

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

REPUBLICAN NATIONAL COMMITTEE,
GWINNETT COUNTY REPUBLICAN
PARTY, and TIM FLEMING,

Plaintiffs,

v.

DAVID HANCOCK, LORETTA
MIRANDOLA, AMY BRAY, ALICE
O'LENICK, and RICHARD PORTER, in their
individual capacities,

Defendants,

DSCC and JON OSSOFF FOR SENATE,

Intervenor-Defendants.

Case No. 26-A-05660-10

DSCC AND JON OSSOFF FOR SENATE'S MOTION TO DISMISS¹

Intervenor-Defendants DSCC and Jon Ossoff for Senate, by and through their attorneys, hereby move to dismiss the petition filed by Plaintiffs Republican National Committee, Fulton County Republican Party, and Tim Fleming in the above-styled action pursuant to O.C.G.A. § 9-11-12(b)(1) and (6).

¹ Intervenor first submitted a Proposed Motion to Dismiss, as well as a combined Memorandum in support of dismissal and in opposition to interlocutory relief, on September 4, in compliance with the Court's scheduling order. Intervenor styled the motion as "Proposed" because the Court had not yet granted their motion to intervene. Per the Court's September 21 order granting the motion, Intervenor refile this Motion and corresponding Memorandum, each of which is identical to the September 4 filings save for this footnote, updated references to Intervenor, and the date of submission. Plaintiffs timely filed an opposition to this Motion on September 18, and Plaintiffs will file a reply on September 25, per the Court's scheduling order.

For the reasons discussed in the accompanying Combined Memorandum of Law in support of this Motion, and in opposition to Plaintiffs' motion for interlocutory injunction, dismissal is appropriate for several reasons:

First, Plaintiffs' claims are barred by sovereign immunity under Article I, Section II, Paragraph V of the Georgia Constitution, and the Court thus lacks subject-matter jurisdiction. This sovereign immunity waiver requires plaintiffs to file suits against counties themselves, and it specifically does not extend to county boards of registration and elections or their members in their individual capacities. *Lovell v. Raffensperger*, 318 Ga. 48, 53, 897 S.E.2d 440, 444 (2024). Plaintiffs sued only the individual members of the Gwinnett County Board of Registration and Elections ("Gwinnett BRE")—not Gwinnett County—so the petition is barred by sovereign immunity and should be dismissed under O.C.G.A. § 9-11-12(b)(1).

Second, the allegations in the petition "disclose with certainty" that there is no "state of provable facts" that would require relief for Plaintiffs' claims, so the petition should be dismissed under O.C.G.A. § 9-11-12(b)(6). Plaintiffs challenge the Gwinnett BRE's policy authorizing the Board to decide, before each election cycle, whether to designate any advance voting sites as "additional registrar's" offices for the purpose of receiving hand-delivered absentee-by-mail ("ABM") ballots. The General Assembly has expressly authorized county boards to designate advance voting sites in this way to receive ABM ballots, O.C.G.A. § 21-2-382(a), and the Gwinnett BRE's policy, on its face, complies with all statutory requirements. The policy does not create *de facto* drop boxes under any conceivable factual universe, so Plaintiffs' claims invoking statutory restrictions on drop boxes are straightforwardly meritless.

Wherefore, Intervenor-Defendants respectfully request that the Court dismiss Plaintiffs' petition.

Dated: September 24, 2026

Respectfully submitted,

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**DSCC AND JON OSSOFF FOR SENATE'S COMBINED MEMORANDUM IN
SUPPORT OF MOTION TO DISMISS AND RESPONSE IN OPPOSITION TO MOTION
FOR INTERLOCUTORY INJUNCTION**

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INTRODUCTION

The Republican National Committee, the Gwinnett County Republican Party, and Republican Secretary of State nominee Tim Fleming seek an emergency interlocutory injunction against a 2024 Gwinnett County Board of Registration and Elections (the “Gwinnett BRE” or the “Board”) policy that has been administered in each primary and general election since January 2024.¹ The challenged policy (the “ABM Policy” or “Policy”) establishes procedures for voters to return absentee by mail (“ABM”) ballots, via hand delivery, at advance voting sites and other locations the Board designates before each election. Plaintiffs object that the ABM Policy exceeds the Board’s authority under both Georgia statutory law and the State Election Board’s (“SEB”) rules. Plaintiffs’ motion should be denied and their lawsuit should be dismissed for several reasons.

First, this case suffers from a threshold defect that both precludes the interlocutory relief Plaintiffs seek and requires dismissal: Plaintiffs have sued the wrong parties and therefore cannot take advantage of the waiver of sovereign immunity set forth in Article I, Section II, Paragraph V of the Georgia Constitution. But even beyond this procedural defect, Plaintiffs fail to state any claim on which relief can be granted and therefore cannot succeed on the merits. The Gwinnett BRE’s ABM Policy is a sound exercise of county officials’ discretion to administer elections in a manner that comports with statutory requirements while improving both administrative efficiency and access to the franchise for the hundreds of thousands of eligible voters in Gwinnett County. Plaintiffs cannot satisfy the remaining factors for an interlocutory injunction, either. Their motion seeks to *disrupt* the status quo—not maintain it. And both the balance of equities and the public

¹ Plaintiffs also previously included the Georgia Republican Party, but upon Plaintiffs’ motion, the Court dropped that entity as a party in this action on August 7, 2026.

interest favor protecting Gwinnett County voters' settled expectations around voting absentee by mail, cutting sharply against an injunction.

BACKGROUND

I. Statutory and Regulatory Background

A. The Gwinnett BRE is responsible for administering elections in Gwinnett County.

The Gwinnett BRE administers elections for more than 660,000 voters.² Like all other county boards of elections and registration, the General Assembly granted the Gwinnett BRE the “powers and duties of the election superintendent relating to the conduct of primaries and elections and . . . the powers and duties of the board of registrars relating to the registration of voters and absentee-balloting procedures.” O.C.G.A. § 21-2-40(b). Its responsibilities are significant and include such varied tasks as selecting and equipping polling places; purchasing, preserving, storing, and maintaining election equipment of all kinds; receiving the returns of all primaries and elections, canvassing and computing those returns, and certifying the results; taking and processing applications for voter registration, notifying applicants who fail to provide all of the required information on the application for voter registration, and examining the qualifications of electors in their respective counties; receiving and processing absentee ballot applications; and receiving and processing ABM ballots themselves. *See id.* § 21-2-70(b) (enumerating the powers of a board acting as election superintendent); *see, e.g., id.* §§ 21-2-386, 21-2-228, 21-2-215, 21-2-219.

² Plaintiffs cite an outdated count from the Secretary of State's website reflecting 569,000 active voters in Gwinnett County as of December 2021. Pls. MPI at 5 n.1 (citing Georgia Active Voters Report, Ga. Sec'y of State, <https://sos.ga.gov/georgia-active-voters-report>). Gwinnett County's own published tally of registered voters, as of August 2026, is 661,403. *See* 2026 Registered Voters Report, Gwinnett Cnty. Gov't, <https://www.gwinnettcountry.com/government/departments/elections/register-vote/totals>.

Recognizing the burdens imposed by these responsibilities, the General Assembly afforded the Gwinnett BRE broad discretion to “establish additional registrar’s offices . . . for the purpose of receiving absentee ballots under Code Section 21-2-381.” *Id.* § 21-2-382(a). These additional locations may be a government building or, if using a government building is not practicable, a non-government building “that is used as an election day polling place.” *Id.*; Ga. Comp. R. & Regs. 183-1-14-.08(2). The Georgia State Election Board’s (“SEB”) rules further recognize that county registrars—particularly in populous areas like Gwinnett County—necessarily must delegate to perform their roles effectively. To that end, SEB regulations authorize any “designee of a board of registrars” to perform duties relating to advance voting otherwise required to be performed by the “registrar” or “registrars.” *See* Ga. Comp. R. & Regs. 183-1-14-.02(1).

B. Georgia law establishes baseline procedures for counties to collect ABM ballots.

This case involves statutes governing voters’ return of ABM ballots—one of the many facets of election administration that falls within the Gwinnett BRE’s purview. Georgia law allows voters to return ABM ballots in one of three ways: First, and most relevant to this lawsuit, voters may return an ABM ballot by “personally deliver[ing]” it “to the board of registrars or absentee ballot clerk.” O.C.G.A. § 21-2-385(a). Voters may hand deliver ballots either to Gwinnett BRE’s office or at “additional registrar’s offices or places of registration” the Board designates “for the purpose of receiving absentee ballots.” *Id.* § 21-2-382(a). These additional locations may include any government building or a non-governmental building “that is used as an election day polling place.” *Id.*; *see also* Ga. Comp. R. & Regs. 183-1-14-.08(2).

Second, voters may also “deliver their ballots to the board of registrars or absentee ballot clerk” through a “drop box” that is open during the “hours of advance voting.” O.C.G.A. § 21-2-382(c)(1). Each county must have at least one drop box and may set up additional drop boxes that total up to the lesser number of “one drop box for every 100,000 active registered voters in the

county or the number of advance voting locations in the county.” *Id.* Ballots deposited in a drop box are collected at the conclusion of each advance voting day and transferred to the “board of registrars or absentee ballot clerk.” *Id.* And third, voters may return ballots by mail. *Id.* § 21-2-385(a).

The General Assembly has further established procedures for the initial intake of ABM ballots by a registrar: “Upon receipt of each [absentee] ballot,” whether by mail, personal delivery, or drop box, “a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope.” *Id.* § 21-2-386(a)(1)(B). After, the registrar or clerk compares the identifying information on the ballot envelope with the information contained in the elector’s voter registration records, and “shall also” confirm that the elector has signed the required oath. *Id.* If the information matches and the oath is signed, the registrar or clerk “shall so certify by signing or initialing his or her name below the voter’s oath.” *Id.*

II. Factual Background

A. The Gwinnett BRE establishes procedures for authorizing hand-delivery of ABM ballots at advance voting locations.

On February 21, 2024, the Gwinnett BRE exercised the authority conferred upon it by Georgia law and approved BRE-603, a policy establishing standards and procedures the Board must follow in order to accept hand-delivered ABM ballots at advance voting locations for a particular election.³ The ABM Policy implements Section 21-2-382(a), which authorizes the Board to designate advance voting locations as “additional registrar[’s] offices” for the purpose of receiving ABM ballots. *See* Pet. Ex. A at 2 (“Gwinnett County Policy” or “ABM Policy”).

³ Gwinnett Cnty. Bd. of Voter Registrations & Elections, *Official Meeting Minutes* (Feb. 21, 2024), https://www.gwinnettcountry.com/static/upload/bac/6/20240221/m_81827_02.21.2024_BRE_Regular_Schedule_Meeting_Minutes_OFFICIAL.pdf.

Under the ABM Policy, the Board may exercise its discretion before each election to designate advance voting locations that will serve as additional registrar’s offices for the purpose of receiving ABM ballots. If the Board votes to do so, then Gwinnett County voters may hand-deliver their ABM ballots at these locations—a useful option in precincts that lack ABM drop boxes. *See* Gwinnett County Policy at 2. After delivery, and consistent with the minimum procedures established by the General Assembly, a registrar employee will record the time and date they received the ballot on the ballot envelope and place the ballot in a “secured ballot bag with the appropriate seals” to be collected and processed later. *Id.* The ballots are recorded on “chain of custody forms at the end of the night.” *Id.* The ballots will then be delivered to the central Gwinnett BRE office, where they “shall be stored in the ballot vaults until they are ready for processing.” *Id.*

This procedure differs materially from those required for ABM drop boxes. Georgia law does not require any interaction between voters and poll workers when the voter delivers an ABM ballot into a secure drop box, *see* O.C.G.A. § 21-2-382(c)(1), and poll workers do not handle ballots immediately after delivery. Instead, ABM ballots remain in the drop box until “the conclusion of each day where advance voting takes place,” at which point a “collection team . . . immediately transfer[s] the ballots to the board of registrars or absentee ballot clerk.” *Id.* § 21-2-382(c)(3). Gwinnett County implemented this Policy for the first time in the May 2024 primary election without challenge or issue.⁴

⁴ Gwinnett County Board of Voter Registrations and Elections, Official Meeting Minutes, Wednesday Apr. 17, 2024, https://www.gwinnettcounty.com/static/upload/bac/6/20240417/m_94085_04.17.2024_BRE_Regular_Scheduled_Meeting_Minutes_UNOFFICIAL.pdf.

On August 25, 2026, the Gwinnett BRE met and authorized six additional registrar's offices to accept hand-delivered ABM ballots for the upcoming general election, pursuant to O.C.G.A. § 21-2-382(a).⁵

B. The Plaintiffs move to invalidate Gwinnett County's ABM Policy.

On June 18, 2026, a group of plaintiffs led by the Republican National Committee sued members of the Gwinnett BRE, alleging that the ABM Policy is contrary to statute and the SEB's governing rules. Their petition raises a cacophony of objections to the mechanics of the ABM Policy, but the thrust of their claims is that the Gwinnett BRE inappropriately exercised its discretion in implementing the statutorily authorized procedures for hand delivery of ABM ballots. *See* Pet. ¶ 37. And in an extraordinary leap, they allege that because Gwinnett County's Policy for hand-delivering absentee ballots is purportedly out of step with statutory requirements for the same, the Policy is an end-run around statutory limits on *drop boxes*. *Id.* ¶ 45.

On August 7, 2026—before serving the petition on any of the Defendants—Plaintiffs moved for an interlocutory injunction blocking Gwinnett County from implementing its ABM Policy for the November 3, 2026, general election and elections thereafter. *See* Pls. Mot. for Interlocutory Injunction; Br. Supp. Pls. Mot. for Interlocutory Injunction (“Pls. MPI”).

LEGAL STANDARD

A. Motion to Dismiss. When a defendant brings a motion to dismiss for lack of subject matter jurisdiction under O.C.G.A. § 9-11-12(b)(1), “the plaintiff bears the burden of establishing that jurisdiction exists.” *Stillwell v. Topa Ins. Co.*, 363 Ga. App. 126, 127, 871 S.E.2d 8, 10 (2022); *see also McCloud v. Lowndes Cnty. Bd. of Comm’rs*, 369 Ga. App. 756, 759, 894 S.E.2d 505, 508

⁵ Gwinnett County Board of Voter Registrations and Elections Unofficial Meeting Minutes, Aug. 25, 2026, https://www.gwinnettcountry.com/static/upload/bac/6/20260825/m_25069_08.25.2026_BRE_Special_Called_Meeting_Minutes__UNOFFICIAL.pdf.

(2023). And a motion to dismiss under O.C.G.A. § 9-11-12(b)(6) should be granted when “the allegations of the complaint, when construed in the light most favorable to the plaintiff, and with all doubts resolved in the plaintiff’s favor, disclose with certainty that the plaintiff would not be entitled to relief under any state of provable facts.” *Penny v. McBride*, 282 Ga. App. 590, 590, 639 S.E.2d 561, 562 (2006) (quotation omitted). In considering the factual allegations in a complaint, courts need not accept as true “legal conclusion[s] [that are] couched as fact.” *Mabra v. SF, Inc.*, 316 Ga. App. 62, 65, 728 S.E.2d 737, 740 (2012).

B. Motion for Interlocutory Injunction. In deciding whether to grant an interlocutory injunction, a trial court considers (1) the plaintiff’s likelihood of success on the merits; (2) the threat of irreparable harm absent an injunction; (3) the balance of harm between the parties; and (4) the public interest. *See City of Waycross v. Pierce County Bd. of Comm’rs.*, 300 Ga. 109, 111, 793 S.E.2d 389, 391–92 (2016) (quoting *Bishop v. Patton*, 288 Ga. 600, 604, 706 S.E.2d 634 (2011)). Injunctive relief, “except in clear and urgent cases, should not be resorted to.” O.C.G.A. § 9-5-8 (emphasis added).

The “purpose” of an interlocutory injunction is to “maintain the status quo pending a final adjudication on the merits of the case.” *Hampton Island Founders, LLC v. Liberty Cap., LLC*, 283 Ga. 289, 293, 658 S.E.2d 619, 624 (2008); *Wood v. Wade*, 363 Ga. App. 139, 141, 869 S.E.2d 111, 116 (2022) (same). The status quo “is defined by the reality of the existing status and relationships between the parties, regardless of whether the existing status and relationships may ultimately be found to be in accord or not in accord with the parties’ legal rights.” *Hampton Island*, 283 Ga. at 293 (citation omitted). An interlocutory injunction that “does not in fact preserve the status quo” is inappropriate. *Green v. Waddleton*, 288 Ga. App. 369, 371, 654 S.E.2d 204, 207 (2007).

ARGUMENT

I. The Court lacks subject matter jurisdiction because Plaintiffs' claims are barred by sovereign immunity.

At the threshold, the Court lacks subject matter jurisdiction over this case, requiring dismissal and precluding an interlocutory injunction. *See MSM Poly, LLC v. Textile Rubber & Chem. Co., Inc.*, 353 Ga. App. 538, 541, 839 S.E.2d 4, 7 (2020) (vacating injunction because “the trial court lacked subject matter jurisdiction to issue the injunction.”); *Marietta Props., LLC v. City of Marietta*, 319 Ga. App. 184, 189, 732 S.E.2d 102, 107 (2012) (“[A]n interlocutory injunction would not have been appropriate to maintain the status quo pending a ruling on the merits which would never occur.”); *see also* O.C.G.A. § 9-11-12(h)(3) (requiring dismissal where “the court lacks jurisdiction of the subject matter”).

Plaintiffs sued the wrong Defendants and therefore cannot take advantage of the state Constitution’s limited sovereign immunity waiver. Article I, Section II, Paragraph V of the Georgia Constitution sets out a limited waiver of sovereign immunity “for actions in the superior court seeking declaratory relief from acts of the state” or other state entities—including counties. Ga. Const. art. I, § II, ¶ V(b)(1). If a plaintiff “tr[ies] to avail themselves of Paragraph V’s waiver of sovereign immunity in any way—i.e., even for one claim—then it is an [a]ction filed pursuant to [Paragraph V].” *State v. SASS Grp., LLC*, 315 Ga. 893, 897, 885 S.E.2d 761, 766 (2023) (quotation omitted). To make use of this waiver of sovereign immunity, a plaintiff must comply with the provisions of Paragraph V(b)(2), which requires that an action “be brought exclusively against the state and in the name of the State of Georgia (or against the relevant local government as may be the case).” *Id.* (quotation omitted). If the lawsuit does not comply with these requirements, “*the entire lawsuit must be dismissed*, even if some claims within the lawsuit could have otherwise been brought on their own.” *Id.* (emphasis added). The Georgia Supreme Court has interpreted the

language of Paragraph V to “foreclose[] the option of also suing a state actor in his or her individual capacity in th[e] same suit.” *Id.* at 903, 885 S.E.2d at 770.

The Georgia Supreme Court has explained how this provision applies to local boards of elections and their board members specifically. In *Lovell v. Raffensperger*, a plaintiff filed a complaint against the Secretary of State of Georgia, the Columbia County Board of Elections, and six members of the Columbia County Board of Elections. 318 Ga. 48, 48, 897 S.E.2d 440, 441 (2024). The superior court dismissed the action as barred by sovereign immunity, and the Georgia Supreme Court affirmed the dismissal. *Id.* The Georgia Supreme Court explained that the requirements of Article I, Section II, Paragraph V bar plaintiffs from suing local boards of elections and their board members, whether in their individual or official capacities. *Id.* at 53, 897 S.E.2d at 444. Instead, plaintiffs must file suit “exclusively against the counties and in the name of such counties.” *Id.* Because Plaintiffs have sought declaratory and injunctive relief from the members of the Gwinnett BRE, rather than Gwinnett County or the State of Georgia, their claims are barred by sovereign immunity, and the Court lacks subject matter jurisdiction.

II. Plaintiffs do not state a claim upon which relief can be granted and, for the same reasons, have no likelihood of success on the merits.

Plaintiffs fundamentally misunderstand the statutory scheme the General Assembly has enacted, and their efforts to hamstring counties’ ability to implement policies that improve election administration and voter access to the franchise are legally meritless. Gwinnett BRE’s ABM Policy “implement[s] and enforce[s] the election code” through the BRE’s delegated authority to administer elections. *Republican Nat’l Comm. v. Eternal Vigilance Action, Inc.*, 321 Ga. 771, 805, 917 S.E.2d 125, 158 (2025). Specifically, the election code explicitly authorizes the Gwinnett BRE to designate advance voting sites as additional registrar’s offices for hand delivery of ABM ballots. The ABM Policy simply expresses the Board’s intent to determine, before each election, whether

to exercise this authority, and it then establishes the necessary procedures for collecting ABM ballots at these additional sites when the Board chooses to authorize them. These procedures, including for ballot verification, straightforwardly satisfy Georgia law.

A. The ABM Policy complies with statutory requirements for hand delivery of ABM ballots.

The ABM Policy properly implements statutory procedures for receiving hand-delivered ABM ballots. Georgia law requires every board of registrars and absentee ballot clerk to accept hand-delivered ABM ballots at the county's main office, O.C.G.A. § 21-2-385(a), but it also grants county boards discretion to “establish additional registrar’s offices or places of registration for the purpose of receiving absentee ballots” and for “advance voting,” including any “building that is used as an election day polling place,” *id.* § 21-2-382(a). By allowing county boards to delegate authority in this way, the General Assembly sought to mitigate the logistical burdens associated with administering elections in counties, like Gwinnett, with several hundred thousand eligible voters, while making it easier for voters to return their ballots. To that end, the Policy reflects nothing more than the Board’s intent to consider, before each election cycle, whether to exercise the discretionary authority afforded to it by statute. See Gwinnett County Policy at 2 (“It is the policy of the Gwinnett County Board of Registrations and Elections to establish for each election cycle whether the Board will authorize additional registrar offices for the purpose of receiving absentee ballot[s] under O.C.G.A. § 21-2-382(a).”).

In view of this express statutory authorization, Plaintiffs’ argument that the Policy is nevertheless contrary to law because it permits hand delivery of ABM ballots to “poll managers” and “assistant managers” at advance voting sites falls apart. According to Plaintiffs, Section 21-2-385(a)’s requirement that an absentee voter “personally deliver [their ABM ballot] to the board of registrars or absentee ballot clerk” means the voter must physically place their ballot in the hands

of one of the five appointed board members. *See* Pls. MPI 8 (“By routing hand delivery to poll managers and assistant managers, . . . [the Policy] enlarges the statutory class of authorized recipients that the provision fixes.”). The broader statutory scheme does not support Plaintiffs’ literalist reading of the word “deliver.” When the General Assembly provided for the creation of drop boxes, for example, it used identical language, directing county boards to “establish at least one drop box as a means for absentee by mail electors *to deliver their ballots to the board of registrars* or absentee ballot clerk.” O.C.G.A. § 21-2-382(c)(1) (emphasis added). Plainly, when the General Assembly provides for “deliver[ing] [an ABM ballot] to the board of registrars,” it does not mean to preclude Board-authorized intermediaries from facilitating that delivery. *See Lathrop v. Deal*, 301 Ga. 408, 442, 801 S.E.2d 867, 890 (2017) (“[W]hen the same words are used in different parts of a single constitutional or statutory enactment, the courts generally assume . . . that the words are used in the same sense.”). That is hardly surprising: the General Assembly legislates against a baseline assumption that a public official it identifies in a statute generally “is not legally required to personally carry out every one of the duties listed in that statute but that he or she may appoint appropriate staff to assist him or her in doing so.” *State v. Fed. Def. Program, Inc.*, 315 Ga. 319, 338, 882 S.E.2d 257, 277 (2022); *see Ford Motor Co. v. Cosper*, 317 Ga. 356, 367 n.5, 893 S.E.2d 106, 116 n.5 (2023) (“[T]he legislature enacts statutes against the backdrop of, and with reference to, existing law.” (citing *Williams v. State*, 299 Ga. 632, 634, 791 S.E.2d 55, 56 (2016))). It is difficult to fathom how county boards would accomplish the many duties the General Assembly has assigned them if the individual board members were required to personally accept hand-delivered ballots from thousands of voters throughout the early voting period.

For the same reason, Plaintiffs’ interpretation of Section 21-2-385(a) would be untenable even without the aid of identical language elsewhere in the statute. If Plaintiffs were right that

appointed board members are statutorily obligated to personally accept all hand-delivered ballots, it would be functionally impossible for Boards to exercise their authority to designate additional registrar's offices to accept ABM ballots under Section 21-2-382(a) in the first place. There is no indication in the statute that the Legislature intended the five appointed board members to take time away from their many statutory duties in order to personally staff advance voting sites throughout the county, full-time, for the entire advance voting period.

When construing statutes, Georgia courts "consider the entire scheme of the statute and attempt to gather the legislative intent from the statute as a whole." *West v. City of Albany*, 300 Ga. 743, 745, 797 S.E.2d 809, 811 (2017) (quoting *Footstar, Inc. v. Liberty Mutual Ins. Co.*, 281 Ga. 448, 450, 637 S.E.2d 692 (2006)). Yet Plaintiffs' exceedingly narrow interpretation of ABM ballot delivery requirements renders the authority conferred under Section 21-2-382(a) effectively meaningless. *See id.* (requiring courts to "give sensible and intelligent effect to all of [a statute's] provisions and should refrain, whenever possible, from construing the statute in a way that renders any part of it meaningless."). Indeed, the General Assembly made sure to foreclose arguments like Plaintiffs' that rely on other statutes to undermine the authority granted to county boards under Section 21-2-382(a). *See* O.C.G.A. § 21-2-382(a) (conferring authority "notwithstanding" "[a]ny other provisions of this chapter to the contrary").

B. The ABM Policy complies with statutory ballot-verification requirements.

In a separate attack, Plaintiffs argue that the ABM Policy is inconsistent with statutory ballot-verification requirements, even if the delivery method is otherwise proper. *See* Pls. MPI 11. Not so. The procedures adopted by the Gwinnett BRE straightforwardly track the statutory verification requirements. When a ballot is hand-delivered to the BRE through an employed poll manager or assistant manager, that employee stamps the ballot to record the date and time it is presented. Gwinnett County Policy at 2; O.C.G.A. § 21-2-386(a)(1)(B) ("Upon receipt of each

ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope.”). The hand-delivered ballot is then placed in the secured and appropriately sealed ABM ballot bag, and at the Gwinnett BRE office, processing continues, including comparison of the elector’s identification card number and date of birth with registration records, as well as confirmation of the elector’s signed oath. O.C.G.A. § 21-2-386(a)(1)(B). Plaintiffs do not allege otherwise, let alone offer evidence in support of their interlocutory injunction motion to suggest the Gwinnett BRE has ever failed to honor this procedure since implementing the ABM Policy.

Instead, Plaintiffs respond by inventing a temporal requirement, insisting that O.C.G.A. § 21-2-386(a)(1)(B) requires the entire verification process to immediately follow the recording of the date and time of receipt. Pls. MPI 11. But they identify no textual support for this contention: O.C.G.A. § 21-2-386(a)(1)(B) explains *what* must be done to verify an ABM ballot; it does not dictate *when* authorized officials must conduct those procedures. Neither does O.C.G.A. § 21-2-386(a)(1) purport to exhaustively detail the movements of an ABM ballot, so long as the ballot is at all times kept “safely, unopened, and stored in a manner that will prevent tampering and unauthorized access”—as the ABM Policy requires. See Gwinnett County Policy at 2.

C. The ABM Policy does not create *de facto* drop boxes, so statutory drop box restrictions do not apply.

Finding little purchase in the statutes governing hand delivery of ABM ballots, Plaintiffs instead try to cast the ABM Policy as creating *de facto* drop boxes that exceed the statutory cap on the same, as well as drop-box-specific chain-of-custody requirements. That is a red herring. The ABM Policy describes procedures for hand delivering ballots—not drop box deposits. Indeed, the Policy’s plain text distinguishes between the two procedures, expressly providing that “no alternative” delivery method “will be offered” at additional registrar’s offices where “there is a ballot drop box already at the location.” Gwinnett County Policy at 2. But at other sites, the Policy

states the Board may “authorize[] a location to collect *hand delivered* absentee ballots.” *Id.* (emphasis added). Indeed, the Policy’s instruction that a “voter shall *hand deliver* the ballot . . . *directly* to [a] poll manager or assistant manager” dispels any comparison to drop boxes, which require no human interaction at all. *Id.* (emphasis added).

To resist the obvious, Plaintiffs’ only option was to rewrite the Policy entirely. In the Petition, they repeat their now-debunked argument that poll managers and assistant managers cannot receive and verify hand-delivered ABM ballots; and from there they ask the Court to conclude that the Policy does not contemplate hand delivery at all, but rather *de facto* drop boxes. Pet. ¶¶ 42, 45. That leap in logic would be indefensible even if the law supported the limits Plaintiffs seek to impose on hand delivery of ABM ballots. But as explained above, it does not. Plaintiffs’ entire premise for this claim is incorrect: nothing in Georgia law requires the absurd outcome that the five Gwinnett BRE members must personally receive every hand-delivered ABM ballot. *See supra* Argument § I.B.

Plaintiffs also argue that the “secured ballot bags” the Policy contemplates for storing hand-delivered ABM ballots at advance voting sites are “drop boxes in substance.” Pls. MPI 9. But Plaintiffs identify no provision that prevents storing ballots in a receptacle prior to their processing, and accepting this argument would have far-reaching consequences for a variety of commonplace election procedures. Again, the General Assembly expressly authorizes county boards to “establish additional registrar’s offices or places of registration for the purpose of receiving absentee ballots.” O.C.G.A. § 21-2-382(a); *see also* Ga. Comp. R. & Regs. 183-1-14-.08(2). Taken to its logical conclusion, Plaintiffs’ theory would preclude the staff at registrar’s offices designated under Section 21-2-382, or at any place of registration, from storing ballots in secure containers

designated for that purpose before processing and counting them, without creating new “drop boxes.” That is obviously not the law.

From there, Plaintiffs’ complaint that the ABM Policy does not require satisfying the chain-of-custody safeguards applicable to drop boxes necessarily fails, as well. *See* O.C.G.A. § 21-2-382(c)(3). The General Assembly did not require the same chain-of-custody safeguards for hand-delivered ballots as it did for drop boxes, and the applicable statutes are silent as to how a board of registrars must arrange for hand-delivered ballots to be transported from “additional registrar’s offices or places of registration” to a central location for processing and counting. *See* O.C.G.A. § 21-2-382(a). To that end, although the chain-of-custody requirements for drop boxes in O.C.G.A. § 21-2-382(c)(3) do not apply here, the Gwinnett BRE nevertheless took care to safeguard hand-delivered ballots under the Policy. Much like the drop box requirements, the Policy requires “chain of custody forms.” Gwinnett County Policy at 2. It also requires that the “secured ballot bag” contain “appropriate seals” and that ballots are stored properly in “ballot vaults” at the Gwinnett County office. *Id.* Nothing about these procedures violates Georgia law.

D. The ABM Policy need not reproduce the election code to ensure compliance.

Plaintiffs’ remaining arguments are two versions of the same non sequitur. By their telling, the Gwinnett BRE’s failure to reproduce statutory requirements for poll-watcher access, or the statutory limits on the types of buildings the Board may designate as additional registrar’s offices, means the Policy *violates* those provisions. Pls. MPI 11–12. That is nothing more than rank speculation. It is true that Georgia law requires county boards to protect the observational rights of poll watchers, O.C.G.A. § 21-2-408(d), and it likewise restricts the locations county boards may designate as additional registrar’s offices to government buildings and nongovernmental buildings used as election day polling sites, *id.* § 21-2-382(a). But Plaintiffs identify nothing in the Policy that would require the Board to violate either provision. Worse still, Plaintiffs have offered no

evidence that the Gwinnett BRE has violated any of these requirements in the more than two years the ABM Policy has been in place. Nothing in Georgia law required the Gwinnett BRE to cut and paste the text of every relevant governing statute into the policy document itself to prove it will act lawfully. Plaintiffs identify no violation of the law, and thus their claims cannot succeed.

* * *

In sum, the election code straightforwardly authorizes hand delivery of ABM ballots in the manner provided for under the Gwinnett BRE's ABM Policy, and no plausible reading of the governing statutes supports Plaintiffs' contentions otherwise. Nor does the Policy violate any other statutory law. The Policy is therefore entirely lawful. *See Eternal Vigilance*, 321 Ga. at 805, 917 S.E.2d at 158. For that reason, Plaintiffs cannot show any likelihood of success to support an interlocutory injunction. And indeed, outright dismissal is warranted.

III. The remaining interlocutory injunction factors do not support Plaintiffs.

A. Plaintiffs face no threat of irreparable harm.

In addition to having no possibility of success on the merits, Plaintiffs also cannot show they risk irreparable harm absent an injunction, because they seek to disrupt, rather than preserve, the status quo. This point is independently fatal to Plaintiffs' motion.

As courts have made clear for decades, the primary "purpose of a temporary or interlocutory injunction is to maintain the status quo pending a final adjudication on the merits of the case." *Yakob v. Kidist Mariam Ethiopian Orthodox Tewahedo Church, Inc.*, 359 Ga. App. 13, 21, 856 S.E.2d 722, 730 (2021) (quoting *Hampton Island Founders, LLC*, 283 Ga. at 293, 658 S.E.2d at 624). Courts have thus repeatedly rejected interlocutory injunctions that "[did] not in fact preserve the status quo." *Id.* at 23, 856 S.E.2d at 731; *see also Hipster, Inc. v. Augusta Mall P'ship*, 291 Ga. App. 273, 275, 661 S.E.2d 652, 655 (2008); *Green*, 288 Ga. App. at 370, 654 S.E.2d at 206.

This purpose drives how courts apply the remaining factors under *City of Waycross*—and in particular the irreparable-harm factor. See *Green Bull Ga. Partners, LLC v. Register*, 301 Ga. 472, 474 n.4, 801 S.E.2d 843, 846 n.4 (2017) (explaining that “the purpose of an interlocutory injunction generally is to maintain the status quo,” and “the standard set forth in *City of Waycross*” determines “whether the status quo *ought to be* maintained in any particular case” (emphasis in original)). Whether a plaintiff can, as a categorical matter, satisfy the irreparable-harm factor depends on where the status quo lies. See *Lightfoot v. Wellstar Health Sys., Inc.*, 374 Ga. App. 216, 227, 912 S.E.2d 107, 116 (2025) (citing *City of Waycross*, 300 Ga. at 111, 793 S.E.2d at 392). In *Lightfoot*, the Court of Appeals just last year affirmed a trial court’s finding that the irreparable-harm factor “weighed against granting an interlocutory injunction” where denying relief—not granting it—would “preserv[e] the status quo.” 374 Ga. App. at 227. Thus, if an injunction preserving the status quo would not alleviate the plaintiff’s purported injury, they have failed to show the sort of irreparable harm required to support interlocutory relief.

That is the case here. Had Plaintiffs brought this action in February 2024, after the Gwinnett BRE had enacted the policy but before it governed any election, the circumstances would be different. But the Gwinnett BRE enacted the ABM Policy more than two years ago, and it has governed the Board’s conduct in every election since. And in every primary and general election since the May 2024 primary, the Gwinnett BRE has chosen to exercise its authority to designate additional registrar’s offices for the receipt of ABM ballots. The ABM Policy Plaintiffs seek to enjoin thus itself defines the status quo. See *Hampton Island Founders, LLC*, 283 Ga. at 293, 658 S.E.2d at 624 (“The status quo is not defined by the parties’ existing legal rights; it is defined by the reality of the existing status and relationships between the parties[.]”). Plaintiffs ask the Court to *disrupt* the status quo by enjoining the Gwinnett BRE from exercising authority under the Policy.

That relief is simply unavailable in this posture, so Plaintiffs cannot show irreparable harm. *See Lightfoot*, 374 Ga. App. at 227, 912 S.E.2d at 116.

B. The balance of harms and public interest also strongly disfavor Plaintiffs.

The final two interlocutory injunction factors do not favor Plaintiffs either. An injunction would “harm” the Gwinnett BRE’s efforts to help voters cast ballots safely, securely, and with ease, and would significantly “disserve the public interest.” *Jansen-Nichols v. Colonial Pipeline Co.*, 295 Ga. 786, 787–88, 764 S.E.2d 361, 362 (2014). On the first point, an injunction would “operate oppressively” on Gwinnett BRE’s right to implement procedures consistent with Georgia law and facilitate voting in a county with more than half a million voters. *See W. Sky Fin., LLC v. State ex rel. Olens*, 300 Ga. 340, 354–55, 793 S.E.2d 357, 371 (2016); *NEC Techs., Inc. v. Nelson*, 267 Ga. 390, 394, 478 S.E.2d 769, 773 (1996) (“What the Legislature allows *cannot* be contrary to public policy.”). The Gwinnett BRE made a reasoned decision to adopt the ABM Policy and authorize additional registrar’s offices to accept ABM ballots, as is contemplated by O.C.G.A. § 21-2-382. Requiring the Gwinnett BRE to change the election administration policies it has had in place since early 2024 at the last minute—simply because Plaintiffs do not like those policies—would disrupt the Board’s preparations for the 2026 general election and force the Gwinnett BRE to launch new initiatives to communicate the change to election administrators and to voters.

For the same reason, an injunction would substantially damage the public interest in convenient, accessible options for voting. “The right to vote is fundamental; it is necessary to preserve our republic and our liberty.” *Eternal Vigilance Action, Inc.*, 321 Ga. at 784, 917 S.E.2d at 145; *see also Favorito v. Handel*, 285 Ga. 795, 796, 684 S.E.2d 257 (2009) (describing the right to vote as “the bedrock of our democracy”). Plaintiffs seek an injunction that would “infringe[]” that right by preventing voters “from casting a ballot” in a manner that is entirely lawful under Georgia statutory law and local policy. *Eternal Vigilance Action, Inc.*, 321 Ga. at 784, 917 S.E.2d

at 145. Voters in Gwinnett County are now accustomed to the option of returning ABM ballots at advance voting sites in statewide elections.⁶ Entering the injunction Plaintiffs seek would only inspire confusion among the electorate, including voters attempting to cast a ballot for the candidate that Intervenor DSCC and Jon Ossoff for Senate support.

Plaintiffs are also wrong that any interest in “uniform” election procedures across Georgia’s “158 counties” supports the injunction they seek. *See* Pls. MPI 15. The General Assembly intentionally left the decision of whether to designate advance voting sites as additional registrar’s offices *to each county*, *see* O.C.G.A. § 21-2-382(a), accounting for local interests across Georgia’s diverse electorate. Forcing a county board responsible for more than 600,000 registered voters to follow precisely the same ABM delivery procedures as a county with fewer than 10,000 voters both contradicts the General Assembly’s will and disservices the public interest.

CONCLUSION

For the above-stated reasons, this Court should dismiss Plaintiffs’ claim and deny Plaintiffs’ motion for an interlocutory injunction.

⁶ Gwinnett County Board of Voter Registrations and Elections, Official Meeting Minutes, Apr. 17, 2024, *supra* note 3 (authorizing six advance in person locations for the 2024 Primary and possible primary runoff); Gwinnett County Board of Voter Registrations and Elections, Official Meeting Minutes, Aug. 21, 2024, https://www.gwinnettcountry.com/static/upload/bac/6/20240821/m_65803_08.21.2024_BRE_Regular_Scheduled_Meeting_Minutes.pdf (authorizing twelve advance in person locations for the 2024 General Election); Gwinnett County Board of Voter Registrations and Elections, Official Meeting Minutes, Jan. 21, 2026, https://www.gwinnettcountry.com/static/upload/bac/6/20260121/m_40462_01.21.2026__BRE_RRegular_Scheduled_Meeting_Minutes_OFFICIAL.pdf (authorizing additional registrar’s offices for in-person ABM return for the primary and potential runoff).

Dated: September 24, 2026

Respectfully submitted,

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**Admitted Pro Hac Vice*

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

REPUBLICAN NATIONAL COMMITTEE,
GWINNETT COUNTY REPUBLICAN
PARTY, and TIM FLEMING,

Plaintiffs,

v.

DAVID HANCOCK, LORETTA
MIRANDOLA, AMY BRAY, ALICE
O'LENICK, and RICHARD PORTER, in their
individual capacities,

Defendants.

Case No. 26-A-05660-10

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing ***DSCC and Jon Ossoff for Senate's Motion to Dismiss*** with the Clerk of the Court via *Odyssey eFileGA*, which will provide notice and service to all counsel of record.

This 24th day of September, 2026.

/s/ Adam M. Sparks

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