

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

JULIE ADAMS, in her official capacity as a
member of the Fulton County Board of
Elections and Registration, a/k/a Fulton
County Board of Registration and Elections,

Plaintiff,

v.

Civil Case No. 24CV011584

FULTON COUNTY, GEORGIA

Defendant,

&

DEMOCRATIC NATIONAL COMMITTEE
& DEMOCRATIC PARTY OF GEORGIA,

Defendant-Intervenors.

**DEMOCRATIC NATIONAL COMMITTEE'S AND
DEMOCRATIC PARTY OF GEORGIA'S JOINT ANSWER TO
PLAINTIFF'S VERIFIED COMPLAINT FOR DECLARATORY RELIEF**

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INTRODUCTION

The Democratic National Committee (“DNC”) and the Democratic Party of Georgia (“DPG”) (hereafter “DNC-DPG”) hereby provide their Answer and Defenses to Plaintiff’s Verified Complaint for Declaratory Relief (“Complaint”). The following matters are incorporated into the DNC-DPG’s individual and collective responses to each paragraph of the Complaint:

A. DNC-DPG submit this Answer and Affirmative Defenses (“Answer”) only on behalf of themselves. When allegations are made against “Defendants” as a group, however described, DNC-DPG’s responses apply only to them.

B. Many of the allegations in the Complaint are not directed at DNC-DPG and therefore do not require a response from those Defendants. The responses below are subject to that limitation, regardless of whether expressly stated. To the extent a response to allegations concerning any Defendant other than DNC-DPG is deemed to be required, DNC-DPG lack information sufficient to form a belief as to the truth of these allegations and, therefore, deny such allegations.

C. The Complaint contains purported references to documents and statements that may have been excerpted, paraphrased, characterized, and/or otherwise taken out of context. These documents and statements should be considered, if at all, in context and in unmodified form, and DNC-DPG respectfully refer the Court to the respective materials for their complete contents.

D. Except as otherwise expressly stated herein, DNC-DPG deny each and every allegation in the Complaint, including any allegation in the preamble, unnumbered paragraphs, subparagraphs, prayer for relief, titles, headings, subheadings, screenshots, images, and

document excerpts and reproductions of the Amended Complaint. To the extent not expressly denied, all allegations for which DNC-DPG deny possessing knowledge or information sufficient to form a belief are denied.

E. For the Court's convenience, DNC-DPG have reproduced allegations of the Complaint below.

F. DNC-DPG reserve the right to seek to amend and supplement their Answer as appropriate or necessary.

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DNC-DPG'S DEFENSES

DNC-DPG assert the following defenses to the Complaint, assuming the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. By setting forth these defenses, DNC-DPG do not assume the burden of proving any fact, issue, or element of a cause of action where such burden belongs to Plaintiff. Moreover, nothing stated herein is intended or shall be construed as an acknowledgment that any issue or subject matter is relevant to the allegations of Plaintiff. DNC-DPG also give notice that they intend to rely upon such other and further defenses of which they become aware during discovery in this action, if any, and reserve the right to amend this Answer to assert any such defenses. DNC-DPG further reserve the right to assert additional defenses and/or to supplement their Answer and Defenses as permitted by this Court and the Georgia Civil Practice Act.

FIRST DEFENSE

Plaintiff's claims are barred, in whole or in part, because the Complaint and each claim therein fails to state a claim on which relief can be granted and fails to state facts sufficient to constitute a cause of action.

DNC-DPG'S ANSWER¹

VERIFIED COMPLAINT FOR DECLARATORY RELIEF¹

¹ This action is closely related to *Adams v. Fulton County Board of Elections and Registration, et al.*, 24CV006566 (“*Adams v. FCBER*”), which this Court dismissed without prejudice on Sept. 10, 2024. This new action cures any and all sovereign immunity defects in *Adams v. FCBER*. As reflected in the Certificate of Service below, counsel for Defendant will acknowledge service. Plaintiff has provided a redline to counsel for Defendant of this action compared against *Adams v. FCBER*, for Defendant’s convenience. The principal alterations include (i) curing any and all sovereign immunity defects in *Adams v. FCBER*; (ii) removing the count for injunctive relief; (iii) minor additions of updated facts which occurred after the filing of *Adams v. FCBER*; and (iv) minor stylistic changes.

Response: DNC-DPG admit that this action is related to Plaintiff’s earlier-filed action. The remaining allegations in footnote 1 to which DNC-DPG can respond are legal conclusions to which no response is required.

INTRODUCTION

The Georgia Legislature carefully crafted the process by which elections would be conducted in the State of Georgia and by each county of the state. This action seeks to ensure that these laws are followed in Fulton County. As a member of the Fulton County Board of Elections and Registrations² (the “BRE”), Julie Adams (“Plaintiff”) is vested with the statutory powers of, and membership to, the superintendent of Fulton County as outlined in O.C.G.A. §§ 21-1-1 *et seq.* (the “Election Code”). Yet, despite clear statutory language to the contrary, agents of Fulton County, Georgia (“Defendant”) have prevented Plaintiff from performing her statutory duties as a BRE member, and said agents continue to deny Plaintiff access to essential election materials and processes necessary to the performance of her statutory duties.

Over the years, the BRE has purportedly delegated all of the core powers and duties of the superintendent to an appointed election director through the adoption of bylaws. Under these bylaws, the Fulton County Election Director, Nadine Williams (“Director”), has exercised the powers and duties of the superintendent to the exclusion of the BRE and, more specifically, Plaintiff. Plaintiff swore an oath to “prevent fraud, deceit, and abuse” in Fulton County elections and to “make a true and perfect return.” These obligations are frustrated by the repeated and continuing refusal to allow Plaintiff access to, and direct knowledge of, the information Plaintiff reasonably believes she needs to execute her duties faithfully and thoroughly.

Plaintiff’s requests for data have been stymied by direct instructions from the BRE’s Chair to the staff that Plaintiff is to be denied access to key election information. The Director has informed Plaintiff that her requests for supporting documentation relative to election results are

¹ The text of Plaintiff’s Complaint is reprinted in single-spaced plain text (bolded emphasis removed), including footnotes. DNC-DPG’s responses are double-spaced and **bolded**.

unnecessary because the Director’s summaries are submitted to a “rigorous validation process” and should simply be trusted. Without the ability to confirm the accuracy of the returns and the ability to observe and inspect the various election processes in Fulton County, Plaintiff voted against the certification of election results in the recent Presidential Preference Primary (the “PPP”). For the May 21, 2024, primary, Defendant’s agents limited Plaintiff’s access to a selected subset of requested election materials and processes to under 7 hours, and for the June 18, 2024, special election, Defendant’s agents gave provided Plaintiff a selected subset of requested election materials and processes for less than 3 hours.

Consequently, agents of Defendant have prevented Plaintiff from fulfilling her oath of office. Further highlighting the need for judicial intervention is the fact that after her vote against certification of the PPP results (due to lack of information to either confirm or deny the validity of the PPP results as reported to her by the Elections Director, the Democratic Party of Georgia (the “DPG”) sent a letter to all BRE members, including Plaintiff, asserting that certification is a duty, and the failure to vote in favor of certification is subject to potential legal action, including but not limited to possible criminal sanctions. This action seeks to clarify that the statutory role of election superintendent assigned to the BRE by Georgia law cannot be delegated in its entirety to the Director, that Plaintiff’s duties are, in fact, discretionary, not ministerial, and that the Director may not prevent BRE from gaining access to information needed to fulfill their statutory duties. Simply put, Plaintiff is asking the Court to declare that agents of the Defendant follow the law.

² The formal name of the BRE is difficult to determine. O.C.G.A. § 21-2-40(b) which regards the General Assembly’s power to create such boards, and the local legislation that created the BRE use the terms “Board of Elections and Registration” and “Fulton County Board of Elections and Registration,” respectively. *See* Ga. L. 1989, p.4577. However, the BRE’s own website and uses “Fulton County Board of Registration and Elections.” This complaint will use “Board of Registration and Elections” as it is the most common phrased used by the BRE in reference to itself.

Response: DNC-DPG object to the Complaint’s Introduction section because it does not set out the averments in numbered paragraphs, nor is it “limited as far as practicable to a statement of a single set of circumstances,” as required by O.C.G.A. § 9-11-10(b). Subject to that objection, DNC-DPG state that the Introduction section contains a statement to which no response is required. To the extent any response is required, DNC-DPG deny.

JURISDICTION AND VENUE

1. This Superior Court has jurisdiction over this action pursuant to Georgia law. O.C.G.A. §§ 9-4-1 (general jurisdiction), 9-4-2 (declaratory relief).

Response: Paragraph 1 contains legal conclusions to which no response is required. The remaining factual allegations in Paragraph 1 are admitted.

2. Venue is proper in this court pursuant to O.C.G.A. § 9-10-30.

Response: Paragraph 2 contains legal conclusions to which no response is required. The remaining factual allegations in Paragraph 2 are admitted.

3. Defendant has waived sovereign immunity pursuant to Ga. Const. 1983, Art. I, § II ¶ V. *See Lovell v. Raffensberger, et al.*, 318 Ga. 48 (2024):

Response: Paragraph 3 contains legal conclusions to which no response is required. The remaining factual allegations in Paragraph 3 are admitted.

PARTIES

Plaintiff

4. Julie Adams (“Plaintiff”) is a duly appointed member of the BRE and one of the two nominees of the Fulton County Republican Party, having been appointed to the position by the Fulton County Board of Commissioners on January 17, 2024.

Response: DNC-DPG admit that Plaintiff is a duly appointed member of the BRE, having been nominated by the Fulton County Republican Party and approved by the Fulton County Board of Commissioners. DNC-DPG lack sufficient knowledge or information to admit or deny the remaining allegations in Paragraph 4 and therefore deny them.

5. Plaintiff was sworn into her office as a member of the BRE on February 8, 2024, and, as required by O.C.G.A. § 21-2-70(15)(B), took the following oath on that date:

I, Julie Adams, do swear -or affirm- that I will as a member of the board of elections duly attend all ensuing primaries and elections during the continuance thereof, that I will to the best of my ability prevent any fraud, deceit, or abuse in carrying on the same, that I will make a true and perfect return of such primaries and elections, and that I will at all times truly, impartially and faithfully perform my duties in accordance with Georgia laws to the best of my judgement and ability.³

³ Julie Adams, Member, Fulton Cnty. Bd. of Reg. and Elec., Oath of Office (Feb. 8, 2024, at 17:32) (emphasis added). Available as of the date of filing at: <https://www.youtube.com/watch?v=P3bVXYkBMLc>.

Response: DNC-DPG admit that Plaintiff was sworn in as a member of the BRE on February 8, 2024, and that she took the oath required by O.C.G.A. § 21-2-70(15)(B), but deny any characterization thereof contained in Paragraph 5.

6. Plaintiff is, and at all times relevant to this Complaint has been, a resident of Fulton County above the age of majority.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 6 and therefore deny them.

7. Plaintiff's term as a member of the BRE will include the administration over, and certification of the November 2024 general election.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 7 and therefore deny them.

8. Plaintiff will hold her office as a member of the BRE until at least December 2026.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 8 and therefore deny them.

9. Pursuant to the provisions of O.C.G.A. § 21-2-40(b), the BRE was established in 1989 by the Georgia General Assembly through local legislation under Ga. L. 2019, p. 4181 ("Structure Act").

Response: DNC-DPG admit that the BRE was established in 1989 and state that O.C.G.A. § 21-2-40 and the Structure Act speak for themselves.

Defendant

10. Fulton County, Georgia, is the local county government for the geographic region of Georgia by the same name.

Response: Admitted.

11. The Director is an agent of the Defendant.

Response: Paragraph 11 contains legal conclusions to which no response is required. The remaining factual allegations are admitted.

12. Where specifically named herein, Patrise Perkins-Hooker served as the BRE Chairwoman, an agent of the Defendant.

Response: Paragraph 12 contains legal conclusions to which no response is required. The remaining factual allegations are admitted.

13. Where specifically named herein, Cathy Woolard served as the BRE Chairwoman, an agent of the Defendant.

Response: Paragraph 13 contains legal conclusions to which no response is required. The remaining factual allegations are admitted.

STATUTORY FRAMEWORK

County Boards of Elections and Registration

14. Title 21 of the Georgia Code is the Election Code of the State of Georgia (“Election Code”) that governs the structure and operations of elections in the State of Georgia, as well as in every county in the State.

Response: Paragraph 14 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that the Georgia Election Code in Title 21 speaks for itself and deny any characterization thereof in Paragraph 14 and further deny any remaining allegations contained in Paragraph 14.

15. Chapter 2, Article 2 of Title 21 outlines the structure and composition of Georgia’s election offices, including the State Election Board, County Boards of Elections, and County Boards of Elections and Registration. O.C.G.A. § 21-2-2.

Response: Paragraph 15 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that Chapter 2, Article 2 of the Georgia

Election Code speaks for itself and deny any characterization thereof in Paragraph 15 and further deny any remaining allegations contained in Paragraph 15.

16. Under O.C.G.A. § 21-2-40(b), “[T]he General Assembly may by local Act create a board of elections and registration in any county of this state and empower the board with the powers and duties of the election superintendent relating to the conduct of primaries and elections and with the powers and duties of the board of registrars relating to the registration of voters and absentee-balloting procedures.” *See also* O.C.G.A. § 21-2-45 (regarding joint county boards of election).

Response: Paragraph 16 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that O.C.G.A. §§ 21-2-40(b) and § 21-2-45 speaks for themselves and deny any characterization thereof in Paragraph 16 and further deny any remaining allegations contained in Paragraph 16.

17. Pursuant to the Structure Act, the BRE is comprised of five members: two members who are selected by the political party whose candidate received the largest number of votes in the last preceding regular general election, two members who are selected by the political party whose candidate received the second largest number of votes, and one member, serving as chairperson of the BRE, who is designated by the Fulton County Board of County Commissioners.

Response: Paragraph 17 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that the Structure Act speaks for itself. DNC-DPG admit that the Structure Act sets forth the composition of the BRE but deny any characterization of such composition as alleged in Paragraph 17 and further deny any remaining allegations contained in Paragraph 17.

18. The Authorization Act states that the BRE “shall have the powers and duties of the election superintendent of Fulton County relating to the conduct of elections and the powers and duties of the board of registrars relating to the registration of voters and absentee balloting procedures.”

Response: Paragraph 18 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that the Authorization Act speaks for itself and deny any characterization thereof in Paragraph 18.

19. The Authorization Act sets out additional affirmative duties, including:
- a. an oath requirement for its members;
 - b. responsibility for the registration of electors of Fulton County;
 - c. the preparing, equipping, and furnishing of polling places;
 - d. the counting of all ballots, both absentee and those regularly cast;
 - e. the selection, appointment, and training of poll workers; and all duties and powers for the administration of elections otherwise assigned to the probate judge under Chapter 2 of Title 21 of the Georgia Election Code.

Response: Paragraph 19 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that the Authorization Act speaks for itself and deny any characterization thereof in Paragraph 19.

The Election Superintendent

20. The “Election Superintendent” or “Superintendent” is a statutorily defined term: “Either the county board of elections, the county board of elections and registration, the joint city-county board of elections, or the joint city-county board of elections and registration, if a county has such[.]” O.C.G.A. § 21-2-2(35)(A).⁴

⁴ In May 2024, Governor Kemp signed into law Act 580 which amended O.C.G.A. § 21-2-2(35)(A) to remove the phrase “the judge of the probate court of a county or” as a designated entity that could serve as a “superintendent” if [sic] elections under Chapter 2 of Title 21 of the Georgia Election Code. 2024 Ga. Laws Act 580, § 3 (amending O.C.G.A. § 21-2-2).

Response: Paragraph 20 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that O.C.G.A. § 21-2-2(35)(A) speaks for itself and deny any characterization thereof. DNC-DPG further deny any remaining allegations in paragraph 20.

21. O.C.G.A. § 21-2-70 states that “[e]ach superintendent within his or her county or municipality shall exercise all the powers granted to him or her by this chapter and shall perform all the duties imposed upon him or her” under Chapter 2 of Title 21.

Response: Paragraph 21 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that O.C.G.A. § 21-2-70 speaks for itself and deny any characterization thereof.

22. These powers and duties include, *inter alia*:

- a. the power to “inspect systematically and thoroughly the conduct of primaries and elections . . . to the end that primaries and elections may be honestly, efficiently, and uniformly conducted,” O.C.G.A. § 21-2-70(8);

the power to “receive from poll officers the returns of all primaries and elections, to canvass and compute the same, and to certify the results thereof to such authorities as may be prescribed by law,” O.C.G.A. § 21-2-70(9); and

the duty of each individual board member to swear an oath to “prevent any fraud, deceit, or abuse in carrying on the same [*i.e.*, elections],” O.C.G.A. § 21-2-70(15)(B).

Response: Paragraph 22 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that O.C.G.A. § 21-2-70 speaks for itself and deny any characterization thereof.

23. O.C.G.A. § 21-2-493 sets out in particularity the methods by which the Superintendent is to perform its duties of computation, canvassing, tabulating, and certification, stating:

- (a) The superintendent shall, after the close of the polls on the day of a primary or election, at his or her office or at some other convenient public place at the county seat or in the municipality, of which due notice shall have been given as provided by Code Section 21-2-492, publicly commence the computation and canvassing of the returns and continue until all absentee ballots received by the close of the polls, including those cast by advance voting, and all ballots cast on the day of the primary or election have been counted and tabulated and the results of such tabulation released to the public and, then, continuing with provisional ballots as provided in Code Sections 21-2-418 and 21-2-419 and those absentee ballots as provided in subparagraph (a)(1)(G) of Code Section 21-2-386 from day to day until completed. For this purpose, the superintendent may organize his or her assistants into sections, each of whom may simultaneously proceed with the computation and canvassing of the returns from various precincts of the county or municipality in the manner provided by this Code section. Upon the completion of such computation and canvassing, the superintendent shall tabulate the

figures for the entire county or municipality and sign, announce, and attest the same, as required by this Code section.⁵

(b) The superintendent, before computing the votes cast in any precinct, shall compare the registration figure with the certificates returned by the poll officers showing the number of persons who voted in each precinct or the number of ballots cast. If, upon consideration by the superintendent of the returns and certificates before him or her from any precinct, it shall appear that the total vote returned for any candidate or candidates for the same office or nomination or on any question exceeds the number of electors in such precinct or exceeds the total number of persons who voted in such precinct or the total number of ballots cast therein, such excess shall be deemed a discrepancy and palpable error and shall be investigated by the superintendent; and no votes shall be recorded from such precinct until an investigation shall be had. Such excess shall authorize the summoning of the poll officers to appear immediately with any primary or election papers in their possession. The superintendent shall then examine all the registration and primary or election documents whatever relating to such precinct in the presence of representatives of each party, body, and interested candidate. Such examination may, if the superintendent deems it necessary, include a recount or recanvass of the votes of that precinct and a report of the facts of the case to the district attorney where such action appears to be warranted.

...

(k) As the returns from each precinct are read, computed, and found to be correct or corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until all the returns from the various precincts which are entitled to be counted shall have been duly recorded; then they shall be added together, announced, and attested by the assistants who made and computed the entries respectively and shall be signed by the superintendent. The consolidated returns shall then be certified by the superintendent in the manner required by this chapter. Such returns shall be certified by the superintendent not later than 5:00 P.M. on the Monday following the date on which such election was held and such returns shall be immediately transmitted to the Secretary of State.

O.C.G.A. § 21-2-493(a-b, k) (emphasis added [removed here]).

⁵ Effective until July 1, 2024, with the new statutory language coming into effect on July 1, 2024, adding an 8:00 p.m. deadline on election day for completion of tabulation.

Response: Paragraph 23 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that subsections (a), (b) and (k) of O.C.G.A. § 21-2-493 speak for themselves and deny any characterization thereof. DNC-DPG further deny any remaining allegations in Paragraph 23.

24. Georgia law also assigns specific election night procedures and verification management (the zero tapes, results tapes, and memory cards) to the election superintendent. O.C.G.A. § 21-2-379.11(g) provides that:

Upon receipt of the sealed envelope or container containing the zero tapes, results tapes, and memory cards [previously sealed in an envelope on election night by a poll manager under O.C.G.A. § 21-2-379.11(e)] the election superintendent shall verify the initials or signature on the envelope. Once verified, the superintendent shall break the seal of the envelope or container and remove its contents. The superintendent shall then download the results stored on the memory card from each DRE unit into the election management system . . . [.]”

(emphasis added [removed here]).

Response: Paragraph 24 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that O.C.G.A. § 21-2-379.11(g) speaks for itself and deny any characterization thereof. DNC-DPG further deny any remaining allegations in Paragraph 24.

25. The superintendent also has statutorily defined duties regarding the performance of certain tasks. *See* O.C.G.A. § 21-2-377 (regarding the designation of a custodian for optical scanning voting systems); O.C.G.A. § 21-2-483 (regarding the designation of review panels at tabulation centers); O.C.G.A. § 21-2-132 (regarding municipal superintendent designation of certain qualifying periods).

Response: Paragraph 25 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that O.C.G.A. §§ 21-2-377, 21-2-483 and 21-2-132 speak for themselves and deny any characterization thereof. DNC-DPG further deny any remaining allegations in Paragraph 25.

26. Additional statutory duties of the Superintendent include, inter alia, the obligation to:

- a. systematically and thoroughly inspect the conduct of elections; O.C.G.A. § 21-2-70(8);
- b. calculate and tabulate election returns; O.C.G.A. § 21-2-493(a);
- c. compare voter registration figures with various certificates returned by poll officers; O.C.G.A. § 21-2-493(b);
- d. set aside and sequester discrepancies where the number of votes cast in a precinct appear to exceed the number of electors therein; *id.*;
- e. investigate such discrepancies which, when initiated, pauses the recording of votes from said precinct; *id.*;
- f. initiate recount or recanvassing where such discrepancies exist; *id.*, O.C.G.A. § 21-2-495 (even where such discrepancies are not apparent upon the face of the election returns);
- g. summon poll officers and all election papers in those officers' possession for resolving discrepancies; O.C.G.A. §§ 21-2-493(b,g);
- h. examine election return sheets, tally papers, proof sheets, and other documents in resolving discrepancies; O.C.G.A. §§ 21-2-493 (b,g,h);
- i. receive and verify sealed envelopes containing zero tapes, result tapes, and memory cards from each polling place; O.C.G.A. § 21-2-379.11(g);
- j. examine voting machines and verify that they are properly zeroed before use on a voting day; O.C.G.A. §§ 21-2-379.6, 21-2-327;
- k. determine the sufficiency of recall applications and petitions; O.C.G.A. § 21-2-408(c);
- l. “announce and attest” to the results of their computation and canvassing of election returns; O.C.G.A. § 21-2-493(a) (emphasis added [removed here]);
- m. “compute and certify the votes justly[;]” O.C.G.A. § 21-2-493(i) (emphasis added [removed here]); and
- n. swear to “prevent any fraud, deceit, or abuse” in carrying out the operation of elections and to “make a true and perfect return of such primaries and elections [and] impartially, and faithfully perform [their] duties in accordance with Georgia laws to the best of [their] judgment and ability;” O.C.G.A. § 21-2-70(15) (emphasis added [removed here])

Response: Paragraph 26 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that O.C.G.A. §§ 21-2-70, -309, -327, -379, -408, -493 and -495 speak for themselves, and deny Plaintiff’s characterization thereof in Paragraph 26.

27. The Authorization Act vested the BRE with the “powers and duties of the election superintendent of Fulton County relating to the conduct of elections.”

Response: Paragraph 27 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that the Authorization Act speaks for itself and deny Plaintiff’s characterization thereof in Paragraph 27.

Chief Administrative Officer

28. The Authorization Act allowed the BRE to create “a chief administrative officer of the board who shall be appointed by the governing authority of the county upon the recommendation of the board and shall be designated elections supervisor. He shall have such duties and functions in regard to elections as may be prescribed by the board.”

Response: Paragraph 28 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that the Authorization Act speaks for itself and deny any characterization thereof in Paragraph 28.

29. “Election supervisor” is a legally distinct office from that of the superintendent. *See, e.g.,* Ga. Code. Ann. § 21-2-33.1(f) (describing the duties of a temporary superintendent after the suspension of a superintendent, including “the authority to make all personnel decisions related to any employees of the jurisdiction who assist with carrying out the duties of the superintendent, including, but not limited to, the director of elections, the election supervisor, and all poll officers.” (emphasis added)).

Response: Paragraph 29 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that O.C.G.A. § 21-2-33.1(f) speaks for itself and deny any characterization thereof. DNC-DPG further deny any remaining allegations in Paragraph 29.

FACTUAL ALLEGATIONS

30. Consistent with the Authorization Act, Fulton County enacted an ordinance vesting the BRE with the “powers and duties of the election superintendent of Fulton County relating to the conduct of elections and the powers and duties of the board of registrars relating to the registration of voters and absentee balloting procedures.” Fulton County Local Act § 14-32.⁶

⁶ Available as of the date of filing at: https://library.municode.com/ga/fulton_county/codes/code_of_ordinances?nodeId=PTILOCOAMLOAC_CH14EL_ARTIIBOELRE_S14-32CRPODUGE.

Response: Paragraph 30 contains no factual allegations to which a response is required. To the extent a response is needed, DNC-DPG state that Fulton County Local Act § 14-32 speaks for itself and deny Plaintiff’s characterization thereof. DNC-DPG further deny any remaining allegations in paragraph 30.

31. In her role as a member of the BRE, Plaintiff has repeatedly sought access to the election processes, systems, records, materials, data, equipment, reports from poll workers, and other vital information (“the Election Materials and Processes”) necessary for her, and other BRE members, to perform their statutory duties.⁷

⁷ There are other significant statutory responsibilities vested in the election superintendent as part of overseeing the elections, including but not limited to the budget for the elections department, finances, vendors and contractors, personnel policies, voter registration and list maintenance, among others. Those specific duties and responsibilities are not at issue in this emergency action but Plaintiff does not waive her statutory obligations related to all components of being a BRE member and election superintendent in Fulton County.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 31. DNC-DPG further deny any attempt in Paragraph 31 to construe or characterize the statutory duties of members of the BRE or the legal necessity of any “Election Materials and Processes.”

32. While the Election Materials and Processes are discussed more fully in the body of the complaint, these Election Materials and Processes include but are not limited to receipt and inspection of:
- a. Qualified Voter List: a list of all lawfully registered electors that are eligible to cast a ballot within a voting jurisdiction.

Voter Check-in List: a list of all electors who, upon arriving at a voting precinct to cast a ballot, signed in at that precinct. There are unique Voter Check-in Lists for advanced voting and election day [sic] voting.

Poll Open and Close Tapes: Insofar as ballots are cast on voting machines, an Open Tape is a reflection of the number of ballots cast on a particular machine before the casting of the first vote on election day (regularly set to zero before the casting of that first vote) and Close Tapes that reflect how many ballots were cast on a particular machine after the casting of the last ballot at a polling place on election night. The Open and Close Tapes, taken together, help reconcile the accurate numbers of votes cast on a voting machine and are used to verify that the numbers reported by a particular voting machine are neither inaccurate nor tampered with.

Ballot Recap Sheet: The ballots cast by electors during advanced voting are not counted until election night. A Ballot Recap Sheet is a report reflecting the number of ballots cast on a voting machine during advanced voting. The report helps with reconciling the reported number of ballots cast during advanced voting when tabulated on election night, and the actual number of ballots cast during advanced voting, ensuring no addition or deletion in the interim.

Provisional Ballot Recap Sheets: Provisional ballots are ballots provided to potential electors, such as electors whose registration status may be uncertain or otherwise under examination but whose registration status may be perfected on or before tabulation on election day. Provisional ballots may be cast during advanced voting, with the Provisional Ballot Recap Sheet being the Ballot Recap Sheet for cast provisional ballots.

Voting Ballot Removal Forms: During advanced voting, when an individual scanning machine that accepts and scans paper ballots accumulates a sufficient number of ballots, the accepted and scanned ballots must be emptied from the machine. During the emptying process, the scanning machine produces a report of the removal action called a Voting Ballot Removal Form. These reports are vital in reconciling the data from internal memory cards for each scanning machine, which additionally logs cast ballots.

Drop Box Ballot Forms: The Drop Box Ballot Form is a chain of custody document that tracks the collection and transportation of ballots cast at any of the ballot drop boxes in Fulton County.

Cast Vote Record List: a list detailing all ballots cast with digital images of ballots as they were cast.

Absentee Ballot Records: List of all electors who requested, received, and/or returned an Absentee Ballot. All Absentee Ballot applications and ballot envelopes.

Election Processes: the various procedures required by law to, among other things, protect and secure ballots, voting and tabulating equipment, the opening and closing of polling locations, the transporting of ballots, ballot drop boxes, and other voting materials, and the manner in which poll workers conduct the election at their respective polling locations, central tabulation, and other physical locations and other of the election processes and procedures.

Response: DNC-DPG admit that Paragraph 32 describes various election-related documentation but deny any characterization of those materials and the processes of the BRE. Further, to the extent the allegations of Paragraph 32 imply that any of the “Election Materials and Processes” are legally necessary or required, those are conclusions of law to which no response is required.

33. Together, the Election Materials and Processes are comprised of the totality of the election processes that the election superintendent is required by law to oversee and implement.

Response: DNC-DPG deny as stated the allegations of Paragraph 33. Further, to the extent the allegations of Paragraph 33 are conclusions of law, no response from DNC-DPG is required.

34. In particular, under the Authorization Act, the BRE has the exclusive power to certify the results of Fulton County elections.

Response: DNC-DPG state that the Authorization Act speaks for itself and deny Plaintiff’s characterization thereof in Paragraph 34.

35. However, without access to any of the Election Materials and Processes needed to verify the returns and results of an election BRE members are left to rely on the bare representations of the Director.

Response: The allegations of Paragraph 35 require no response from DNC-DPG because they are not directed at DNC-DPG. To the extent a response is required, DNC-DPG lack sufficient knowledge or information to admit or deny the allegations of Paragraph 35 and therefore deny them.

36. Importantly, the position of Director is referenced in bylaws (“Bylaws;” a copy of which is attached and incorporated hereto at Exhibit 1) that were ostensibly promulgated by the BRE, but despite the request of BRE members, neither the counsel nor the BRE’s staff have been able to produce an official version of the Bylaws, in a form or on a date on which the bylaws were passed.

Response: The allegations of Paragraph 36 require no response from DNC-DPG because they are not directed at DNC-DPG. To the extent a response is required, DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 36 and therefore deny them, except DNC-DPG admit that the position of Director is referenced in the BRE Bylaws.

37. The Bylaws provide, *inter alia*:

- a. The selection of a chief administrative officer, the Director, for the Fulton County BRE. Bylaws Art. I;

The conduct of regular meetings for the Fulton County BRE. Bylaws Art. II-III; and,

The voting procedure of the board requiring a majority of the BRE members for any action of the BRE. Bylaws Art. III, § 6.

Response: DNC-DPG state that the referenced provisions of the BRE Bylaws speak for themselves and deny any characterization thereof.

38. Agents of the Defendant have asserted that the powers and duties of the BRE have been delegated to the Director by virtue of the Bylaws in Article VI, "Employees:"

Section 1. The Board hereby delegates the powers and duties of the superintendent and the board of registrars, as provided in O.C.G.A. § 21-2-70 and § 21-2-212, the Director, pursuant to Sec. 14-42 of the Fulton County Code of Ordinances; provided, however, that the Board acknowledges its ultimate responsibility for the discharge of these powers and duties. (Emphasis added [removed here])

Response: The allegations of Paragraph 38 require no response from DNC-DPG because they are not directed at DNC-DPG. To the extent a response is required, DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 38 and therefore deny them. Responding further, DNC-DPG state that the BRE Bylaws speak for themselves and therefore deny Plaintiff's characterization thereof in Paragraph 38.

39. This purported delegation provision cites Section 14-42 of the Fulton County Code of Ordinances,⁸ which, tracking language from the Authorization Act, states as follows:

There shall be a chief administrative officer of the board who shall be appointed by the governing authority of the county upon the recommendation of the board and shall be designated [the] “elections supervisor.” He shall have such duties and functions in regard to elections as may be prescribed by the board. The elections supervisor shall be an elector of Fulton County.

⁸ Fulton County Code of Ordinances § 14-42 appears to be reserved, *see* https://library.municode.com/ga/fulton_county/codes/code_of_ordinances?nodeId=PTIICOORCORE_CH14BUBURE_ARTIITEST_DIV1GE_SS14-42--14-75RE; however, Fulton County Local Act § 14-42 contains the relevant language cited, *see* https://library.municode.com/ga/fulton_county/codes/code_of_ordinances?nodeId=PTILOCOAMLOAC_CH14EL_ARTIIBOELRE_S14-42CHADOFDUFU.

Response: DNC-DPG state that the Authorization Act and Section 14-42 of the Fulton County Code of Ordinances speak for themselves and deny any characterization thereof. DNC-DPG admit that the BRE Bylaws reference Section 14-42 of the Fulton County Code of Ordinances. DNC-DPG deny any remaining allegations in Paragraph 39.

40. It appears the Bylaw’s “Director” fills the role of the “election supervisor” established by the Fulton County Board of County Commissioners.

Response: The allegations of Paragraph 40 require no response from DNC-DPG because they are not directed at DNC-DPG. To the extent a response is required, DNC-DPG lack sufficient knowledge or information to admit or deny the allegations of Paragraph 40 and therefore deny them.

41. Notwithstanding the clear statutory language in the Georgia Election Code, the Defendants have taken the position the BRE *delegated* the statutorily assigned duties and powers of the Fulton County election superintendent to the Director via adoption of the Bylaws and that BRE members are not entitled to access to the Election Materials and Processes necessary for the performance of their duties.

Response: The allegations of Paragraph 41 require no response from DNC-DPG because they are not directed at DNC-DPG. Further, to the extent the allegations of Paragraph 41 imply that any of the “Election Materials and Processes” are legally necessary or required, those are conclusions of law to which no response is required. To the extent a response is required, DNC-DPG lack sufficient knowledge or information to admit or deny the

allegations of Paragraph 41 and therefore deny them. Responding further, DNC-DPG state that the Georgia Election Code speaks for itself and deny any characterization thereof.

42. As a consequence of this delegation (which, as noted above, is unsupported by any official records of the Bylaws being formally adopted by the BRE), the current and former Chairs of the BRE and the Director have refused to allow Plaintiff access to the Election Materials and Processes.

Response: The allegations of Paragraph 42 require no response from DNC-DPG because they are not directed at DNC-DPG. To the extent a response is required, DNC-DPG lack sufficient knowledge or information to admit or deny the allegations of Paragraph 42 and therefore deny them.

43. Previous members of the BRE who are no longer serving have likewise sought access to the Fulton County Election Materials and Processes, only to be likewise denied in their repeated requests.

Response: The allegations of Paragraph 43 require no response from DNC-DPG because they are not directed at DNC-DPG. To the extent a response is required, DNC-DPG lack sufficient knowledge or information to admit or deny the allegations of Paragraph 43 and therefore deny them.

44. The denial of access to the Election Materials and Processes during and following the March 12, 2024, Presidential Preference Primary (the “PPP”) was a material factor in Plaintiff’s decision to vote against certification of the results of the PPP.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 44 and therefore deny them.

45. Specifically, on March 7, 2024, five days before the upcoming PPP, Plaintiff emailed the Director and Chair of the BRE requesting the following items be made available with adequate time for her review prior to voting on the meeting at which certification was to occur (a copy of Plaintiff’s email is attached and incorporated by reference hereto at composite Exhibit 2):

- a. Qualified Voter List;

Voter Check-In List, AV and ED, by location;

Poll Open & Close Tapes (AV open & Close status) and ED;

Ballot Recap Sheets;

Voted Ballot Removal Forms;

Drop Box Ballot Recap Sheets;

Provisional Ballot Recap Sheets; and

Cast Vote Record.

Response: DNC-DPG state that Plaintiff's March 7, 2024 email speaks for itself and deny any characterization thereof.

46. That same evening, the Director responded, noting that most of the documents requested would not be created until after the primary, and that "review of these documents is not required for certification," and that "reconciliation is diligently conducted and completed" by her office before certification (a copy of the Director's email is attached and incorporated by reference hereto at composite Exhibit 2).

Response: DNC-DPG admit that Director Williams responded to Plaintiff's March 7, 2024 email within two hours and state that her response speaks for itself. DNC-DPG deny any characterization thereof and any remaining allegations in Paragraph 46.

47. The then-Chair of the BRE instructed the Director to deny Plaintiff's requests for documents and advised the Plaintiff that she would need to seek the approval of the entire BRE to obtain these documents (a copy of the Chair's email is attached and incorporated by reference hereto at composite Exhibit 2).

Response: DNC-DPG state that the referenced email speaks for itself and deny Plaintiff's characterization thereof. As to any remaining allegations in Paragraph 47, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

48. Without access to the Election Materials and Processes, Plaintiff was unable to fulfill her statutory duties to "inspect systematically and thoroughly the conduct of primaries and elections . . . to the end that primaries and elections may be honestly, efficiently, and uniformly conducted," "to canvass and compute the" election results, and satisfy her oath to ensure there was no, "fraud, deceit, or abuse in carrying on the [elections]."

Response: The allegations of Paragraph 48 are conclusions of law to which no response is required. To the extent a response is required, DNC-DPG deny as stated the allegations in Paragraph 48.

49. Accordingly, on March 19, 2024, Plaintiff voted against certification of the PPP results.

Response: DNC-DPG admit that Plaintiff voted against certification of the PPP results. DNC-DPG deny as stated any remaining allegations in Paragraph 49.

50. Compounding the need for judicial clarification is that after the vote against certification of the March PPP returns, the DPG sent a letter dated March 29, 2024, to all the members of the BRE, including Plaintiff.

Response: DNC-DPG admit that DPG sent a March 29, 2024 letter to all members of the BRE, and deny the remaining allegations in Paragraph 50.

51. The DPG's letter stated its position that the "certification of election results is a ministerial task performed by members of the Board of Elections and is not subject to their discretion." (A copy of the letter is attached and incorporated by reference hereto at Exhibit 3.)

Response: DNC-DPG state that the DPG letter speaks for itself and deny any characterization thereof.

52. The DPG's letter asserted that failure to certify was grounds for a mandamus action and that members of the BRE could also face *criminal liability* for voting against certification, stating that "if a member of the Board of Elections either 'willfully neglects' or 'refuses to perform' their statutory obligations, they 'shall be guilty of a misdemeanor,'" (citing O.C.G.A. § 21-2-596).

Response: DNC-DPG state that the DPG letter speaks for itself and deny any characterization thereof.

53. After Plaintiff requested access to Election Materials and Processes before and during meetings of the BRE on March 12, March 18, April 11, and April 17, 2024, the Director distributed a memorandum to BRE members, setting out her position on access to Election Materials and Processes. (A copy of the memorandum is attached and incorporated by reference hereto at Exhibit 4.)

Response: DNC-DPG state that the referenced memorandum speaks for itself and deny any characterization thereof. As to any remaining allegations in Paragraph 53, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

54. In response to one of the Plaintiff's requests for a specific document (recap sheets related to vote processing), the Director explained that no access would be granted to anything beyond the Excel spreadsheets traditionally prepared and provided by the Director to the BRE.

Response: To the extent Plaintiff's allegations in Paragraph 54 concern the memorandum referenced in Paragraph 53, DNC-DPG state that the memorandum speaks for itself and deny any characterization thereof. As to any remaining allegations in Paragraph 54, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

55. The Director stated that these Excel documents provide seamless error correction and the documents, "undergo rigorous validation processes to ensure their accuracy and compliance with legal requirement."

Response: To the extent Plaintiff's allegations in Paragraph 55 concern the memorandum referenced in Paragraph 53, DNC-DPG state that the memorandum speaks for itself and deny any characterization thereof. As to any remaining allegations in Paragraph 55, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

56. The Director stated that Plaintiff should trust the self-described "rigorous validation process" employed by the Director to ensure accuracy.

Response: To the extent Plaintiff's allegations in Paragraph 56 concern the memorandum referenced in Paragraph 53, DNC-DPG state that the memorandum speaks for itself and deny any characterization thereof. As to any remaining allegations in Paragraph 56, DNC-

DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

57. Further, the Director stated that Plaintiff's questions on the issue "leads to misinformation and distrust in the electoral process" and that they lead to "[b]aseless allegations" that "work against and divide this unit and work against all the voters we serve."

Response: To the extent Plaintiff's allegations in Paragraph 57 concern the memorandum referenced in paragraph 53, DNC-DPG state that the memorandum speaks for itself and deny any characterization thereof. As to any remaining allegations in Paragraph 57, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

58. Plaintiff's continued concerns over access to Election Materials and Processes prompted the former Chair of the BRE to request an opinion from the board's legal counsel as to "whether or not a board of elections and registration can designate the election superintendent?"⁹

⁹ Patrise Perkins-Hooker, Chairwoman, Fulton County Bd. Of Reg. and Elec., Inquiry to Legal Counsel (April 11, 2024; at 1:51:36). Available as of the date of filing at: <https://www.youtube.com/watch?v=795a9AAnlYY>.

Response: DNC-DPG admit that the BRE Chair requested a legal opinion but deny as stated the remaining allegations in Paragraph 58, including its footnote. Responding further, DNC-DPG state that the YouTube video referenced in Paragraph 58 speaks for itself and deny any characterization thereof.

59. The BRE's counsel responded on May 6, 2024, stating that the Authorization Act permitted the creation of the "election supervisor," a position filled by the BRE's "Director."

Response: The allegations of Paragraph 59 require no response from DNC-DPG because they are not directed at DNC-DPG. To the extent a response is required, DNC-DPG state that the BRE counsel's legal opinion speaks for itself and deny Plaintiff's characterization

thereof. As to any remaining allegations in Paragraph 59, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

60. However, the Authorization Act confers no authority for the BRE to divest itself of its core statutory duties as election superintendent, and the BRE counsel's letter cites to no such authority on this critical point.

Response: Paragraph 60 states a legal conclusion to which no response is required. To the extent a response is needed, DNC-DPG state that the Authorization Act and BRE counsel's legal opinion speak for themselves. DNC-DPG deny any characterization thereof in Paragraph 60 and further deny as stated any remaining allegations in Paragraph 60.

61. The counsel's letter was discussed at length at the BRE meeting on May 9, 2024.

Response: Admitted.

62. BRE member Mike Heekin raised specific concerns regarding "the delegability [sic] of certain – of powers and duties particularly superintendent and board of registrars," recommending that the legal counsel and the BRE "drive a little deeper into *can they* [the powers and duties of the superintendent and board of registrars] *be delegated*."¹⁰

¹⁰ Mike Heekin, Vice Chair, Fulton Cnty. Bd. of Reg. and Elec., Recommendations (May 9, 2024, at 52:30). Available as of the date of filing at: https://www.youtube.com/watch?v=p4N_rMdpf7c.

Response: DNC-DPG state that Mr. Heekin's documented comments in the YouTube video referenced in Paragraph 62 speak for themselves and deny any characterization thereof. As to any remaining allegations in Paragraph 62, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

63. At that same meeting, Plaintiff attempted to close the gaps in the counsel's opinion letter by making the following motion to the BRE:

That the Fulton County Board of Registrations and Elections resume their legal responsibility as the superintendent of elections and fully functioning whether it is the finance department, whether its training, and certainly for this upcoming election, that the board member have the right to real-time results of the elections and elections' documents.¹¹

¹¹ Julie Adams, Board Member, Fulton Cnty Bd. of Reg. and Elec., Motion (May 9, 2024, at 1:30:30). Available as of the date of filing at: https://www.youtube.com/watch?v=p4N_rMdpf7c.

Response: DNC-DPG state that Plaintiff’s documented comments in the YouTube video referenced in Paragraph 63 speak for themselves and deny any characterization thereof.

Responding further, DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 63 and therefore deny them.

64. The motion failed on a 2-2 vote (one member of the BRE was absent, and a majority vote was required for passage).

Response: DNC-DPG state that the documented vote on the referenced motion speaks for itself and deny any characterization thereof. As to any remaining allegations in Paragraph 64, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

65. Then BRE Chair, Cathy Woolard, informed the other members of the BRE that the Election Materials (in whatever form they would be made available) would not be provided before 8:00 a.m. ET on certification day May 28, 2024.

Response: DNC-DPG state that Chair Woolard’s documented comments speak for themselves and deny any characterization thereof. As to any remaining allegations in Paragraph 65, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

66. When Plaintiff suggested that the few hours before the certification vote would be insufficient, Ms. Woolard responded, “Well that’s gonna be what you get.”¹²

¹² Cathy Woolard, Fulton Cnty. Bd. of Reg. and Elec., Statement (May 9, 2024, at 1:22:55).\ Available as of the date of filing at https://www.youtube.com/watch?v=p4N_rMdpf7c.

Response: DNC-DPG state that Plaintiff’s and Chair Woolard’s documented comments in the YouTube video referenced in Paragraph 66 speak for themselves and deny any characterization thereof. As to any remaining allegations in Paragraph 66, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

67. When Ms. Adams asked if she could have the Election Materials (in whatever form they would be made available) at least a day or two before the day of certification, Ms. Wollard [sic] responded, “You cannot.”¹³

¹³ Cathy Woolard, Fulton Cnty. Bd. of Reg. and Elec., Statement (May 9, 2024, at 1:23:08). Available as of the date of filing at https://www.youtube.com/watch?v=p4N_rMdpf7c.

Response: DNC-DPG state that Plaintiff’s and Chair Woolard’s documented comments in the YouTube video referenced in Paragraph 67 speak for themselves and deny any characterization thereof. As to any remaining allegations in Paragraph 67, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

68. When Mr. Heekin and Plaintiff inquired whether or not they would be provided a ballot recap sheet, Ms. Williams responded:

I’m sorry the ballot recap sheet, is not produced electronically for election day, it’s a three-part carbon form that we have to pull from blinders to get those all together, and we would not have that done by the time certification happens. But the numbers from those ballot sheets are on the report that are listed on this form.¹⁴

¹⁴ Nadine Williams, Fulton Cnty. Bd. of Reg. and Elec., Statement (May 9, 2024, at 1:26:39) (emphasis added). Available as of the date of filing at https://www.youtube.com/watch?v=p4N_rMdpf7c.

Response: DNC-DPG state that Plaintiff’s, Mr. Heekin’s, and Director Williams’ documented comments in the YouTube video referenced in Paragraph 68 speak for themselves and deny any characterization thereof. As to any remaining allegations in Paragraph 68, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

69. The BRE then voted to begin its May 28, 2024, certification meeting at 8:00 a.m. ET and that the certification vote would be completed no later than 3:00 p.m. ET that same day.

Response: DNC-DPG state that the documented vote referenced in Paragraph 69 speaks for itself and deny any characterization thereof. As to any remaining allegations in

Paragraph 69, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

70. While initially allotted 7 hours (rather than the regular 6 days between election day and certification day), due Defendant's agents repeatedly discussing with Plaintiff whether she would conclude her review early, Plaintiff only meaningfully had 5.5 hours to review the Election Materials Plaintiff quickly set to work reviewing for potential discrepancies.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 70 and therefore deny them.

71. In this truncated time Plaintiff was able to review the returns for 10 of Fulton County's more than 450 voting precincts.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 71 and therefore deny them.

72. Examining this randomly selected pool of precincts, Plaintiff discovered that three precincts had more voters checking in to vote than the number of ballots issued at that location.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 72 and therefore deny them.

73. In one of those reviewed precincts Plaintiff discovered that that the excess of voter checkins constituted 4.4% of the total number of checked in voters.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 73 and therefore deny them.

74. Based on the discovered discrepancies and the truncated time allotted to review the election returns, Plaintiff abstained from certifying the first proposed set of election returns set forth for certification.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 74 and therefore deny them.

75. In the days following the May 28, 2024, certification Plaintiff repeatedly requested access to the Election Materials and Processes for the May 21, 2024, primary to continue investigating the discrepancies she discovered.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 75 and therefore deny them.

76. Defendant's Agents repeatedly ignored Plaintiffs emails asking for the May 21, 2024, Election Materials and Processes.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 76 and therefore deny them.

77. When Plaintiff asked Defendant's agent in-person for the Election Materials and Processes for the May 21, 2024, primary, she was informed that the Director had independently investigated the discrepancies and that neither the BRE nor the Director would be providing Plaintiff with the requested Election Materials and Processes

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 77 and therefore deny them.

78. Furthermore, Defendant's agents informed Plaintiff that the only way she would be provided her requested Elections Materials and Processes for the May 21, 2024, primary was if she filed a public records request and paid the associated fees.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 78 and therefore deny them.

79. For the June 18, 2024, special election Plaintiff once again sought access to the Election Materials and Processes before the June 24, 2024, certification date.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 79 and therefore deny them.

80. Defendants' agents provided a selected subset of the Election Materials and Processes to Plaintiff on the certification day (June 24, 2024) and for less than 3 hours for review before the vote for certification.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 80 and therefore deny them.

81. The operations of the BRE have long been a matter of concern.

Response: Denied.

82. In the aftermath of Fulton County’s 2020 primary, the State Election Board (“SEB”) issued a consent order (“2020 Consent Order”) that detailed over 410 complaints regarding the BRE’s conduct of the primary. (A copy of the consent order is attached and incorporated by reference hereto at Exhibit 5).

Response: DNC-DPG state that the referenced consent order speaks for itself and deny any characterization thereof. DNC-DPG lack sufficient knowledge or information to admit or deny the remaining allegations of Paragraph 82 and therefore deny them.

83. Pursuant to the 2020 Consent Order, the SEB appointed a monitor to oversee the BRE’s operations during the 2020 general election (the post-election report by that monitor is attached and incorporated hereto as Exhibit 6).

Response: DNC-DPG state that the referenced report and consent order speak for themselves and deny any characterization thereof. DNC-DPG lack sufficient knowledge or information to admit or deny the remaining allegations of Paragraph 83 and therefore deny them.

84. Despite the appointment of a monitor as a result of the errors in the 2020 primary, the BRE’s conduct of the 2020 general election was also subject to reprimand by the SEB.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations of Paragraph 84 and therefore deny them.

85. Specifically, the SEB recently issued a citation in response to Complaint 2023-025, which alleged that the BRE had engaged in numerous violations of the Georgia Election Code. (The SEB has yet to formally issue the letter of reprimand, but SEB hearing where the vote to issue the reprimand was taken was available as of the date of filing at <https://www.youtube.com/watch?v=M6QLSEfbO7w>.)

Response: DNC-DPG admit that the SEB issued a letter of reprimand on June 13, 2024, which speaks for itself. DNC-DPG deny any characterization thereof. DNC-DPG lack sufficient knowledge or information to admit or deny any remaining allegations in Paragraph 85 and therefore deny them.

86. At the hearing on Complaint 2023-025, SEB Member Johnson said, “[T]here is enough evidence to suggest that the Respondents violated Georgia election laws and

State Election Board rules, to such an excess, that we should be embarrassed for the Fulton County Registration and Elections.”¹⁵

¹⁵ Video of the hearing available as of the date of filing at <https://www.youtube.com/watch?v=M6QLSEfbO7w>.

Response: DNC-DPG state that Mr. Johnson’s documented comments in the YouTube video referenced in Paragraph 86 speak for themselves and deny any characterization thereof. As to any remaining allegations in Paragraph 86, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

87. The specific actions by the SEB during the 2020 and 2022 election cycles are just a sample of the official actions the SEB’s oversight of the BRE in recent years; attached here is a list of official actions taken in response to complaints about the BRE (including but not limited to the reprimands detailed above):

Complaint Number	Subject Matter of Complaint	SEB Meeting Minutes Disposition	Date of Disposition	Disposition
2023-025	Double Scanning, Tabulation Errors, Erroneous Results 2020 General Election	https://sos.ga.gov/sites/default/files/2024-05/Summary%205.7.8.24.pdf	5/7/2024	Reprimand, Appointment of Monitors for 2024
2022-356	Tabulation Issues	https://sos.ga.gov/sites/default/files/2024-05/Summary%205.7.8.24.pdf	5/7/2024	Letter of Instruction
2022-211	AB Fraud	https://sos.ga.gov/sites/default/files/2024-05/Summary%205.7.8.24.pdf	5/7/2024	Letter of Instruction
2022-109	Certification of Incomplete & Erroneous Results	https://sos.ga.gov/sites/default/files/2024-05/Minutes%202.13.24.pdf	2/13/2024	Letter of Reprimand
2022-043	Election Night Reporting May 3, 2022 Issues	https://sos.ga.gov/sites/default/files/2024-05/Minutes%202.13.24.pdf	5/7/2024	Letter of Instruction
2021-181	Data Review Errors with Risk Limiting Audit - Approved AG Report	https://sos.ga.gov/sites/default/files/forms/Minutes%206.21.23.pdf	6/21/2023	Consent order issued by AG's office
2021-141	Illegal Shredding	https://sos.ga.gov/sites/default/files/forms/Minutes%206.20.23.pdf	6/20/2023	Refer to AG
2020-120	Poll Watcher Issue	https://sos.ga.gov/sites/default/files/forms/Minutes%206.21.23.pdf	6/21/2023	Refer to AG
2020-080	Issues from August 11th, 2020, Runoff	https://sos.ga.gov/sites/default/files/forms/Minutes%208.1.23.pdf	8/1/2023	Refer to AG
2020-016	250+ Complaints No AB Ballot June Primary	Consent Order 10/12/2020	10/12/2020	Consent Order & Monitor
2020-027	160+ Complaints Polling Place Issues June Primary	Consent Order 10/12/2020	10/12/2020	Consent Order & Monitor

Response: The allegations of Paragraph 87 require no response from DNC-DPG because they are not directed at DNC-DPG. To the extent a response is required, DNC-DPG state that the referenced complaints and dispositions speak for themselves and deny Plaintiff's characterization thereof. As to any remaining allegations in Paragraph 87, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

88. The BRE's failures continued into the 2022 primary, and the SEB was once again compelled to reprimand the BRE for "failing to upload and tabulate results in their entirety...[a]s such, incomplete results were certified[.]" The Fulton County BRE was "instructed to refrain from further violations...and admonished to comply with all of the State Election Board rules and Georgia law relating to elections." (The letter of reprimand is attached and incorporated hereto at Exhibit 7.)

Response: DNC-DPG state that the referenced letter of reprimand speaks for itself and deny any characterization thereof. As to any remaining allegations in Paragraph 88, DNC-DPG lack sufficient knowledge or information to admit or deny those allegations and therefore deny them.

89. The multiple reprimands issued against the BRE by the SEB highlight that the administrative irregularities at the heart of this action are anything but unusual or extraordinary.

Response: Denied.

90. At the SEB Meetings on May 7-8, 2024, there were discussions about appointing yet another monitor to oversee Fulton County's conduct of the 2024 general election.

Response: DNC-DPG lack sufficient knowledge or information to admit or deny the allegations in Paragraph 90 and therefore deny them.

91. The General Assembly has enacted a bipartisan oversight process for conducting elections, consisting of appointed members from both political parties having access to the Election Materials and Processes in real time during the conduct of the elections, to ensure that all statutory procedures are followed and that the election is conducted in accordance with the Georgia Election Code.

Response: The allegations of Paragraph 91 are conclusions of law to which no response is required. To the extent a response is required, DNC-DPG admit that the General Assembly has enacted a bipartisan oversight process for conducting elections but deny as stated the remaining allegations in Paragraph 91. Responding further, DNC-DPG state that the Georgia Election Code speaks for itself and deny any further characterization thereof.

92. The duly appointed BRE members, acting as the election superintendent, should be both allowed and required to perform their statutory responsibilities.

Response: The allegations of Paragraph 92 are conclusions of law to which no response is required. To the extent a response is required, DNC-DPG admit that the BRE, as the election superintendent for Fulton County, has obligatory statutory responsibilities but deny as stated the remaining allegations in Paragraph 92.

93. Because of the repeated and ongoing refusal of the Election Director and the BRE Chairman to grant Plaintiff's request for access to the Election Materials and Processes, Plaintiff requests the Court resolve the legal issues attendant to Plaintiff's role as a member of the Fulton County BRE.

Response: DNC-DPG admit that Plaintiff is a member of the BRE and that she has brought claims against the BRE and its Director before this Court. DNC-DPG deny as stated the remaining allegations in Paragraph 93.

94. Plaintiff's role as a BRE member is of paramount concern for the proper execution and supervision of Fulton County elections.

Response: DNC-DPG deny as stated the allegations in Paragraph 94.

95. This Court's decision and immediate action are necessary to ensure that the Plaintiff and other BRE members have the clear authority to exercise their statutory duties regarding the conduct of elections (free from any threat of mandamus or criminal action) and access to the vital Election Materials and Processes required to perform such duties and powers.

Response: Paragraph 95 contains legal conclusions to which no response is required. DNC-DPG deny the remaining allegations in Paragraph 95.

96. Accordingly, there are the following disputes and controversies between Plaintiff and the Defendant:
- a. Whether the BRE is the Fulton County election superintendent;
 - b. What duties, if any, can be lawfully delegated to the Director;
 - c. Whether the Director, assuming the role of superintendent may exclude BRE members from access to Election Materials and Processes;
 - d. Whether the certification of elections is a ministerial or discretionary function;
 - e. If such delegation is authorized by law, did the BRE properly “delegate” to the Director its statutory duties as election superintendent through a valid process in adopting its Bylaws.

Response: Paragraph 96 contains legal conclusions to which no response is required. DNC-DPG deny as stated the remaining allegations in Paragraph 96.

COUNT I

DECLARATORY JUDGMENT THAT THE BRE IS THE SUPERINTENDED OF ELECTIONS IN FULTON COUNTY AND THAT VOTES ON CERTIFICATION ARE DISCRETIONARY

97. Plaintiff repeats and re-alleges the allegations in Paragraphs 1–96 of as if set forth fully herein.

Response: DNC-DPG restate their responses to Paragraphs 1 through 96 as their response to this Paragraph.

98. Under the Constitution of the State of Georgia “Sovereign Immunity is waived for actions in the superior court seeking declaratory relief from acts of the state or any agency, authority, board, bureau, commission, department, office, or public corporation of this state or officer or employee thereof or any county, consolidated government, or municipality of this state or officer or employee thereof outside the scope of lawful authority or in violation of the laws or the Constitution of this state or the Constitution of the United States.” Ga. Const. 1983, Art. I, § II, ¶ V(b)(1).

Response: Paragraph 98 includes legal conclusions to which no response is required. DPG-DNC further state that the Georgia Constitution speaks for itself.

99. This Count invokes, and is taken pursuant to, the sovereign immunity waiver of Ga. Const. 1983, Art. I, § II, ¶ V.

Response: Paragraph 99 includes legal conclusions to which no response is required. DPG-DNC admit that Plaintiff's Verified Complaint expressly invokes the sovereign immunity waiver contained within Ga. Const. 1983, Art. I, § II, ¶ V.

100. Agents of the Defendant have asserted that Plaintiff is not entitled to access to the Election Materials and Processes.

Response: Paragraph 100 contains legal conclusions to which no response is required. As to the remaining factual allegations, DNC-DPG state that the referenced individuals' statements on the record speak for themselves and deny any characterization thereof.

101. Agents of the Defendant have asserted that the Director was properly established by the BRE

Response: DNC-DPG state that the referenced individuals' statements on the record speak for themselves and deny any characterization thereof.

102. Plaintiff asserts that the Director's role is different from that of the election superintendent and that it is the BRE, not the Director, who is required by law to perform the duties of the superintendent.

Response: Paragraph 102 includes legal conclusions to which no response is required. DNC-DPG further deny the remaining allegations of Paragraph 102.

103. Plaintiff further asserts that the fulfillment of her oath as a BRE member involves discretionary judgment calls, not simply ministerial duties, and that to properly execute these duties she requires access to the Election Materials and Processes.

Response: Paragraph 103 includes legal conclusions to which no response is required. DNC-DPG further deny the remaining allegations of Paragraph 103.

104. There is a dispute and actual controversy as to the duties of BRE members and their rights to access Election Materials and Processes; Plaintiff seeks an order from this Court holding that BRE members are necessarily involved in discretionary judgment calls and entitled to all Election Materials and Processes under the control of the Defendant necessary to the execution of her duties as a BRE member.

Response: Paragraph 104 includes legal conclusions to which no response is required.

DNC-DPG further admit that there is a dispute and controversy as to the rights and duties of the BRE and its members but deny the remaining allegations of Paragraph 104.

105. This Action for declaratory judgment pursuant to O.C.G.A. § 9-4-1, *et seq.*, for purposes of determining a question of actual controversy between Plaintiff and Defendant is ripe and public policy demands a judgment in Plaintiff's favor.

Response: Paragraph 105 includes legal conclusions to which no response is required.

DNC-DPG further deny the remaining allegations of Paragraph 105.

106. Defendant has waived sovereign immunity pursuant to Ga. Const. 1983, Art. I, § II, ¶ V.

Response: Paragraph 106 includes legal conclusions to which no response is required.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully asks that this Court enter judgment in its favor and provide the following relief:

- A. Declaratory relief asserting that the duties of the Fulton BRE members are discretionary, not ministerial, in nature;
- B. Declaratory relief asserting that Fulton BRE members are required to have full access to Election Materials and Processes presently under the control of the Director; and
- C. All other relief to which Plaintiff is entitled and that this Court deems just and proper under the circumstances.

Response: To the extent any response to Plaintiff's "Prayer for Relief" is required, DNC-DPG deny that Plaintiff is entitled to any relief whatsoever.

DNC-DPG'S PRAYER FOR RELIEF

WHEREFORE, having fully answered the Complaint, Defendant-Intervenors Democratic National Committee and Democratic Party of Georgia pray for the following relief:

- A. That the Court enter judgment for Defendants and Defendant-Intervenors DNC-DPG and against Plaintiff.
- B. Such other and further relief as the Court deems just and proper.

[Signatures appear on the following page.]

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Respectfully submitted this 25th day of September, 2024.

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

JULIE ADAMS, in her official capacity as a member of the Fulton County Board of Elections and Registration, a/k/a Fulton County Board of Registration and Elections,

Plaintiff,

v.

Civil Case No. 24CV011584

FULTON COUNTY, GEORGIA

Defendant,

&

DEMOCRATIC NATIONAL COMMITTEE
& DEMOCRATIC PARTY OF GEORGIA,

[Proposed] Defendant-Intervenors.

VERIFICATION BY DEMOCRATIC PARTY OF GEORGIA

Comes now Kevin Olasanoye, who states as follows:

1. I am over the age of 18 and competent to provide this verification.
2. I am the Executive Director of the Democratic Party of Georgia, a Defendant-Intervenor in this action.
3. I have authorized the filing of the foregoing [PROPOSED] JOINT ANSWER TO PLAINTIFF'S VERIFIED COMPLAINT FOR DECLARATORY RELIEF on behalf of the Democratic Party of Georgia.
4. I have reviewed the foregoing [PROPOSED] JOINT ANSWER TO PLAINTIFF'S VERIFIED COMPLAINT FOR DECLARATORY RELIEF, and to the best of my knowledge and belief, the information contained therein is true and correct.


This 17th day of September, 2024.



Kevin Olanoye
Executive Director
Democratic Party of Georgia

Sworn to and subscribed before me,

this 17th day of September, 2024.



Notary Public

My commission expires: February 22, 2028

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of September, 2024, a true and correct copy of the foregoing DEMOCRATIC NATIONAL COMMITTEE'S AND DEMOCRATIC PARTY OF GEORGIA'S JOINT ANSWER TO PLAINTIFF'S VERIFIED COMPLAINT FOR DECLARATORY RELIEF was electronically filed with the Clerk of Court using the Court's eFileGA electronic filing system, which will automatically send an email notification of such filing to all attorneys of record, and was additionally served by emailing a copy to the currently known counsel of named parties and intervenors as listed below:

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