

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

**DONALD J. TRUMP, in his capacity)
as a Candidate for President of the)
United States,)**

Plaintiff,)

v.)

**BRIAN P. KEMP, in his official)
capacity as Governor of the State of)
Georgia; BRAD RAFFENSPERGER,)
in his official capacity as Georgia)
Secretary of State,)**

Defendants.)

Civil Action No. 1:20-cv-05310-MHC

RESPONSE TO PLAINTIFF’S NOTICE OF VOLUNTARY DISMISSAL

Defendants do not object to the voluntary dismissal. Defendants do object to the false grounds articulated in the Notice. Plaintiff Donald J. Trump voluntarily dismissed this litigation contending the dismissal is a result of settlement between the Parties. It is not. There is no “settlement.” The demonstrably false characterizations by Plaintiff’s counsel are addressed herein in this response.

Plaintiff’s counsel inquired on numerous occasions about settling the disputes, including the pending state court matters, between the Parties. Those inquiries were repeatedly rebuffed by Defendants on the grounds that Plaintiff’s litigation efforts were frivolous and the certified results of the November 3, 2020, Election were valid.

Without notifying Defendants' counsel, Plaintiff and his litigation counsel participated in a phone conference with Defendant Raffensperger on Saturday January 2, 2020. The participation of counsel for Plaintiff in that call appears to be in violation of the Georgia Rules of Professional Conduct Rule 4.2, as Plaintiff's counsel neither notified litigation counsel for Defendant Raffensperger nor sought nor obtained consent to conduct or participate in a conversation with Defendant Raffensperger. This action by Plaintiff's counsel was undertaken despite the fact that the substance of the call concerned not only this action but also two pending state superior court matters and a pending appeal in the Georgia Supreme Court in which Defendant Raffensperger was represented by counsel, all of which was known to Plaintiff's counsel.

After that call, Defendants' counsel told Plaintiff there would be no discussions between the parties until Plaintiff dismissed all of their litigations. *See* Notice Ex. 1. Yesterday evening at 9:36 p.m., Plaintiff's counsel sent a letter to Defendants' counsel stating that they would dismiss their various frivolous complaints pursuant to a "settlement" between the Parties. *See* Notice Ex. 2.

Defendants' counsel responded by email yesterday evening confirming there was absolutely no settlement between the Parties and reiterating that Plaintiff's claims were frivolous. ***See Exhibit A*** attached hereto. Plaintiff's counsel responded to that email notification that no "settlement" was contemplated nor agreed to by

stating his intention to unilaterally dismiss all pending actions against Defendants. **See Exhibit B** attached hereto. Plaintiff's counsel failed to include that response or his reply after that clear statement that this was not pursuant to a settlement but instead a unilateral dismissal in his filed Notice of Voluntary Dismissal. While Defendants are appreciative of this voluntary dismissal and the cessation by Plaintiff of this groundless litigation, as officers of the court it is expected that all matters before the Court will be handled with complete candor. The Defendants make this response to ensure that the actual record of what has transpired is accurately reflected in the docket.

Respectfully submitted this 7th day of January, 2021.

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General
Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Charlene S. McGowan
Assistant Attorney General
Georgia Bar No. 697316
**OFFICE OF THE ATTORNEY
GENERAL**
Georgia Department of Law
40 Capitol Square SW
Atlanta, Georgia, 30334
Telephone: (404) 458-3600
Facsimile: (404) 657-8733

/s/ Christopher S. Anulewicz

Christopher S. Anulewicz

Georgia Bar No. 020914

canulewicz@balch.com

James L. Hollis

Georgia Bar No. 930998

jhollis@balch.com

Jonathan R. DeLuca

Georgia Bar No. 228413

jdeluca@balch.com

Patrick N. Silloway

Georgia Bar No. 971966

psilloway@balch.com

BALCH & BINGHAM LLP

30 Ivan Allen Jr. Blvd. N.W., Suite 700

Atlanta, GA 30308

Telephone: (404) 261-6020

Facsimile: (404) 261-3656

*Attorneys for Defendants Brian Kemp and
Brad Raffensperger*

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of January, 2021 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send email notifications of such filing the following counsel of record:

Kurt R. Hilbert
THE HILBERT LAW FIRM, LLC
205 Norcross Street
Roswell, GA 30075
khilbert@hilbertlaw.com

John Charles Eastman
174 W. Lincoln Avenue
#620
Anaheim, CA 92805
Jeastman562@gmail.com

/s/ Christopher S. Anulewicz _____
Christopher S. Anulewicz
Georgia Bar No. 020914