

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

NATIONAL DEFENSE COMMITTEE,
FULTON COUNTY REPUBLICAN PARTY,
and SEAN KILBANE,

Plaintiffs,

v.

CIVIL ACTION NO.: 2021CV344215

FULTON COUNTY BOARD OF ELECTIONS
AND REGISTRATION, and RICHARD BARRON,
in his official capacity as the Director of the Fulton
County Board of Elections,

Defendants.

**VERIFIED EMERGENCY COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

The National Defense Committee, the Fulton County Republican Party (hereinafter referred to as “FCRP”) and Sean Kilbane (“Kilbane,” and, together with the National Defense Committee and the FCRP, “Plaintiffs”) file this complaint against the Fulton County Board of Elections and Registration (the “Board of Elections”) and Director of the Fulton County Board of Elections, Richard Barron (“Barron,” and, together with the Board of Elections, “Defendants”), seeking Emergency Injunctive and Declaratory Relief, and allege upon information and belief as follows:

PRELIMINARY STATEMENT

1. Congress sought to end “the widespread disenfranchisement of military voters stationed overseas” by enacting the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”).¹ *U.S. v. Alabama*, 778 F.3d 926, 928 (11th Cir. 2015).

¹ 52 U.S.C. §§ 20301-20311 (formerly codified at 42 U.S.C. 1973ff et seq.).

2. To protect the franchise of our men and women in uniform, UOCAVA requires states to adopt a variety of absentee ballot measures consistent with federal law. The Georgia Assembly has done so, and has provided additional protections to UOCAVA voters casting absentee ballots.
3. Under Georgia law, county election boards are subject to transparency requirements (public observation, as well as closer monitoring by designated monitors) when verifying signatures and opening/scanning/duplicating/tabulating UOCAVA ballots, just as they are when processing regular absentee ballots.
4. Signature verification and early opening/scanning of absentee ballots, including UOCAVA ballots, has begun in Fulton County for the 2020 runoff elections for United States Senate.
5. These processes are administered by Defendants, but Defendants have failed to meet their transparency obligations in multiple ways, including without limitation, improperly:
 - (a) refusing to allow National Defense Committee and FCRP monitors to view:
 - (i) UOCAVA and other absentee ballots as they are opened, scanned, and duplicated; or
 - (ii) the signature verification process; and
 - (b) allowing UOCAVA ballots to be duplicated without any witnesses (let alone designated monitors), which is a separate violation of statute.
6. Instead, of meeting their transparency obligations, Defendants:
 - (a) set up a chain-link perimeter fence around the absentee ballot processing area, keeping designated monitors and public observers at least 20 ft. away from all processing activities (and up to 125 ft. away from activities in the middle of the

area), making it impossible to ascertain what the election workers are doing;
and

(b) concealed the eight ballot duplication stations in a corner of the absentee ballot storage space, completely invisible to designated monitors and public observers behind opaque tabletop cubicles, which Ralph Jones, Fulton County's Chief Registrar, admitted were for "secrecy."

7. Defendants' secrecy is unlawful, because pursuant to **O.C.G.A. § 21-2-386(a)(3)** and **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(6) & (12)**, FCRP is entitled to designate monitors to view the opening, scanning, duplication, and adjudication of absentee ballots, including UOCAVA ballots.
8. And pursuant to **O.C.G.A. § 21-2-406**, the absentee ballot signature verification process under **O.C.G.A. § 21-2-386(a)(1)** must be "public." The Secretary of State's office advised in its Official Election Bulletin, dated December 9, 2020, that applying the same procedures employed for early processing of absentee ballots, which includes both public observation and closer monitoring by designated monitors, would ensure that signature verification is sufficiently "public."
9. To protect UOCAVA voters, the National Defense Committee requested, and the FCRP agreed, to include two monitors selected by the National Defense Committee in the FCRP's pool of credentialed and properly designated absentee ballot monitors.
10. Defendants have barred all of FCRP's monitors, including those selected by the National Defense Committee, from monitoring absentee ballot processing by concealing work behind secrecy cubicles and by keeping the monitors outside the unlawful perimeter fence more than 20 ft. away from any processing activities.

11. Plaintiffs now seek emergency injunctive relief directing Defendants to:

- (a) allow properly designated FCRP monitors (including those selected by the National Defense Committee) to enter the processing space and view all absentee ballot processing activities as allowed by law;
- (b) eliminate the opaque secrecy cubicles behind which Defendants are and have been duplicating and processing UOCAVA absentee ballots;
- (c) move the eight ballot duplication stations into public view and allow monitors to access that area;
- (d) either (i) reduce the number of ballot opening stations and duplicating stations to four, and scanning stations to two, and consolidate them so that two monitors can actually view all the activities required by law, or (ii) allow a larger number of credentialed monitors into the processing space, realistically commensurate with the number of work stations;
- (e) allow properly designated FCRP monitors (including those selected by the National Defense Committee) to monitor the signature verification process;
- (f) bring the chain-link perimeter fence in closer so that public observers can be within reasonable proximity to processing activities with clear sight lines to all processing stations;
- (g) cease and desist from duplicating UOCAVA and other absentee ballots without witnesses or monitors present;
- (h) cease and desist from separating the outer envelopes of absentee ballots (including UOCAVA ballots), from the inner envelopes unless properly

designated monitors were present to monitor the signature verification process;
and

- (i) reunite the outer and inner envelopes of absentee ballots (including UOCAVA ballots) that have been thus far processed in secret without witnesses or monitors, and refrain from separating the outer and inner envelopes unless properly designated monitors were present to monitor the signature verification and duplication process.

JURISDICTION AND VENUE

12. This action arises under the laws, regulations and Constitution of the State of Georgia as well as the laws and Constitution of the United States, and this Court has jurisdiction over such actions.
13. Venue is proper in this Court because the actions complained of occurred in part or in whole in this County.

PARTIES

14. The National Defense Committee is a non-partisan, 501(c)(4) not-for-profit entity, organized under the laws of the Commonwealth of Virginia. The National Defense Committee executes nation-wide grass roots advocacy for United States military personnel, their families, and veterans, focusing on civil rights issues including military voting rights, freedom of conscience for military personnel, and protecting the Constitutional rights of military personnel and veterans. A key aspect of the National Defense Committee's mission is to protect the voting rights of active-duty United States military personnel and their families, which encompasses efforts to ensure UOCAVA voters are not disenfranchised.

15. Plaintiff FCRP is a political party as defined by **O.C.G.A. § 21-2-2(25)** and is allowed under **O.C.G.A. § 21-2-386(a)(3)** and **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(6) & (12)** to designate absentee ballot monitors, who are entitled to closer access than public observers.
16. Plaintiff Sean Kilbane is a citizen of the United States, aggrieved absentee ballot monitor who was designated by the Fulton County Republican Party.
17. If the relief is not granted, Plaintiffs will suffer irreparable harm to their express, statutorily provided rights in the election process. This impact directly affects public perception of, and actual validity of the ongoing election. It further harms a key element of the National Defense Committee's mission—to protect the franchise of UOCAVA voters—and harms one of the most crucial aspects of the FCRP mission, to be involved in and shed sunlight on the voting process in Fulton County, Georgia as provided for under Georgia law.
18. Defendant Fulton County Board of Elections and Registration is an “agency” as defined by **O.C.G.A. §§50-18-70 and 50-14-1**. The county boards of elections have the powers and duties of the board of registrars relating to the registration of voters and absentee ballot procedures. **O.C.G.A. § 21-2-40**. Georgia law designates significant responsibilities to election superintendents. See generally **O.C.G.A. § 21-2-70**. In addition, the county boards are responsible for administering and offering advance early voting. As such, the Board of Elections is a proper party to provide Plaintiffs' requested relief.
19. Defendant Richard Barron is the Director for Fulton County Board of Elections and is ultimately responsible for ensuring that the Board of Elections complies with Georgia's election laws. He is sued in his official capacity only.

FACTS

20. Defendants began processing absentee ballots on December 21, 2020, at the Georgia World Congress Center, 285 Andrew Young International Blvd. NW, Atlanta, GA 30313.

21. The procedures Defendants set up for observing and monitoring this process, however, are not “fair and honest” as required by law, nor are they transparent as directed by the Georgia Secretary of State, but are instead inequitable and unlawful in multiple ways.

22. Defendants improperly refused to allow National Defense Committee and FCRP monitors into the processing area to monitor the signature verification process or the absentee ballots as they are opened, duplicated, and scanned.

A. Defendants are not allowing National Defense Committee and FCRP monitors or observers to view absentee ballots as they are processed.

23. Pursuant to Georgia law, at all times during processing of absentee ballots (including UOCAVA ballots), each political party is entitled to have two monitors present “to view the batching of ballots, reconciliation of envelopes to ballots, scanning the ballots, duplication of ballots, adjudication of ballots by vote review panels, [and] sealing the ballots after scanning.” **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)**; *see also id.* sub. (8) (political party monitors “allowed to view” the process); **O.C.G.A. § 21-2-386(a)(3)**.

24. Properly designated monitors are allowed full access to the processing space, subject only to the same COVID-19 social distancing restrictions that county election workers must follow, so long as those restrictions do not prevent the monitors from fully viewing the election activities.

25. The procedures set up by Defendants to enable monitoring of absentee ballot processing must be “fair and honest.” **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)**.

26. Further, although they have less access than monitors, public observers are also entitled to view early absentee ballot processing from locations designated by the county superintendent, again subject to “fair and honest” procedures. **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(6) & (12).**

27. Contrary to these legal requirements, Defendants established procedures that unfairly prevent National Defense Committee and FCRP monitors and observers from fully exercising their statutory rights to ensure election procedures are followed.

B. Monitors and observers were forced to stay outside the perimeter fence, with no way to ascertain the specific activities taking place in the processing area, and no way to see the duplication occurring behind secrecy cubicles.

28. Defendants selected a large, approximately 50,000 sq. ft. space, within a vast 89,500 sq. ft. exhibition hall, for absentee ballot processing. The 50,000 sq. ft. space is surrounded by a chain-link perimeter fence that is at least 20 ft. away from any processing station, with stations in the middle of the space approximately 125 ft. away from the fence. From these unreasonable distances, the specific activities of election workers cannot be ascertained, let alone monitored.

29. Eight work stations for duplication of UOCAVA ballots are hidden behind opaque cubicles, which completely conceal that important activity, and which Defendants admit were installed for “secrecy.”

30. Defendants unfairly required the National Defense Committee and FCRP monitors and observers to stay behind the chain-link perimeter fence, even though public observers are

entitled to view at a reasonable distance and properly designated monitors are entitled to *physically access* the processing area.

31. To make matters worse, even if the perimeter fence was moved to be a reasonable distance from the work stations, the secrecy cubicles would still block any view of UOCAVA ballot duplication (presumably as Defendants intended, contrary to law).

32. To view all of the absentee ballots and processing activities as required by **O.C.G.A. § 21-2-386(a)(3)** and **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(6) & (12)**, the National Defense Committee and FCRP monitors must be allowed past the perimeter fence to move freely among all of the work stations in the processing hall, and must not be hampered by Defendants' secrecy cubicles, but may be constrained only by the same COVID-19 social distancing guidelines that apply to county election workers.

33. While public observers are not entitled to the same level of access as designated monitors, observers are still entitled to clear sight lines and a "fair and honest" opportunity to view absentee ballot processing. **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(6) & (12)**. Because the current location of the perimeter fence does not enable observers to view the process, Defendants must relocate it in a "fair and honest" manner to be within reasonable proximity of the work stations, and eliminate the secrecy cubicles to ensure clear lines of sight.

C. Defendants set up too many work stations, spread too far apart, for actual monitoring.

34. Further, even if Defendants allowed National Defense Committee and FCRP monitors to move throughout the processing space, and eliminated the secrecy cubicles, Defendants set up too many work stations, spread too far apart, for two monitors to actually view all of the activities they are entitled to view.

35. Defendants set up approximately 14 ballot opening stations, 12 scanning stations, 8 ballot duplication stations, and 24 signature verification stations, all of which are spread out at substantial distances throughout the approximately 50,000 sq. ft. processing space. This number of processing stations, spread this far apart, is not a “fair and honest” procedure relative to the number of monitors. **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)**. Realistically, two monitors can only view the activities at four ballot opening stations, two duplication stations, and two scanning stations at any given time. **EXHIBIT 1 (Cordova Affidavit)**.
36. To ensure a “fair and honest” procedure, after allowing monitors past the perimeter wall and eliminating the secrecy cubicles, Defendants must either (a) reduce the number of ballot opening stations to four, duplication stations to two, and scanning stations to two, and consolidate them so that two monitors can actually view all the activities required by law, or (b) allow a larger number of credentialed monitors into the processing space.
- D. Defendants improperly barred National Defense Committee and FCRP monitors from viewing the signature verification process.**
37. Defendants made it impossible to monitor the important signature verification process, contrary to any notion of transparency.
38. The Georgia Secretary of State, however, directed county election officials to ensure this process remains “public” in accordance with **O.C.G.A. § 21-2-406. EXHIBIT 2 (Official Election Bulletin, dated December 9, 2020)**.

39. The Secretary of State's office explained that applying absentee ballot processing procedures—which mandate access by designated monitors—to signature verification would ensure the required transparency. *Id.* at 1.
40. This makes perfect sense. Signature verification is key to the integrity of the entire absentee ballot process, because there is no way to ensure that the ballot contained in the inner envelope is valid after it has been separated from the outer envelope (which bears the signature). The entire process, from signature verification to scanning and tabulation, must be transparent, and subject to monitoring.
41. Further, pursuant to the consent decree entered into by the Georgia Secretary of State and various Democratic Party organizations in March 2020, and the resulting Official Election Bulletin, dated May 20, 2020, signature verification now involves adjudication of rejected absentee ballots by a three-person review panel. **EXHIBIT 3 (Consent Agreement).**
42. And pursuant to the new rule **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)**, promulgated by the Georgia Board of Elections on November 23, 2020, this “adjudication of ballots” is among the activities party monitors are entitled to view.²
43. Yet Defendants have kept National Defense Committee and FCRP monitors behind the chain-link fence, at a substantial distance from the signature verification process, hardly the transparency required by law.
44. National Defense Committee and CCRP monitors must be allowed past the chain-link fence to monitor the signature verification process.

E. Ballots that have been processed in secret, without witnesses or monitors, must be set aside and re-processed with monitors present.

² Even if there is other personal information that may inadvertently be seen by monitors (birthdate, address, etc.), this same information is easily obtainable when requesting voter information the Georgia Secretary of State's office.

45. Defendants have prevented public observers and designated monitors from viewing signature verification, ballot opening, ballot scanning, and ballot duplication, contrary to law. **EXHIBIT 4 (Kilbane Affidavit)**.
46. Further, Defendants have allowed duplication of UOCAVA and other absentee ballots to occur not only behind the secrecy cubicles, but also without the witnesses required by **O.C.G.A. §21-2-483(f)**.
47. To restore integrity to the absentee ballot process in Fulton County, Defendants should be required to reunite the outer and inner envelopes of absentee ballots (including UOCAVA ballots) that have been thus far processed in secret, without witnesses or monitors present, and re-process those ballots with National Defense Committee and FCRP-designated monitors present. Otherwise, transparency will not be assured.

FIRST CAUSE OF ACTION

Violation of O.C.G.A. § 21-2-386(a)(3) and Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)

48. Plaintiffs incorporate paragraphs 1 through 47 of this Complaint as if fully set forth herein.
49. Under **O.C.G.A. § 21-2-386(a)(3)** and **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)**, Plaintiffs are allowed to designate monitors to view absentee ballots as they are processed at all times.
50. Defendants established procedures that unfairly prevent National Defense Committee and FCRP monitors from viewing the absentee ballots as they are processed, and such procedures are not “fair and honest” as provided for in **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)** or at the direction of the Georgia Secretary of State, who is the chief election

officer of Georgia and is responsible for assuring that Georgia elections are conducted in accordance with the law. **O.C.G.A. §21-2-50.**

51. If the Court does not issue injunctive relief as requested below, Defendants will continue to impinge upon the rights of Plaintiffs, their members, constituents, monitors, and observers, as well as countless voters wanting free, fair, and transparent elections in Fulton County.

SECOND CAUSE OF ACTION

Violation of O.C.G.A. § 21-2-406 and Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)

52. Plaintiffs incorporate paragraphs 1 through 50 of this Complaint as if fully set forth herein.

53. Defendants concealed the signature verification process in violation of **O.C.G.A. § 21-2-406 and Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12).**

54. Absent injunctive relief, Plaintiffs will suffer irreparable harm. Plaintiffs have no adequate remedy at law. If the Court does not issue injunctive relief as requested below, Defendants will continue to impinge upon the rights of Plaintiffs, their members, constituents, monitors, and observers, as well as countless voters wanting free, fair, and transparent elections in Fulton County.

THEREFORE, Plaintiffs' pray this Court:

1. Declare Defendants' rules and procedures as outlined above to not be "fair and honest" as provided for in **Ga. Comp. R. & Regs. 183-1-14-0.9-.15(12)** and as directed by the Georgia Secretary of State;

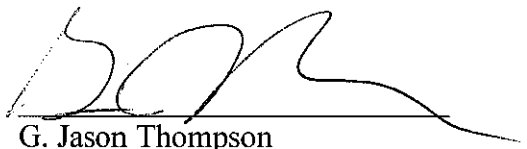
2. Issue an order directing Defendants to:

- (a) allow properly designated FCRP monitors (including those selected by the National Defense Committee) to enter the processing space and view all absentee ballot processing activities as allowed by law;
 - (b) eliminate the opaque secrecy cubicles behind which Defendants are and have been duplicating and processing absentee ballots (including UOCACA ballots);
 - (c) move the eight ballot duplication stations into public view and allow monitors to access that area; (d) either (i) reduce the number of ballot opening stations to four, and scanning stations to two, and consolidate them so that two monitors can actually view all the activities required by law, or (ii) allow a larger number of credentialed monitors into the processing space;
 - (e) allow properly designated FCRP monitors (including those selected by the National Defense Committee) to monitor the signature verification process;
 - (f) rearrange the perimeter fence so that public observers can be within reasonable proximity to processing activities with clear sight lines to all processing stations;
 - (g) cease and desist from duplicating UOCAVA and other absentee ballots without witnesses or monitors present;
 - (h) cease and desist from separating the outer envelopes of absentee ballots (including UOCAVA ballots), from the inner envelopes unless properly designated monitors were present to monitor the signature verification process;
- and

(i) reunite the outer and inner envelopes of absentee ballots (including UOCAVA ballots) that have been thus far processed in secret, and refrain from separating the outer and inner envelopes unless properly designated monitors were present to monitor the signature verification process.

3. Award Plaintiffs their reasonable attorney's fees and costs of litigation; and
4. Grant such other further relief as this honorable Court deem proper.

This the 31st day of December, 2020.



G. Jason Thompson
The Thompson Law Firm, PC
Attorney for Plaintiffs
GBN 709789
10475 Medlock Bridge Road, Suite 820
Johns Creek, GA 30097
(678) 331-4310
Jason@ThompsonLawFirm.us

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

NATIONAL DEFENSE COMMITTEE,
FULTON COUNTY REPUBLICAN PARTY,
and SEAN KILBANE

Plaintiffs,

v.

CIVIL ACTION NO.: 2021CV344215

FULTON COUNTY BOARD OF ELECTIONS
AND REGISTRATION, and RICHARD BARRON,
in his official capacity as the Director of the Fulton
County Board of Elections,

VERIFICATION

PERSONALLY, appeared before the undersigned attesting officer duly authorized to administer oaths, TREY KELLY, who having first been sworn, deposes and states, on oath, that the facts set forth in the within and foregoing pleading are true and correct.


TREY KELLY, Chairman,
Fulton County Republican Party

Sworn to and subscribed
Before me this 30th day of
December, 2020.


Notary Public

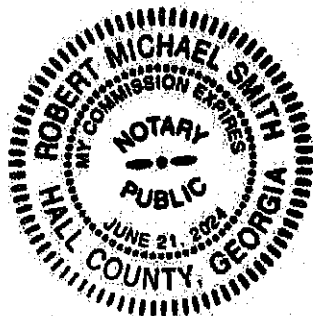


EXHIBIT 1

AFFIDAVIT OF RICARDO CORDOVA

My name is Ricardo Cordova. I am over the age of eighteen (18) years and I am making this Affidavit of my own personal knowledge. I swear and affirm that the following information is true and correct as of the date of execution of this Affidavit.

1.

Since December 28, 2020, I have been a poll monitor / poll watcher in Fulton County, Georgia for the monitoring of the voting machines and absentee ballot processing during advanced voting period of the general election runoff.

2.

During my time as a poll monitor, I was not able to properly and effectively see the absentee ballots being processed, due to the fact that I was approximately twenty feet (one hundred plus feet at the furthest point) from ballot processing, behind a chain-linked fence enclosure.

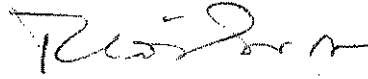
3.

The chain-linked perimeter fence erected around the absentee ballot storage area enclosing the UOCAVA and absentee ballots, prevented me (as a monitor) to roam around the area to meaningfully observe anything.

4.

Opaque-blue-plastic-table-top-privacy shields were erected around the duplication of absentee and UOCAVA ballots. I could not even see the shuffling of papers. The process was totally non-visible to me.

Further affiant sayeth not.



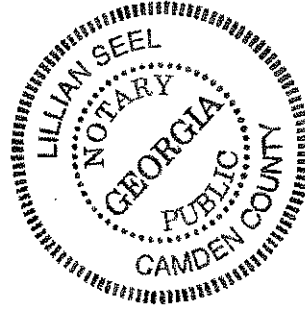
RICARDO CORDOVA
Affiant

Sworn to and subscribed before me
this 30th day of December 2020.



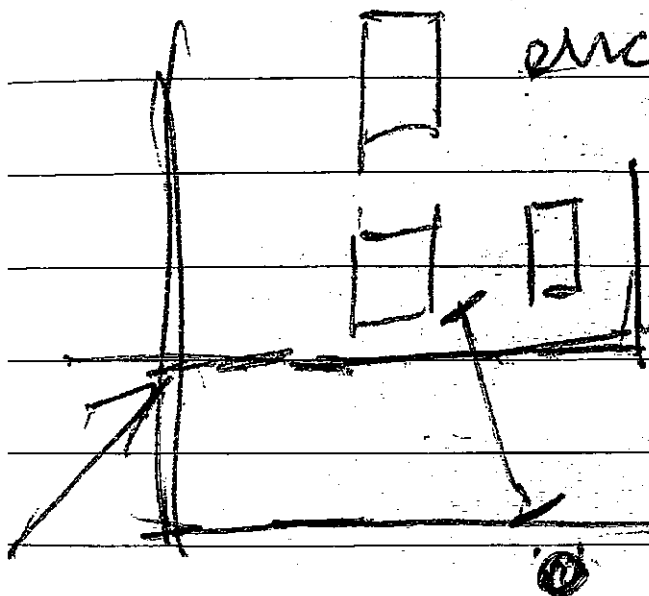
NOTARY PUBLIC

My Commission Expires: 05-11-2021



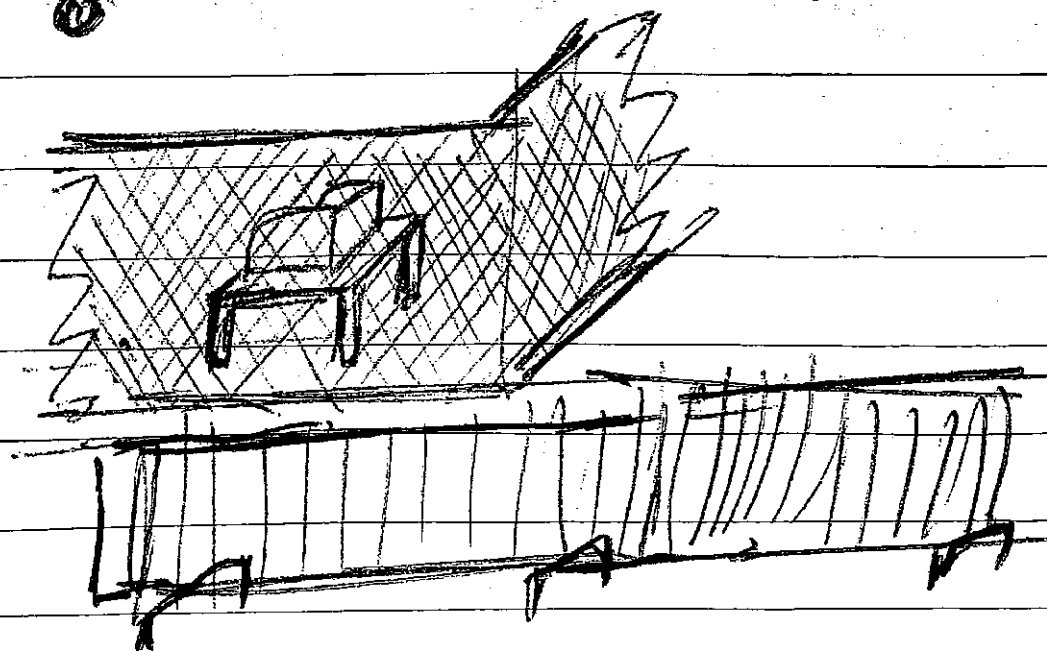
by Keisha Dobson

Fulton - Can only observe "OCAVAs" (20 FT Duplication machines have blue privacy boards enclosures.



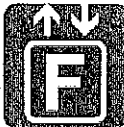
Barrier

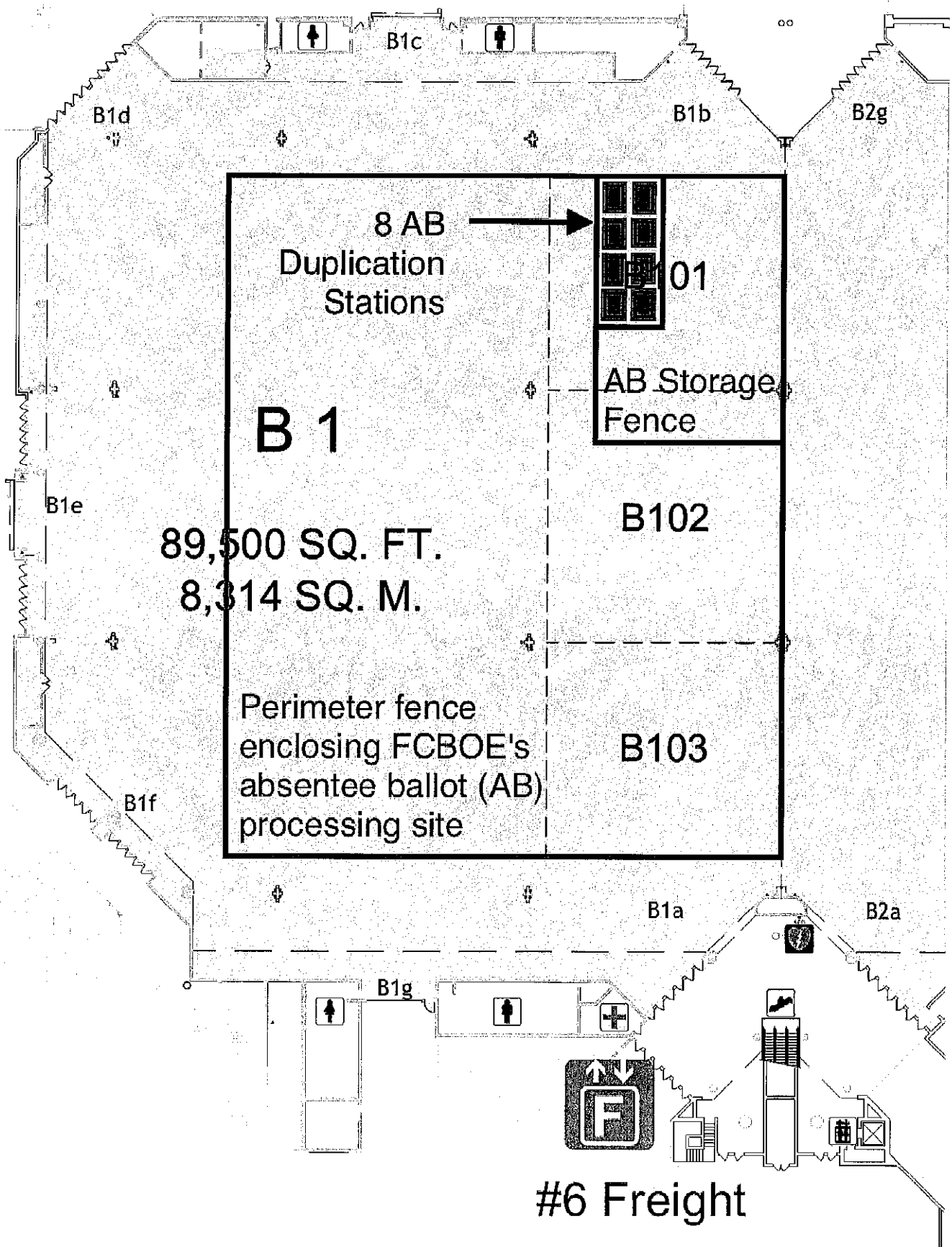
Ballot packing storage area
(Chain link fence)



absentee

→ 375,000 Provisional Ballots
Larra

Freight




#6 Freight

EXHIBIT 2



OFFICIAL ELECTION BULLETIN

December 9, 2020

TO: County Election Officials and County Registrars
FROM: Chris Harvey, Elections Division Director
RE: Absentee Ballot and Absentee Ballot Application Signature Verification

Signature Verification Process is Public

We have received numerous questions asking whether the signature verification process on absentee ballot applications and absentee ballot envelopes is open to the public. The short answer is yes, it is. Pursuant to O.C.G.A. § 21-2-406, “[s]uperintendents, poll officers, and other officials engaged in the conducting of primaries and elections held under this chapter shall perform their duties in public. Additionally, O.C.G.A. § 21-2-483(b), states that “[a]ll proceedings at the tabulating center and precincts shall be open to the view of the public, but no person except one employed and designated for the purpose by the superintendent or the superintendent’s authorized deputy shall touch any ballot or ballot container.”

The fact that the signature verification process is public under Georgia law does not mean that public observers should be allowed to see confidential information or to interfere in the process. See O.C.G.A. § 21-2-597. The elections superintendent must ensure that any public viewing area or video feed offers meaningful access to view the process, but the superintendent should also put in place reasonable regulations to protect the voter’s/applicant’s personal identification information (PII) and/or non-public data from public view and to ensure that no observer interferes with the verification process. A good template may be the processes you have put in place for the early processing of absentee ballots, which is also publicly viewable but has protections in place to protect confidential information and prevent interference with official duties.

Any interference or attempted interference with official election duties should be reported to the Secretary of State’s office for investigation and, if necessary, local law enforcement.

Signature Verification Process for Absentee Ballots and Absentee Ballot Applications

O.C.G.A. § 21-2-386(a)(1)(B) requires “[u]pon receipt of each ballot, the registrar or absentee ballot clerk to compare the signature or mark with the signature or mark on the absentee elector’s voter registration card or the most recent update to such absentee elector’s voter registration card AND application for absentee ballot or a facsimile of said signature or mark taken from said card or application.” It further provides, “if the information and signature appear to be valid and other identifying information appears to be correct, [the registrar or absentee ballot clerk shall] so certify by signing or initialing his or her name below the voter’s oath.” O.C.G.A. § 21-2-386(a)(1)(B).

O.C.G.A. § 21-2-381(b)(1) requires “[u]pon receipt of a timely application for absentee ballot, a registrar shall enter thereon the date received. The registrar or absentee ballot clerk shall determine, in accordance with the provisions of this chapter, if the applicant is eligible to vote in the primary or election involved. In order to be found eligible to vote an absentee ballot by mail, the registrar or absentee ballot clerk shall compare the identifying information on the application with the information on file in the registrar’s office and, if the application is signed by the elector, compare the signature or mark of the elector on the application with the signature.” “If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application.” O.C.G.A. § 21-2-381(b)(2)

As set forth in Georgia law a thorough process for signature verification is required at both the absentee ballot application and absentee ballot stage. As you are all aware, numerous allegations have been raised about the signature match process following the November election. While we have not seen any evidence to the contrary, please be sure that your office is following the thorough signature verification requirements set out in Georgia law. If you have any question as to the validity of a signature on either an absentee ballot or absentee ballot application after following your signature verification process, you should utilize the cure procedures set forth in O.C.G.A. § 21-2-386(a)(1)(C), O.C.G.A. § 21-2-381(b)(3), and SEB Rule 183-1-14-.13.

Your policies and procedure regarding signature match must follow Georgia law, and they should also be accomplished in a manner that helps provide confidence in the process to the voting public.

EXHIBIT 3

COMPROMISE SETTLEMENT AGREEMENT AND RELEASE

This **Compromise Settlement Agreement and Release** (“Agreement”) is made and entered into by and between the Democratic Party of Georgia, Inc. (“DPG”), the DSCC, and the DCCC (collectively, the “Political Party Committees”), on one side, and Brad Raffensperger, Rebecca N. Sullivan, David J. Worley, Seth Harp, and Anh Le (collectively, “State Defendants”), on the other side. The parties to this Agreement may be referred to individually as a “Party” or collectively as the “Parties.” The Agreement will take effect when each and every Party has signed it, as of the date of the last signature (the “Effective Date”).

WHEREAS, in the lawsuit styled as *Democratic Party of Georgia, et al. v. Raffensperger, et al.*, Civil Action File No. 1:19-cv-5028-WMR (the “Lawsuit”), the Political Party Committees have asserted claims in their Amended Complaint [Doc. 30] that the State Defendants’ (i) absentee ballot signature matching procedure, (ii) notification process when an absentee ballot is rejected for any reason, and (iii) procedure for curing a rejected absentee ballot, violate the First and Fourteenth Amendments to the United States Constitution by unduly burdening the right to vote, subjecting similarly situated voters to disparate treatment, and failing to afford Georgia voters due process (the “Claims”), which the State Defendants deny;

WHEREAS, the State Defendants, in their capacity as members of the State Election Board, adopted on February 28, 2020 Rule 183-1-14-.13, which sets forth specific and standard notification procedures that all counties must follow after rejection of a timely mail-in absentee ballot;

WHEREAS, the State Defendants have a Motion to Dismiss [Doc. 45] pending before the Court, which sets forth various grounds for dismissal of the Amended Complaint, including mootness in light of the State Election Board’s promulgation subsequent to adoption on February 28, 2020 of Rule 183-1-14-.13, which Motion the Political Party Committees deny is meritorious;

WHEREAS, all Parties desire to compromise and settle all disputed issues and claims arising from the Lawsuit, finally and fully, without admission of liability, having agreed on the procedures and guidance set forth below with respect to the signature matching and absentee ballot rejection notification and cure procedures; and

WHEREAS, by entering into this Agreement, the Political Party Committees do not concede that the challenged laws and procedures are constitutional, and

similarly, the State Defendants do not concede that the challenged laws and procedures are unconstitutional.

NOW THEREFORE, for and in consideration of the promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. **Dismissal.** Within five (5) business days of March 22, 2020, the effective date of the Prompt Notification of Absentee Ballot Rejection rule specified in paragraph 2(a), the Political Party Committees shall dismiss the Lawsuit with prejudice as to the State Defendants.

2. **Prompt Notification of Absentee Ballot Rejection.**

(a) The State Defendants, in their capacity as members of the State Election Board, agree to promulgate and enforce, in accordance with the Georgia Administrative Procedures Act and State Election Board policy, the following State Election Board Rule 183-1-14-.13 of the Georgia Rules and Regulations:

When a timely submitted absentee ballot is rejected, the board of registrars or absentee ballot clerk shall send the elector notice of such rejection and opportunity to cure, as provided by O.C.G.A. § 21-2-386, by mailing written notice, and attempt to notify the elector by telephone and email if a telephone number or email is on the elector's voter registration record, no later than the close of business on the third business day after receiving the absentee ballot. However, for any timely submitted absentee ballot that is rejected on or after the second Friday prior to Election Day, the board of registrars or absentee ballot clerk shall send the elector notice of such rejection and opportunity to cure, as provided by O.C.G.A. § 21-2-386, by mailing written notice, and attempt to notify the elector by telephone and email if a telephone number or email is on the elector's voter registration record, no later than close of business on the next business day.

Ga. R. & Reg. § 183-1-14-.13 Prompt Notification of Absentee Ballot Rejection

(b) Unless otherwise required by law, State Defendants agree that any amendments to Rule 183-1-14-.13 will be made in good faith in the spirit of ensuring that voters are notified of rejection of their absentee ballots with ample time to cure

their ballots. The Political Party Committees agree that the State Election Board's proposed amendment to Rule 183-1-14-.13 to use contact information on absentee ballot applications to notify the voter fits within that spirit.

3. Signature Match.

(a) Secretary of State Raffensperger, in his official capacity as Secretary of State, agrees to issue an Official Election Bulletin containing the following procedure applicable to the review of signatures on absentee ballot envelopes by county elections officials and to incorporate the procedure below in training materials regarding the review of absentee ballot signatures for county registrars:

County registrars and absentee ballot clerks are required, upon receipt of each mail-in absentee ballot, to compare the signature or mark of the elector on the mail-in absentee ballot envelope with the signatures or marks in eNet and on the application for the mail-in absentee ballot. If the signature does not appear to be valid, registrars and clerks are required to follow the procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C). When reviewing an elector's signature on the mail-in absentee ballot envelope, the registrar or clerk must compare the signature on the mail-in absentee ballot envelope to each signature contained in such elector's voter registration record in eNet and the elector's signature on the application for the mail-in absentee ballot. If the registrar or absentee ballot clerk determines that the voter's signature on the mail-in absentee ballot envelope does not match any of the voter's signatures on file in eNet or on the absentee ballot application, the registrar or absentee ballot clerk must seek review from two other registrars, deputy registrars, or absentee ballot clerks. A mail-in absentee ballot shall not be rejected unless a majority of the registrars, deputy registrars, or absentee ballot clerks reviewing the signature agree that the signature does not match any of the voter's signatures on file in eNet or on the absentee ballot application. If a determination is made that the elector's signature on the mail-in absentee ballot envelope does not match any of the voter's signatures on file in eNet or on the absentee ballot application, the registrar or absentee ballot clerk shall write the names of the three elections officials who conducted the signature review across the face of the absentee ballot envelope, which shall be in addition to writing "Rejected" and the reason for the rejection as required under OCGA 21-2-386(a)(1)(C). Then, the registrar or absentee ballot clerk shall

commence the notification procedure set forth in O.C.G.A. § 21-2-386(a)(1)(C) and State Election Board Rule 183-1-14-.13.

(b) The Parties agree that the guidance in paragraph 3(a) shall be issued in advance of all statewide elections in 2020, including the March 24, 2020 Presidential Primary Elections and the November 3, 2020 General Election.

4. Consideration of Additional Guidance for Signature Matching.

The State Defendants agree to consider in good faith providing county registrars and absentee ballot clerks with additional guidance and training materials to follow when comparing voters' signatures that will be drafted by the Political Party Committees' handwriting and signature review expert.

5. Attorneys' Fees and Expenses. The Parties to this Agreement shall bear their own attorney's fees and costs incurred in bringing or defending this action, and no party shall be considered to be a prevailing party for the purpose of any law, statute, or regulation providing for the award or recovery of attorney's fees and/or costs.

6. Release by The Political Party Committees. The Political Party Committees, on behalf of themselves and their successors, affiliates, and representatives, release and forever discharge the State Defendants, and each of their successors and representatives, from the prompt notification of absentee ballot rejection and signature match claims and causes of action, whether legal or equitable, in the Lawsuit.

7. No Admission of Liability. It is understood and agreed by the Parties that this Agreement is a compromise and is being executed to settle a dispute. Nothing contained herein may be construed as an admission of liability on the part of any of the Parties.

8. Authority to Bind; No Prior Assignment of Released Claims. The Parties represent and warrant that they have full authority to enter into this Agreement and bind themselves to its terms.

9. No Presumptions. The Parties acknowledge that they have had input into the drafting of this Agreement or, alternatively, have had an opportunity to have input into the drafting of this Agreement. The Parties agree that this Agreement is and shall be deemed jointly drafted and written by all Parties to it, and it shall be interpreted fairly, reasonably, and not more strongly against one Party than the other.

Accordingly, if a dispute arises about the meaning, construction, or interpretation of this Agreement, no presumption will apply to construe the language of this Agreement for or against any Party.

10. Knowing and Voluntary Agreement. Each Party to this Agreement acknowledges that it is entering into this Agreement voluntarily and of its own free will and accord, and seeks to be bound hereunder. The Parties further acknowledge that they have retained their own legal counsel in this matter or have had the opportunity to retain legal counsel to review this Agreement.

11. Choice of Law, Jurisdiction and Venue. This Agreement will be construed in accordance with the laws of the State of Georgia. In the event of any dispute arising out of or in any way related to this Agreement, the Parties consent to the sole and exclusive jurisdiction of the state courts located in Fulton County, Georgia. The Parties waive any objection to jurisdiction and venue of those courts.

12. Entire Agreement; Modification. This Agreement sets forth the entire agreement between the Parties hereto, and fully supersedes any prior agreements or understandings between the Parties. The Parties acknowledge that they have not relied on any representations, promises, or agreements of any kind made to them in connection with their decision to accept this Agreement, except for those set forth in this Agreement.

13. Counterparts. This Agreement may be executed in counterparts which, taken together, will constitute one and the same Agreement and will be effective as of the date last set forth below, and signatures by facsimile and electronic mail will have the same effect as the originals.

IN WITNESS WHEREOF, the Parties have set their hands and seals to this instrument on the date set forth below.

Dated: March 6, 2020

/s/ Bruce V. Spiva

Marc E. Elias*
Bruce V. Spiva*
John Devaney*
Amanda R. Callais*
K'Shaani Smith*
Emily R. Brailey*
PERKINS COIE LLP
700 Thirteenth Street, N.W., Suite 800
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
MElias@perkinscoie.com
BSpiva@perkinscoie.com
ACallais@perkinscoie.com
KShaaniSmith@perkinscoie.com
EBrailey@perkinscoie.com

**Admitted Pro Hac Vice*

Halsey G. Knapp, Jr.
Georgia Bar No. 425320
Joyce Gist Lewis
Georgia Bar No. 296261
Adam M. Sparks
Georgia Bar No. 341578
KREVOLIN & HORST, LLC
One Atlantic Center
1201 W. Peachtree St., NW, Suite 3250
Atlanta, GA 30309
Telephone: (404) 888-9700
Facsimile: (404) 888-9577
hknapp@khlawfirm.com
sparks@khlawfirm.com

Counsel for Plaintiffs

/s/ Vincent R. Russo

Christopher M. Carr 112505
Attorney General
Bryan K. Webb 743580
Deputy Attorney General
Russell D. Willard 760280
Senior Assistant Attorney General
Charlene S. McGowan 697316
Assistant Attorney General
**Office of the Georgia Attorney
General**
40 Capitol Square S.W.
Atlanta, GA 30334
cmcgowan@law.ga.gov
Telephone: (404) 656-3389
Facsimile: (404) 651-9325

Vincent R. Russo
Georgia Bar No. 242628
vrusso@robbinsfirm.com
Josh Belinfante
Georgia Bar No. 047399
jbelinfante@robbinsfirm.com
**ROBBINS ROSS ALLOY
BELINFANTE LITTLEFIELD
LLC**
500 14th Street, N.W.
Atlanta, Georgia 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250

Counsel for State Defendants

EXHIBIT 4

AFFIDAVIT OF SEAN KILBANE

My name is Sean Kilbane. I am over the age of eighteen (18) years and I am making this Affidavit of my own personal knowledge. I swear and affirm that the following information is true and correct as of the date of execution of this Affidavit.

1.

Since December 28, 2020, I have been a poll monitor / poll watcher in Fulton County, Georgia for the monitoring of the voting machines and absentee ballot processing during advanced voting period of the general election runoff.

2.

During my time as a poll monitor, I was not able to properly and effectively see the absentee ballots being processed, due to the fact that I was approximately twenty feet (one hundred plus feet at the furthest point) from ballot processing, behind steel barricade enclosures.

3.

The inner-chain-linked perimeter fence erected around the absentee ballot storage area enclosing the UOCAVA and absentee ballots, prevented me (as a monitor) to roam around the area to meaningfully observe anything. In addition to the chain-linked fence, there is a barricade-perimeter outside of the inner chain-linked fence.

4.

Opaque-blue-plastic-table-top-privacy shields were erected around the duplication of absentee and UOCAVA ballots. I could not even see the shuffling of papers. The process was totally non-visible to me.

