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CLERK OF SUPERIOR COURT
GWINNETT COUNTY, GEORGIA
26-A-09834-10
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TIANA P. GARNER, CLERK

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

NATHAN DOYLE HUNTINGTON, on behalf of himself and all others similarly situated, Plaintiff, vs. KELVIN WILLIAMS, Acting Elections Supervisor of the Gwinnett County Board of Elections and Registration in his official capacity, and DAVID HANDOCK, LORETTA MIRANDOLA, ALICE O'LENICK, RICHARD PORTER, and AMY BRAY, members of the Gwinnett County Board of Registrations and Elections in their individual capacities, Defendants.	Civil Action No.:26-A-09834-10 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** **EMERGENCY RELIEF REQUESTED**

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VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff Nathan Doyle Huntington, on behalf of himself and all others similarly situated, by and through the undersigned attorneys, files this complaint for declaratory and injunctive relief, seeking emergency relief to protect his fundamental right to vote as secured by the Georgia Constitution.

NATURE OF THE CASE

1. Plaintiff and 1,819[1] other lawfully registered Gwinnett County voters are on the brink of disenfranchisement in the November 3, 2026, general election because the Gwinnett County Board of Registrations and Elections (the "Board") has failed to issue absentee ballots on time. On October 26, 2026, public reporting raised concerns that requested absentee ballots in Gwinnett, Cobb, and DeKalb Counties had not reached voters, in particular ballots marked as issued on or after October 6. As reported in the Gwinnett Daily Post, the delays could affect approximately 10,000 voters across the three counties.[2] In these counties, the return rates for absentee ballots purportedly "issued" between October 6 and October 16 lag dramatically behind the rest of the state's average rate, 67.1 percent,[3] for the same dates. In Gwinnett County, only 28.3 percent of affected ballots have been returned by voters.[4] In Cobb, only 31.1 percent of affected ballots have been returned,[5] and DeKalb County's return rate stands at 26.4 percent for the same time

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[1] Ga. Sec'y of State, *Absentee Voter Files* (Gwinnett Cnty. data), https://mvp.sos.ga.gov/s/voter-absentee-files (last visited Oct. 29, 2026).
[2] Curt Yeomans, Democrats: Thousands of Metro Voters Have Not Received Their Absentee Ballots, Gwinnett Daily Post (Oct. 26, 2026), https://www.gwinnettdailypost.com/local/democrats-thousands-of-metro-voters-have-not-received-their-absentee-ballots/article_3476f2f7-525a-4ded-ad1a-71eb71616836.html.
[3] Ga. Sec'y of State, *Absentee Voter Files* (All Cntys. data), https://mvp.sos.ga.gov/s/voter-absentee-files (last visited Oct. 29, 2026).
[4] Gwinnett Absentee Voter Files, *supra* note 1.
[5] Ga. Sec'y of State, *Absentee Voter Files* (Cobb Cnty. data), https://mvp.sos.ga.gov/s/voter-absentee-files (last visited Oct. 29, 2026).

period.[6] This Court must intervene to protect Plaintiff and other voters affected by the Defendants' delay.

2. Plaintiff, and a putative class of voters, seek emergency intervention by this Court because Defendants have failed to take prompt action to directly notify all known impacted voters about delays and have not taken sufficient steps to ensure the immediate delivery and return of those voters' ballots before the November 3, 2026, election. This problem is particularly acute for voters who are temporarily residing outside Gwinnett County or who cannot readily vote in person.

3. Given Defendants' failure to fulfill their duties under state law and the imminent prejudice to eligible Georgia voters in the general election, this Court should order emergency relief to ensure that absentee ballots are immediately delivered to the affected voters; that these voters have a fast and reliable method of returning their ballots at no cost to themselves; that impacted voters be otherwise notified of their potential options to ensure their ballots are counted; and that all affected ballots be counted so long as they arrive by the statutory deadline for curing absentee ballots and receiving ballots from overseas and military voters.

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[6] Ga. Sec'y of State, *Absentee Voter Files* (Dekalb Cnty. data), https://mvp.sos.ga.gov/s/voter-absentee-files (last visited Oct. 29, 2026).

JURISDICTION AND VENUE

4. This action arises exclusively under the Constitution and laws of the State of Georgia. This Court has jurisdiction to grant declaratory and injunctive relief under O.C.G.A. §§ 9-4-2 and 9-4-9.

5. Venue in this Court is proper under O.C.G.A. § 9-10-30 because Defendants are the acting head and members of the Gwinnett County Board of Registrations and Elections, all are sued in their individual capacities, and all reside in this county.

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PARTIES

A. Plaintiff

6. Plaintiff Nathan Doyle Huntington is a resident of Gwinnett County and a registered Gwinnett County voter. Mr. Huntington is a third-year student at Niagara University in Niagara Falls, New York, and cannot make it home during the semester to vote in person.

B. Defendants

7. Defendant Kelvin Williams is the Acting Elections Supervisor for the Gwinnett County Board of Registrations and Elections, and he is being sued in his individual capacity.

8. Defendants David Hancock, Loretta Mirandola, Alice O'Lenick, Richard Porter, and Amy Bray are members of the Gwinnett County Board of Registrations and Elections, which is the election superintendent for Gwinnett

County. The superintendent is charged with overseeing the conduct of Gwinnett County elections and implementing election laws and regulations, including managing the absentee voting process and tabulating valid absentee ballots. O.C.G.A. §§ 21-2-381, 21-2-386(a)(2)(A). They are being sued in their individual capacities.

FACTUAL ALLEGATIONS

9. In this State, "[t]he right to vote is fundamental; it is necessary to preserve our republic and our liberty." *Republican Nat'l Comm. v. Eternal Vigilance Action, Inc.*, 321 Ga. 771, 784 (2025) (citation omitted); *see* Ga. Const. art. II, § 1, ¶ II ("Every person who is a citizen of the United States and a resident of Georgia as defined by law, who is at least 18 years of age and not disenfranchised by this article, and who meets minimum residency requirements as provided by law shall be entitled to vote at any election by the people.").

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10. Eligible Georgia voters may, for any reason, request to vote by an absentee mail ballot up to eleven days before an election. O.C.G.A. § 21-2-381(a)(1)(A). The deadline to request an absentee ballot ahead of the November 3, 2026, general election was October 23, 2026.[7] During the early voting period spanning from October 13 to October 30 of this year, county registrars must mail or

[7] Georgia Secretary of State, 2026 Election Calendar and Highlights, https://sos.ga.gov/sites/default/files/forms/2026%20Elections%20Calendar_0.pdf.

issue ballots within "three days after receiving a timely application for an absentee ballot." O.C.G.A. § 21-2-384(a)(2).

11. For the November 3, 2026, general election, the Board was required to mail or issue official absentee ballots to eligible applicants during the applicable issuance period beginning October 5, 2026. O.C.G.A. § 21-2-384(a)(2). As additional timely applicants were determined eligible, the Board was required to mail or issue their ballots immediately upon determining their eligibility. *Id*. During advance voting, the Board was required to make the applicable determination and mail or issue a ballot or rejection notice within three days after receiving a timely application. *Id*.

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12. Upon information and belief, Gwinnett County has chosen to outsource its mailing apparatus to an out-of-state private vendor.

13. On October 26, 2026, news outlets reported that voters in Gwinnett, Cobb, and DeKalb Counties were experiencing absentee-ballot delays. In reporting on the announcement, the Gwinnett Daily Post identified Fort Orange Press as a vendor used for the three counties' absentee ballots.[8]

14. Plaintiff Huntington was one of the voters affected by Defendants' failure to timely issue absentee ballots. Huntington timely requested an absentee

[8] Curt Yeomans, "Democrats: Thousands of Metro Voters Have Not Received Their Absentee Ballots," Gwinnett Daily Post (Oct. 26, 2026), https://www.gwinnettdailypost.com/local/democrats-thousands-of-metro-voters-have-not-received-their-absentee-ballots/article_3476f2f7-525a-4ded-ad1a-71eb71616836.html (archived at https://archive.is/Xz1xR).

ballot on October 9, 2026, and his application was accepted on that same day. According to My Voter Page, his ballot was issued on October 9, 2026. As of October 29, 2026, Huntington had not received his ballot.

15. Huntington, currently residing in New York as a student, is unable to travel back to Gwinnett County to cast his ballot in person.

16. If this Court does not intervene to ensure that the affected ballots are delivered and can be timely returned and counted, Plaintiff and 1,819 others similarly situated voters will likely be disenfranchised.

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CLASS ACTION ALLEGATIONS

17. Plaintiff seeks class certification under O.C.G.A. § 9-11-23.

18. The proposed class is defined as eligible and registered Gwinnett County voters who timely requested absentee ballots for the November 3, 2026, election and who have not received their absentee ballots by the applicable statutory deadline (the "Affected Voters").

19. The proposed class satisfies the requirements of O.C.G.A. § 9-11-23(a). The proposed class is sufficiently numerous. At least 1,820 Gwinnett County voters, based on Georgia Secretary of State records, have not returned ballots purportedly "issued" from October 6 through October 16, 2026; a significant subset of those did not have their ballots mailed by Defendants in accordance with the statutory deadline. The allegations of the proposed class raise common questions of

law or fact. The Plaintiff's claims are typical of the claims of the proposed class. The Plaintiff will fairly and adequately protect the interests of the proposed class.

20. The proposed class also satisfies the requirements of O.C.G.A. § 9-11-23(b)(1)–(3). The prosecution of separate actions by individual members of the proposed class would create a risk of inconsistent adjudications with respect to individual members of the proposed class. Defendants have acted or refused to act on grounds generally applicable to the class by failing to mail or issue absentee ballots by the applicable statutory deadline, which justifies class-wide injunctive relief. There is also a predominance of legal or factual questions common to the members of the proposed class such that a class action is the superior mechanism for the fair and efficient adjudication of their claims.

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CAUSES OF ACTION

COUNT I

Declaratory and Injunctive Relief Under O.C.G.A. § 9-4-1 et seq. Violations of O.C.G.A. §§ 21-2-381(b)(2)(A), 21-2-384(a)(2)

21. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs.

22. In Georgia, a party may seek declaratory relief in (a) "cases of actual controversy," or (b) "in any civil case in which it appears to the court that the ends of justice require that the declaration should be made." O.C.G.A. § 9-4-2(a)–(b).

23. Such claims can be made "upon petition or other appropriate pleading." *Id*. A claim for declaratory judgment may be made concurrently with an injunctive claim or mandamus petition. See *id.* § 9-4-3(a).

24. The Georgia Declaratory Judgment Act, O.C.G.A. § 9-4-1 et seq., provides for relief by declaratory judgment to settle legal rights and remove uncertainty and insecurity from legal relationships without awaiting a violation of rights. O.C.G.A. § 9-4-2(a) provides that the superior courts may, in cases of actual controversy, declare the rights and other legal relations of an interested party.

25. O.C.G.A. § 9-4-2(c) provides that declaratory relief is available notwithstanding the existence of another adequate legal or equitable remedy.

26. O.C.G.A. § 9-4-3(a) permits further plenary relief, including an injunction or mandamus, to be sought in a petition for declaratory judgment. Under O.C.G.A. § 9-4-3(b), the Court may grant injunctive and other interlocutory extraordinary relief to preserve equitable rights.

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27. Georgians voters are entitled to exercise their right to vote by mail without needing to provide a reason. *See* O.C.G.A. § 21-2-380(b). Georgia voters take advantage of absentee ballots for a variety of reasons: some, like Mr. Huntington, temporarily reside out of state to attend school; others have disabilities that make it difficult for them to vote in person; still others vote absentee due to competing time commitments during the early voting period and on Election Day.

28. Voters must apply timely for an absentee ballot, and the election superintendent must mail ballots to voters whose applications have been accepted. *See id.* § 21-2-381(b)(2)(A) ("If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application and then . . . [s]hall mail the ballot as provided in this Code section[.]").

29. During the advance voting period, which began on October 13, 2026, the Board must "mail or issue absentee ballots, provisional absentee ballots, and notices of rejection of application **within three days** after receiving a timely application for an absentee ballot." *Id.* § 21-2-384(a)(2).[9]

30. Defendants failed to meet the applicable deadline set by O.C.G.A. § 21-2-384(a)(2) and did not timely mail or issue absentee ballots to the Affected Voters who requested them. Because of Defendants' legal violations, it will likely be impossible for Plaintiff and other affected voters to exercise their fundamental right to vote in the November 3 election unless this Court grants the requested relief.

31. Plaintiff, and the Affected Voters class, are entitled to declaratory, injunctive, and interlocutory extraordinary relief. Defendants have a legal duty to mail or issue absentee ballots within the applicable statutory period. Plaintiff and similarly-situated voters timely submitted their applications for absentee ballots,

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[9] See 2026 Election Calendar, supra note 3.

their applications were accepted, but their ballots were not timely mailed or issued to them. They now face disenfranchisement.

32. Absent declaratory and injunctive relief clarifying Defendants' obligations to the Affected Voters and requiring immediate action, the Plaintiff and others similarly situated—through no fault of their own—will be unable to vote in the November 2026 election.

COUNT II

Declaratory and Injunctive Relief Under O.C.G.A. § 9-4-1 et seq. Violation of the Constitutional Right to Vote

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33. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs.

34. "The right to vote is fundamental, forming the bedrock of our democracy." *Favorito v. Handel*, 285 Ga. 795, 796 (2009) (quoting W*exler v. Anderson*, 452 F.3d 1226, 1232 (11th Cir. 2006)).

35. "Having once granted the right to vote on equal terms," a state "may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush v. Gore*, 531 U.S. 98, 104–05 (2000) (per curiam).

36. Article II, Section 1, Paragraph II of the Georgia Constitution protects the fundamental right to vote by providing that "[e]very person who is a citizen of the United States and a resident of Georgia as defined by law, who is at least 18 years of age and not disenfranchised by this article, and who meets minimum

residency requirements as provided by law shall be entitled to vote at any election by the people." Ga. Const. art. II, § I, ¶ II. Article I, Section 1, Paragraph II of the Georgia Constitution provides: "Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws." Ga. Const. art. I, § I, ¶ II.

37. The Plaintiff and all absent class members have the right to vote without undue interference by Defendants.

38. The Plaintiff and absent class members are eligible Georgia voters who timely submitted applications for absentee ballots, and those applications were processed and accepted, but their ballots were not timely mailed or issued.

39. The Plaintiff is unable to vote in person, or faces substantial obstacles to doing so, particularly on such short notice. Plaintiff Huntington is a third-year student at Niagara University in Niagara Falls, New York, and cannot make it home during the semester to vote in person.

40. Defendants' failure to timely mail or issue absentee ballots—in violation of state law and with Election Day approaching—constitutes a severe burden on Plaintiff's and Affected Voters' fundamental right to vote.

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COUNT III

Declaratory and Injunctive Relief Under O.C.G.A. § 9-4-1 et seq.
Violation of the Due Process Clause of the Georgia Constitution
Ga. Const. art. I, § I, ¶ I

41. Plaintiff realleges and incorporates by reference the allegations contained in the preceding paragraphs.

42. Article I, Section I, Paragraph I of the Georgia Constitution provides that "[n]o person shall be deprived of life, liberty, or property except by due process of law." Ga. Const. art. I, § I, ¶ I. The Georgia Constitution's Due Process Clause protects against arbitrary governmental interference with fundamental rights. *See Ga. Dep't of Hum. Res. v. Sweat*, 276 Ga. 627, 628–29 (2003). Indeed, the provision provides similar guarantees to those of the U.S. Constitution. *See Cherokee Cnty. v. Greater Atlanta Homebuilders Ass'n, Inc*., 255 Ga. App. 764, 768-69 (2002) (treating federal and state constitutional due process clauses as one and the same); *DeKalb Cnty. Sch. Dist. v. Georgia State Bd. of Educ*., 294 Ga. 349, 369 (2013) (same).

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43. As discussed above, Georgia has guaranteed the right to vote to every qualified Georgia elector. Ga. Const. art. II, § I, ¶ II. Georgia has also chosen to give every qualified elector the right to vote by absentee ballot, for any reason, upon timely application. O.C.G.A. § 21-2-380(b); § 21-2-381(a)(1)(A).

44. Having created these rights, the State and its election superintendents must administer them in accordance with due process. *See Martin v. Kemp*, 341 F. Supp. 3d 1326, 1338 (N.D. Ga. 2018) (holding that Georgia's statutory right to vote absentee is a state-created liberty interest entitled to procedural due process

protection). Federal courts construing the analogous guarantee of due process have recognized that, although ordinary mistakes in administering elections do not necessarily establish a constitutional violation, due process is violated where "the election process itself reaches the point of patent and fundamental unfairness." *Roe v. Alabama*, 43 F.3d 574, 580 (11th Cir. 1995) (citation omitted); *accord Griffin v. Burns*, 570 F.2d 1065, 1077–78 (1st Cir. 1978).

45. The Affected Voters—including Plaintiff—did everything Georgia law required of them to exercise their right to vote by absentee ballot. They timely submitted absentee-ballot applications; Defendants determined that they were eligible to vote absentee and accepted their applications; and Plaintiff and absent class members reasonably relied upon Defendants to comply with Georgia law by timely mailing or issuing their absentee ballots. *See* O.C.G.A. §§ 21-2-381(b)(2)(A), 21-2-384(a)(2).

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46. Nonetheless, Defendants subjected the Affected Voters to a flawed process that now jeopardizes their ability to vote. By failing to implement necessary procedural safeguards, Defendants have created an unacceptable risk of erroneously depriving the Affected Voters of this protected interest. *See Martin*, 341 F. Supp.3d at 1339.

47. The resulting deprivation is particularly acute for Affected Voters, like the Plaintiff, who requested absentee ballots because they are temporarily outside

Gwinnett County, have disabilities or other limitations on their ability to vote in person, or otherwise cannot feasibly appear at a polling place on short notice.

48. In sum, Defendants' conduct deprives Affected Voters of their fundamental right to vote, and of their statutory entitlement to timely receive an absentee ballot, without due process of law, in violation of Article I, Section I, Paragraph I of the Georgia Constitution.

49. Plaintiff and the putative class are entitled to declaratory and injunctive relief necessary to prevent that constitutional deprivation and to preserve their ability to cast ballots that will be counted in the November 3, 2026, election.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff submits this prayer for relief and seeks the following:

A. That this Court issue a judgment declaring that Defendants have violated O.C.G.A. § 21-2-381(b)(2)(A); O.C.G.A. § 21-2-384(a)(2); Article II, Section I, Paragraph II and Article I, Section I, Paragraph II of the Georgia Constitution;

B. That this Court enter an injunction requiring Defendants to (1) immediately, and by 1 p.m. on October 31, send by overnight mail an absentee ballot to each affected voter whose ballot is still outstanding, including prepaid overnight return mailing; (2) provide immediate notice, by all means practicable, including by email and/or telephone, to all affected voters; (3) immediately publish

highly-visible notice on Defendants' website and other online platforms, including all official social media channels, of the Court-ordered expedited mailing and return procedures and any receipt deadline; and (4) tabulate and include in the final count all absentee ballots sent to affected voters that are returned by November 6, 2026.

C. That the Court award any additional or alternative relief as may be deemed appropriate under the circumstances.

Respectfully submitted, this 30th day of October, 2026.

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* Motion for admission *pro hac vice* forthcoming

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