violation of FISMA. It is submitted the presence of the algorithms should preclude the use of NYSVoter in elections in New York while the algorithms remain embedded, at least in elections in which federal offices are on the ballot.

115. A second finding by NYCA that has been left uncontested by the defendants is that the NYSBOE has adopted the practice, as documented above per the elections of 2020, 2022 and 2024, of certifying election results despite large discrepancies between the number of votes reported by the NYSBOE as counted and the number of voters who actually voted in NYS, as evidenced by NYSVoter voting history records. As reported by NYCA, and left undisputed by defendants, the excess votes certified by NYSBOE totaled 272,435 in 2020, 35,235 in 2022 and 129,194 in 2024, for an aggregate excess total of 436,864 votes counted with no associated voter history record in NYSVoter. It is submitted that “but for” the defendants’ violation of plaintiff’s constitutional rights as set forth above, this improper practice by the NYSBOE would have been remediated. As it stands, clearly Defendant NYSBOE has no intention of repairing this egregious wrong for the 2026 elections, 2028 elections, or any future elections.

116. Third, the contention by NYCA that NYSBOE improperly and illegally overwrites and edits election records post-election in violation of federal law requiring preservation, another contention that has been uncontested by the defendants (in fact it was admitted), would also likely have been remediated but for defendants’ unconstitutional actions against NYCA as complained of herein.

117. Last, the defendants have never disputed that New York Law requires only one, unique, unchanging NYSBOE voter ID number be issue for life to each voter but that now more than 1.5 million of such ID numbers have been issued to voters with prior NYSBOE ID numbers in violation of law. It is submitted that this clearcut issue would too have been remediated by now but for the improper actions of the defendants against NYCA.

118. Plaintiff demands trial by jury of all matters so triable.

Prayer for Relief

WHEREFORE, Plaintiffs respectfully request that the Court:

I. Issue a Judgment Declaring:

- a. That Defendants' actions violated Plaintiffs' First Amendment right to free speech in a deliberate conspiracy against rights;
- b. That Defendants' actions violated Plaintiffs' First Amendment right to petition for redress of grievances in a deliberate conspiracy against rights;
- c. That Defendants' actions constituted voter intimidation and suppression under 52 U.S.C. § 10101(b) and therefore violated Plaintiffs right to vote, in a deliberate conspiracy against rights;
- d. That Defendants' actions constituted defamation;
- e. That Defendants' actions violated Plaintiffs' Fourteenth Amendment Due Process rights in trampling incorporated rights, in a deliberate conspiracy against rights;
- f. That Defendants' actions violated Plaintiffs' Fifth Amendment Due Process rights in negligently ignoring Plaintiffs' petitions regarding protected rights, while lying to statewide officials that Defendants had reviewed them and found them false, in a deliberate conspiracy against rights;
- g. That Defendants NYSBOE are officers of US Congress subject to all federal laws and duties, including critical infrastructure controls and requirements, when they maintain records used in administering elections with a member of Congress on the ballot, and when they administer and certify said elections;
- h. That Defendants' actions violated Plaintiffs' right to a legitimate representative government under Article 1 § 2, through disregard and gross negligence in conducting

and certifying invalid elections with material error rates in excess of margins of victory for federal and statewide officials' races, as shown in their official records;

- i. That Defendants conspired to withhold incriminating evidence of election misconduct by refusing to provide the NYSVoter audit logs pursuant to lawful FOIL requests, violating the principle of transparency and honesty encapsulated in the phrase, "free and fair elections."
- j. That there are present in NYSVoter the algorithms described in the article titled: "*Caesar Cipher and Stacking the Deck in New York State Voter Rolls*" that appeared in the Journal of Information Warfare (**Ex. 1**), which algorithm represents a Severe, Total Loss of Control cyber breach of the NYS voter registration system by actors unknown in violation of federal information security requirements for critical infrastructure under FISMA;
- k. That the Inexplicable Changes to the Voter Rolls (**Ex. 9**), combined with numerous other NYCA investigations and reports clearly document significant uncontrolled edits and deletions within NYSVoter, and that these edits and deletions violate FISMA and are material to verifying election outcomes, and this took place under Defendants' watch and they failed to take preventive or remedial action, violating Plaintiffs' and all New York voters' voting rights;
- l. That the NYSBOE improperly and illegally overwrites, edits and deletes election records post-election in violation of federal law requiring preservation for twenty-two months, as evidenced by NYCA documents;
- m. That the NYSBOE has adopted the practice, as documented by NYCA per the elections of 2020, 2022 and 2024, of certifying election results despite large discrepancies between the number of votes certified by the NYSBOE as having been counted, and the number of voters who actually voted in NYS, as evidenced by NYSVoter voting history

records, and clearly intends to continue the practice in 2026, 2028 and all future elections unabated;

- n. That despite New York law that mandates that just one, unique, unchanging NYSBOE voter ID number be issued for life to each voter, NYSBOE has issued more than 1.5 million of such ID numbers to voters with prior NYSBOE ID numbers in violation of law;
- o. That accuracy in election records is a requirement of state and federal law, protecting US Congress and the nation generally from subversion, and therefore a requirement of NYSBOE in registering voters and counting votes, and despite this NYSVoter is 25% in error in their custody, and these errors are material, and the 2024 election was certified as accurate with at least 10% of the votes coming from materially deficient records;
- p. That NYCA election claims at issue in the within matter were not misinformation but rather are credible analyses of Defendants' own official records maintained on behalf of US Congress, the New York State Legislature, and the citizens of New York; and
- q. That the defendant NYSBOE wrongfully denied NYCA's FOIL requests for audit logs, etc. made by Richard Bednar on January 14, 2023 and November 27, 2023.

II. It is further requested that the Court issue an Order:

- a. Enjoining the use of NYSVoter in any election in New York in which federal offices are on the ballot until the algorithms described in the article titled: "*Caesar Cipher and Stacking the Deck in New York State Voter Rolls*" that appeared in the May 2023 edition of the Journal of Information Warfare (**Ex. 1**) are removed from NYSVoter, and all other clandestine algorithms that may not have been described in that article are removed;

- b. Enjoining defendants from overwriting, editing or deleting election records prior to 22 months following an election in which federal offices are administered;
- c. Enjoining Defendants from certifying election results without first reconciling the number of votes certified by the NYSBOE as having been counted, and the number of voters who actually voted as evidenced by truthful NYSVoter voting history records, with any discrepancy being explained record by record in writing under oath by the certifying officer prior to certification;
- d. Enjoining defendants from administering elections or certifying election results without first submitting New York's voting process to a comprehensive external process audit conducted by qualified security, forensics or financial auditors with insurance and bonding, as requested in the NYCA Resolution and signed by 92 towns in New York State. The auditors shall not be personnel from within the election system. The investigation shall examine New York's voting apparatus from registration through certification, including mechanisms, sources and processes for receiving voter registration applications, verifying identity, citizenship and all other qualifications of voter registrants, registering voters, printing, requesting, distributing and verifying the authenticity of ballots, all adjudication and cure processes, Cast Vote Records (electronic ballot images and their time and order of scanning entry), determination and reconciliation of the vote count, ballot count, and voter count, all points of custody transfer of all election records, system logs and security controls, FISMA mandated risk assessment and monitoring, and all other paper and electronic systems. The goal is to identify and remedy any and all gaps in security, compliance, and/or errors, including those not specified in the above list, from any and all sources, as required to once again secure legitimate representative government for all New Yorkers under FISMA compliant critical infrastructure controls;

- e. Ordering Defendant to establish a plan for securing and regularly updating the voter rolls to comply with federal law, including verifying the identity and citizenship of all registrants and future applicants, ensuring accuracy for future elections;
- f. Mandating that the defendants NYS AG and NYSBOE send retraction letters to all the agencies and officials they sent letters to originally disparaging NYCA's work, stating that NYCA reports are based on the work of credentialed experts reviewing NYSBOE's records;
- g. Mandating that the defendants NYS AG and NYSBOE be required to send copies of the letters required by (f) above to all media outlets that had previously published their prior disparaging comments about NYCA, along with a cover letter to those media outlets explaining that their prior, disparaging statements about NYCA were in error, and requesting prominent publication of said cover letter.
- h. Requiring the defendant NYSBOE to provide the documents requested by Richard Bednar in his FOIL requests of January 14, 2023 and November 27, 2023.

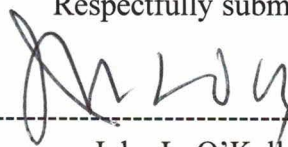
III.. It is further requested that the Court

- a. Award compensatory relief for legal expenses defending NYCA against NY AG, and damages for the emotional distress and time lost endured by the NYCA members targeted by the defendants; and
- b. Award compensatory relief for lost charitable donations to NYCA due to lost revenue associated with being publicly defamed, derided, targeted and criminally investigated by defendants, which significantly quelled deserved financial support for NYCA; and
- c. Award Plaintiffs reasonable attorneys' fees and costs under 42 U.S.C. § 1988.

d. Grant any other relief that the Court deems just and proper.

Dated; Nassau County, New York
October 16, 2025

Respectfully submitted,

A handwritten signature in black ink, appearing to read "JOH L O'KELLY", written over a horizontal dashed line.

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