

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

DEKALB COUNTY REPUBLICAN PARTY, INC.,	)	
	)	
APPLICANT,	)	Civil Action File No.
	)	24CV011028
v.	)	
	)	
BRAD RAFFENSPERGER, IN HIS OFFICIAL	)	
CAPACITY AS THE SECRETARY OF STATE	)	
OF THE STATE OF GEORGIA,	)	
	)	
RESPONDENT.	)	

**MOTION OF PROPOSED *AMICUS CURIAE* CHEROKEE COUNTY REPUBLICAN PARTY AND 35 ADDITIONAL GEORGIA REPUBLICAN COUNTY PARTIES, *et al.* TO FILE A BRIEF IN SUPPORT OF APPLICANT’S APPLICATION FOR WRIT OF MANDAMUS**

Come Now, Cherokee County Republican Party and thirty-five (35) additional Georgia District and County Republican Parties listed on the attached Exhibit “A” (the “Proposed Amici”) and respectfully seek leave to appear *amicus curiae* in support of the DeKalb County Republican Party, Inc.’s application for Writ of Mandamus. The proposed amicus brief is attached to this Motion as Exhibit “B”. In support of this motion, the Proposed Amici state the following:

**Interest of Proposed *Amicus Curiae***

Each of the Cherokee County Republican Party and the additional Georgia District and County Republican Parties is a congressional district or county political party, a Georgia not for profit corporation, or both, and is dedicated to the promotion of this republic, and protecting its individual members’ right to vote in fair and accurate elections. Each district and county party is composed of qualified electors who reside within the respective districts and counties in Georgia

and intend to vote in the upcoming November national presidential election. Each of the Proposed Amici has a strong interest in ensuring that Georgia's voting system is fair and accurate, and that the upcoming election is conducted in accordance with Georgia law, particularly as it may require safety and security for voting information, and freedom from unauthorized intrusion into the state-mandated voting systems and information. The amici interests are both personal, to ensure that their Republican political candidates are ensured equal and fair access to the voters, and organizational, to ensure that their party members' votes are accurately counted and not diluted by error or intention. The proposed amicus brief is narrowly tailored to address specific issues raised by Applicant's petition which are highly relevant to the Court's consideration and may otherwise escape the notice of this Court.

WHEREFORE, the Proposed Amici respectfully request that the Court accept and consider the proposed *amicus curiae* brief attached hereto.

/s/William J. Olson

William J. Olson  
William J. Olson, P.C.  
370 Maple Ave., West #4  
Vienna, VA 22180  
(703) 356-5070  
Of Counsel

Application for Pro Hac in process

/s/David E. Oles

David E. Oles  
OLES LAW GROUP  
Ga. Bar No. 551544  
5755 North Point Parkway, Suite 25  
Alpharetta, GA 30022  
(770) 753-9995  
[firm@deoleslaw.com](mailto:firm@deoleslaw.com)

Counsel for *Amici Curiae*

September 29, 2024

**EXHIBIT A**

**PROPOSED DRAFT BRIEF AMICUS CURIAE**

IN THE SUPERIOR COURT OF FULTON COUNTY

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**BRIEF *AMICUS CURIAE* OF CHEROKEE COUNTY REPUBLICAN PARTY, INC.  
AND ADDITIONAL GEORGIA COUNTY REPUBLICAN PARTIES, *et al.*  
IN SUPPORT OF APPLICATION FOR WRIT OF MANDAMUS**

William J. Olson\*  
WILLIAM J. OLSON, P.C.  
370 Maple Ave. West, #4  
Vienna, VA 22180  
(703) 356-5070  
**Of Counsel**

\**Pro hac vice* application  
in process

David E. Oles  
OLES LAW GROUP  
Ga. Bar No. 551544  
5755 North Point Parkway, Suite 25  
Alpharetta, GA 30022  
(770) 753-9995  
Counsel for *Amici Curiae*  
[firm@deoleslaw.com](mailto:firm@deoleslaw.com)

September 29, 2024

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## **INTEREST OF THE *AMICI CURIAE***

The interest of the *Amici Curiae* herein is set out in the accompanying Motion for Leave to File Brief *Amicus Curiae*.

## **STATEMENT OF THE CASE**

The DeKalb County Republican Party, Inc. filed an Application for a Writ of Mandamus against Secretary of State Bradford Raffensperger on August 30, 2024, with a hearing now scheduled for Monday, September 30, 2024. The Application, verified by the Chair of the DeKalb County Republican Party, Inc., calls on this Court to order the Secretary of State to do his duty as Georgia's Chief Election Official, to ensure that the upcoming state and federal general election on November 5, 2024 is conducted in accordance with state and federal law. The deficiencies in the Georgia election computer systems manufactured by Dominion Voting Systems ("Dominion") used throughout Georgia are clearly articulated in the Application which is supported by five Exhibits. Exhibit I is the Master Agreement dated July 29, 2019, between Dominion and the Secretary of State.

## **STATEMENT**

Among the most distasteful aspects of living in a constitutional republic is coming to the realization that some politicians and elected officials do not do their duty. Although we must entrust the conduct of elections and vote counting to elected officials, we must not assume they will always do their job. After all, elected officials are merely politicians who were successful in the last election. And, although it is tempting for the Judicial Branch to view this as a problem for the political branches to solve, that would be no answer at all, for it is the political branches that conduct the elections by which politicians are elected to office in the political branches. In

our system, it falls to the judiciary to ensure that the political branches neither neglect nor abuse their authority.

In a survey conducted earlier this year, veteran pollster Scott Rasmussen asked Americans:

Suppose that your favorite candidate loses a close election.

However, people on the campaign know that they can win by cheating without being caught. Would you rather have your candidate win by cheating or lose by playing fair?

Among **all Americans**, just **7 percent** said they would want their candidate to win by cheating. But that number rose to **35 percent** among the **elite 1 percent** of Americans who make over \$150,000 a year, live in densely populated areas, and have postgraduate degrees. And, from that elite 1 percent, he identified those persons who were part of the **politically obsessed 1 percent**, who talk about politics every day. In that third group, **69 percent** admitted to being willing to cheat. Rasmussen stated: “‘I’ve been polling for a very long time and the last finding is the most terrifying poll result I’ve ever seen.’”<sup>1</sup>

Lest anyone think that these survey results are less reliable because they report what people might do, consider what they have done. A Rasmussen Reports/Heartland Institute survey in December 2023 “found that more than **20 percent** of voters who used mail-in ballots in 2020 admit they participated in at least one form of election fraud.”<sup>2</sup>

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<sup>1</sup> R. Bluey, “[‘Most Terrifying Poll Result I’ve Ever Seen’: Scott Rasmussen Surveys America’s Elite 1%](#),” *The Daily Signal* (Mar. 21, 2024).

<sup>2</sup> See “[Election 2024: Would You Cheat to Win? 28% Say ‘Yes.’](#)” *Rasmussen Reports* (Apr. 16, 2024).



Our entire system of representative government is predicated on the notion that the person who gets the most votes wins the election. However, a large segment of America no longer believes the electoral system is reliable. This is true for both parties. A Washington Post-University of Maryland poll from December 2023 found that 36 percent of respondents viewed Joe Biden’s 2020 win as illegitimate, while the same poll in October 2017 had showed 42 percent of voters believed that Trump’s 2016 win was illegitimate.<sup>3</sup> The public’s level of suspicion cannot be lessened by deriding those who question election results as election deniers, but can only be addressed in a meaningful way when voters see that election challenges are taken seriously and election laws are followed.<sup>4</sup>

## ARGUMENT

### I. THE SECRETARY OF STATE IS THE CHIEF ELECTION OFFICIAL OF GEORGIA WITH RESPONSIBILITY TO ENSURE DOMINION FULFILLS ITS CONTRACTUAL OBLIGATIONS.

The Georgia Court of Appeals adopted the statement that “the Secretary of State ‘is statutorily charged with **the supervision of all elections** in this State....” *Smith v. DeKalb County*, 288 Ga. App. 574, 576, 654 S.E.2d 469, 471 (2007), *cert. denied*, No. S08C0596, 2008 Ga. LEXIS 291 (Ga. 2008) (emphasis added). He is commonly referred to as Georgia’s **Chief Elections Official**.<sup>5</sup>

The Application for Mandamus sets out as Exhibit I, the Master Agreement between Dominion Voting Systems, Inc. and the State of Georgia, dated July 29, 2019 — seven and one-

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<sup>3</sup> [Washington Post-University of Maryland poll](#) (December 2023).

<sup>4</sup> See J. Findlay & Anelise Powers, “[In Georgia and Elsewhere, Officials Sow Distrust in Elections By Dismissing Voters’ Integrity Concerns](#),” *The Federalist* (Mar. 4, 2024).

<sup>5</sup> See O.C.G.A. §21-2-50.2; see also §45-13-20 (general duties of the Secretary of State).

half months after Mr. Raffensperger took office as Secretary of State. It is not known when the selection of Dominion was made, or negotiations with Dominion on this contract began, but it was signed by Respondent.<sup>6</sup>

The contract specifies that Dominion would provide software and equipment “capable of providing a new Statewide Voting System ... with a verifiable paper record which is sufficient to support all primaries and general elections....” Contract, ¶1.1. Dominion would assist the State “to accurately and securely administer elections....” *Id.* at ¶1.2. Dominion “shall be the prime contractor to State hereunder and in such capacity shall have full responsibility and liability for the performance of the Solution ... and all Services hereunder.” *Id.* at ¶1.3. At the outset, there was a sixteen-month implementation period, consisting of one phase for a pilot project for six counties for the November 2019 general elections, and a second phase for all counties for 2020 elections. The contract governed the conduct of the primary, general and runoff elections in 2022, and is now governing operation of the 2024 November general election. *Id.* at Exhibit B ¶ 10.1. Accordingly, Respondent is and has been responsible for both entering into the contract with Dominion, as well as overseeing Dominion’s proper performance of the contract for the entire period in which it has been in effect. Additionally, Respondent cannot delegate, by contract or otherwise, his responsibility as Secretary of State and Georgia’s Chief Election Official to ensure fair and accurate elections.

There is no requirement of this Court to find malfeasance or misfeasance to grant relief. Respondent cannot argue in defense that Dominion failed its duties and Respondent did not

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<sup>6</sup> Governor Brian Kemp was Secretary of State until Nov. 8, 2018; Robyn Crittenden served briefly; Mr. Raffensperger took office on Jan. 14, 2019.

know of that failing. At the very least, once Respondent was put on actual notice of Dominion's breach of contract and illegal acts by co-counsel for Applicants (discussed in Section II, *infra*) his failure to take prompt corrective action constitutes nonfeasance, and renders mandamus both appropriate and necessary.

## **II. THE SECRETARY OF STATE HAS DEFAULTED ON HIS DUTY TO ENSURE FREE AND FAIR ELECTIONS.**

The Georgia Code specifies that mandamus will lie to compel a state official to faithfully perform his duties:

All official duties should be **faithfully performed**, and whenever, from any cause, a **defect of legal justice** would ensue from a failure to perform or from improper performance, the **writ of mandamus** may issue to **compel a due performance** if there is no other specific legal remedy for the legal rights....

O.C.G.A. § 9-6-20 (emphasis added).<sup>7</sup>

The central charge against the Secretary of State relates to Dominion's reckless disclosure of encryption keys by which election results may be manipulated. The Dominion system uses private master cryptographic encryption keys to prevent unauthorized access to the system. The Dominion system (i) stores the encryption keys in a non-compliant unprotected state, and (ii) leaves them in plain text within the election databases on county systems. Anyone with access to the voting system or the transmission of election results can alter election results without likely detection. *See* Application at 1-3, 9-12, 4-23. Secrecy of these keys is mandated by Georgia law which requires that the voting system used be certified by the United States Election Assistance Commission ("EAC"):

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<sup>7</sup> *See Harmon v. James*, 200 Ga. 742, 38 S.E.2d 401, 1946 Ga. LEXIS 322 (1946).

(3) The state shall furnish a uniform system of electronic ballot markers and ballot scanners for use in each county as soon as possible. Such equipment **shall be certified by the United States Election Assistance Commission** prior to purchase, lease, or acquisition....

O.C.G.A. § 21-2-300(a)(3) (emphasis added). The Dominion equipment and software, with its security defects, does not meet the United States Election Assistance Commission certification requirements. Secrecy is also mandated by the terms of the Master Agreement. *See* Appl. at 6. As explained by one of Applicant's expert witnesses:

Dominion's Democracy Suite systems use a combination of a Rijndael Key, a Rijndael Vector, a Hash-based Message Authentication Code (HMAC) and a x509 security certificate to encrypt, decrypt and to authenticate data. The encryption key is considered a secret key and should be hidden and protected. All the components listed above (security processes) should be stored encrypted, especially if stored within a database. In the Democracy Suite systems, they are not.

Affidavit of Clay U. Parikh, Appl. Exhibit 3, para. 13.

Furthermore, the plaintext storage of passwords and encryption keys on **any** information system, let alone a voting system, is an **egregious, inexcusable** violation of longstanding, **basic** cybersecurity best practices. It destroys any type of security the system wishes to implement. Windows log-in is the only authentication needed to access the unprotected database where the keys are stored. Windows log-in can easily be bypassed....

*Id.* at para. 15.

This security defect is no surprise to the Respondent. On March 28, 2024, an email exchange between Kurt Olsen, co-counsel for Applicants, and Charlene McGowan, Counsel to the Secretary of State, placed the Secretary of State on actual notice of this problem. *See* Appl. at 19, n.5 and Appl, Ex, 5. The Secretary of State has given no indication that he has taken steps to fix the problem, requiring this court's intervention.

If proven to be true, these assertions demonstrate at the very least nonfeasance. If the Secretary of State as Chief Elections Officer will not do his job to ensure a fair and accurate election, then this is a textbook case where mandamus would lie.

The Secretary of State is already on record in Georgia Superior Court as admitting that disclosure of encryption keys and passwords are matters so serious that they “would compromise election security” and the reliability of election results. The Court of Appeals of Georgia affirmed an injunction sought by the Secretary of State to prevent release (in response to an open records request) for a CD-ROM containing this and other secret information. In that case:

the trial court found, **based on evidence tendered by the Secretary of State**, that release of the CD-ROM, which contains **passwords, encryption codes**, and other security information, **would compromise election security** [and] if made public could compromise security against **sabotage, criminal, or terroristic acts**.

*Smith v. DeKalb County, supra*, at 577 (emphasis added).

### **III. THE ELEMENTS TO DEMONSTRATE MANDAMUS HAVE BEEN MET.**

Particularly as Respondent asserted in the *Smith* case, that release of encryption codes and passwords “would compromise” election results, the Secretary of State has a duty to prevent their disclosure, and this duty to maintain election security is properly understood to be ministerial in nature; it most certainly is not discretionary. *See Smith v. DeKalb Cnty.*, 288 Ga. App. 574, 577, 654 S.E.2d 469, 472 (2007).

But even if the Secretary retains discretion as to the manner of actions, mandamus relief is still appropriate, as here, where an official performs his or her discretionary duty in a manner so arbitrary and capricious as to amount to a gross abuse of discretion. *See Riley v. Southern LNG*, 300 Ga. 689, 691, 797 S.E.2d 878, 880 (2017); *Kemp v. Monroe County*, 298 Ga. 67, 72-

73 (2), 779 S.E.2d 330, 334 (2015); *Love v. Fulton Cnty. Bd. of Tax Assessors*, 348 Ga. App. 309, 319, 821 S.E.2d 575, 584 (2018). Leaving encryption keys in readable form is unquestionably a gross and inexcusable abuse of discretion.

Appellants address their right to bring this mandamus action. Appl. at 4-5. As a major political party county committee, Applicant has an interest in the laws relating to the general election being properly executed and the Respondent's duty enforced. The Secretary of State has a duty to ensure elections are conducted fairly; it is not in his discretion to ignore that duty. Based on the statute, there is no reasonable challenge that could be raised to what in other types of actions would be considered standing. The Georgia code provides that:

Where the question is one of **public right** and the object is to procure the enforcement of a **public duty, no legal or special interest need be shown**, but it shall be sufficient that a plaintiff is interested in **having the laws executed and the duty in question enforced**.

U.C.C.A. § 9-6-24 (emphasis added).<sup>8</sup>

A right to Mandamus arises as soon as the officer defaults on his duty, as has happened here no later than when he was notified of the problem of election fraud and failed to take remedial action. See Application Exhibit 5. See *Pearce v. Bembry*, 174 Ga. 86,162 S.E. 125, 1932 Ga. LEXIS 1 (1932).

The court has a duty to issue mandamus in a situation as presents here, where Respondent owes a duty, has breached that duty, and no other specific legal remedy is available. See *Gay v. City of Lyons*, 209 Ga. 599, 74 S.E.2d 839, 1953 Ga. LEXIS 331 (1953). Should the November

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<sup>8</sup> See *Head v. Browning*, 215 Ga. 263, 267, 109 S.E.2d 798, 801 (1959).

2024 election be conducted with the election results capable of undetected manipulation, there is no post-election remedy available.<sup>9</sup>

#### **IV. OUTSOURCING THE CORE GOVERNMENT FUNCTION OF ELECTION ADMINISTRATION ONLY HEIGHTENS RESPONDENTS' DUTY TO PREVENT ERRONEOUS RESULTS.**

One of the central responsibilities of a constitutional republic, and a democracy, is to ensure that elections are conducted in a fair and accurate manner. The officials entrusted with that solemn, core responsibility have a profound duty to do all in their power to ensure a fair and accurate vote. When elections were conducted by hand counting paper ballots, state, city and county government officials and employees generally performed these responsibilities themselves. With the advent of optical scanning facilitating the more rapid counting of paper ballots, and direct-recording electronic voting (“DRE”), government has regularly engaged private businesses to provide services and equipment. However, while assistance can be obtained from the private sector, **a state Chief Election Official’s responsibility that elections be conducted lawfully and fairly cannot be outsourced.**

Indeed, the public had a much greater level of trust in elections administered by dedicated, long-term government employees than now when they are administered by private corporations which are paid millions of dollars to assist with — but not perform — this core government function. There are several good reasons why outsourcing elections undermines public trust.

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<sup>9</sup> Georgia courts have traditionally shown great reluctance to act on election claims where they were not pursued prior to the election being held. *See, e.g., Bell v. Raffensperger*, 311 Ga. 616 (2021); *Miller v. Hodge*, 2024 WL 3801827 (2024) (mootness).

First, the ownership, governance and loyalty of private firms can be difficult to trace. NBC News presented a lengthy analysis on this problem. See B. Popken, C. McFadden & K. Monahan, "[Chinese parts, hidden ownership, growing scrutiny: Inside America's maker of voting machines](#)," *NBC News* (Dec. 19, 2019). NBC News reported:

The source of the nation's voting machines has become an urgent issue because of real fears that hackers, whether foreign or domestic, might tamper with the mechanics of the voting system.

That has led to calls for ES&S and its competitors, Denver-based Dominion Voting Systems and Austin, Texas-based Hart Intercivic to reveal details about their **ownership** and the **origins of the parts**, some of which come from China, that make up their machines.

*Id.* These concerns are not only held by Republicans. NBC News reported that:

a group of Democratic politicians sent the private equity firms that own the major election vendors a letter asking them to disclose a range of such information, including ownership, finances and research investments.

*Id.*

Second, a corrupt government employee located in the state can be arrested and prosecuted. It is much more difficult to reach out to hold companies located in other states accountable. If individuals in a private firm were corrupt, how would Georgia even know which individuals to indict?

Third, while the mission of long-term government workers who live in Georgia is to maximize security and accuracy, the mission of every private sector firm is to maximize profit.

Consider these scenarios.

- If a security breach were discovered by a vendor which required great expense to remedy, would the vendor reveal it to the state?
- If a security breach that could not be fixed were discovered by a vendor, would the vendor be motivated to reveal it, at the expense of destroying its reputation and essentially putting itself out of business?



- If the vendor revealed a security breach to a state official who had selected and contracted with that vendor, would that state official be incentivized to admit having made a terrible mistake that those currently serving in office were not actually elected by the people, but rather selected by the vendors, or to cover it up?

It would appear that neither election management firms nor elected officials could be relied on to be totally transparent in such a situation.

Fourth, when elections were administered by state employees, a hostile foreign actor may attack them in one state, but the corrupt damage to a nationwide election would be limited. However, when those same computer systems are used in multiple states, that same hostile foreign actor would more readily be able to alter the outcome of a Presidential election by controlling the systems used in multiple states.

Fifth, Professor J. Alex Halderman, a professor of computer science and engineering at the University of Michigan, testified before the Senate Select Committee on Intelligence investigating Russian hacking, explaining that private sector election systems present not just theoretical risks.<sup>10</sup> Professor Halderman first explained the basics of the voting systems then in use:

As you know, states choose their own voting technology. Today, the vast majority of ... votes are cast using one of two computerized methods. Most states and most voters use the first type, called **optical scan ballots**, in which the voter fills out a paper ballot that is then scanned and counted by a computer. The other widely used approach has **voters interact directly with a computer**, rather than marking a choice on paper. It's called DRE, or **direct-recording electronic, voting**. With DRE voting machines, the primary records of the vote are stored in computer memory.... Both optical scanners and DRE voting machines are **computers**. Under the hood, they're not so different from your laptop or smartphone, although they tend to use much older technology — sometimes decades **out of date**. Fundamentally, they suffer from ... **security weaknesses**

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<sup>10</sup> See "[Prof. J. Alex Halderman testifies in front of senate intelligence committee on secure elections](#)," University of Michigan Computer Science and Engineering (June 26, 2017).

similar to those of other computer devices. I know because **I’ve developed ways to attack many of them myself** as part of my research into election security threats.

J. Alex Halderman, [Testimony before Senate Select Committee on Intelligence](#) at 2 (June 21, 2017) (emphasis added).

Professor Halderman then explained why the reasons routinely offered to the public to be reassured that their systems work, are false.

Some say the **decentralized** nature of the U.S. voting system and the fact that voting machines **aren’t directly connected to the Internet** make changing a state or national election outcome impossible. Unfortunately, that is not true....

Some election functions are actually quite centralized. A small number of election technology vendors and support contractors service the systems used by many local governments. **Attackers could target one or a few of these companies and spread malicious code to election equipment that serves millions of voters.**

Furthermore, in close elections, decentralization can actually work against us. **An attacker can probe different areas of the most important “swing states”** for vulnerabilities, find the areas that have the weakest protection, and strike there. In a ... close election, **changing a few votes may be enough to tip the result**, and an attacker can choose where — and on which equipment — to steal those votes. **State and local elections are also at risk.**

*Id.* at 3 (emphasis added).

Professor Halderman has appeared as an expert witness for the Plaintiffs in *Curling v. Raffensperger*, 2023 U.S. Dist. LEXIS 202368 (N.D.Ga. 2023) (1:17-cv-2989-AT) which “focuses on whether Georgia’s statewide electronic voting system, as currently designed and implemented, suffers from major cybersecurity deficiencies....” *Id.* at \*10. The district court reported that Professor Halderman “highlights the growing risk of an attack on a Georgia election by various adversaries — such as domestic political actors, election insiders, voters, and hostile foreign governments.” *Id.* at \*61. With respect to injunctive relief, the Court “found that

Plaintiffs had presented evidence of "a catalogue of pervasive voting problems arising in the 2017-2018 election period." *Id.* at \*35. Trial in the *Curling* case occurred in January 2024, with no decision yet issued.

With dangers of unreliable election results lurking, it is especially incumbent on elected officials to monitor and control every aspect of how private companies perform these governmental functions. Such privatization of this core governmental responsibility should cause state election officials to embrace the maxim: "You get more of what you inspect, than what you expect." Criticism of current systems should be welcomed, not resisted and ignored. Certainly, those who raise criticisms should not be sued into oblivion.<sup>11</sup>

When state officials, such as the Secretary of State, turn a blind eye to these systemic weaknesses, it should be considered profoundly shocking. The energy which the Secretary of State will invest in resisting this Application for Mandamus would have been better expended in fixing the problems he has allowed to continue.

It does not matter that the Secretary of State was re-elected to his position by the citizens of Georgia in 2022, or that he had a substantial margin of victory. The people of Georgia did not have before them the information which this Court has before it. The Court must act to ensure fair elections, not to protect the political reputation of any one person.

Lastly, there are those who assert that every time an election challenge is made to election systems or reported election results, that such challenge somehow presents a threat to the democracy. However, that is deceitful rhetoric — often a transparent effort to avoid scrutiny

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<sup>11</sup> See, e.g., A. Durkee, "[Smartmatic Will Go To Trial Against Newsmax This Month: Here's Where It And Dominion's Other Lawsuits Stand,](#)" *Forbes* (Sept. 13, 2024).

of a system that elects the “right people.” Rather, it is unreliable election results which are the real threat to democracy.

## V. THE NOVEMBER ELECTIONS WILL SOON BE UPON US.

Under Georgia law, early in-person voting begins on the fourth Monday prior to election day (October 14, 2024), and ends the Friday immediately prior to election day (November 1, 2024). Early voters are not required to vote at their assigned polling location, but may vote at any voting location within the voter’s county. For persons who cannot vote in person, either early or on Election Day, absentee ballots to vote by mail may be requested.<sup>12</sup> On election day, Tuesday, November 5, 2024, voters may vote in person only at their designated polling place.<sup>13</sup>

Early voters are provided a printed ballot,<sup>14</sup> while on election day all voters use an electronic ballot marking device (BMD) to print a paper ballot that is fed into a scanner for tabulation. O.C.G.A. § 21-2-300. On Monday, August 19, 2024, the Georgia State Election Board declined to adopt a requirement for use of hand-marked paper ballots.<sup>15</sup>

The evidentiary hearing on the Application for Mandamus is being held on Monday, September 30, 2024 — 36 days before Election Day. Should the court act promptly to grant the Application, there would be sufficient time for the necessary changes to election software to be made in order to repair the security breaches and to ensure that the reported election results

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<sup>12</sup> See “[Request and Vote by an Absentee Ballot](#), *Georgia.gov* (accessed Sept. 18, 2024).

<sup>13</sup> See “[Vote in Person on Election Day](#),” *Georgia.gov* (accessed Sept. 18, 2024).

<sup>14</sup> See “[Vote Early In Person](#),” *Georgia.gov* (accessed Sept. 18, 2024). Due to the federal holiday, early voting begins not on Monday, October 14, 2024, but rather on Tuesday, October 15, 2024. See “[Early In-Person Voting Begins for the General Election](#),” *Georgia.gov* (accessed Sept. 18, 2024).

<sup>15</sup> See David Wickert, “[Georgia board rejects widespread use of paper ballots for November election](#),” *AJC Politics* (Aug. 20, 2024).

correlate to the actual vote. However, if the changes are not ordered soon, there is every reason to believe that the reported election results could be tampered with and therefore entirely unreliable.

## **VI. THE JUDICIARY IS THE FINAL GUARDIAN OF FREE AND FAIR ELECTIONS.**

The most basic requirement for a fair election is that the legislature's directions for the conduct of that election be faithfully followed by state and county officials. As the Wisconsin Supreme Court noted in overturning a decision by election officials to install unmanned ballot drop boxes in violation of state election law:

If the right to vote is to have any meaning at all, elections must be conducted according to law.... The right to vote presupposes the rule of law governs elections. If elections are conducted outside of the law, the people have not conferred their consent on the government. Such elections are unlawful and their results are illegitimate.

*Teigen v. Wis. Elections Comm'n*, 2022 WI 64, P22-P23 (Wisc. 2022), *overruled by* *Priorities USA v. Wisconsin Elections Commission*, 2024 WI 32 (July 5, 2024).

The Wisconsin court correctly understood that: “Unlawfully conducted elections threaten to diminish or even eliminate some voices, destabilizing the very foundation of free government.” *Id.* at P31. If statutory requirements for elections are violated by government officials, the public cannot have confidence in the reported results. Should this Court decline to provide mandamus relief and allow the requirements of Georgia election law to be disregarded, post-election challenges to the results would be difficult, if not impossible to bring in the short window available for such challenges. People who are determined to achieve a particular

election result, and have the encryption keys and passwords available, can change votes do not leave a clear trail of their perfidy.

## CONCLUSION

A September 18, 2024 composite Georgia presidential poll shows President Trump at 47.5 percent and Vice President Harris at 47.0 percent. All recent polling averages show the spread between these candidates to be 1.4 percent or less.<sup>16</sup> Particularly in view of the closeness of the election, should any irregularity occur in the election results reporting, it would cause, at a minimum, great distrust in the reported results as well as in the system which generated those results.

This Court not only has the authority, it has the duty, to mandate the election be conducted fairly and in accordance with law to prevent those results from being legitimately questioned. The principle applicable here is well established, as over 200 years ago, Chief Justice John Marshall stated the obligatory nature of the judicial duty of federal courts with a principle equally applicable to state courts:

With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Questions may occur which we would gladly avoid; but we cannot avoid them.

*Cohens v. Virginia*, 19 U.S. 264, 404 (1821) (emphasis added).

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<sup>16</sup> See "[Who's ahead in Georgia](#)," *FiveThirtyEight* (Sept. 18, 2024).

For the foregoing reasons, these *amici* urge that the Application for Writ of Mandamus be granted.

Respectfully submitted,

*/s/ David E. Oles* \_\_\_\_\_

William J. Olson  
WILLIAM J. OLSON, P.C.  
370 Maple Ave. West, #4  
Vienna, VA 22180  
(703) 356-5070  
Of Counsel  
\**Pro hac vice* application  
in process.

David E. Oles  
OLES LAW GROUP  
(Ga. Bar No. 551544)  
5755 North Point Parkway, Suite 25  
Alpharetta, GA 30022  
(770) 755-1622  
Counsel for *Amici Curiae*  
[firm@deoleslaw.com](mailto:firm@deoleslaw.com)

## **EXHIBIT B**

### **AMICI**

Amy Kremer - RNC National Committeewoman For Georgia	
1 <sup>st</sup> Congressional District Republican Party	Kandiss Taylor
7 <sup>th</sup> Congressional District Republican Party	John Nance
11 <sup>th</sup> Congressional District Republican Party	Christopher Mora
Chattooga County Republican Party	Tammy Flowers
Charlton County Republican Party	Guy Gowen
Bryan County Republican Party	Jordan Given
Chatham County Republican Party	Brittany Brown
Walker County Republican Party, Inc	Jackie Harling
Catoosa County Republican Party	Joanna Hildreth
Cherokee County Republican Party, Inc.	CV Dinsmore
Rockdale Republican Party	Jonathan Chavez
Paulding County Republican Party	Jim Tully
Cobb County Republican Party	Salleigh Grubbs
Gordon County Republican Party	Tim Pridemore
Gwinnett County Republican Party	Sammy Baker
Taylor County Republican Party	Mandy Robinson
Monroe County Republican Party	Claude Curlee
Tift County Republican Party	Keith Satonica
Columbia County Republican Party	Joseph Edlemon



Upson County Republican Party	Lisa Pierce
Crawford County Republican Party	Janet Carter
Hall County Republican Party	Rich Elsarelli
Fulton County Republican Party Inc.	Stephanie Endres
Jeff Davis Republican Party	Sarah Rowin
Peach County Republican Party	Tim Waters
Banks County Republican Party	Brian Parker
Grady County Republican Party	Jeff Jolly
Decatur County Republican Party	Jesse Willard
Pickens County Republican Party	Christopher Mora
Bibb Count Republican Party	David Sumrall
Hart County Republican Party	Timothy Roberts
Lamar County Republican Party	Audra Beth Pearce
Thomas County Republican Party	Bruce Fykes
Newton County Republican Party	Brendan Cherry
Colquitt County Republican Party	Dennis Futch
Putnam County Republican Party	Dale Bills