

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ROBERT L. “ROBB” PITTS, CHAIRMAN,
FULTON COUNTY BOARD OF
COMMISSIONERS; FULTON COUNTY
BOARD OF REGISTRATION AND
ELECTIONS; and FULTON COUNTY,
GEORGIA,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Action No.
1:26-CV-00809-JPB

**MOTION OF PETITIONERS AND CHE ALEXANDER, FULTON CLERK
OF COURT, TO JOIN PETITIONERS’ AMENDED MOTION FOR
RETURN OF PROPERTY PURSUANT TO FEDERAL RULE OF
CRIMINAL PROCEURE 41(G)**

Pursuant to Federal Rule of Civil Procedure 20(a)(1), Petitioners (a) Robert L. Pitts, Chairman, Fulton County Board of Commissioners, (b) Fulton County Board of Registration and Elections, and (c) Fulton County, Georgia, hereby move the Court to permit Che Alexander, Fulton County Clerk of Court (the Clerk), to join this action as a co-Petitioner.

Neither the Petitioners nor the Clerk agree with Respondent’s suggestion that the existing Petitioners are not proper parties. *See* Doc. 32, at 12–13. Indeed, the

office of the Clerk is housed within Fulton County's governmental structure, despite her independence as a county constitutional officer. The limited role of the Clerk of Superior Court in holding election documents during the statutory retention period on behalf of the Fulton County Board of Registration and Elections (FBRE)¹ and Fulton County is evident in O.C.G.A. § 21-2-500(a) (emphasis added), which provides that:

[i]mmediately upon completing the returns required by this article...the superintendent shall deliver [election records] in sealed containers **to the clerk of the superior court or, if designated by the clerk of the superior court, to the county records manager or other office or officer under the jurisdiction of a county governing authority which maintains or is responsible for records....**

The clerk, county records manager, or the office or officer designated by the clerk shall hold such ballots and other documents under seal, unless otherwise directed by the superior court, for at least 24 months....

The statute permits the Clerk to serve as the election records custodian, but alternatively allows for the designation of a county records manager who is “under the jurisdiction of a county governing authority” to maintain the records for at least 24 months. Thus, the Clerk is a temporary custodian of election documents on behalf

¹ See O.C.G.A. § 21-2-40; Georgia Law, 1989, Act 250 (creating the Fulton County Board of Registration and Elections which shall have the powers and duties of the election superintendent of Fulton County relating to the conduct of elections and the powers and duties of the board of registrars relating to the registration of voters and absentee balloting procedures).

of the County and FBRE in similar fashion to her role as a custodian of funds held in the court's registry. The Clerk's role is merely to safeguard and preserve the records on behalf of the County and the FBRE pending a disposition by operation of law or by court order.

Nonetheless, to avoid unnecessary litigation about the issue, Petitioners and the Clerk hereby request that the Clerk be joined as a Petitioner in this action and Petitioners' pending motion pursuant to Rule 41(g). A proposed Order granting the motion for joinder is attached hereto as Exhibit A.

Respectfully submitted, this 23rd day of February, 2026.

/s/ Y. Soo Jo

Y. Soo Jo
Georgia Bar No. 385817
OFFICE OF THE FULTON
COUNTY ATTORNEY
141 Pryor St. SW, Suite 4038
Atlanta, Georgia 30303
Tel.: (404) 612-0246
soo.jo@fultoncountygga.gov

/s/ Kamal Ghali

Kamal Ghali
Georgia Bar No. 805055
Michael C. Duffey
Georgia Bar No. 710738
CHAIKEN GHALI LLP
One Atlantic Center
1201 W. Peachtree St. NW, Suite 2300
Atlanta, Georgia 30309
Tel.: (404) 795-5005
kghali@chaikenghali.com
mduffey@chaikenghali.com

/s/ Abbe David Lowell

Abbe David Lowell*
John Bolen*
LOWELL & ASSOCIATES, PLLC
1250 H Street NW
Washington, D.C. 20005
Tel.: (202)-964-6110
jbolen@lowellandassociates.com

/s/ Stephen Jonas

Stephen Jonas*
Norman Eisen*
DEMOCRACY DEFENDERS FUND
600 Pennsylvania Avenue SE
Suite 1580, Washington, D.C. 20003
Tel.: (202) 594-9958
steve@democracydefenders.org
norman@democracydefenders.org

alowellpublicoutreach@
lowellandassociates.com

*Counsel for Petitioners Robert L. Pitts,
Chairman, Fulton County
Board of Commissioners; Fulton
County Board of Registration and
Elections; Fulton County, Georgia;
and Che Alexander, Clerk of Court*

**Admitted pro hac vice*

RETRIEVED FROM DEMOCRACYDOCKET.COM

CERTIFICATE OF SERVICE

I hereby certify that on this day, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will automatically serve all counsel of record.

This 23rd day of February, 2026.

/s/ Michael C. Duffey
Michael C. Duffey

RETRIEVED FROM DEMOCRACYDOCKET.COM