

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 01, 2020

Julia Z. Haller
Defending the Republic
601 PENNSYLVANIA AVE NW S BLDG STE 900
WASHINGTON, DC 20004

Howard Kleinhendler
Law Office of Howard Kleinhendler, Esq.
369 LEXINGTON AVE 12TH FL
NEW YORK, NY 10017

Harry Woodward MacDougald
Caldwell Propst & DeLoach, LLP
2 RAVINIA DR STE 1600
ATLANTA, GA 30346

Sidney K. Powell
Law Office of Sidney Powell
2911 TURTLE CREEK BLVD STE 300
DALLAS, TX 75219

L. Lin Wood
L. Lin Wood, PC
PO BOX 52584
ATLANTA, GA 30355-0584

Appeal Number: 20-14480-RR
Case Style: Coreco Pearson, et al v. Governor of the State of Georg, et al
District Court Docket No: 1:20-cv-04809-TCB

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov.

The referenced case has been docketed in this court. Please use the appellate docket number noted above when making inquiries.

Eleventh Circuit Rule 31-1 requires that APPELLANT'S BRIEF BE SERVED AND FILED ON OR BEFORE January 11, 2021. APPELLANT'S APPENDIX MUST BE SERVED AND FILED NO LATER THAN 7 DAYS AFTER FILING OF THE APPELLANT'S BRIEF. INCARCERATED PRO SE PARTIES ARE NOT REQUIRED TO FILE AN APPENDIX.

This is the only notice you will receive concerning the due date for filing briefs and appendices. See Fed.R.App.P. 28, 30, 31, 32, the corresponding circuit rules, General Order 39 and the Guide to Electronic Filing for further information. Pro se parties who are incarcerated are not required to file an appendix. (In cross-appeals pursuant to Fed.R.App.P. 28.1(b), the party who first files a notice of appeal is the appellant unless the parties otherwise agree.)

Every motion, petition, brief, answer, response and reply filed must contain a Certificate of Interested Persons and Corporate Disclosure Statement (CIP). Appellants/Petitioners must file a CIP within 14 days after the date the case or appeal is docketed in this court; Appellees/Respondents/Intervenors/Other Parties must file a CIP within 28 days after the case or appeal is docketed in this court, regardless of whether appellants/petitioners have filed a CIP. See FRAP 26.1 and 11th Cir. R. 26.1-1.

On the same day a party or amicus curiae first files its paper or e-filed CIP, that filer must also complete the court's web-based CIP at the [Web-Based CIP](#) link on the court's website. Pro se filers (except attorneys appearing in particular cases as pro se parties) are **not required or authorized** to complete the web-based CIP.

Attorneys who wish to participate in this appeal must be admitted to the bar of this Court, admitted for this particular proceeding pursuant to 11th Cir. R. 46-3, or admitted pro hac vice pursuant to 11th Cir. R. 46-4. In addition, all attorneys (except court-appointed counsel) who wish to participate in this appeal must file an Appearance of Counsel form within 14 days. The [Application for Admission to the Bar](#) and [Appearance of Counsel Form](#) are available at www.ca11.uscourts.gov. The clerk generally may not process filings from an attorney until that attorney files an appearance form. See 11th Cir. R. 46-6(b).

11th Cir. R. 33-1(a) requires appellant to file a Civil Appeal Statement in most civil appeals. You must file a completed Civil Appeal Statement, with service on all other parties, within 14 days from the date of this letter. Civil Appeal Statement forms are available on the Internet at www.ca11.uscourts.gov, and as provided by 11th Cir. R. 33-1(a).

MEDIATION. If a Civil Appeal Statement is required to be filed, your appeal and all related matters will be considered for mediation by the Kinnard Mediation Center. The mediation services are free and the mediation process is confidential. You may confidentially request mediation by calling the Kinnard Mediation Center at 404-335-6260 (Atlanta) or 305-714-1900 (Miami). See 11th Cir. R. 33-1.

Attorneys must file briefs electronically using the ECF system. Use of ECF does not modify the requirements of the circuit rules that counsel must also provide seven (7) paper copies of a brief to the court, nor does it modify the requirements of the circuit rules for the filing of appendices in a particular case.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Regina A. Veals-Gillis, RR/csg.
Phone #: (404) 335-6163

DKT-7CIV Civil Early Briefing

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

CORECO JA'QAN PEARSON, VIKKI
TOWNSEND CONSIGLIO, GLORIA KAY
GODWIN, JAMES KENNETH CARROLL,
CAROLYN HALL FISHER, CATHLEEN
ALSTON LATHAM and BRIAN JAY VAN
GUNDY,

Plaintiffs,

v.

BRIAN KEMP, in his official capacity as
Governor of Georgia, BRAD
RAFFENSPERGER, in his official capacity as
Secretary of State and Chair of the Georgia
State Election Board, DAVID J. WORLEY, in his
official capacity as a member of the Georgia
State Election Board, REBECCA N.SULLIVAN,
in her official capacity as a member of the
Georgia State Election Board, MATTHEW
MASHBURN, in his official capacity as a
member of the Georgia State Election Board,
and ANH LE, in her official capacity as a
member of the Georgia State Election Board,

Defendants.

CASE NO.

1:20-cv-4809-TCB

NOTICE OF EMERGENCY INTERLOCUTORY APPEAL AS OF RIGHT

Plaintiffs Coreco Ja'Qan Pearson, et al., hereby file an emergency appeal to the United States Court of Appeals for the Eleventh Circuit from this Court's interlocutory order of November 29, 2020 (Doc.14) to the extent it denies the full relief Plaintiffs requested in their motion for a temporary restraining order. *See Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225 (11th Cir. 2005) ("Although we ordinarily do not have jurisdiction over

appeals from orders granting or denying temporary restraining orders, in circumstances such as these, ‘when a grant or denial of a TRO might have a serious, perhaps irreparable, consequence, and can be effectively challenged only by immediate appeal, we may exercise appellate jurisdiction.’” (quoting *Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995)).¹

Plaintiffs respectfully ask that this Court immediately transmit this notice of appeal to the Eleventh Circuit today so that that court may docket the matter, thus enabling Plaintiffs to file a motion for an expedited briefing schedule pursuant to which Plaintiffs propose to file their brief by midnight December 2, 2020, and Appellee’s brief by December 4, 2020.

Moreover, this Notice of Appeal as of right should divest the district court of jurisdiction. If not, Plaintiffs would request a stay of the hearing currently scheduled in the district court for December 4, 2020, until this Court has ruled on the questions raised by the appeal, including whether Plaintiffs must add to the suit each of the 600-plus county election officials in

¹ While this Court, pursuant to 42 U.S.C. §1292(b), has certified its order as involving a “controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation,” (Doc.15), Plaintiffs would seek permission to appeal under §1292(b) only in the alternative, if the Eleventh Circuit deems that necessary. Plaintiffs file this notice, however, as a matter of right, pursuant to *Schiavo*. (“In these circumstances we treat temporary restraining orders as equivalent to preliminary injunctions or final judgments, either of which are appealable.”) *Schiavo*, 403 F.3d at 1225 (citing 28 U.S.C. §§1291, 1292(a)(1)).

addition to the Secretary of State for Georgia, who by law is responsible for Georgia elections and spent \$107 million taxpayer dollars to purchase Dominion voting systems for the entire state.

/s Sidney Powell*

Sidney Powell PC

Texas Bar No. 16209700

2911 Turtle Creek Blvd, Suite 300

Dallas, Texas 75219

(214) 707-1775

*Application for admission pro hac vice forthcoming

/s Howard Kleinhendler

NEW YORK BAR NO. 2657120

Howard Kleinhendler Esquire

369 Lexington Avenue, 12th Floor

New York, New York 10017

Office (917) 793-1188

Mobile (347) 840-2188

howard@kleinhendler.com

www.kleinhendler.com

(Admitted pro hac vice)

CALDWELL, PROPST & DELOACH, LLP

/s/ Harry W. MacDougald

Harry W. MacDougald

Georgia Bar No. 463076

CALDWELL, PROPST & DELOACH, LLP

Two Ravinia Drive, Suite 1600

Atlanta, GA 30346

(404) 843-1956 – Telephone

(404) 843-2737 – Facsimile

hmacdougald@cpdlawyers.com

Counsel for Plaintiffs

Attorneys for Plaintiffs

The undersigned certifies that the foregoing document was prepared in 13-point Century Schoolbook font and in accordance with the margin and other requirements of Local Rule 5.1.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

CERTIFICATE OF SERVICE

This is to certify that I have on this day e-filed the foregoing **NOTICE OF EMERGENCY INTERLOCUTORY APPEAL AS OF RIGHT** with the Clerk of Court using the CM/ECF system which will cause service to be made upon counsel of record therein.

This 1st day of December 2020.

s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 463076

Caldwell, Propst & DeLoach, LLP
Two Ravinia Drive, Suite 1600
Atlanta, GA 30346
404-843-1956

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

CORECO JA'QAN PEARSON,
VIKKI TOWNSEND
CONSIGLIO; GLORIA KAY
GODWIN; JAMES KENNETH
CARROLL; CAROLYN HALL
FISHER; CATHLEEN ALSTON
LATHAM; and BRIAN JAY VAN
GUNDY,

Plaintiffs,

v.

BRIAN KEMP; BRAD
RAFFENSPERGER; DAVID J.
WORLEY; REBECCA N.
SULLIVAN; MATTHEW
MASHBURN; and ANH LE,

Defendants.

CIVIL ACTION FILE

NO. 1:20-cv-4809-TCB

ORDER

Plaintiffs have filed an emergency motion [6] for temporary injunctive relief. In their motion, Plaintiffs seek an order directing Defendants to allow Plaintiffs' expert(s) to inspect the Dominion voting

machines in Cobb, Gwinnett, and Cherokee Counties. The Court conducted a Zoom hearing at 7:45 p.m. EST to consider Plaintiffs' motion.

During the hearing, Defendants' counsel argued that the secretary of state has no lawful authority over county election officials, citing *Jacobson v. Florida Secretary of State*, 974 F.3d 1236, 1256–58 (11th Cir. 2020). Plaintiffs' counsel responded that Plaintiffs could amend their complaint to add the elections officials in Cobb, Gwinnett, and Cherokee Counties, thus obviating the issue of whether the proper officials had been named as Defendants to this case.

Defendants' counsel also argued that allowing such forensic inspections would pose substantial security and proprietary/trade secret risks to Defendants. Plaintiffs' counsel responded that Defendants' concerns could be alleviated by an order from the Court (1) allowing Defendants' own expert(s) to participate in the requested inspections, which would be video-recorded, and (2) directing the experts to provide whatever information they obtain to the Court—and no one else—for an *in camera* inspection.

After considering the parties' email submissions today and the arguments advanced at the Zoom hearing, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1.

Defendants shall have until Wednesday, December 2, at 5:00 p.m. EST, to file a brief setting forth in detail the factual bases they have, if any, against allowing the three forensic inspections. The brief should be accompanied and supported by affidavit or other evidence, if appropriate.

2.

Defendants are hereby ENJOINED and RESTRAINED from altering, destroying, or erasing, or allowing the alteration, destruction, or erasure of, any software or data on any Dominion voting machine in Cobb, Gwinnett, and Cherokee Counties.

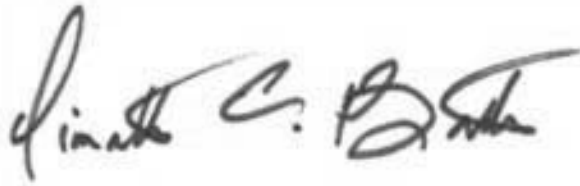
3.

Defendants are ORDERED to promptly produce to Plaintiffs a copy of the contract between the State and Dominion.

4.

This temporary restraining order shall remain in effect for ten days, or until further order of the Court, whichever comes first.

IT IS SO ORDERED this 29th day of November, 2020, at 10:10 p.m. EST.

A handwritten signature in black ink, appearing to read "Timothy C. Batten, Sr.", written in a cursive style.

Timothy C. Batten, Sr.
United States District Judge