

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

FAIR FIGHT, INC. ET AL,)
PLAINTIFFS,) CRIMINAL ACTION FILE
V.) NO. 2:20-CV-00302-SCJ
TRUE THE VOTE ET AL,)
DEFENDANTS.)

BEFORE THE HONORABLE STEVE C. JONES
TRANSCRIPT OF PROCEEDINGS
DECEMBER 31, 2020

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
AND COMPUTER-AIDED TRANSCRIPT PRODUCED BY

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1 APPEARANCES:

2 FOR THE PLAINTIFFS:

3 ALLEGRA J. LAWRENCE-HARDY
4 LESLIE J. BRYAN
5 ARIA CHRISTINE BRANCH
6 UZOMA NKWONTA
7 DARA LINFENBAUM

8 FOR THE DEFENDANTS:

9 RAY STALLINGS SMITH, III
10 EMILIE O. DENMARK
11 JAMES BOPP, JR.

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PROCEDINGS

(ATLANTA, FULTON COUNTY, GEORGIA, DECEMBER 31, 2020, VIA
ZOOM VIDEOCONFERENCING.)

COURTROOM DEPUTY: GOOD MORNING, EVERYONE.

JUDGE JONES WILL BE WITH US IN JUST A MOMENT.

8 THE COURT: WELL, AS THEY SAY IN NASA, I THINK WE
9 HAVE BLASTOFF, PEOPLE. THAT'S THE REASON WHY I'M LOOKING
10 FORWARD TO SEEING ALL OF YOU-ALL LIVE, IN A REAL COURTROOM,
11 VERY, VERY SOON.

12 MR. SMITH: YES, SIR, YOUR HONOR.

13 THE COURT: GOOD MORNING, AND I APOLOGIZE FOR
14 EVERYTHING. THERE'S A REASON WHY I WENT TO LAW SCHOOL, BECAUSE
15 SCIENCE WAS NOT MY TOP THING.

16 LET'S MAKE SURE WE HAVE EVERYBODY WE NEED TO HAVE
17 HERE THIS MORNING.

18 MS. WRIGHT, CAN YOU HEAR ME?

19 | COURTROOM DEPUTY: YES, SIR. CAN YOU HEAR ME?

20 THE COURT: LET'S SEE IF I CAN TURN THE VOLUME UP A
21 LITTLE BIT.

22 CAN YOU HEAR ME NOW?

25 THE COURT: IF YOU WILL GO AHEAD AND CALL THE CASE

1 FOR TODAY.

2 COURTROOM DEPUTY: YES, SIR. THE COURT CALLS THE
3 MATTER OF FAIR FIGHT, INCORPORATED AND OTHERS V. TRUE THE VOTE
4 AND OTHERS, CIVIL ACTION NUMBER 2:20-CV-302.

5 THE COURT: OKAY. WILL THE PLAINTIFFS ANNOUNCE
6 EVERYONE THAT IS PARTICIPATING IN THIS HEARING THIS MORNING?

7 MS. LAWRENCE-HARDY: YES. GOOD MORNING, YOUR HONOR.

8 THE COURT: GOOD MORNING.

9 MS. LAWRENCE-HARDY: THE PLAINTIFFS ARE READY TO
10 PARTICIPATE. WOULD YOU LIKE TO KNOW WHO I HAVE WITH ME TODAY?

11 THE COURT: YES, MA'AM.

12 MS. LAWRENCE-HARDY: THANK YOU, SIR.

13 THE COURT: YES, MA'AM.

14 MS. LAWRENCE-HARDY: LET ME FIRST THANK THE COURT FOR
15 MAKING TIME FOR US DURING THIS HOLIDAY WEEK FOR THIS URGENT
16 MATTER.

17 I AM PLEASED TO INTRODUCE THE COURT TO LEAD COUNSEL
18 IN THIS CASE FROM PERKINS COIE, ARIA BRANCH AND UZOMA NKWONTA,
19 WHO ARE BOTH HERE WITH US. YOU ALSO HAVE HERE TODAY
20 LESLIE BRYAN, WHOM I KNOW THAT YOU KNOW, AND DARA LINDENBAUM AS
21 WELL AS MAIA COGEN FROM MY FIRM, YOUR HONOR. SO THANK YOU FOR
22 YOUR TIME TODAY.

23 THE COURT: WELL, GOOD MORNING TO ALL OF YOU-ALL AND
24 I'M GLAD TO SEE YOU-ALL TODAY. AND I APOLOGIZE FOR HAVING YOU
25 HERE ON NEW YEAR'S EVE. IT'S JUST THE WAY IT WORKS OUT.

1 FOR DEFENSE COUNSEL, WOULD YOU-ALL INTRODUCE
2 YOURSELVES AND WHO WILL BE LEAD COUNSEL AND WHO WILL BE WORKING
3 WITH YOU, MR. SMITH.

4 MR. SMITH: YES, YOUR HONOR. GOOD MORNING.

5 RAY SMITH FOR THE DEFENDANTS, YOUR HONOR. AND I HAVE
6 WITH ME EMILIE DENMARK FROM MY FIRM.

7 AND I'D LIKE TO INTRODUCE TO YOU JAMES BOPP FROM THE
8 BOPP LAW FIRM. HE'S GOING TO BE HANDLING THE CASE PRO HAC, AND
9 HIS ASSOCIATES, AND I'LL LET HIM INTRODUCE THOSE FOLKS TO YOU.
10 THEY'RE FROM TERRE HAUTE, INDIANA.

11 THE COURT: ALL RIGHT. MR. BOPP?

12 MR. BOPP: THANK YOU, YOUR HONOR. I DO HAVE
13 ASSOCIATES WHO ARE IN THE PUBLIC VIEWING OF THIS, I THINK.
14 THEY WILL NOT BE PARTICIPATING, SO I WILL HANDLE THE MATTER.
15 AND THANK YOU FOR ALLOWING ME TO PARTICIPATE IN YOUR COURT.

16 THE COURT: VERY WELL. THANK YOU FOR BEING HERE,
17 MR. BOPP, AND THE SAME THING I SAID TO YOU THAT I SAID TO
18 PLAINTIFFS' COUNSEL, I APOLOGIZE FOR HAVING YOU-ALL HERE ON NEW
19 YEAR'S EVE, BUT IT'S THE WAY IT WORKS OUT.

20 LET ME JUST STATE FOR THE RECORD THAT THE COURT
21 STARTED THIS HEARING OFF, I WAS IN MY COURTROOM, BUT BECAUSE OF
22 THE COMPUTER PROBLEMS WITH THE COMPUTER IN MY COURTROOM, I
23 MOVED TO MY OFFICE. BUT IF ANYONE SHOWS UP IN THE COURTROOM,
24 OBVIOUSLY WE'RE DOING THIS BY ZOOM, BUT THE VIEW YOU SEE IS OF
25 MY OFFICE AND NOT OF MY COURTROOM BECAUSE OF COMPUTER PROBLEMS

1 WITH THE COMPUTER IN MY COURTROOM.

2 I'D LIKE TO START OFF THIS MORNING BY FIRST OF ALL,
3 THERE'S THREE ISSUES THIS MORNING WE HAVE TO ADDRESS, AND LET
4 ME SAY WHAT I PLAN ON DOING. WE'RE GOING TO ADDRESS ALL OF
5 THEM. I'M NOT GOING TO ISSUE A RULING ON ANY OF THEM, I'LL
6 EXPLAIN WHY LATER TODAY. IT'S MY GOAL TO GIVE YOU-ALL A
7 WRITTEN ORDER THIS EVENING. IT MIGHT BE AS EARLY AS 5:00, IT
8 MIGHT BE AS LAST AS 9:00, BUT I'M GOING TO GET YOU A RULING
9 TODAY IN WRITING ONE WAY OR THE OTHER.

10 WHAT I'D LIKE TO ADDRESS FIRST, THOUGH, IS THAT THE
11 DEFENDANTS HAVE FILED A MOTION TO DISMISS FOR INSUFFICIENT
12 PROCESS UNDER RULE 12(B) (4).

13 MR. BOPP, WILL YOU GO AHEAD, IF YOU WANT TO SAY
14 ANYTHING ORALLY ABOUT THAT MOTION. I HAVE THE MOTION, I'VE
15 READ THE MOTION, BUT IF YOU WANT TO SAY ANYTHING, AND THEN I'LL
16 HERE FROM THE PLAINTIFFS REGARDING THAT MOTION.

17 MR. BOPP: YES, JUST SHORTLY, YOUR HONOR. WE
18 UNDERSTAND THE OBLIGATIONS OF THE PLAINTIFFS IS TO SUE THE
19 ACTUAL ORGANIZATION AND TO NAME THEM PROPERLY. TRUE THE VOTE
20 IS INCORPORATED. THEY DO NOT NOTE THAT IN EITHER THE CAPTION
21 OR IN THE PARAGRAPH DESCRIBED WHERE THEY NAME THEM. THEY DO
22 NOT USE THE INCORPORATED. AND WE UNDERSTAND THAT TO BE
23 IMPROPER AS NOT PROPERLY NAMING THEM, SO WE HAVE MOVED TO
24 DISMISS TRUE THE VOTE AND -- BECAUSE THEY ARE NOT PROPERLY
25 NAMED.

1 AND THEY NOTE IN THEIR PARAGRAPH THAT TRUE THE VOTE
2 IS INCORPORATED IN TEXAS, SO WE THINK -- WE WANT TO MAKE SURE
3 THAT THE CORPORATE PROTECTION EXTENDS HERE.

4 THE COURT: WOULD YOU HAVE ANY PROBLEM -- AS YOU
5 KNOW, THE COURT HAS AUTHORITY TO AMEND -- SINCE YOU'RE SAYING
6 TRUE THE VOTE, INCORPORATED IS THE PROPER NAME, WOULD YOU HAVE
7 A PROBLEM IF THE COURT JUST AMENDS IT AND MAKES IT TRUE THE
8 VOTE, INCORPORATED?

9 MR. BOPP: NOT AT ALL, YOUR HONOR.

10 THE COURT: OKAY. GOOD. THANK YOU, MR. BOPP.

11 THEN WE WILL -- THE COURT WILL, WHEN I ENTER AN
12 ORDER, THE ORDER WILL SUBMIT MAKING ALL CORRECTIONS TO TRUE THE
13 VOTE, INCORPORATED.

14 MS. LAWRENCE, DO YOU HAVE ANY -- I DON'T THINK YOU
15 WILL HAVE ANY OBJECTION TO THAT, BUT I'LL ALLOW YOU TO BE
16 HEARD.

17 MS. LAWRENCE-HARDY: YOUR HONOR, I'M JUST CHECKING
18 WITH MS. BRANCH, BUT I DO NOT BELIEVE WE HAVE ANY OBJECTIONS TO
19 THAT APPROACH.

20 MS. BRANCH: NO OBJECTION, YOUR HONOR.

21 THE COURT: MS. BRANCH, I APOLOGIZE.

22 THE COURT IS ORDERING TO MAKE THE AMENDMENT TO MAKE
23 IT TRUE THE VOTE, INCORPORATED.

24 THE SECOND MOTION IS A MOTION BROUGHT BY THE
25 PLAINTIFFS.

1 AND, MS. BRANCH, THIS IS A MOTION TO ALLOW THE
2 PLAINTIFFS JOHN DOE AND JANE DOE TO STAY ANONYMOUS.

3 I'LL HEAR FROM YOU AND THEN I'LL HEAR FROM MR. BOPP.

4 MS. BRANCH: YES, YOUR HONOR. MAY IT PLEASE THE
5 COURT, ARIA BRANCH ON BEHALF OF THE PLAINTIFFS.

6 YOUR HONOR, THIS IS A CASE ABOUT VOTER SUPPRESSION
7 AND VOTER INTIMIDATION TACTICS ENGAGED IN BY TRUE THE VOTE,
8 WHICH IS AN ORGANIZATION THAT HAS A HISTORY OF ENGAGING IN
9 MERITLESS VOTER CHALLENGES AND OTHER TACTICS THAT HAVE THE
10 EFFECT OF SUPPRESSING THE VOTE OF BLACK AND BROWN VOTERS ACROSS
11 THE COUNTRY.

12 FOLLOWING THE 2020 NOVEMBER PRESIDENTIAL ELECTION AND
13 NOW IN THE RUNUP TO THE JANUARY RUNOFF, TRUE THE VOTE HAS
14 PARACHUTED INTO GEORGIA AND IT HAS BROUGHT VOTER INTIMIDATION
15 EFFORTS ALONG WITH THAT.

16 BASED ON THE ORGANIZATION'S PUBLIC STATEMENTS, MANY
17 OF WHICH WE HAVE INCLUDED AS EXHIBITS TO OUR MOTION FOR
18 PRELIMINARY INJUNCTION, TRUE THE VOTE IS ENGAGING IN A
19 BROAD-BASED FACIAL ATTACK ON THE ELIGIBILITY OF VOTERS TO
20 PARTICIPATE IN THE RUNOFF ELECTIONS IN GEORGIA.

21 THIS HAS TAKEN THE FORM OF THREE MAJOR EFFORTS, THE
22 FIRST IS WHAT THEY REFER TO AS A, QUOTE/UNQUOTE, LANDMARK VOTER
23 CHALLENGE PROGRAM, IN WHICH THEY'RE CHALLENGING THE ELIGIBILITY
24 OF OVER 360,000 GEORGIA VOTERS TO VOTE IN THE RUNOFF. THEY'RE
25 DOING THIS BASED ON A SINGLE DATA POINT, AND THAT IS THE FACT

1 THAT THESE INDIVIDUALS HAVE CHANGED THEIR MAILING ADDRESS IN
2 ACCORDANCE WITH THE NATIONAL CHANGE OF ADDRESS REGISTRY.

3 THESE INDIVIDUALS HAVE CHANGED THEIR MAILING ADDRESS
4 IN THE MIDDLE OF A PANDEMIC, WHERE MANY VOTERS ARE TRANSIENT
5 FOR MANY DIFFERENT REASONS, WHETHER IT'S BECAUSE THEY'RE TAKING
6 CARE OF FAMILY IN DIFFERENT STATES, WHETHER IT'S BECAUSE OF
7 ECONOMIC PRESSURES, THEY'RE WORKING IN DIFFERENT STATES, AT
8 THIS POINT IN TIME, A CHANGE OF ADDRESS, THIS SINGLE DATA POINT
9 THAT DEFENDANTS ARE RELYING ON TO STRIKE THE ELIGIBILITY OF
10 VOTERS IS ESSENTIALLY JUNK SCIENCE. IT IS NOT WARRANTED, AND
11 THAT'S WHY MOST OF THESE CHALLENGES HAVE BEEN REJECTED BY
12 COUNTIES.

13 THE COURT: BUT WHY SHOULD I ALLOW YOUR CLIENTS TO
14 PROCEED ANONYMOUSLY?

15 MS. BRANCH: YOU SHOULD ALLOW JANE AND JOHN DOE TO
16 PROCEED ANONYMOUSLY FOR TWO PRIMARY REASONS. ONE, BECAUSE
17 TRUE THE VOTE'S VOTER INTIMIDATION TACTICS, THESE TACTICS WERE
18 THEY'RE CHALLENGING OVER 360,000 GEORGIA VOTERS AMOUNTS TO
19 VOTER INTIMIDATION, AS DETAILED IN OUR COMPLAINT AND IN OUR
20 MOTION FOR TEMPORARY RESTRAINING ORDER.

21 SECOND, BECAUSE THE DOE PLAINTIFFS FEAR RETALIATION
22 FROM DEFENDANTS AND THEIR SUPPORTERS FOR HAVING FILED THIS
23 LAWSUIT AND BEING ASSOCIATED WITH THE LAWSUIT.

24 NOW, THE ELEVENTH CIRCUIT HAS RECOGNIZED THAT
25 PLAINTIFFS SHOULD BE PERMITTED TO PROCEED ANONYMOUSLY IN

1 EXCEPTIONAL CASES INVOLVING MATTERS OF A HIGHLY SENSITIVE AND
2 PERSONAL NATURE WHERE THERE'S REAL DANGER OF PHYSICAL HARM OR
3 WHERE THE INJURY LITIGATED AGAINST WOULD BE INCURRED AS A
4 RESULT OF THE DISCLOSURE OF THE PLAINTIFFS' IDENTITY.

5 ALL THREE OF THOSE CIRCUMSTANCES ARE PRESENT HERE.
6 THIS IS AN EXCEPTIONAL CASE THAT REQUIRES ANONYMITY. THIS CASE
7 IS TAKING PLACE AGAINST A BACKDROP OF A FEVER PITCH OF CLAIMS
8 OF VOTER FRAUD. THIS IDEA THAT THERE ARE CERTAIN VOTERS IN THE
9 STATE OF GEORGIA WHO ARE ILLEGAL, WHO ARE NOT ENTITLED TO VOTE
10 AND WHO ARE EXERCISING THEIR RIGHT TO VOTE IN VIOLATION OF THE
11 LAW.

12 YOUR HONOR, WE HAVE SUBMITTED SEVERAL EXHIBITS THAT
13 DETAIL THE DIFFERENT THREATS THAT ELECTION OFFICIALS HAVE BEEN
14 UNDER WHEN JUST THESE RUMORS, THESE UNSUBSTANTIATED CLAIMS OF
15 VOTER FRAUD ARE MADE.

16 FOR EXAMPLE, IN FULTON COUNTY, AN ELECTION WORKER WAS
17 FORCED TO GO INTO HIDING AFTER HE WAS FALSELY ACCUSED OF
18 DISCARDING A BALLOT. HIS PERSONAL INFORMATION WAS EXPOSED
19 ONLINE, INCLUDING HIS LICENSE PLATE.

20 A GWINNETT COUNTY ELECTION WORKER WAS THREATENED
21 ONLINE, ACCUSED OF BEING A TRAITOR, AND THREATENED WITH A
22 NOOSE.

23 THINGS HAVE GOTTEN SO BAD IN GEORGIA THAT A
24 REPUBLICAN OFFICIAL HAS WARNED THAT IF THESE CLAIMS OF VOTER
25 FRAUD DON'T STOP, AND THESE ARE JUST THE CLAIMS THAT

1 TRUE THE VOTE IS MAKING, THEY'RE MAKING THESE UNSUBSTANTIATED
2 CLAIMS OF VOTER FRAUD, IF THESE CLAIMS DON'T STOP, SOMEONE IS
3 GOING TO GET KILLED.

4 SO THE DOE PLAINTIFFS IN THIS CASE ARE AWARE OF THIS
5 HISTORY, THEY'RE AWARE OF THE DEFENDANT'S ROLE IN PERPETUATING
6 THIS FALSE NARRATIVE OF VOTER FRAUD, AND THEY'RE AWARE OF THIS
7 CULTURE OF INTIMIDATION AND THREATS AND THEY REASONABLY FEAR
8 FOR THEIR SAFETY IN THIS ENVIRONMENT.

9 THEY ARE CONCERNED THAT IF THEY ARE ASSOCIATED WITH
10 THIS LAWSUIT, THEIR PERSONAL INFORMATION WILL BE LEAKED ONLINE.

11 AND WE SUBMITTED IN EXHIBIT 2, A TWITTER POST FROM A
12 TWITTER FEED THAT IS ASSOCIATED WITH TRUE THE VOTE THAT HAS
13 THREATENED ON TWITTER THAT IF THE GEORGIA COUNTIES REFUSE TO
14 HANDLE THE CHALLENGES OF THESE 360,000, QUOTE/UNQUOTE,
15 INELIGIBLE VOTERS THAT TRUE THE VOTE HAS CHALLENGED, THEN THIS
16 INDIVIDUAL PLANS TO RELEASE THE ENTIRE LIST SO THAT AMERICA CAN
17 DO THE QUALITY CONTROL. THOSE ARE HIS WORDS. THAT TWITTER
18 POST IS IN EXHIBIT 2 OF OUR COMPLAINT.

19 GIVEN THIS ATMOSPHERE, THE DOE PLAINTIFFS HAVE A REAL
20 THREAT OF HAVING THEIR INFORMATION LEAKED ONLINE AND BEING
21 HARASSED AS A RESULT OF BEING ASSOCIATED WITH THIS LAWSUIT.

22 THEY'RE PRIVATE INDIVIDUALS WHO HAVE DONE NOTHING
23 WRONG. THEY'RE ELIGIBLE TO VOTE IN GEORGIA. THEY PAY TAXES IN
24 GEORGIA. THEY MAINTAIN HOMES AND FAMILIES IN GEORGIA AND
25 THEY'RE IN AND OUT OF THE STATE TRAVELING BECAUSE OF PERSONAL

1 OBLIGATIONS AND WORK OBLIGATIONS. BUT THEY HAVE A REAL FEAR
2 AND A LEGITIMATE THREAT OF HARASSMENT OR VIOLENCE IF THEIR
3 NAMES ARE ASSOCIATED WITH THIS LAWSUIT.

4 THE COURT: MS. BRANCH, LET ME ASK YOU THIS QUESTION.
5 ONE OF THE THINGS THAT THE DEFENSE IS GOING TO BE CHALLENGING,
6 AND WE'RE GOING TO TALK ABOUT IT MORE LATER, IS STANDING IN
7 THIS CASE, THE JOHN AND JANE DOE.

8 I COULD BE WRONG, BUT I WOULD THINK YOU ARE GOING TO
9 HAVE TO GIVE SOME FACTS OR SOMETHING THAT COULD REALLY MAKE AN
10 IDENTIFICATION TO THEM. YOU CAN START TALKING ABOUT HOW THEY
11 HAVE STANDING AND HOW THEY HAVE SOME OF THE THINGS I THINK
12 WE'LL PROBABLY GET INTO THAT STILL MIGHT LEAD TO
13 IDENTIFICATION. IT'S KIND OF LIKE HAVING SOME SEXUAL CASES,
14 OBVIOUSLY IN A LOT OF THOSE CASES WE GO WITH JOHN DOE OR JANE
15 DOE OR WHATEVER, BUT SOMETIMES THEIR INFORMATION IS BROUGHT
16 FORWARD THAT IF SOMEONE KNOWS ABOUT THE SITUATION AND STILL IT
17 LEADS TO THEIR IDENTIFICATION. WHAT DO YOU HAVE TO SAY ABOUT
18 THAT?

19 MS. BRANCH: WELL, WE CERTAINLY RECOGNIZE THAT WE AS
20 THE PLAINTIFFS HAVE THE BURDEN TO PROVE STANDING IN THIS CASE,
21 AND WE PUT FORTH THE FACTS IN OUR COMPLAINT THAT SUBSTANTIATE
22 THE DOE STANDING. I THINK IT IS SUFFICIENT TO CARRY OUR BURDEN
23 AT THIS STAGE IN THE LITIGATION.

24 THAT SAID, WE DO HAVE DECLARATIONS FROM BOTH OF THE
25 DOE PLAINTIFFS THAT WE ARE WILLING TO SUBMIT TO THE COURT FOR

1 THE COURT'S REVIEW IN-CAMERA. THE DOE PLAINTIFFS --

2 THE COURT: YOU READ MY MIND. THAT WAS GOING TO BE
3 MY NEXT QUESTION, WHY CAN'T I SEE SOMETHING IN-CAMERA. BECAUSE
4 YOU'VE NOT SUBMITTED TO ME AN AFFIDAVIT SO FAR. SO YOU'RE
5 PREPARED FOR THE COURT SEE SOMETHING IN-CAMERA REGARDING JOHN
6 AND JANE DOE?

7 MS. BRANCH: YES, YOUR HONOR, WE HAVE SIGNED A
8 DECLARATION FROM BOTH OF THEM THAT EXPLAIN THEIR CIRCUMSTANCES,
9 THEIR STANDING, AND THEIR REAL FEAR OF THREATS AND RETALIATION.

10 THE COURT: WHEN WILL I GET THIS? WHEN WILL I GET
11 THIS INFORMATION?

12 MS. BRANCH: WE CAN SUBMIT IT TO YOU --

13 THE COURT: EXCUSE ME?

14 MS. BRANCH: WE CAN SUBMIT IT TO YOUR HONOR
15 IMMEDIATELY AFTER THIS HEARING, OR EVEN DURING IT IF, I CAN GET
16 SOMEONE TO --

17 THE COURT: HERE'S WHAT I REALLY PREFER. I REALLY
18 PREFER YOU DON'T SEND IT TO ME BY EMAIL. I THINK MS. LAWRENCE
19 WOULD HAVE TO HAVE SOMEONE FROM HER OFFICE BRING IT TO THE
20 CLERK'S OFFICE AND THEY BRING IT TO ME SINCE YOU'RE SAYING THIS
21 IS DANGEROUS AND THINGS OF THAT NATURE, SO SOMETHING OF THIS
22 NATURE, I FEEL LIKE I NEED TO SEE SOMETHING IN-CAMERA.

23 SO, MS. LAWRENCE, I'M NOT TRYING TO ADD WORK TO YOUR
24 STAFF, BUT I'LL PROBABLY NEED SOMETHING BROUGHT TO MY OFFICE
25 TODAY, SINCE IT'S MY PLAN TO GET YOU-ALL AN ORDER OUT TODAY.

1 IT MAY BE LATE TODAY, BUT TODAY, SO...

2 MS. LAWRENCE-HARDY: WELL, YOUR HONOR, WE WILL BE
3 HAPPY TO GET YOU WHATEVER WOULD BE HELPFUL TODAY.

4 THE COURT: THANK YOU, MS. LAWRENCE.

5 WHAT ELSE, MS. BRANCH?

6 MS. BRANCH: WELL, I CAN ADDRESS STANDING, YOUR
7 HONOR, IF YOU'D LIKE ME TO NOW --

8 THE COURT: NOT RIGHT NOW. ALL I WANT TO ADDRESS
9 RIGHT NOW IS YOUR MOTION TO PROCEED ANONYMOUSLY. IF YOU DON'T
10 HAVE ANYTHING ELSE NOW, I'LL HEAR FROM MR. BOPP.

11 MS. BRANCH: I HAVE JUST A COUPLE OF OTHER POINTS I'D
12 LIKE TO ADDRESS.

13 THE COURT: OKAY. I'M SORRY. GO AHEAD.

14 MS. BRANCH: THANK YOU, YOUR HONOR. IN RESPONSE TO
15 THE DEFENDANT'S OPPOSITION TO OUR MOTION, IN THAT OPPOSITION,
16 THEY MAKE THE CLAIM THAT NAME AND ADDRESS INFORMATION IS NOT
17 WHAT SHOULD BE CONSIDERED HIGHLY SENSITIVE INFORMATION AND
18 THEREFORE IT DOESN'T MEET THE STANDARD TO PROCEED ANONYMOUSLY.
19 AND WE TAKE REAL ISSUE WITH THAT.

20 IN THIS CASE, EXPOSING THESE PLAINTIFFS' NAME AND
21 ADDRESS INFORMATION WILL SUBJECT THEM TO HARM. THEY WILL BE,
22 YOU KNOW, PUBLICLY MADE AVAILABLE FOR THREATS. THEY WORK IN
23 PUBLIC SETTINGS, SO INDIVIDUALS COULD SHOW UP TO THEIR HOME
24 ADDRESS, TO THEIR WORK ADDRESS. THEY'RE EASILY IDENTIFIABLE
25 PEOPLE.

1 SO I DON'T -- WE DISAGREE, AND THE CASE LAW SUPPORTS
2 THAT, YOU KNOW, THIS IS IN THE COURT'S DISCRETION WHETHER WE
3 PROCEED ANONYMOUSLY, IT IS NOT THAT WE HAVE TO MEET SOME
4 SPECIFIC -- SOME SPECIFIC -- WE DON'T HAVE TO SAY THAT CERTAIN
5 SPECIFIC INFORMATION IS NOT SUBJECT FOR DISCLOSURE.

6 AND I THINK THAT THAT'S ALL I HAVE ON THAT, ON THAT
7 MOTION, BUT I'M HAPPY TO ADDRESS ANY -- ANY ARGUMENTS THAT
8 OPPOSING COUNSEL MAY HAVE.

9 THE COURT: IF I UNDERSTAND YOU CORRECTLY, YOUR MAIN
10 ARGUMENT IS THAT JOHN AND JANE DOE HAVE POTENTIAL OF HAVING
11 PHYSICAL HARM OR DANGER BROUGHT TO THEM IF THEIR IDENTITY IS
12 REVEALED, AND OUT OF THAT FEAR, YOU ARE ASKING ME TO ALLOW THEM
13 TO PROCEED ANONYMOUSLY?

14 MS. BRANCH: YES, YOUR HONOR. AND THAT THAT FEAR IS
15 LEGITIMATE IN THIS CURRENT CLIMATE.

16 THE COURT: AND YOU SUPPORT THAT WITH THE PROFFER
17 THAT YOU MADE ABOUT SITUATIONS THAT HAVE ALREADY OCCURRED HERE
18 IN GEORGIA, AND OF THAT NATURE. ALL RIGHT.

19 MS. BRANCH: THAT'S CORRECT, YOUR HONOR.

20 THE COURT: ALL RIGHT. THANK YOU, MS. BRANCH.

21 MR. BOPP?

22 MR. BOPP: THANK YOU, YOUR HONOR. I WILL TRY TO BE
23 MORE TARGETED TO ADDRESS THE MOTION THAT'S BEFORE YOU, HOWEVER,
24 I WOULD HAVE A FEW POINTS.

25 FIRST, OF COURSE ONE OF THE PROBLEMS HERE IS THAT THE

1 COMPLAINT WAS NOT VERIFIED.

2 THE COURT: RIGHT.

3 MR. BOPP: AND THE -- EVEN THESE INDIVIDUAL

4 PARAGRAPHS WERE NOT VERIFIED BY THE PLAINTIFFS.

5 AND NONE OF THE FACTS -- NONE OF THE ALLEGATIONS IN
6 THE COMPLAINT ARE VERIFIED. WHEN YOU LOOK AT THE MOTION FOR A
7 PRELIMINARY INJUNCTION AND LOOK AT THE EXHIBITS, NONE OF THOSE
8 ARE VERIFIED, NONE OF THOSE ARE AUTHENTICATED, NONE OF THOSE
9 ARE -- IS THERE ANY AFFIDAVIT OR DECLARATION THAT WOULD GIVE
10 THE COURT CONFIDENCE THAT THESE EXHIBITS ACTUALLY EXIST?

11 AND OF COURSE WE KNOW FROM OUR PLEADINGS THAT, I
12 MEAN, YOU REALLY HAVE TO HAVE AUTHENTICATION AND VERIFICATION
13 FOR THINGS LIKE NEWSPAPER ARTICLES OR EMAILS OR COPIES OF
14 WEBSITE PAGES, ET CETERA.

15 I MEAN, THE ONLY AFFIDAVIT IS AN AFFIDAVIT OF AN
16 EMPLOYEE OF FAIR FIGHT, WHICH IS TO ESTABLISH FAIR FIGHT'S
17 STANDING FOR HAVING DIVERTED RESOURCES, BUT WE DON'T CONTEST
18 THAT FAIR FIGHT HAS STANDING TO -- UNDER ELEVENTH CIRCUIT
19 PRECEDENT TO BE A PLAINTIFF IN THIS CASE.

20 BUT AS TO THE TWO INDIVIDUALS, WE'RE NOW TOLD THAT
21 THEY HAVE HAD -- THEY HAVE A DECLARATION, AND OF COURSE THEY
22 ARE OFFERING THAT YOU BE PROVIDED THAT IN-CAMERA.

23 I MEAN, WE REALLY WOULD OBJECT TO OUR BEING NOT ABLE
24 TO VIEW AND RESPOND TO THE DECLARATIONS, AND WE WILL -- WE
25 WOULDN'T HAVE A PROBLEM WITH IDENTIFYING INFORMATION BEING

1 DELETED, LIKE THE NAME OF THE PERSON, BUT I'M JUST REALLY
2 PUZZLED WHY THERE WASN'T AN ANONYMOUS DECLARATION AS TO THE
3 ALLEGATIONS IN THE COMPLAINT REGARDING THESE INDIVIDUALS. BUT
4 WE -- WE REALLY THINK THAT WE WOULD BE ENTITLED TO EXAMINE AND
5 RESPOND TO THAT AFFIDAVIT AND TO THOSE DECLARATIONS.

6 THE COURT: IF I'M HEARING YOU CORRECTLY, YOU WOULD
7 NOT HAVE A PROBLEM WITH DECLARATIONS THAT ARE REDACTED?

8 MR. BOPP: RIGHT, CORRECT.

9 THE COURT: WHAT IF THE COURT UPON SEEING THIS
10 IN-CAMERA DECLARATION DECIDES WHAT SHOULD BE REDACTED AND THEN
11 GIVE IT TO YOU?

12 MR. BOPP: YES. WE WOULD -- WE WOULD LIKE TO HAVE
13 THE OPPORTUNITY TO EXAMINE IT. AND IT'S FINE AT THIS POINT IF
14 IT'S REDACTED.

15 NOW, I KNOW HOW THESE THINGS ARE HANDLED, YOU KNOW,
16 WHEN YOU HAVE A JOHN DOE OR A JANE DOE, YOU KNOW, THERE'S --
17 THERE'S DISCOVERY THAT CAN BE DONE, DONE WITH THEM, THEY CAN BE
18 DEPOSED AND ALL OF THAT BUSINESS BUT -- AND THERE CAN BE A
19 PROTECTIVE ORDER PROTECTING THEIR IDENTITY FROM DISCLOSURE, AND
20 WE WOULDN'T HAVE A PROBLEM WITH ANY OF THAT, IF THAT'S THE WAY
21 THE COURT'S GOING.

22 BUT -- BUT WE REALLY THINK THERE IS A PUBLIC --
23 NUMBER ONE, AS YOU KNOW, I THINK, THERE'S A VERY IMPORTANT
24 PUBLIC INTEREST IN COURT PROCEEDINGS AND CLAIMS AND PARTIES IN
25 THE COURT TO BE TRANSPARENT AND PUBLICLY DISCLOSE. IT'S VERY

1 RARE FOR SOMEONE TO BE ABLE TO PROCEED ANONYMOUSLY. AND THAT
2 REALLY REQUIRES, I THINK, ONE OF TWO THINGS HERE, ONE IS THAT
3 THERE IS ACTUAL EVIDENCE, AND I USE THE WORD "EVIDENCE" TO MEAN
4 EVIDENCE, NOT ALLEGATIONS, BECAUSE WE'VE GOT A MILLION
5 ALLEGATIONS, MANY OF THEM SCANDALOUS ALLEGATIONS, ABOUT THE
6 ACTIVITIES OF THE DEFENDANTS HERE. AND THAT -- THAT'S NOT
7 EVIDENCE.

8 SO EVIDENCE THAT THERE'S A REASONABLE PROBABILITY, AS
9 THE SUPREME COURT SAID IN *DELL V. REED*, THAT THE PUBLIC
10 DISCLOSURE OF THE NAMES OF THESE INDIVIDUALS WOULD SUBJECT THEM
11 TO HARASSMENT AND INTIMIDATION. AND THAT IS NOT A SUBJECTIVE
12 STANDARD. I MEAN, I KNOW SOMETHING ABOUT *DELL V. REED*, I
13 ARGUED IT IN THE SUPREME COURT, SO IT -- IT'S A PRETTY STRICT
14 STANDARD AND JUST SIMPLE ALLEGATIONS OR SUBJECTIVE FEARS ARE
15 NOT SUFFICIENT.

16 AND OF COURSE HERE, WE HAVE ZERO EVIDENCE, ZERO
17 EVIDENCE, THAT ANY OF THE 350,000 PEOPLE WHO HAVE BEEN SUBJECT
18 TO AN ELECTORAL CHALLENGE HAVE BEEN HARASSED OR INTIMIDATED.
19 WE HAVE ZERO. IN FACT, THEIR COMPLAINT, FULL OF SCANDALOUS
20 ALLEGATIONS, HAS -- DOESN'T EVEN ALLEGE THAT, THAT THAT HAS
21 EVER OCCURRED WHILE THEY SAY THAT THOSE NAMES ARE ALREADY ON
22 THE PUBLIC RECORD, SO THEY'RE TALKING ABOUT SUBJECTIVE FEARS.

23 SO THAT'S A REALLY IMPORTANT CONCEPT AND I DON'T
24 THINK THEY'VE MET THEIR -- THEIR BURDEN. AND OF COURSE I CAN'T
25 COMMENT ON THE DECLARATIONS, BECAUSE, YOU KNOW, IT'S BEEN

1 SPRUNG ON US, YOU KNOW, JUST A FEW MINUTES AGO.

2 THE COURT: LET ME ASK YOU THIS QUESTION. EXCUSE ME
3 FOR INTERRUPTING, MR. BOPP.

4 MR. BOPP: YES.

5 THE COURT: BUT LET ME ASK YOU THIS QUESTION: IF
6 THEY DO FILE DECLARATIONS AND THE COURT SEES IT AND THE COURT
7 GOES THROUGH DOING THE REDACTIONS, ANYTHING THAT'S TIED TO
8 THEIR IDENTITY, WOULD YOU NEED TIME TO RESPOND TO THAT
9 DECLARATION?

10 MR. BOPP: WELL, WE MAY. I WOULD LIKE TO HAVE THE
11 OPPORTUNITY. WE WOULD HAPPY TO RESPOND, YOU KNOW, VERY QUICKLY
12 TO THE COURT ON WHETHER OR NOT WE WANT TO RESPOND. OKAY? AND
13 IT MAY BE THAT WE WAIVE THAT, AND I CAN CERTAINLY SEE A
14 CIRCUMSTANCE IN WHICH I WOULD WAIVE THAT, SO -- BUT I -- IT'S
15 DIFFICULT TO PRE-JUDGE THAT.

16 THE COURT: THANK YOU, SIR.

17 MR. BOPP: NOW, THE FINAL THING I WOULD SAY IS --
18 WHICH GOES TO THE HEART OF THIS, IS THEIR ALLEGATION THAT
19 EMPLOYING THE 230 PROCEDURE IS ITSELF INTIMIDATION. THAT'S
20 WHAT SHE JUST ARGUED. THAT IS THE HEART OF THEIR CASE. WELL,
21 LATE NIGHT, JUDGE GARDNER UPHELD THE 230 PROCEDURE AND PROVIDED
22 IN THE 230 PROCEDURE CERTAIN DUE PROCESS PROTECTIONS THAT WOULD
23 BE EMPLOYED IN HOW THE PROCEDURE IS IMPLEMENTED, THAT SHE
24 SPECIFICALLY PERMITTED, BECAUSE THEY CHALLENGED THIS, ELECTORS
25 CAN MAKE THE CHALLENGE. SHE DIDN'T PROHIBIT ELECTORS FROM

1 MAKING THE CHALLENGE BASED UPON THE NATIONAL CHANGE OF ADDRESS
2 INFORMATION. BUT SHE DID ISSUE DUE PROCESS PROTECTIONS
3 REGARDING THE STEPS THAT OCCUR AFTER THE CHALLENGE IS MADE.

4 SO I JUST DON'T SEE UNDER THE LAW, UNDER THE
5 VOTING RIGHTS ACT, UNDER THE CONSTITUTION THAT ONE COULD CLAIM
6 THAT A PERFECTLY LAWFUL PROCEDURE THAT HAS BEEN UPHELD BY A
7 FEDERAL COURT YESTERDAY CAN BE DEEMED ILLEGAL, BECAUSE IT IS,
8 QUOTE, INTIMIDATION TO EMPLOY -- TO LAWFULLY EMPLOY THAT
9 PROCEDURE.

10 SO IF THEY'RE TRYING TO BOOTSTRAP THIS -- THE ABILITY
11 OF THE CLAIM, THE INDIVIDUAL CLAIM TO PURSUE THIS BASED UPON
12 THAT CLAIM, WELL, I HAVE -- I HAVE TO ADDRESS IT AND I JUST
13 DID. I JUST DON'T SEE HOW THAT COULD POSSIBLY BE THE CASE.

14 AND OF COURSE, THERE ARE NUMEROUS OTHER ARGUMENTS I
15 WILL SOON MAKE WHEN WE GET TO THE MERITS ON WHY IT WOULD BE
16 UNCONSTITUTIONAL TO INTERPRET THE VOTING RIGHTS ACT, SECTION
17 11(B) INTIMIDATION, TO PUNISH AND PROHIBIT PEOPLE FROM
18 EXERCISING THEIR FIRST AMENDMENT RIGHT TO PETITION THE
19 GOVERNMENT FOR REDRESS OF GOOD GRIEVANCES, WHICH IS EXACTLY
20 WHAT THIS PROCEDURE PROVIDES, PUNISH THEIR SPEECH THAT'S
21 ASSOCIATED WITH IT AND ENJOIN THEM FROM PROTECTING THEIR FIRST
22 AMENDMENT RIGHT TO VOTE, WHICH THIS PROCEDURE PROTECTS.

23 THE COURT: ONE OF THE THINGS -- I READ THE ORDER
24 THAT JUDGE GARDNER PUT IN, AND ON PAGE 2 OF THAT ORDER, IN
25 MUSCOGEE COUNTY, SHE DOES SAY, THOUGH: MUSCOGEE COUNTY

1 DEFENDANTS ARE ENJOINED FROM UPHOLDING A CHALLENGE TO ANY
2 VOTER'S ELIGIBILITY SOLELY ON THE BASIS OF INFORMATION FROM THE
3 NCOA REGISTRY.

4 AND THIS IS SOMETHING WE'RE GOING TO GET INTO A WHOLE
5 LOT MORE TODAY, BUT THERE'S A CASE OUT OF THE ELEVENTH CIRCUIT
6 HERE, IT'S CALLED A-R-C-I-A, *ARCIA V. FLORIDA SECRETARY OF*
7 *STATE, IT'S 772 F.3D 1335.*

8 IN THAT CASE, THE ELEVENTH CIRCUIT SAYS -- AND I
9 THINK THIS IS WHERE THE CONFUSION IS GETTING IN ALL OF THIS,
10 YOU DO HAVE 21-2-230 AND 21-2-229, IN THIS CASE 21-2-230 DEALS
11 WITH THE ELECTION, INDIVIDUAL CHALLENGES OF AN ELECTOR BY
12 ANOTHER ELECTOR IN THAT COUNTY OR JURISDICTION IS NOT WRONG,
13 BASED ON INDIVIDUAL INFORMATION, BUT AS THEY EXPLAIN IN ARCIA,
14 WHEN YOU HAVE SYSTEMATIC CHALLENGES WITHIN 90 DAYS OF AN
15 ELECTION, THEN I THINK THAT MIGHT BE A CONFLICT WITH THE
16 NATIONAL VOTER REGISTRATION ACT.

17 AND ONE OF THE QUESTIONS I ASKED YOU IN THE COURSE OF
18 THIS -- AND YOU DON'T HAVE TO ANSWER RIGHT NOW -- IS WHEN
19 YOU'RE CHALLENGING OVER 360,000 PEOPLE, THAT IS NOT INDIVIDUAL,
20 THAT IS SYSTEMATIC, AND IT'S DEFINITELY WITHIN 90 DAYS.

21 NOW, YOU'RE PROBABLY SAYING, BUT, JUDGE, WE'RE
22 DEALING WITH DID WE VIOLATE 11(B) OF THE VOTER REGISTRATION
23 ACT. AND THAT WOULD BE VERY CORRECT, THE PLAINTIFF'S GOT TO
24 SHOW THAT BECAUSE OF THIS -- AND I THINK YOU-ALL DON'T DISAGREE
25 THAT YOU-ALL WOULD CHALLENGE 360,000 PEOPLE IN GEORGIA BASED ON

1 THE NCOA, SO I THINK THERE THERE'S A LITTLE ARGUMENT I THINK
2 CAN BE MADE THERE ABOUT A SYSTEMATIC CHALLENGE, BUT THE
3 QUESTION IS DOES THIS SYSTEMATIC CHALLENGE COME TO THE LEVEL OF
4 VIOLATING 11(B) OF THE VOTER REGISTRATION ACT.

5 AND I READ JUDGE GARDNER'S ORDER, AND SHE DID GO
6 BACK, SHE ISSUED A TEMPORARY RESTRAINING ORDER, AND THEN
7 YESTERDAY, SHE ISSUED A PRELIMINARY INJUNCTION THAT SAID BEN
8 HILL, 150 PEOPLE, FINE, MUSCOGEE COUNTY, SHE GRANTED IT IN
9 PART, AND I THINK BASICALLY WHAT SHE DID IS KIND OF JUST LEFT
10 WHAT MUSCOGEE COUNTY WAS ALREADY DOING IN PLACE, THE
11 PROVISIONAL BALLOTS.

12 BUT THE QUESTION THAT I THINK HAS TO COME UP, YOU'RE
13 RIGHT, YOU CAN EXERCISE YOUR RIGHT AS AN ELECTOR IN A
14 PARTICULAR COUNTY TO CHALLENGE SOMEONE ON AN INDIVIDUAL BASIS
15 WITHIN 90 DAYS OF AN ELECTION. THE QUESTION IS THOUGH, IS THAT
16 IF YOU'RE DOING IT SYSTEMATICALLY DOES THAT RISE TO THE LEVEL
17 OF VOTER INTIMIDATION OR HARASSMENT.

18 MR. BOPP: WELL, I'M -- I'M PREPARED TO ANSWER THAT
19 QUESTION FOR SURE, YOUR HONOR. AND I'M HAPPY TO DO IT NOW OR
20 WHEN YOU --

21 THE COURT: I'M SURE YOU ARE. I CAN TELL BY THE LOOK
22 ON YOUR FACE THAT YOU'RE READY TO GIVE ME AN ANSWER, BUT NOT
23 YET, NOT YET. WE'RE NOT THERE JUST YET.

24 MR. BOPP: OKAY. FAIR ENOUGH.

25 THE COURT: MS. BRANCH, MR. BOPP POINTS OUT TWO VERY

1 IMPORTANT POINTS. THE COMPLAINT IS NOT VERIFIED, THERE IS
2 NOTHING VERIFIED IN THIS PACK OF MOTIONS AND COMPLAINTS THAT
3 HAVE BEEN FILED. ARE YOU PREPARED TO FILE A DECLARATION FROM
4 JANE AND JOHN DOE OR DO YOU OBJECT TO THAT?

5 MS. BRANCH: SO I WANT TO MAKE A COUPLE OF POINTS,
6 YOUR HONOR, IN RESPONSE TO THAT QUESTION AND ALSO TO MR. BOPP'S
7 ARGUMENT. SO THE FIRST IS THAT --

8 THE COURT: LET'S TRY NOT TO GET TOO MUCH INTO
9 ARGUMENT, THOUGH, ABOUT WHETHER OR NOT THIS IS A VIOLATION OF
10 11(B). I'M GOING TO GIVE YOU GUYS ALL THE TIME YOU NEED --
11 WELL, NOT ALL THE TIME YOU NEED, BUT AS MUCH TIME AS I THINK
12 YOU NEED TO ARGUE IT.

13 MS. BRANCH: SURE. NO, NOT IN RESPONSE TO THAT.

14 BUT HE DID ARGUE, AND YOUR QUESTION GOES TO THE POINT
15 ABOUT WHETHER THE EVIDENCE WE'VE SUBMITTED IS ADMISSIBLE,
16 WHETHER IT'S VERIFIED. THE CASE LAW IS CLEAR THAT AT THE
17 PRELIMINARY INJUNCTION AND THE TRO STAGE, WHICH IS WHERE WE ARE
18 NOW, A DISTRICT COURT MAY RELY ON AFFIDAVITS AND HEARSAY
19 MATERIALS WHICH MAY BE ADMISSIBLE EVIDENCE.

20 THE COURT: I DON'T HAVE ANY AFFIDAVITS HERE FROM
21 YOU, THOUGH.

22 MS. BRANCH: WELL, SO, YOUR HONOR, YOU HAVE ONE FROM
23 FAIR FIGHT AND WE ARE WILLING TO SUBMIT FOR YOUR IN-CAMERA
24 REVIEW THE TWO AFFIDAVITS FROM JANE AND JOHN DOE.

25 THE COURT: THAT'S SOMETHING THAT I NEED TO SEE.

1 MS. BRANCH: ONE POINT ON THAT IS THAT WE WOULD LIKE
2 TO BE -- WE WOULD LIKE TO REVIEW THE COURT'S REDACTIONS TO THE
3 DOE DECLARATIONS PRIOR TO THEM BEING SUBMITTED, JUST TO MAKE
4 SURE THAT THEY'RE COMFORTABLE WITH THE INFORMATION THAT WILL BE
5 (AUDIO DISRUPTS).

6 THE COURT: THAT'S ONLY FAIR. THAT SOUNDS FAIR. OF
7 COURSE.

8 MS. BRANCH: THANK YOU, YOUR HONOR.

9 BUT THE DEFENDANTS IN THEIR -- IN THEIR OPPOSITION,
10 THEY RAISE ALL OF THESE VARIOUS TECHNICALITIES ABOUT OUR
11 MOTION. WE'RE NOT REQUIRED TO SUBMIT A VERIFIED COMPLAINT.
12 WE'VE SUBMITTED -- WE WILL SUBMIT ADDITIONAL AFFIDAVITS. WE
13 HAVE SUBMITTED AN AFFIDAVIT FROM A SENIORITY ADVISER TO FAIR
14 FIGHT.

15 BUT THEY CAN'T DEFEAT A TRO MOTION BY RAISING THESE
16 TECHNICALITIES AND TO ACTUALLY RAISING OBJECTIONS. SO THEY
17 DON'T -- THEY RAISE THE QUESTION ABOUT THE AUTHENTICITY OF THE
18 EXHIBITS, MOST OF WHICH ARE PUBLIC INTERNET PAGES THAT ARE
19 AVAILABLE FOR ANYONE TO SEE. THEY HAVE NO GROUNDS TO QUESTION
20 THE AUTHENTICITY OF THOSE EXHIBITS. THERE'S NO QUESTION THAT
21 THEY'RE --

22 THE COURT: WHY NOT? WHY NOT? WHY DON'T THEY HAVE
23 GROUNDS TO QUESTION THE AUTHENTICATION OF THESE EXHIBITS?

24 MS. BRANCH: BECAUSE THEY'RE AVAILABLE PUBLICLY.
25 THEY CAN GO ONLINE AND VERIFY THE AUTHENTICITY OF THOSE

1 EXHIBITS. AND THEY DON'T ACTUALLY OBJECT TO THE AUTHENTICITY,
2 THEY JUST RAISE THIS SPECTER OF QUESTION ABOUT AUTHENTICITY THE
3 SAME WAY THEY RAISE THE SPECTER OF VOTER FRAUD.

4 THE COURT: SHOULD I NOT BE BASING MY DECISION ON --
5 IF I DIDN'T HAVE AFFIDAVITS FROM JOHN AND JANE DOE WITHOUT
6 AUTHENTICATING -- IN OTHER WORDS, I WOULD BE BASING IT ON
7 BASICALLY -- WOULD I JUST NOT BASICALLY BE RULING ON WHAT'S IN
8 THE BRIEFS?

9 MS. BRANCH: YOU'D BE RULING ON WHAT'S IN THE BRIEFS,
10 BUT ALSO IN THE EXHIBITS, BECAUSE AS A -- YOU KNOW, WE'RE
11 ALLOWED TO SUBMIT AT THIS STAGE IN THE LITIGATION AFFIDAVITS
12 AND HEARSAY. AND SO YOU ARE WELL -- THE COURT IS WELL WITHIN
13 ITS POWER TO RELY ON THE HEARSAY MATERIALS THAT WE'VE
14 SUBMITTED, THE PUBLIC MATERIALS THAT WE'VE SUBMITTED.

15 WE, OF COURSE, CAN SUBMIT AN ATTORNEY DECLARATION
16 ATTESTING TO THE AUTHENTICITY OF THOSE EXHIBITS, IF THAT WOULD
17 BE HELPFUL FOR THE COURT, BUT IT'S MY POSITION THAT WE'RE NOT
18 REQUIRED TO DO THAT AND THE COURT CAN RELY ON THOSE EXHIBITS IN
19 RULING ON OUR MOTION.

20 THE COURT: ALL RIGHT. OKAY. THANK YOU.

21 I WILL NOT RULE AT THIS POINT IN TIME ON THE MOTION
22 FOR ANONYMITY IN THIS MATTER, I WILL WAIT UNTIL I RECEIVE THE
23 IN-CAMERA INFORMATION AND PROCEED FROM THERE.

24 ALL RIGHT. LET'S GET INTO NOW THE MOTION FOR THE
25 PRELIMINARY INJUNCTION.

1 AND MS. BRANCH, YOU CAN GO AHEAD AND START.

2 MS. BRANCH: THANK YOU, YOUR HONOR.

3 THE COURT: LET ME ASK YOU THIS QUESTION.

4 MS. BRANCH: OKAY.

5 THE COURT: HAS TRUE THE VOTE PUBLISHED ANY
6 CHALLENGES TO THE -- HAVE THEY PUBLISHED ANY CHALLENGES TO
7 THEIR LIST? HAS TRUE THE VOTE PUBLISHED ANY OF THEIR CHALLENGE
8 LIST? HAVE THEY PUBLISHED THAT CHALLENGE LIST?

9 MS. BRANCH: SO I'M NOT SURE WHETHER TRUE THE VOTE
10 HAS PUBLISHED THE CHALLENGE LIST, BUT THE CHALLENGE LISTS ARE
11 AVAILABLE PUBLICLY, SO THEY HAVE --

12 THE COURT: HOW?

13 MS. BRANCH: -- SUBMITTED CHALLENGES, THEY'VE SAID,
14 TO OVER 85 COUNTIES.

15 THE COURT: HOW ARE THEY AVAILABLE PUBLICLY? I THINK
16 I KNOW THE ANSWER, BUT I NEED TO HEAR IT FROM YOU. HOW ARE
17 THEY AVAILABLE PUBLICLY?

18 MS. BRANCH: YES, YOUR HONOR. HOW ARE THEY AVAILABLE
19 PUBLICLY, WAS THAT THE QUESTION?

20 THE COURT: YEAH. YES, MA'AM.

21 MS. BRANCH: THEY'RE AVAILABLE PUBLICLY BECAUSE SOME
22 OF THE COUNTIES HAVE MADE THEM AVAILABLE. AND THEN ALSO,
23 IMPORTANTLY, AN INDIVIDUAL WHO IS ASSOCIATED WITH TRUE THE VOTE
24 IS THREATENING, ON HIS TWITTER ACCOUNT, TO MAKE THEM PUBLICLY
25 AVAILABLE.

1 THE COURT: BUT HE HASN'T DONE IT SO FAR. SO THE
2 ONLY WAY THEY'RE AVAILABLE PUBLICLY IS THROUGH THE COUNTIES,
3 WHEREIN THERE'S A CHALLENGE UNDER 230, YOU'RE SAYING THE
4 COUNTIES THEN MAKE THEM PUBLIC? I THINK COBB COUNTY MAY HAVE
5 DONE SO.

6 MS. BRANCH: THAT'S RIGHT, YOUR HONOR. COBB COUNTY,
7 FORSYTH COUNTY, A COUPLE OF OTHER COUNTIES HAVE MADE THOSE
8 LISTS PUBLIC, BUT IMPORTANTLY, THEY WOULDN'T BE --

9 THE COURT: I THINK MR. BOPP IS PROBABLY SAYING WELL,
10 JUDGE, WE DIDN'T DO IT, THE COUNTIES DID IT.

11 MS. BRANCH: RIGHT, YOUR HONOR. BUT THE POINT IS
12 THAT THEY'RE ENGAGED -- TRUE THE VOTE IS ENGAGED IN THESE MASS
13 VOTER CHALLENGES THAT ARE COMPLETELY UNSUBSTANTIATED. WITHOUT
14 HAVING MADE THESE CHALLENGES, THESE LISTS WOULD NOT BE MADE
15 PUBLICLY AVAILABLE.

16 AS YOUR HONOR NOTED EARLIER, THIS -- WHAT THEY'RE
17 DOING IS UNPRECEDENTED. CHALLENGING OVER 360,000 GEORGIANS
18 BASED ON THEIR ELIGIBILITY TO VOTE BASED ON ONE DATA POINT,
19 WHICH IS A CHANGE OF ADDRESS NOTIFICATION, IS UNPRECEDENTED.
20 THEY ADMIT THAT IN THEIR PAPERS AND ONLINE. THEY TALK ABOUT
21 THIS BEING A LANDMARK -- A LANDMARK PROGRAM THAT IS EXTREMELY
22 AGGRESSIVE.

23 SO, YOU KNOW, WE ARE NOT CHALLENGING THE LEGALITY OF
24 GEORGIA'S CHALLENGE STATUTE. WHAT WE ARE CHALLENGING IS THE
25 MANNER IN WHICH TRUE THE VOTE HAS TAKEN ADVANTAGE OF THAT

1 STATUTE IN THE MIDDLE OF A PANDEMIC.

2 AND IMPORTANTLY, THEY DIDN'T START BRINGING THESE
3 CHALLENGES UNTIL AFTER EARLY VOTING HAD BEGUN. SO VOTERS WERE
4 ALREADY CASTING THEIR BALLOTS, THEY WERE IN POLLING PLACES
5 DROPPING OFF BALLOTS AT DROP BOX LOCATIONS AND THEN THEY
6 BROUGHT THIS CHALLENGE.

7 THE COURT: WELL, LET ME ASK YOU THIS QUESTION,
8 MS. BRANCH, YOU SAY YOU'RE NOT CHALLENGING THE LEGALITY OF
9 GEORGIA'S 21-2-230 OR 229, BUT IN A SENSE, AREN'T YOU? BECAUSE
10 IF THE BOARD OF ELECTIONS OR CHALLENGES BASED ON INFORMATION ON
11 THE NCOA LIST WITHIN 90 DAYS OF AN ELECTION, AREN'T THEY
12 CONFLICTING WITH THE NATIONAL VOTER REGISTRATION ACT, AND IF
13 THAT'S THE CASE, AREN'T WE TALKING ABOUT THE SUPREMACY CLAUSE,
14 PREEMPTION?

15 MS. BRANCH: THAT'S CORRECT, YOUR HONOR, AND THAT'S
16 EXACTLY WHAT THE JUDGE --

17 THE COURT: SHOULD THESE COUNTIES BE PARTIES TO THIS
18 CASE?

19 MS. BRANCH: NOT TO THIS CASE, BECAUSE WE DON'T HAVE
20 A NATIONAL VOTER REGISTRATION ACT CLAIM IN THIS CASE. THIS
21 CASE IS ABOUT TRUE THE VOTE'S ACTIONS AND WHETHER THE
22 CHALLENGES, WHICH IS ONLY ONE PART OF THEIR PROGRAM, I WANT TO
23 EMPHASIZE THAT, SO YES, THEY HAVE ENGAGED IN THESE MASS
24 CHALLENGES THAT ARE UNPRECEDENTED.

25 AND THEY ALSO HAVE AN ELECTION INTEGRITY HOTLINE.

1 THEY ARE SHOWING UP AT DROP BOX LOCATIONS WATCHING VOTERS DROP
2 OFF THEIR BALLOTS. THEY'VE CREATED A FUND TO INCENTIVIZE
3 PEOPLE TO REPORT SO-CALLED ALLEGATIONS OF ELECTION MALFEASANCE.
4 SO THIS IS ONE OF -- THE MASS CHALLENGE IS JUST ONE PART OF
5 THEIR PROGRAM.

6 AND THE QUESTION HERE IS WHETHER IN THE CULTURE AND
7 THE ATMOSPHERE OF VOTER FRAUD THAT EXISTS -- THESE CLAIMS OF
8 ILLEGAL VOTING IN GEORGIA THAT EXIST AND THAT TRUE THE VOTE IS
9 HELPING TO PERPETUATE, WHETHER TRUE THE VOTE'S ACTIONS RISE TO
10 THE LEVEL OF VIOLATING THE VOTING RIGHTS ACT.

11 AND, YOUR HONOR, I WOULD CONTEND THAT THEY NOT ONLY
12 HAVE REACHED THE LEVEL THAT THE VOTING RIGHTS ACT IS INTENDING
13 TO PREVENT, BUT THEY HAVE VERY MUCH CROSSED THE LINE. THE
14 VOTING RIGHTS ACT --

15 THE COURT: LET'S GO THROUGH, LET'S SEE IF WE CAN GO
16 POINT BY POINT TO CONNECT THE DOTS OF WHAT TRUE THE VOTE HAS
17 DONE THAT COULD BE CALLED VOTER INTIMIDATION OR VOTER
18 HARASSMENT ON THE LEVEL OF THE VOTER REGISTRATION ACT.

19 OKAY. I THINK ONE, YOU'RE SAYING FILING THESE
20 360,000 CHALLENGES IS ONE WAY YOU'RE SAYING THAT THEY ARE
21 TRYING TO INTIMIDATE AND HARASS. IS THAT ONE?

22 MS. BRANCH: CORRECT, YOUR HONOR.

23 THE COURT: OKAY. TWO WOULD BE -- YOU'RE SAYING TWO,
24 IS THIS MILLION-DOLLAR BOUNTY. NOW, LET'S TALK ABOUT TWO A
25 LITTLE BIT. HOW DOES TWO RELATE TO THE CLAIMS IN THIS CASE?

1 MS. BRANCH: SO THE CREATION OF THIS MILLION-DOLLAR
2 BOUNTY IS INCENTIVIZING INDIVIDUALS IN GEORGIA TO REPORT VOTER
3 FRAUD, REPORT CLAIMS OF VOTER FRAUD TO TRUE THE VOTE. AND
4 TRUE THE VOTE THEN -- CAN THEN PUBLICIZE THOSE CLAIMS AND
5 THEY -- AND THEY'RE CREATING THIS CULTURE OF -- THIS IDEA THAT
6 THERE ARE ILLEGAL VOTERS IN GEORGIA. THEY ARE PUBLICIZING THIS
7 IDEA. AND THEY'RE CREATING INCENTIVES TO -- TO, YOU KNOW,
8 SEEK -- TO FEED THESE CLAIMS.

9 AND THIS IS HAVING A REAL EFFECT ON FAIR FIGHT'S
10 EFFORTS. IT IS AN ORGANIZATION THAT EXISTS TO PROTECT THE
11 RIGHTS OF VOTERS, INCLUDING BLACK AND BROWN VOTERS, AND ENGAGE
12 US IN GOTV EFFORTS. AND THESE EFFORTS THAT TRUE THE VOTE ARE
13 ENGAGED IN ARE HAVING A NEGATIVE IMPACT ON FAIR FIGHT'S ABILITY
14 TO ACHIEVE ITS MISSION.

15 FAIR FIGHT IS ENGAGING IN RESOURCE DIVERSION MERGE.
16 THEY'RE HAVING TO MOVE STAFF WHO ARE FOCUSED ON GOTV EFFORTS TO
17 FOCUS NOW ON MAKING SURE THAT VOTERS ARE AWARE OF THESE
18 CHALLENGES, CALLING VOTERS, TRACKING THESE CHALLENGES ACROSS
19 THE STATE OF GEORGIA, SHOWING UP AT ELECTION BOARD HEARINGS TO
20 HELP DEFEND THESE --

21 THE COURT: WELL, LET'S TALK ABOUT THE INTIMIDATION
22 PART. I THINK NO ONE IS CHALLENGING FAIR FIGHT'S STANDING.

23 BUT AS FAR AS VOTER INTIMIDATION, YOU'RE SAYING IT'S
24 INTIMIDATING VOTERS IN GEORGIA, IN PARTICULAR VOTERS THAT
25 APPEAR ON THE NCOA LIST. I'M ASSUMING JOHN DOE AND JANE DOE IS

1 ON THIS LIST.

2 MS. BRANCH: CORRECT.

3 THE COURT: OKAY. AND SINCE FAIR FIGHT'S COMING NOT
4 AS AN ASSOCIATE STANDING, BECAUSE I DON'T THINK THEY'RE
5 CLAIMING THAT THEY HAVE ANY MEMBERS THAT ARE BEING INTIMIDATED,
6 THEY'RE COMING AS A DIVERSION OF RESOURCES. SO REALLY WHAT
7 WE'RE TALKING ABOUT THE INTIMIDATION HERE IS JANE AND JOHN DOE,
8 CORRECT?

9 MS. BRANCH: THAT'S CORRECT, YOUR HONOR.

10 THE COURT: AND SO WHAT I'M HEARING YOU SAY IS THAT
11 JANE AND JOHN DOE IS ON THIS LIST, AND THE FACT THAT THEY HAVE
12 THIS MILLION-DOLLAR BOUNTY OUT, IF IT BECOMES KNOWN THAT JANE
13 AND JOHN DOE IS ON THIS LIST, THEIR LIVES COULD BE IN DANGER?

14 MS. BRANCH: THAT'S CORRECT, YOUR HONOR. AND NOT
15 JUST JANE AND JOHN DOE, BUT OVER --

16 THE COURT: OVER 300,000 PEOPLE.

17 MS. BRANCH: -- 300,000 GEORGIANS WHO ARE BEING
18 CHALLENGED.

19 THE COURT: OKAY. WHAT'S ANOTHER WAY THAT
20 TRUE THE VOTE IS ATTEMPTING -- TRYING TO INTIMIDATE AND HARASS
21 THESE VOTERS?

22 MS. BRANCH: SO THEY'VE SET UP -- I MEAN, THEY'VE
23 ENGAGED IN LOTS OF PUBLIC STATEMENTS.

24 THE COURT: LIKE WHAT?

25 MS. BRANCH: I'M SORRY.

1 THE COURT: WHAT HAVE THEY SAID PUBLICLY?
2 MS. BRANCH: THEY HAVE RELEASED, THEY'VE MADE PRESS
3 RELEASES. IF YOU LOOK AT THE TWITTER ACCOUNT IN EXHIBIT 2 THIS
4 INDIVIDUAL IS AFFILIATED WITH TRUE THE VOTE, AND HE HAS
5 THREATENED TO RELEASE THE NAMES OF INDIVIDUALS.

6 THE COURT: IS THIS THE CRUSADERS FOR FREEDOM TWITTER
7 OR IS THIS ANOTHER TWITTER?

8 MS. BRANCH: CRUSADE FOR FREEDOM, YES, YOUR HONOR.

9 THE COURT: SO YOU'RE SAYING THAT THE CRUSADE FOR
10 FREEDOM TWITTER, TRUE THE VOTE IS RESPONSIBLE FOR THAT?

11 MS. BRANCH: SO IN HIS TWITTER ACCOUNT, HE TWEETS AND
12 SAYS, QUOTE, WE HAVE CHALLENGED OVER 360,000 VOTERS IN GEORGIA.
13 SO THAT "WE" IS TRUE THE VOTE, BECAUSE TRUE THE VOTE IS THE
14 ORGANIZATION THAT IS RESPONSIBLE FOR THOSE CHALLENGES. AND SO
15 HE IS ENGAGED IN THREATENING AND INTIMIDATING THERE, BECAUSE
16 HE'S THREATENING TO RELEASE THE NAMES OF THE INDIVIDUALS WHO
17 ARE ON THESE LISTS IF TRUE THE VOTE DOESN'T GET WHAT IT WANTS.

18 THE COURT: IS THERE ANYTHING THAT TRUE THE VOTE HAS
19 KNOWLEDGE THAT CRUSADE FOR FREEDOM IS AN AGENT OF THEIRS, AND
20 THEY'VE ACKNOWLEDGED AND AGREED WITH WHAT THE INDIVIDUAL
21 CRUSADE FOR FREEDOM HAS SAID? I UNDERSTAND HE SAID "WE," BUT,
22 YOU KNOW, SOMETIMES PEOPLE INCLUDE FOLKS IN IT WITHOUT THE
23 OTHER PEOPLE'S CONSENT.

24 MS. BRANCH: WELL, IN TRUE THE VOTE'S BRIEF IN
25 OPPOSITION TO OUR MOTION THEY SAY THAT WE HAVE NOT PROVEN THAT

1 THIS INDIVIDUAL WAS ASSOCIATED WITH TRUE THE VOTE, BUT THEY
2 CERTAINLY DON'T DISCLAIM THAT HE IS. THEY NEVER ONCE SAY THAT
3 THIS INDIVIDUAL WHO OWNS THIS TWITTER ACCOUNT IS NOT ASSOCIATED
4 WITH TRUE THE VOTE. THEY HAD THE OPPORTUNITY TO DO SO AND THEY
5 DID NOT.

6 THE COURT: IF MR. BOPP SITTING HERE TODAY DISCLAIMED
7 CRUSADE FOR FREEDOM'S TWITTER, THEN WHAT WOULD YOU SAY TO THAT?

8 MS. BRANCH: THEN -- THEN THAT WOULD BE -- I MEAN, I
9 THINK THAT'S SOMETHING, ONE, THAT NEEDS TO BE PROVEN, SO
10 POTENTIALLY EXPEDITED DISCOVERY WOULD BE WARRANTED ON THAT
11 ISSUE, BUT I DO THINK --

12 THE COURT: WELL, LOOK AT THE TIME, YOU'VE ONLY GOT
13 FIVE DAYS UNTIL JANUARY THE 5TH. I DON'T MIND LETTING YOU-ALL
14 GIVE ME AS MUCH INFORMATION AS YOU WANT, BUT THE MORE
15 INFORMATION YOU GIVE ME, THE MORE TIME THAT THE RULING WILL BE
16 DELAYED. OF COURSE, IT MIGHT -- I'VE GOT A QUESTION TO
17 MR. BOPP I'LL ASK LATER ABOUT ARE THERE GOING TO BE ANY MORE
18 CHALLENGES, BUT --

19 MS. BRANCH: UNDERSTOOD. I WANT TO MAKE THE POINT,
20 YOUR HONOR, THAT THE IDEA OF MASS VOTER CHALLENGES INTIMIDATING
21 VOTERS IN VIOLATION OF THE VOTING RIGHTS ACT IS NOT A NOVEL
22 CONCEPT.

23 MOST RECENTLY, THE EASTERN DISTRICT OF VIRGINIA HELD
24 THAT PLAINTIFFS STATED A VALID CLAIM UNDER 11(B) WHERE
25 DEFENDANTS PUBLISHED THE NAMES OF ALLEGEDLY INELIGIBLE VOTERS,

1 WHICH IS ESSENTIALLY WHAT IS BEING DONE HERE AND WHAT IS
2 THREATENED TO BE DONE HERE.

3 TRUE THE VOTE WHEN THEY MAKE THESE CHALLENGES, THEY
4 KNOW THAT THEY ARE PART OF THE PUBLIC RECORD, THEY BECOME PART
5 OF THE PUBLIC RECORD AND THAT COUNTIES MAY OR MAY NOT RELEASE
6 THEM, THERE ARE ALSO (AUDIO DISRUPTS) --

7 THE COURT: LET'S TALK ABOUT THAT VIRGINIA CASE,
8 MS. BRANCH. ISN'T IT TRUE IN THAT VIRGINIA CASE, THOUGH, IT
9 WAS NOT JUST THE CHALLENGE, IT WAS TO THE TOTALITY OF WHAT THEY
10 DID THAT LED TO THE RULE. YOU POINTED OUT ONE OF THE THINGS
11 THEY DID, PUBLISHING THE NAMES THEMSELVES OF THESE INDIVIDUALS,
12 THAT'S WHY I WAS ASKING YOU TO GIVE ME THINGS THAT YOU ARE
13 INTIMATING THAT TRUE THE VOTE HAS DONE.

14 MS. BRANCH: THAT'S TRUE, YOUR HONOR, BUT THERE
15 ARE -- I MEAN, THE SAME WAY THAT TRUE THE VOTE -- THE SAME WAY
16 THAT IN THAT CASE THERE WAS A TOTALITY OF THE CIRCUMSTANCES,
17 THAT EXISTS HERE AS WELL. TRUE THE VOTE IS ENGAGED IN MORE
18 THAN JUST MASS VOTER CHALLENGES.

19 THE COURT: SO FAR YOU'VE GIVEN ME TWO THINGS.
20 YOU'VE GIVEN ME THE BOUNTY AND YOU'VE GIVEN ME THE CRUSADE FOR
21 FREEDOM TWITTER AND THE MASS CHALLENGES. OF COURSE I THINK YOU
22 MIGHT HAVE THE CRUSADE FOR FREEDOM TWITTER MESSAGE BEING
23 DISAVOWED BY TRUE THE VOTE, BUT I'LL LET THEM ANSWER
24 THEMSELVES.

25 WHAT ELSE THOUGH? WE'RE TALKING ABOUT THE TOTALITY

1 HERE. IS IT FAIR TO SAY JUST THE CHALLENGES ALONE IN
2 THEMSELVES, WOULD THAT BE ENOUGH TO VIOLATE 11(B)?

3 MS. BRANCH: I DO THINK THAT THE CHALLENGES ALONE
4 WOULD BE ENOUGH TO VIOLATE 11(B), BUT THERE IS THIS TOTALITY OF
5 THE CIRCUMSTANCES --

6 THE COURT: WHY?

7 MS. BRANCH: -- INCLUDING THE EFFORTS THAT
8 TRUE THE VOTE IS ENGAGED IN, WHICH CANNOT BE DIVORCED,
9 YOUR HONOR, FROM THE CIRCUMSTANCES OF THESE CLAIMS OF ILLEGAL
10 VOTING AND VOTER FRAUD THAT EXISTS IN GEORGIA RIGHT NOW.

11 THE LAW UNDER SECTION (B) DOES NOT REQUIRE US TO TIE
12 EVERY SPECIFIC INSTANCE OF VOTER INTIMIDATION THAT EXISTS IN
13 THE STATE TO TRUE THE VOTE. THE TEST IS WHETHER VOTER
14 INTIMIDATION IS TAKING PLACE AND DEFENDANTS ARE PRESUMED TO
15 INTEND THE NATURAL CONSEQUENCES OF THEIR ACTION, WHICH MEANS
16 THEY CANNOT DIVORCE THEIR ACTIONS FROM THE CULTURE OF VOTER
17 FRAUD THAT THEY HELPED CREATE.

18 AND THESE INSTANCES OF VOTER INTIMIDATION AND FEAR
19 AND THREATS, WHAT HAPPENED IN FULTON COUNTY, WHAT HAPPENED TO
20 THE ELECTION WORKER IN GWINNETT COUNTY. THESE THREATS ARE ALL
21 EVIDENCE THAT THE NATURAL CONSEQUENCE OF THE ACTIONS THAT
22 TRUE THE VOTE IS ENGAGED IN ARE VOTER INTIMIDATION. WE CAN'T
23 DIVORCE THEIR ACTIONS FROM THE CONTEXT IN WHICH THEY'RE TAKING
24 PLACE, AND THAT IS THE TEST UNDER SECTION (B).

25 YOU KNOW, IT IS IMPORTANT TO NOTE THAT TRUE THE VOTE

1 HAS BEEN FANNING THESE FLAMES OF VOTER FRAUD, WHICH NUMEROUS
2 COURTS HAVE SAID JUST DOES NOT EXIST. THEY'VE BEEN DOING IT
3 SINCE THE 2020 PRESIDENTIAL ELECTION. THEY FILED LAWSUITS
4 FOLLOWING THE 2020 PRESIDENTIAL ELECTION WHERE THEY ALLEGE
5 VOTER FRAUD, THEY DISMISSED THOSE CASES FOUR DAYS LATER BECAUSE
6 THEY COULDN'T PROVE IT.

7 SO NOW WHAT THEY'VE DONE IS THEY'VE GONE TO COUNTIES
8 TO BYPASS THE COURT SYSTEM TO MAKE THESE ALLEGATIONS OF VOTER
9 FRAUD, BOTH BEFORE THE COUNTIES AND PUBLICLY. THEY HAVE
10 CREATED AND CONTRIBUTED TO THIS CULTURE OF INTIMIDATION. AND
11 THE SPECIFIC EFFORTS THAT TRUE THE VOTE HAS ENGAGED IN, THE
12 VOTER HOTLINE, THE BOUNTY, THE MASS CHALLENGES OF OVER 360,000
13 GEORGIANS, WHO THEY SAY THEMSELVES IS UNPRECEDENTED.

14 IF YOU LOOK AT THEIR WEBSITE, THEY TALK ABOUT, YOU
15 KNOW, THIS HUGE PROBLEM OF VOTER FRAUD. THEY SAY NO RETREAT,
16 NO SURRENDER, THEY USE THREATENING LANGUAGE. ALL OF THAT IS
17 EXISTING IN THIS CULTURE OF VOTER INTIMIDATION AND THREATS AND
18 IT AMOUNTS TO A VIOLATION OF SECTION 11(B).

19 THEY ARE PRESUMED TO INTEND THE NATURAL CONSEQUENCE
20 OF THEIR ACTIONS, SO WE CAN'T DIVORCE THE SPECIFIC ACTIONS THAT
21 THEY'RE ENGAGED IN, WHICH I DO THINK AMOUNT TO VOTER
22 INTIMIDATION FROM THE CULTURE IN WHICH THEY ARE TAKING PLACE.

23 THE COURT: QUESTION, IN THE DEFENDANTS' BRIEF, THEY
24 SAY THEY HAVE NO RELATIONSHIP TO PLAINTIFFS' EXHIBITS 1111,
25 1112, 1115, 1116, 1117 AND 1122. WERE THOSE EXHIBITS MORE FOR

1 A STARKER CONTEXT AND BACKGROUND OR WERE THOSE EXHIBITS FOR THE
2 TOTALITY OF THE CIRCUMSTANCES?

3 MS. BRANCH: THOSE EXHIBITS ARE TO SHOW THE TOTALITY
4 OF THE CIRCUMSTANCES, TO SHOW THE CULTURE IN WHICH
5 TRUE THE VOTE'S ACTIONS ARE TAKING PLACE IN GEORGIA. WE ARE IN
6 AN UNPRECEDENTED TIME IN OUR HISTORY WHERE VOTERS ARE BEING
7 ACCUSED OF ENGAGING IN VOTER FRAUD, AND MANY OF THEM VOTERS OF
8 COLOR BEING ACCUSED OF ENGAGING IN VOTER FRAUD WITH NO BASIS.

9 THE COURT: LISTEN TO MY QUESTION. THE QUESTION IS
10 THAT THE DEFENDANTS SAY THEY HAVE NO RELATIONSHIP TO THOSE
11 EXHIBITS. WHAT DO YOU HAVE TO SAY ABOUT THAT? THEY'RE SAYING
12 WE DON'T HAVE ANYTHING TO DO WITH THOSE EXHIBITS.

13 MS. BRANCH: WELL, I MEAN, THESE INSTANCES OF THREATS
14 AND COERCION AND INTIMIDATION OF ELECTION OFFICIALS, THESE ARE
15 INDIVIDUALS WHO ARE PAID TO PROTECT AND RUN OUR ELECTIONS, THEY
16 MAY NOT --

17 THE COURT: I TOTALLY AGREE WITH YOU. I TOTALLY
18 AGREE WITH YOU. I THINK IT'S TOTALLY WRONG, ANYBODY THAT
19 THREATS SOMEONE IN THE SECRETARY OF STATE'S OFFICE OR ANYBODY
20 IN THE LOCAL ELECTIONS OFFICE IS TOTALLY WRONG AND THEY SHOULD
21 BE PROSECUTED TO THE FULL EXTENT OF THE LAW. I DON'T DISAGREE
22 WITH YOU AT ALL.

23 BUT WHAT I'M ASKING YOU IS THAT TRUE THE VOTE SAID WE
24 HAD NOTHING TO DO WITH IT, ON AGAIN, 1111, 1112, 1115, 1116,
25 1117, AND 1122, THEY SAID WE HAVE NO RELATIONSHIP.

1 MS. BRANCH: RIGHT. SO THAT'S NOT THE TEST UNDER
2 11(B). SO THE TEST IS WHETHER THEIR ACTIONS HAVE CREATED,
3 UNDER AN OBJECTIVE VIEW, WHETHER THEY HAVE CONTRIBUTED TO
4 CREATING VOTER INTIMIDATION. SO THE TEST WASN'T WHETHER THEY
5 WERE SPECIFICALLY TIED TO THOSE INSTANCES. THE TEST IS THAT
6 UNDER THE TOTALITY OF THE CIRCUMSTANCES, VIEWING THEIR ACTIONS
7 IN THE CONTEXT OF THOSE -- YOU KNOW, THE CIRCUMSTANCES THAT ARE
8 PRESENT IN THOSE EXHIBITS, WHETHER IT AMOUNTS TO VOTER
9 INTIMIDATION. THEY CAN'T JUST DISCLAIM THAT THEY'RE ENGAGED IN
10 VOTER INTIMIDATION BY SAYING, OH, NO, WE'VE DIDN'T HAVE
11 ANYTHING TO DO WITH THAT. THEY'RE WELL AWARE OF THE
12 CIRCUMSTANCES, MANY OF WHICH THEY'VE HELPED CREATE, AND THOSE
13 CIRCUMSTANCES ARE WHAT'S HAVING AN EFFECT ON JANE AND JOHN DOE.

14 JANE AND JOHN DOE ARE AWARE OF THESE THREATS TO
15 ELECTION OFFICIALS, THEY'RE AWARE OF THESE MASS VOTER
16 CHALLENGES. THE 360,000 GEORGIANS WHO HAVE BEEN CHALLENGED,
17 THEY'RE AWARE OF THIS CULTURE, THIS IDEA THAT THEY'RE BEING
18 TAGGED AS ILLEGAL. AND IF THEIR INFORMATION IS RELEASED, IF
19 THEIR NEIGHBORS FIND OUT, THEY COULD BE SUBJECT TO CRIMINAL
20 PROSECUTION FOR THE ALLEGATIONS THAT DEFENDANTS ARE MAKING
21 AGAINST THEM. AND THOSE ALLEGATIONS ARE UNSUBSTANTIATED.
22 THEY'RE BASED ON ONE DATA POINT, THE FACT THAT THESE
23 INDIVIDUALS MAY HAVE CHANGED THEIR MAILING ADDRESS IN THE
24 MIDDLE OF A GLOBAL PANDEMIC WHICH HAS LASTED FOR OVER A YEAR,
25 THERE ARE ANY NUMBER OF CIRCUMSTANCES WHY THESE INDIVIDUALS MAY

1 HAVE MOVED OUT-OF-STATE OR MAY BE TRANSIENT AND WITHIN STATES.
2 AND I THINK THE MUSCOGEE COUNTY OPINION RECOGNIZES THAT. IT
3 SAYS THAT YOU CAN'T -- THAT CHALLENGES TO VOTERS BASED ON THAT
4 SOLE DATA POINT, BASED ON THE FACT THAT THEY'VE CHANGED THEIR
5 ADDRESS ARE NOT SUFFICIENT. THERE HAS TO BE MORE TO SHOW THAT
6 THESE VOTERS ARE INELIGIBLE.

7 THE COURT: WELL, YES, BUT -- I DON'T WANT TO GET TOO
8 MUCH INTO THE ORDER OF ANOTHER JUDGE, BUT SINCE YOU BROUGHT IT
9 UP, HOWEVER, JUDGE GARDNER DOES ALLOW MUSCOGEE COUNTY TO STILL
10 MAKE THESE PEOPLE VOTE BY PROVISIONAL BALLOTS, AND THEY'RE
11 STILL GOING TO HAVE HEARINGS ON THESE PROVISIONAL BALLOTS UP
12 THROUGH JANUARY THE 8TH.

13 MS. BRANCH: CORRECT, YOUR HONOR. AND THAT IS THE
14 REAL -- THAT IS THE REAL THREAT HERE IS THAT THESE VOTERS ARE
15 BEING CHALLENGED AND THE PRESUMPTION IS NOW ON THEM TO PROVE
16 THEIR ELIGIBILITY WHEN IT'S BASED ON JUNK SCIENCE, ESSENTIALLY.
17 AND THERE ARE SEVERAL COURTS THAT HAVE FOUND THAT. AND THE
18 STATUTE OF THE NVRA MAKES CLEAR THAT A CHANGE OF ADDRESS IS NOT
19 SUFFICIENT TO REMOVE SOMEONE FROM THE VOTER ROLLS.

20 THE COURT: IN ORDER TO HAVE THESE PEOPLE VOTE BY
21 PROVISIONAL BALLOT AND THEY HAVE TO HAVE THESE HEARINGS, DID
22 NOT THE MUSCOGEE COUNTY BOARD OF ELECTIONS HAVE TO FIND
23 PROBABLE CAUSE?

24 MS. BRANCH: RIGHT, BUT THEY STILL -- THE DEFENDANTS,
25 THE CHALLENGERS STILL HAVE TO PROVE PROBABLE CAUSE AND THEY

1 HAVE TO DO SO --

2 THE COURT: THE BOARD OF ELECTIONS HAS TO FIND
3 PROBABLE CAUSE TO GO FORWARD. IF THEY DON'T FIND PROBABLE
4 CAUSE, THERE'S A NUMBER OF COUNTIES IN THE STATE OF GEORGIA,
5 ATHENS, CLARK COUNTY, I THINK IS ONE THAT THEY'VE FROZEN,
6 GWINNETT COUNTY IS ANOTHER, WHEN THESE CHALLENGES WERE MADE,
7 THEY JUST SAID NO. THEY BASICALLY SAID, I GUESS, SAID WE DON'T
8 FIND PROBABLE CAUSE FOR THESE CHALLENGES, AND THEY'RE NOT GOING
9 TO BE PROVISIONAL BALLOTS BEING OFFERED BASED ON THESE
10 CHALLENGES, THERE ARE NOT GOING TO BE ANY HEARINGS BASED ON
11 THESE CHALLENGES.

12 HOWEVER, MUSCOGEE COUNTY, THEY SAID, YEAH, WE'RE
13 GOING TO MAKE THEM DO THIS, SO THEY WOULD HAVE TO -- UNDER
14 21-2-230, THEY HAVE TO FIND PROBABLE CAUSE IN ORDER TO GO
15 FORWARD. AGAIN, I'M NOT GOING TO MAKE ANY MORE COMMENTS ON
16 JUDGE GARDNER'S ORDER BECAUSE I DON'T HAVE A TRANSCRIPT, AND I
17 DON'T -- PLUS IT'S INAPPROPRIATE FOR ME TO COMMENT ON AN
18 OPINION CASE. SO I'M ONLY GOING TO -- I'M NOT GOING TO RESPOND
19 TO ANYTHING ELSE YOU-ALL HAVE SAID ABOUT THAT ORDER, BECAUSE I
20 DON'T THINK IT WOULD BE APPROPRIATE, BECAUSE I DON'T HAVE
21 EVERYTHING.

22 IT'S THERE. I WILL CONSIDER IT. I'LL GIVE IT WHAT
23 WEIGHT I WANT TO GIVE IT WHEN I'M LOOKING AT DOING MY ORDER,
24 BUT I THINK I'M GOING TO STAY AWAY FROM ANYMORE COMMENTS ON IT.

25 BUT I DO HAVE TO SAY, THOUGH, IF YOU ARE ARGUING THAT

1 THE PRELIMINARY INJUNCTION THERE WAS GRANTED TO SHOW THAT WHAT
2 THEY ARE DOING IS WRONG, KEEP TO THE SECOND ARGUMENT TO IT
3 BASED ON THE ORDER THAT I'VE SEEN THIS MORNING.

4 LET ME ASK YOU THIS QUESTION: DO YOU AGREE THAT
5 PUBLIC DISCLOSURE OF THESE NAMES -- ARE YOU ARGUING THAT PUBLIC
6 DISCLOSURE OF THESE NAMES IS WRONG?

7 MS. BRANCH: YES, YOUR HONOR, A PUBLIC DISCLOSURE --

8 THE COURT: WHY IN YOUR -- WHY IN YOUR REQUEST FOR
9 RELIEF, INJUNCTIVE RELIEF, YOU DON'T ASK -- IT DOES NOT APPEAR
10 THAT YOU'RE ASKING FOR ANY INJUNCTIVE RELIEF AGAINST PUBLIC
11 DISCLOSURE OF THE DOE PLAINTIFF'S INFORMATION.

12 MS. BRANCH: FOR THE DOE INFORMATION -- SO WE HAVE,
13 YOU KNOW, IN OUR MOTION FOR PROCEEDING ANONYMOUSLY, WE MAKE
14 CLEAR THAT WE DO NOT WANT THE DOE INFORMATION TO BE RELEASED,
15 WE WANT THEM TO PROCEED ANONYMOUSLY, THAT IS THE PROTECTION
16 THAT WE ARE REQUESTING.

17 THE COURT: BUT IN THE REQUEST FOR RELIEF, THE
18 DEFENDANTS POINT OUT: IT DOES NOT APPEAR THAT YOU ARE ASKING
19 FOR ANY INJUNCTIVE RELIEF AGAINST PUBLIC DISCLOSURE OF THE DOE
20 PLAINTIFFS' INFORMATION.

21 MS. BRANCH: THAT'S CORRECT, YOUR HONOR. I DO THINK
22 THAT -- WELL, SO THE DOE PLAINTIFFS' INFORMATION HAS ALREADY
23 BEEN DISCLOSED PUBLICLY, FOR ONE. SO IT IS -- AND THEY STATE
24 THAT IN THEIR DECLARATIONS AND WE ALSO STATE THAT IN OUR
25 COMPLAINT.

1 THE COURT: BUT DID YOU ASK FOR ANY INJUNCTIVE RELIEF
2 FOR ANY PUBLIC DISCLOSURE OF ANY OF THESE INDIVIDUALS IN YOUR
3 RELIEF REQUEST?

4 MS. BRANCH: SO OUR REQUEST FOR RELIEF IS THAT WE
5 WANT TRUE THE VOTE TO STOP CHALLENGING --

6 THE COURT: THAT WAS NOT MY QUESTION. THAT'S NOT MY
7 QUESTION. MY QUESTION IS IN YOUR REQUEST FOR RELIEF, DO YOU
8 ASK FOR ANY INJUNCTIVE RELIEF AGAINST PUBLIC DISCLOSURE FOR ANY
9 OF THESE 360,000-PLUS PEOPLE?

10 MS. BRANCH: WE DO NOT, YOUR HONOR, BUT I DO THINK
11 THAT --

12 THE COURT: WHY? WHY? IF YOU SAY THE PUBLIC
13 DISCLOSURE IS ONE OF THE THINGS THAT LEADS TO INTIMIDATION, WHY
14 DON'T YOU ASK FOR INJUNCTIVE RELIEF?

15 MS. BRANCH: YOUR HONOR, I DO THINK THAT WE WOULD
16 REQUEST THAT.

17 THE COURT: BUT YOU HAVEN'T SO FAR.

18 MS. BRANCH: IF WE COULD SUPPLEMENT OUR MATERIALS, WE
19 WOULD REQUEST THAT. WE FOCUSED ON THE MOTION TO PROCEED
20 ANONYMOUSLY TO PROTECT THE DOE PLAINTIFFS.

21 I DO THINK THAT THERE IS -- THAT TRUE THE VOTE SHOULD
22 BE PROHIBITED FROM RELEASING THE CHALLENGE LIST PUBLICLY, AND
23 THAT -- BUT THAT IS NOT THE HARM, THAT'S NOT THE SOLE HARM
24 THERE, RIGHT?

25 SO YES, THEY'RE THREATENING TO RELEASE THE LIST

1 PUBLICLY AND WE WOULD CONTEND THAT THAT SHOULD NOT BE
2 PERMITTED. BUT THE HARM IS CAUSED BY THESE CHALLENGES, THE
3 HARM IS CAUSED BY THE CREATION OF THIS ATMOSPHERE OF ILLEGAL
4 VOTERS, OF VOTER FRAUD, OF ATTACKING WHO IS ILLEGAL AND WHO IS
5 NOT, AND THAT IS THE FOCUS FOR OUR REQUEST FOR RELIEF, SO WE
6 ASK --

7 THE COURT: LET ME ASK YOU -- GO AHEAD. I'M SORRY.
8 PLEASE FINISH.

9 MS. BRANCH: WE ASK THAT THE COURT ENJOIN
10 TRUE THE VOTE FROM SUBMITTING ANY FURTHER REQUESTS FOR
11 CHALLENGES, THAT THEY BE PROHIBITED FROM ENGAGING IN ANY POLL
12 MONITORING OR ELECTION OBSERVING ACTIVITIES, WHICH THEY HAVE
13 SAID THEY'RE GOING TO DO ALL. AND ALSO THAT THEY'RE GOING TO
14 REPORT.

15 THOSE ARE CLEAR ACTIVITIES THAT ARE INTIMIDATING TO
16 VOTERS, AND THEY'RE MAKING THESE STATEMENTS PUBLICLY TO
17 INTIMIDATE VOTERS. THAT IS -- I MEAN, IT'S THE CLEAR PURPOSE.

18 AND THEY'VE SAID THEMSELVES THAT THEIR CHALLENGES
19 DON'T ACTUALLY HAVE THE EFFECT OF REMOVING PEOPLE FROM THE
20 VOTER ROLLS, SO THERE IS REALLY NO HARM TO THEM, YOUR HONOR, IF
21 YOU WERE TO ENJOIN THEM FROM MAKING THESE ADDITIONAL
22 CHALLENGES, BECAUSE --

23 THE COURT: WELL, LET ME ASK ABOUT THE ONES THAT HAVE
24 ALREADY BEEN CHALLENGED BY TRUE THE VOTE AND THE OTHER
25 DEFENDANTS. IT APPEARS TO ME THAT YOU ARE NOT ASKING FOR THOSE

1 CHALLENGES TO BE WITHDRAWN, IN YOUR RELIEF, IN YOUR REQUEST FOR
2 RELIEF.

3 MS. BRANCH: I'M SORRY, YOUR HONOR, I --

4 THE COURT: IN THE PRELIMINARY INJUNCTION, IT APPEARS
5 TO THE COURT THAT YOU ARE NOT CURRENTLY ASKING FOR ANY ALREADY
6 FILED CHALLENGES TO BE WITHDRAWN.

7 MS. BRANCH: YOUR HONOR, WE WOULD REQUEST THAT. I DO
8 THINK THAT MOST OF THE COUNTIES THAT TRUE THE VOTE HAS
9 SUBMITTED THESE CHALLENGES TO HAVE REJECTED THEM, AND THEY'VE
10 REJECTED THEM FOR THE REASONS DISCUSSED HERE, WHICH IS THAT
11 THEY HAVE NO BASIS.

12 THE COURT: WHAT ABOUT THE ONES WHERE -- I GUESS MY
13 QUESTION IS THAT YOU'RE ARGUING THAT THESE CHALLENGES ARE JUST
14 INTIMIDATION, THEY'RE HARASSMENT, BUT IN YOUR REQUEST FOR
15 RELIEF, YOU DON'T ASK THAT ANYONE THAT'S ALREADY FILED, THE
16 ALREADY FILED CHALLENGES BE WITHDRAWN.

17 MS. BRANCH: SO I THINK THERE ARE SEPARATE LAWSUITS
18 DIRECTED AGAINST THE COUNTIES THAT HAVE RECEIVED THESE
19 CHALLENGES TO REQUIRE THEM TO DISMISS THEM, AND THE FOCUS OF
20 OUR --

21 THE COURT: AREN'T YOU ASKING ME TO STOP THEM FROM
22 DOING THIS? AREN'T YOU ASKING ME TO SAY TRUE THE VOTE, STOP
23 THESE CHALLENGES? ISN'T THAT KIND OF HARD, WHAT YOU'RE ASKING
24 ME HERE?

25 MS. BRANCH: IT'S A --

1 THE COURT: IT'S CRITICAL FOR ME TO ISSUE AN
2 INJUNCTION ENJOINING TRUE THE VOTE FROM FILING ANY MORE OF
3 THESE CHALLENGES, AND THE ONES THEY'VE GOT THERE TO BE
4 WITHDRAWN.

5 MS. BRANCH: YES, YOUR HONOR.

6 THE COURT: SO THAT COMES TO MY QUESTION, WHY DID YOU
7 NOT ASK ME FOR ANY OF THAT RELIEF?

8 MS. BRANCH: YOUR HONOR, WE WOULD BE HAPPY TO
9 SUPPLEMENT THIS PROPOSED ORDER WITH THAT -- WITH THAT REQUEST
10 OF RELIEF. I DO -- YOU KNOW, THAT IS -- WE'RE OBVIOUSLY MOVING
11 VERY QUICKLY TO GET THIS BEFORE YOUR HONOR, AND SO IT MAY BE
12 THAT WE SHOULD -- WE SHOULD SUPPLEMENT THAT, IF THE COURT WOULD
13 ALLOW IT.

14 THE COURT: OKAY. ONE QUESTION, DEFENDANTS CONCEDE
15 THAT FAIR FIGHT HAS SHOWN INJURY OF FACT BASED ON DIVERSION OF
16 RESOURCES, NEVERTHELESS THEY SAY THAT STANDING IS LACKING
17 BECAUSE IT CANNOT PROVE REDRESSABILITY. HOW WILL A FAVORABLE
18 DECISION ADDRESS THE REDRESSABILITY FOR FAIR FIGHT? IN OTHER
19 WORDS, HOW WILL A FAVORABLE DECISION REDRESS THE ALLEGED HARMS
20 DONE TO FAIR FIGHT?

21 MS. BRANCH: SURE, YOUR HONOR. I DON'T FOLLOW THAT
22 ARGUMENT AT ALL, BECAUSE AS SET FORTH IN OUR COMPLAINT, OUR
23 MOTION AND IN MS. GROH-WARGO'S DECLARATION, WE TALK ABOUT THE
24 DIVERSION OF RESOURCES, WHICH, AS YOU SAID, DEFENDANTS DO NOT
25 CONTEST.

1 IF TRUE THE VOTE STOPS THESE VOTER CHALLENGES, THEN
2 FAIR FIGHT WILL NO LONGER HAVE TO DIVERT RESOURCES TO
3 COUNTERACT THE HARM THAT IS IMPOSED BY THEM, SO THEY WILL NO
4 LONGER HAVE TO SEND STAFF TO COUNTY BOARDS TO OBSERVE AND
5 REPRESENT VOTERS AT CHALLENGE HEARINGS, THEY WILL NO LONGER
6 HAVE TO SPEND TIME AND RESOURCES BOTH VOLUNTEER AND PAID STAFF
7 TO TRACK THESE CHALLENGES, SO -- AND THAT -- THE SAME GOES FOR
8 THEIR -- ENJOINING THEIR PARTICIPATION IN POLL WATCHING OR
9 PHOTOGRAPHING AND VIDEO RECORDING ANY OF THE ELECTION WORKERS
10 AT THE POLLS.

11 IF TRUE THE VOTE STOPS THOSE ACTIVITIES, FAIR FIGHT
12 WILL NO LONGER NEED TO DIVERT RESOURCES TO COUNTERACT THAT HARM
13 AND THIS COURT IS ENTITLED AND HAS THE POWER TO REDRESS FAIR
14 FIGHT'S INJURIES.

15 THE COURT: LET'S TALK ABOUT STANDING FOR JOHN AND
16 JANE DOE. TELL ME HOW THEY HAVE STANDING AT THIS POINT.
17 WHAT'S BEFORE THE COURT THAT SHOWS THAT JOHN AND JANE DOE HAVE
18 GOT STANDING?

19 MS. BRANCH: SURE. SO THE DOE PLAINTIFFS HAVE BEEN
20 SUBJECT TO CHALLENGES BY THE DEFENDANTS, THEIR NAMES AND
21 ADDRESSES ARE ONLINE, YET THEY ARE LAWFUL VOTERS WHO HAVE BEEN
22 IN AND OUT OF WORK FOR -- WORK- AND FAMILY-RELATED OBLIGATIONS.
23 THEY INTEND TO REMAIN RESIDENTS OF GEORGIA.

24 AS A RESULT OF DEFENDANTS' CHALLENGES, THE DOE
25 PLAINTIFFS HAVE SUFFERED AN INJURY. THEIR NAMES AND ADDRESSES

1 HAVE BEEN PUBLISHED ONLINE AND THEY ARE FEARFUL THAT THEY WILL
2 BE SUBJECT TO HARASSMENT. THEY'VE ALREADY BEEN PUBLICLY
3 ASSOCIATED WITH BEING AN ILLEGAL VOTER. THEY ARE BEING
4 INTIMIDATED AND THEY'RE FEARFUL THAT THEY WILL CONTINUE TO BE
5 INTIMIDATED IF THEY ARE -- IF INDIVIDUALS ARE ABLE TO IDENTIFY
6 THEM, THEY'RE FEARFUL OF HARASSMENT OR RETALIATION FOR
7 EXERCISING THEIR RIGHT TO VOTE. AND THAT IS EXACTLY WHAT
8 SECTION 11(B) IS MEANT TO PROTECT AGAINST.

9 THEY WILL -- THEY ARE FEARFUL THAT THEY WILL BE
10 SUBJECT TO HARASSMENT FOR EXERCISING THEIR CONSTITUTIONAL RIGHT
11 TO VOTE. THE DEFENDANTS MAKE THESE ARGUMENTS THAT WE'RE
12 REQUIRED TO HAVE AFFIRMATIVE TESTIMONY FROM VOTERS AND THAT OUR
13 INJURIES ARE TOO SPECULATIVE, NONE OF WHICH -- NONE OF WHICH
14 ARE -- HAVE ANY GROUNDS IN THE LAW.

15 WE HAVE PROVIDED SPECIFIC EVIDENCE THAT THE DOE
16 PLAINTIFFS ARE -- WE WILL PROVIDE SPECIFIC EVIDENCE THAT THE
17 DOE PLAINTIFFS ARE FEARFUL OF RETALIATION, AND A FUTURE INJURY
18 SO LONG AS IT IS SUBSTANTIATED IS SUFFICIENT FOR STANDING.

19 THE COURT: LET ME ASK YOU THIS QUESTION. THEIR
20 NAMES HAVE ALREADY BEEN PUBLISHED, YOU SAID. AND BASED ON THE
21 FACT THAT THEIR NAMES HAVE ALREADY BEEN PUBLISHED, THEY'RE
22 FEARFUL THAT SOMEONE MAY DO PHYSICAL HARM TO THEM OR ENDANGER
23 THEIR LIVES IN SOME WAY. IS THAT THE ARGUMENT?

24 MS. BRANCH: THAT IS PART OF IT, YOUR HONOR. THAT IF
25 SOMEONE WERE TO FIND OUT THAT THEY CAST A BALLOT OR WHEN THEY

1 GO TO CAST A BALLOT, THAT THEY WILL BE TAGGED AS AN ILLEGAL
2 VOTER. AND, I MEAN, TRUE THE VOTE SAYS THAT THEY'RE GOING TO
3 HAVE PEOPLE AT DROP BOX LOCATIONS, THEY'RE GOING TO HAVE
4 PEOPLE, YOU KNOW, TRACKING THESE VOTERS, ESSENTIALLY. AND SO
5 THEY'RE FEARFUL THAT THEY WILL BE HARASSED AS A RESULT OF
6 TRUE THE VOTE HAVING TAGGED THEM AS AN ILLEGAL VOTER.

7 THE COURT: BASED ON YOUR ARGUMENT, I'M MAKING THE
8 ASSUMPTION THAT THEY HAVE NOT BEEN CALLING ANYBODY IN THE
9 COUNTY WHERE THEY LIVE TO SAY YOU HAVE BEEN CHALLENGED UNDER
10 SECTION 230 AND YOU'VE GOT TO VOTE BY PROVISIONAL BALLOT, THAT
11 BASICALLY SO FAR, WHAT THEY HAVE IS THE SITUATION WHERE THEIR
12 NAMES -- SINCE THERE ARE SO MANY PEOPLE, I THINK I CAN ASK THIS
13 QUESTION -- THEIR NAMES HAVE ALREADY BEEN PUBLISHED WHERE?

14 MS. BRANCH: I BELIEVE THEY'VE BEEN PUBLISHED ON THE
15 COUNTY WEBSITE.

16 THE COURT: OKAY. AND I WON'T ASK WHAT COUNTY, BUT
17 IN THE INFORMATION THAT YOU GIVE ME FOR THIS IN-CAMERA
18 INSPECTION, YOU SHOULD LET ME KNOW WHAT COUNTY YOU'RE TALKING
19 ABOUT.

20 MS. BRANCH: YES, YOUR HONOR.

21 THE COURT: AND THIS WAS PUBLISHED BY THE COUNTY, NOT
22 BY TRUE THE VOTE, THEIR NAMES HAVE BEEN PUBLISHED BY THE COUNTY
23 ON THE COUNTY WEBSITE AS SOMEBODY WHO'S BEEN CHALLENGED?

24 MS. BRANCH: THAT'S CORRECT, YOUR HONOR, BUT THE
25 COUNTY WOULD HAVE NEVER PUBLISHED IT HAD --

1 THE COURT: I UNDERSTAND THAT.

2 MS. BRANCH: -- TRUE THE VOTE NOT EVER MADE THE
3 CHALLENGE.

4 THE COURT: I UNDERSTAND THAT. I'M TRYING TO FIGURE
5 OUT THE STANDING ASPECT. THEIR NAMES HAVE BEEN PUBLISHED BY
6 THE COUNTY IN WHICH THEY LIVE AS SOMEBODY WHO'S BEEN CHALLENGED
7 BY AN ELECTORATE, CORRECT?

8 MS. BRANCH: YES.

9 THE COURT: OKAY.

10 MS. BRANCH: BUT THEY'VE BEEN CHALLENGED BASED ON --
11 I MEAN, THEY'VE BEEN -- THEY'RE SUBJECT TO THIS MASS CHALLENGE,
12 RIGHT? TRUE THE VOTE IS ENGAGED IN THIS MASS ACTIVITY TO
13 CHALLENGE VOTERS BASED ON NO REAL EVIDENCE.

14 THE COURT: OKAY. WELL, LOOK AT THIS HERE,
15 MS. BRANCH, AND I APOLOGIZE, THEIR NAME HAS BEEN PUBLISHED BY
16 THE COUNTY IN WHICH THEY LIVE IN, AND MY UNDERSTANDING RIGHT
17 NOW IS THE ONLY LIST THAT'S BEEN PUBLISHED BY THE COUNTIES WAS
18 SOMEBODY THAT'S BEEN CHALLENGED BY AN ELECTORATE IN THAT
19 COUNTY. SO JOHN AND JANE DOE HAVE BEEN CHALLENGED IN THE
20 COUNTY, AND THE COUNTY HAS PUBLISHED THEIR NAME BECAUSE THEY'VE
21 BEEN CHALLENGED. IS THAT WHAT YOU'RE SAYING?

22 MS. BRANCH: YES, YOUR HONOR. THEY HAVE BEEN
23 PUBLISHED BY THE COUNTY. SO THE COUNTY IS THE ONE THAT
24 PUBLISHED THE CHALLENGE. BUT THE CHALLENGE WOULD HAVE NEVER
25 BEEN PUBLISHED HAD TRUE THE VOTE NOT MADE IT.

1 AND I WANT TO MAKE CLEAR THAT PART OF THEIR -- PART
2 OF THEIR EFFORT IS TO ENGAGE IN THIS PUBLIC INTIMIDATION. THEY
3 KNOW THAT BY MAKING THESE CHALLENGES, THEY BECOME PUBLIC
4 RECORD, THEY MAKE THEIR WAY ONLINE. AND SO ON THEIR WEBSITE,
5 YOU KNOW, THEY ENCOURAGE PEOPLE TO ENGAGE IN THIS KIND OF CATCH
6 THE VOTER, CATCH THE ILLEGAL VOTER. THIS IS A PART OF THE
7 PROGRAM. THIS IS ANTICIPATED BY TRUE THE VOTE AS PART OF THEIR
8 REASON FOR MAKING THE CHALLENGE BECAUSE --

9 THE COURT: LET'S GO BACK TO THIS QUESTION I HAVE
10 ABOUT RELIEF, WHY AREN'T YOU ASKING THEM THAT THIS CHALLENGE --
11 IF THEY'VE ALREADY BEEN CHALLENGED, WE WOULDN'T VOTE, IN OTHER
12 WORDS, THAT'S ONE WAY TO GIVE YOUR CLIENTS REDRESSABILITY, IS
13 IT NOT? IF THIS CHALLENGE -- IF THEY HAVE BEEN CHALLENGED BY
14 SOMEONE IN THAT COUNTY, AN ELECTOR IN THAT COUNTY, IF I FIND A
15 VIOLATION OF 11(B) BUT THERE'S NO REQUEST FOR ME TO HAVE THE
16 CHALLENGE WITHDRAWN, HOW IS YOUR CLIENT HELPED?

17 MS. BRANCH: WELL, I THINK, YOUR HONOR, THE HARM THAT
18 THEY HAVE SUFFERED IS NOT NECESSARILY RELATED TO HAVING THE
19 CHALLENGE WITHDRAWN. THEY HAVE ALREADY SUFFERED THE HARM, AND
20 SO HAVING THE CHALLENGE WITHDRAWN ISN'T NECESSARILY GOING TO
21 REDRESS THAT ANYWAY. THE CHALLENGE HAS BEEN MADE, THEIR NAMES
22 HAVE BEEN PUBLISHED ONLINE. THEY ARE FEARFUL, THEY ARE
23 CURRENTLY FEARFUL OF BEING INTIMIDATED, OF BEING HARASSED, AND
24 SO THEY HAVE SUFFERED THAT INJURY AND WITHDRAWING THE CHALLENGE
25 AT THIS POINT IS NOT GOING TO CHANGE THAT.

1 THE COURT: OKAY. ALL RIGHT. THANK YOU, MS. BRANCH.

2 I'M SURE I'LL BE COMING BACK TO YOU WITH A FEW MORE QUESTIONS.

3 MR. BOPP --

4 MS. BRANCH: THANK YOU, YOUR HONOR.

5 THE COURT: HOLD ON. HOLD ON. MS. BRANCH.

6 MS. BRANCH: SURE. I WOULD LIKE THE OPPORTUNITY TO
7 RESPOND TO OPPOSING COUNSEL'S ARGUMENTS ABOUT THE
8 FIRST AMENDMENT AND CONSTITUTIONAL PROTECTIONS.

9 THE COURT: YOU CAN DO THAT RIGHT NOW.

10 MS. BRANCH: OKAY. WHICH I THINK YOU ALLUDED TO
11 EARLIER. SO THE DEFENDANTS MAKE THIS ARGUMENT IN THEIR
12 OPPOSITION THAT THEY ARE PERMITTED -- THEY'RE ENGAGING IN
13 CONSTITUTIONALLY PROTECTED ACTIVITY. AND THAT IS JUST
14 INCORRECT, YOUR HONOR. THEY DON'T HAVE A CONSTITUTIONAL RIGHT
15 TO CHALLENGE VOTERS.

16 THE CHALLENGE MECHANISM UNDER WHICH THEY BRING THESE
17 CHALLENGES COMES FROM GEORGIA LAW. BUT FOR GEORGIA LAW,
18 TRUE THE VOTE COULDN'T GO UP TO COUNTY BOARDS AND SAY THESE
19 VOTERS ARE NOT ELIGIBLE TO VOTE IN THE RUNOFF.

20 TO THE EXTENT THAT THIS CHALLENGE PROVISION IS BEING
21 USED TO VIOLATE FEDERAL LAW OR IS BEING DONE IN VIOLATION OF
22 THE VOTING RIGHTS ACT, IT IS PREEMPTED PURSUANT TO THE ELECTION
23 CLAUSE.

24 THE ELECTION CLAUSE GIVES STATES THE PRIMARY
25 RESPONSIBILITY TO SET THE TIMES, PLACES AND MANNER OF FEDERAL

1 ELECTIONS, BUT IT ALSO GIVES CONGRESS THE ULTIMATE POWER TO
2 MAKE OR ALTER THOSE REGULATIONS, AND THAT'S EXACTLY WHAT
3 CONGRESS DID HERE WITH THE VOTING RIGHTS ACT.

4 WITH THE VOTING RIGHTS ACT, WITH SECTION 11(B),
5 CONGRESS MADE THE DECISION THAT IT IS TIME TO PROTECT THE
6 VOTERS, TO ENSURE THAT THESE AWFUL THINGS THAT HAVE HAPPENED IN
7 OUR PAST IN THIS COUNTRY WITH RESPECT TO INTIMIDATING MINORITY
8 VOTERS AND EXERCISING THE FRANCHISE DO NOT PERSIST INTO THE
9 FUTURE. SO TO THE EXTENT THAT GEORGIA LAW IS USED TO VIOLATE
10 FEDERAL OR TO BE DONE IN VIOLATION OF THE VOTING RIGHTS ACT, IT
11 YIELDS TO FEDERAL LAW, SO I WANT TO MAKE THAT POINT.

12 IN ADDITION, THE FIRST AMENDMENT FREEDOM IS NOT
13 UNLIMITED. THIS IS KIND OF SIMILAR TO THESE ARGUMENTS THAT
14 HAVE COME UP IN RESPONSE TO LAWSUITS FILED BY THE TRUMP
15 CAMPAIGN AND THEIR AFFILIATES FOLLOWING THE PRESIDENTIAL
16 ELECTION THAT INDIVIDUALS ARE PERMITTED TO ENGAGE IN POLL
17 WATCHING AND POLL MONITORING AND THAT'S PROTECTED BY THE FIRST
18 AMENDMENT. AND COURTS HAVE REPEATEDLY SAID, NO, IT'S NOT. TO
19 THE EXTENT IT INTIMIDATES VOTERS, IT IS NOT PROTECTED BY THE
20 FIRST AMENDMENT. IT JUST IS, YOU KNOW, SIMILAR TO WHAT YOU SEE
21 WITH LAWS THAT PROHIBIT THE SOLICITATION OF VOTES -- VOTES
22 WITHIN CERTAIN AREAS OF A POLLING PLACE. AND THOSE TYPES OF
23 LAWS HAVE BEEN CHALLENGED, CLAIMING THAT THEY VIOLATE THE
24 FIRST AMENDMENT. AND THE SUPREME COURT HAS SAID NO, THERE'S --
25 THOSE LAWS ARE NARROWLY TAILORED TO PREVENT VOTER INTIMIDATION.

1 THAT'S THE SAME HERE. THIS CHALLENGE LAW, TO THE EXTENT THAT
2 IT VIOLATES FEDERAL LAW IS -- IT IS NOT PERMISSIBLE.

3 I WANT TO ALSO ADDRESS THE DEFENDANT'S ARGUMENT ABOUT
4 THE INTENT REQUIREMENT THAT THEY SAY EXISTS UNDER SECTION
5 11(B), BECAUSE ESSENTIALLY, THE DEFENDANTS ARE READING INTO
6 11(B) LANGUAGE THAT SIMPLY DOES NOT EXIST. THEY CLAIM THAT
7 11(B) REQUIRES A SHOWING OF DISCRIMINATORY ANIMUS BASED ON
8 THESE CHERRYPICKED PIECES OF LEGISLATIVE HISTORY THAT THEY SAY
9 MEANS THAT CONGRESS INTENDED TO INVOKE THE
10 FIFTEENTH AMENDMENT'S INTENT REQUIREMENT. THERE IS NO SUPPORT
11 IN THE CASE LAW WHATSOEVER FOR THAT ARGUMENT. DEFENDANTS CITE
12 NO CASES TO SUPPORT THEIR INTERPRETATION OF LEGISLATIVE
13 HISTORY.

14 BY CONTRAST, MULTIPLE FEDERAL COURTS HAVE AGREED THAT
15 OUR INTERPRETATION, THE PLAINTIFF'S INTERPRETATION OF THE
16 LEGISLATIVE HISTORY FOUND THAT CONGRESS DID NOT INTEND FOR
17 SECTION 11(B) TO REQUIRE A SHOWING OF INTENT OR DISCRIMINATORY
18 ANIMUS. AND I CAN GIVE YOU SOME CITES TO COURT CASES THAT MAKE
19 THIS VERY CLEAR. THE *NATIONAL COALITION ON BLACK CIVIC*
20 *PARTICIPATION V. WOHL*, THAT IS A VERY RECENT CASE OUT OF THE
21 SOUTHERN DISTRICT OF NEW YORK, WHERE THE COURT SAYS, AND I
22 QUOTE: THE LEGISLATIVE HISTORY MAKES CLEAR THAT THE PROHIBITED
23 ACTS OF INTIMIDATION NEED NOT BE RACIALLY MOTIVATED, AND THAT
24 IS A SECTION 11(B) CASE.

25 SAME THING WITH *WILLINGHAM V. COUNTY OF ALBANY*,

1 THAT'S A NORTHERN DISTRICT OF NEW YORK CASE, IT STATES THE SAME
2 PROPOSITION. THE DEFENDANT'S ARGUMENT ON THIS IS JUST SIMPLY
3 NOT SUPPORTED. THE COURT DOESN'T EVEN NEED TO REACH THAT
4 QUESTION, THOUGH, BECAUSE THE PLAIN TEXT OF 11(B) MAKES CLEAR
5 THAT THERE IS NO ANIMUS REQUIREMENT. IF CONGRESS INTENDED TO
6 INCLUDE A PURPOSE REQUIREMENT, AN INTENT REQUIREMENT IN THE
7 STATUTE, IT CERTAINLY KNEW HOW TO DO THAT.

8 IN THE CIVIL RIGHTS ACT OF 1957, IT SAYS, AND I
9 QUOTE, "FOR THE PURPOSE OF." CONGRESS COULD HAVE WRITTEN THAT
10 INTO SECTION 11(B), AND IT DIDN'T. AND FEDERAL COURTS HAVE
11 AGREED THAT THE PLAIN TEXT OF SECTION 11(B) DOES NOT REQUIRE
12 ANY ANIMUS.

13 DEFENDANT'S ARGUMENT ON THIS IS SIMPLY NOT SUPPORTED
14 BY THE LAW. THEIR VIEW OF LEGISLATIVE HISTORY IS FALSE, IT'S
15 CHERRYPICKED. IF YOU LOOK AT THE LEGISLATIVE HISTORY AS CITED
16 IN OUR BRIEF, YOU CAN SEE THAT THE ATTORNEY GENERAL AT THE TIME
17 THAT SECTION 11(B) WAS PASSED MADE CLEAR THAT THE STATUTE
18 DOESN'T HAVE AN INTENT REQUIREMENT, AND IT WAS DISTINGUISHED
19 FROM THE CIVIL RIGHTS ACT OF 1957 ON THOSE GROUNDS.

20 IN ADDITION, THE DEFENDANTS MAKE THE ARGUMENT THAT
21 SECTION 11(B) WAS PASSED PURSUANT TO THE FIFTEENTH AMENDMENT
22 AND NOT THE ELECTIONS CLAUSE. AGAIN THERE, THEY RELY SOLELY ON
23 THEIR INTERPRETATION OF LEGISLATIVE HISTORY, WHICH HAS
24 ABSOLUTELY NO SUPPORT IN THE CASE LAW AND THEY DON'T CITE A
25 SINGLE CASE ON IT.

1 TO THE CONTRARY, MULTIPLE SUPREME COURT OPINIONS
2 UPHELD THAT THE ELECTIONS CLAUSE BROADLY AUTHORIZES FEDERAL
3 REGULATION OF BALLOT CASTING AND THESE HOLDINGS POINT TO THE
4 ELECTIONS CLAUSE, NOT THE FIFTEENTH AMENDMENT OF THE
5 CONSTITUTIONAL AUTHORITY FOR 11(B) AND THAT LANGUAGE COMES
6 DIRECTLY FROM THE EASTERN DISTRICT OF VIRGINIA CASE, THE LULAC
7 CASE THAT WE DISCUSSED.

8 THE COURT: THERE'S A CASE IN THE NINTH CIRCUIT, AND
9 I CAN'T REMEMBER THE CITE OFF THE TOP OF MY HEAD, IN WHICH A
10 UNITED STATES DISTRICT COURT JUDGE DID REQUIRE INTENT AND THE
11 NINTH CIRCUIT AFFIRMED THE RULING, HE DID NOT FIND -- HE OR SHE
12 DID NOT FIND -- THE DISTRICT COURT JUDGE, HE OR SHE DID NOT
13 FIND A VIOLATION OF SECTION 11(B). AND ONE OF THE REASONS FOR
14 IT, THEY HAD THAT INTENT REQUIREMENT AND THE ELEVENTH
15 CIRCUIT -- THE NINTH CIRCUIT, EXCUSE ME, AFFIRMED IT.

16 AND I'LL TRY TO FIND THAT CASE, IT OBVIOUSLY WOULD BE
17 IN MY RULING, BUT I GUESS MY QUESTION IS: IS IT AGREED UPON BY
18 COURTS? I DON'T THINK THE SUPREME COURT'S HAD A CASE. THERE
19 ARE NOT A LOT OF CASES ON 11(B), I ASSURE YOU, BUT IS IT -- I'M
20 NOT DISAGREEING WITH YOU ON WHAT I THINK THE INTENT OF CONGRESS
21 WAS IN TERMS OF -- YOU KNOW, KRAVITCH WAS WHEN HE KEPT DRAGGING
22 THIS UP, BUT THE QUESTION I HAVE, IS IT UNIFORM AMONG CIRCUITS
23 AND DISTRICT COURTS THAT THE INTENT REQUIREMENT IS NOT
24 REQUIRED?

25 MS. BRANCH: I DON'T THINK SO, YOUR HONOR, AND I

1 CONFESS, I DON'T KNOW WHICH SPECIFIC NINTH CIRCUIT CASE YOU'RE
2 REFERRING TO, BUT I DO KNOW THAT THERE IS -- THERE IS CASE LAW
3 OUT THERE THAT KIND OF HAS A BROADER ANALYSIS OF SECTION 11(B),
4 AND IN SOME PLACES, IT IMPORTS THE PURPOSE REQUIREMENT OF THE
5 CIVIL RIGHTS ACT, WHICH IS 11(B), AND I THINK THAT'S JUST A
6 MISTAKE IN THE JUDICIAL ANALYSIS, SO I THINK THAT THAT WOULD BE
7 THE CASE WITH RESPECT TO THE NINTH CIRCUIT CASE THAT YOU'RE
8 REFERRING TO.

9 THE COURT: THE CASE IN VIRGINIA, THOUGH, DID NOT GO
10 IN FRONT OF THE FOURTH CIRCUIT, I THINK THE DISTRICT COURT MADE
11 ITS RULING. AND I THINK THE CASE IN CALIFORNIA DID GO BEFORE
12 THE NINTH CIRCUIT AND THE NINTH CIRCUIT AFFIRMED WHAT THEY DID.

13 MS. BRANCH: UNDERSTOOD, YOUR HONOR. I MEAN, I THINK
14 THAT THE WEIGHT OF THE CASE LAW ON THIS ISSUE REALLY SHOWS THAT
15 THERE IS NO INTENT REQUIREMENT IN SECTION 11(B). I THINK BOTH
16 THE WEIGHT OF THE CASE LAW AND ALSO THE PLAIN LANGUAGE OF THE
17 STATUTE SAYS THAT IT PROHIBITS THE INTIMIDATION, THE COERCION
18 OR THE THREATS MADE TO VOTERS WHO ARE VOTING OR ATTEMPTING TO
19 EXERCISE THEIR RIGHT TO VOTE. THERE IS NO PURPOSE REQUIREMENT
20 IN THAT PLAIN LANGUAGE. AND I THINK THAT THE COURTS HAVE
21 INTERPRETED THAT HAVE MADE --

22 THE COURT: HERE'S THE NINTH CIRCUIT CASE I'M TALKING
23 ABOUT AND I CAN'T PRONOUNCE THE NAMES CORRECTLY, SO I'M GOING
24 TO SPELL IT. I THINK IT'S OLAGUES, O-L-A-G-U-E-S, V.
25 RUSSONIELLO, R-U-S-S-O-N-I-E-L-L-O.

1 AND I'LL READ IT. IT'S A CASE IN WHICH THE
2 PLAINTIFFS ALLEGE THE UNITED STATES ATTORNEY INTIMIDATED VOTERS
3 DURING AN INVESTIGATION OF A VOTER REGISTRATION FRAUD. THE
4 NINTH CIRCUIT AFFIRMED THE DISTRICT COURT'S DISMISSAL OF
5 SECTIONS 131(B) AND SECTION 11(B) CLAIMS BECAUSE WHILE THERE
6 WAS EVIDENCE THAT THE INVESTIGATION DID INTIMIDATE THE
7 APPELLANTS' CLAIMS, IT FAILED TO RAISE A MATERIAL ISSUE OF FACT
8 AS TO WHETHER THE GOVERNMENT OFFICIAL DID, IN FACT, INTEND TO
9 INTIMIDATE THEM.

10 SO I HAVE A CIRCUIT SAYING YOU'VE GOT TO SHOW
11 INTIMIDATION, YOU'VE GOT TO HAVE INTENT, YOU'VE GOT TO HAVE THE
12 INTENT TO SHOW IT. THEY SAY YEAH, THEY INTIMIDATED THE
13 APPELLANTS, BUT THERE WAS NOT -- THEY SAID THEY DIDN'T SHOW
14 INTENT.

15 LET ME SEE IF I CAN FIND THE CITE FOR YOU FOR THAT
16 CASE. I SEE MS. LAWRENCE AND MS. BRYAN WRITING QUICKLY SO I'M
17 SURE THAT THEY'RE PULLING IT UP RIGHT NOW. I'VE BEEN DEALING
18 WITH MS. LAWRENCE AND MS. BRYAN FOR A WHILE, SO I KNOW THEM
19 PRETTY GOOD.

20 LET'S SEE HERE. THAT IS 797 F.2D 1511, IT'S ON
21 PAGE 1522, NINTH CIRCUIT, 1986. SO MY QUESTION IS JUST THAT --
22 I'M SOMEWHAT IN AGREEMENT WITH YOU, I THINK CONGRESS MAY NOT
23 HAVE INTENDED IT, I CAN'T -- YOU KNOW, I'M SURE THAT MR. BOPP
24 IS GOING TO HAVE A DIFFERENT POINT ON THAT, BUT THE COURTS ARE
25 NOT CONSISTENT IN IT AND THE ONLY CIRCUIT COURT THAT HAS

1 ADDRESSED IT HAS BEEN THE NINTH CIRCUIT, AND THEY SAID INTENT
2 TO INTIMIDATE WAS REQUIRED.

3 MS. BRANCH: WELL, YOU'RE -- I MEAN, YOU'RE OBVIOUSLY
4 CORRECT, YOUR HONOR, THAT THERE ISN'T A TON OF CASE LAW OUT ON
5 SECTION 11(B). I UNDERSTAND THE CASE YOU'RE POINTING TO IS A
6 NINTH CIRCUIT, BUT I WILL SAY THAT THE MAJORITY -- THERE ARE
7 SEVERAL DISTRICT COURTS OPINIONS THAT ARE MORE RECENT THAT WERE
8 DECIDED --

9 THE COURT: WHO TAKES PRECEDENT, A CIRCUIT OR --

10 MS. BRANCH: I UNDERSTAND, YOUR HONOR. UNDERSTOOD,
11 YOUR HONOR. I JUST -- I THINK THAT THAT -- I NEED TO READ THAT
12 CASE.

13 THE COURT: LET ME MAKE SURE I POINT OUT THAT -- TO
14 THE JUDGE ON THE ELEVENTH CIRCUIT -- OBVIOUSLY, THE JUDGE ON
15 THE ELEVENTH CIRCUIT AS FAR AS THIS COURT'S CONCERNED TAKES
16 PRECEDENT, HOWEVER, THE ELEVENTH CIRCUIT, AS FAR AS I CAN
17 DETERMINE, HAS NOT RULED ON THIS, BUT THE NINTH CIRCUIT HAS.

18 NOW, I'M NOT DISAGREEING WITH YOU, THERE IS DISTRICT
19 COURT -- AND I'M FAMILIAR WITH THE VIRGINIA CASE, AND I'M
20 FAMILIAR WITH NOT ALL OF THE DISTRICT COURT CASES, BUT THE ONE
21 CIRCUIT COURT CASE THAT I HAVE FOUND INDICATED THAT INTENT WAS
22 NEEDED.

23 MS. BRANCH: WELL, AS YOU SAID, YOUR HONOR, THE
24 ELEVENTH CIRCUIT, AS FAR AS I'M AWARE, HAS NOT SPOKEN ON THIS
25 ISSUE. I THINK YOUR HONOR IS -- YOU KNOW, YOU'RE WELL WITHIN

1 YOUR POWER TO REVIEW THE DISTRICT COURT OPINIONS, TO REVIEW THE
2 LEGISLATIVE HISTORY AND TO RELY ON THE PLAIN LANGUAGE OF THE
3 STATUTE, WHICH DOES NOT REQUIRE INTENT.

4 THE COURT: AND THE NINTH CIRCUIT OPINION, LET ME
5 SAY, FOR ME, IS PERSUASIVE AUTHORITY. YOU KNOW, OBVIOUSLY WHAT
6 BINDS ME IS THE ELEVENTH CIRCUIT AND THE SUPREME COURT, BUT THE
7 NINTH CIRCUIT CAN BE LOOKED UPON BY ME AS PERSUASIVE AUTHORITY.
8 THAT'S WHAT THE DISTRICT COURT JUDGE'S RULE IS.

9 MS. BRANCH: YES, YOUR HONOR.

10 SO I WILL RESERVE MY TIME, UNLESS YOU HAVE ANY
11 FURTHER QUESTIONS FOR ME. I THINK I HAVE COVERED MY
12 AFFIRMATIVE ARGUMENTS AND SOME OTHER RESPONSES TO THE
13 DEFENDANT'S OPPOSITION.

14 I WILL JUST CLOSE BY SAYING THAT YOU KNOW, A TRO AND
15 A PRELIMINARY INJUNCTION ARE THE APPROPRIATE FORMS OF RELIEF
16 HERE. THEY ARE CREATED TO MAINTAIN THE STATUS QUO. THE
17 DEFENDANTS SAY THAT THEIR -- THEIR CHALLENGES ESSENTIALLY DON'T
18 HAVE ANY SUBSTANTIVE EFFECT, BECAUSE WHEN THEY MAKE THESE
19 CHALLENGES, THE VOTERS AREN'T ACTUALLY REMOVED FROM THE VOTER
20 ROLL.

21 BUT WHAT WE DO KNOW IS ON THE OTHER SIDE, WHEN YOU
22 BALANCE THE EQUITIES, ON THE OTHER SIDE, VOTERS ARE BEING
23 INTIMIDATED BY THEIR ACTIONS, VOTERS ARE BEING CHALLENGED BASED
24 ON UNWARRANTED GROUNDS. AND YOU'RE BALANCING HERE A TEXAS
25 ORGANIZATION THAT HAS COME INTO GEORGIA, GIVEN THESE VOTER

1 CHALLENGES TO GEORGIA VOTERS TO GO INTO COUNTY ELECTION BOARDS
2 AND MAKE UNSUBSTANTIATED CLAIMS OF INELIGIBILITY. YOU'RE
3 BALANCING THAT AGAINST REAL HARM TO GEORGIA VOTERS WHO ARE
4 TRYING TO EXERCISE THEIR RIGHT TO VOTE.

5 THIS COURT SHOULD PROTECT THOSE VOTERS, IT SHOULD
6 ENTER A PRELIMINARY INJUNCTION OR A TEMPORARY RESTRAINING ORDER
7 TO PRESERVE THE STATUS QUO, TO STOP THESE CHALLENGES FROM
8 CONTINUING TO OCCUR AND TO STOP VOTERS FROM HAVING TO PROVE
9 THEIR ELIGIBILITY BASED ON JUNK SCIENCE.

10 AND IT WOULD BE WITHIN THE PUBLIC INTEREST, IT WOULD
11 SERVE THE PUBLIC INTEREST TO HAVE THESE CHALLENGES STOPPED AND
12 ALSO TO ENJOIN TRUE THE VOTE FROM ENGAGING IN ANY FURTHER
13 INTIMIDATION TACTICS, LIKE SHOWING UP TO POLLING LOCATIONS,
14 SHOWING UP TO DROP BOXES AND VIDEO RECORDING VOTERS, ALL
15 ACTIONS AND ACTIVITIES THAT THEY HAVE PUBLICLY SAID THAT
16 THEY -- THAT THEY WANT TO ENGAGE IN.

17 THE ENTIRE PURPOSE OF SECTION 11(B) IS TO ALLOW
18 COURTS TO SHUT DOWN THESE TYPES OF ACTIVITIES WHEN THE
19 OBJECTIVE RESULT OF THEM IS GOING TO BE VOTER INTIMIDATION AND
20 RESULT IN VOTERS NOT EXERCISING THEIR RIGHT TO VOTE.

21 WE HAVE SHOWN THAT THERE WILL BE IRREPARABLE HARM
22 ONCE AN ELECTION HAS TAKEN PLACE, THERE CAN BE NO DO-OVER,
23 THERE CAN BE NO REDRESS. THERE IS CASE LAW ON THAT.

24 WE'VE SHOWN THAT WE'RE LIKELY TO SUCCEED ON THE
25 MERITS OF OUR VOTING RIGHTS ACT CLAIM. AND THERE'S NOTHING ON

1 THE OTHER SIDE OF THE EQUITIES THAT WOULD JUSTIFY THE HARM THAT
2 THE PLAINTIFFS ARE SUFFERING, SO, YOUR HONOR, I THINK IT IS
3 EXTREMELY APPROPRIATE AND WARRANTED THAT THIS COURT WILL
4 PROVIDE THE PLAINTIFFS WITH THE PRELIMINARY RELIEF THAT THEY
5 HAVE REQUESTED.

6 IF AT THE END OF THE DAY THE ACTIONS ENGAGED IN BY
7 TRUE THE VOTE ARE PROVEN TO BE COMPLETELY LEGITIMATE, THEN THAT
8 CAN BE PROVEN. THIS CASE WILL CONTINUE AFTER THE PRELIMINARY
9 PHASE AND TRUE THE VOTE CAN PROVE THAT THEIR CHALLENGES ARE
10 BASED ON REAL SCIENCE, OR, YOU KNOW, THEY HAVE SOME VALIDITY TO
11 THEM.

12 I DON'T THINK THEY'LL BE ABLE TO MAKE THAT SHOWING,
13 BUT IT IS IMPORTANT THAT THIS COURT INTERVENE TO PROTECT THE
14 RIGHTS OF VOTERS AND TO PRESERVE THE STATUS QUO AND NOT ALLOW
15 TRUE THE VOTE TO CONTINUE TO ENGAGE IN THESE INTIMIDATION
16 TACTICS.

17 THE COURT: THANK YOU, MS. BRANCH.

18 MR. BOPP, BEFORE WE START, I'D LIKE TO TAKE A QUICK
19 10-MINUTE BREAK RIGHT HERE, AND THEN WE'LL START WITH YOUR
20 ARGUMENT.

21 (WHEREUPON, A RECESS WAS TAKEN.)

22 THE COURT: OKAY. MR. BOPP, YOU MAY PROCEED.

23 MR. BOPP: THANK YOU, YOUR HONOR. BEFORE I GET TO
24 THE SPECIFICS OF THE CLAIM UNDER 11(B), I WANT TO SAY A FEW
25 GENERAL THINGS.

1 FIRST, IS WE WOULD OBJECT TO HAVING THIS MATTER BE --
2 FORCING US TO LITIGATE A MOVING TARGET. YOU KNOW, THE
3 PLAINTIFFS ARE OFFERING TO MAKE NEW CLAIMS, THE PLAINTIFFS ARE
4 OFFERING TO REQUEST NEW RELIEF, THIS IS A MOVING TARGET. THEY
5 HAD UNTIL 5:00 YESTERDAY. THEY FILED THE COMPLAINT ON THE
6 23RD. IF THEY WANTED TO PURSUE A PI, WHICH YOU HAD TO ORDER
7 THEM TO DO, THEY COULD HAVE PUT THAT TOGETHER, PROVIDED THE
8 RELIEF THAT THEY SOUGHT, AND DESPITE THE SCURRILOUS ALLEGATIONS
9 OF VOTER SUPPRESSION AND IMMEDIATE HARM, THEY DIDN'T DO ANY OF
10 THAT UNTIL YOU ORDERED THEM TO DO IT, AND THEY'VE FILED IT. WE
11 SHOULDN'T BE SUBJECTED TO THEM -- THEIR CONTINUAL REVISION OF
12 WHAT WE ARE HAVING TO DEFEND.

13 SECOND, WE HAVE THREE LEVELS OF FACTS, QUOTE, FACTS,
14 END OF QUOTE, THAT WE ARE BEING ASKED TO DEAL WITH. THE FIRST
15 LEVEL IS STATEMENTS OF COUNSEL. THERE ARE MANY OF THE
16 STATEMENTS OF COUNSEL THAT ARE NOT IN THE COMPLAINT, NOT IN THE
17 EXHIBITS, NOT IN THE MOTION FOR PRELIMINARY INJUNCTION, THEY
18 ARE NOWHERE, AND SHE IS MAKING REPRESENTATIONS OF FACT THAT'S
19 COMPLETELY IMPROPER AND CANNOT BE RELIED UPON BY THIS COURT.

20 SECOND LEVEL IS ALLEGATIONS IN THE COMPLAINT, THE
21 PRELIMINARY INJUNCTION AND THE EXHIBITS. THAT IS NOT EVIDENCE.
22 EVIDENCE IS REQUIRED TO ENJOIN US. FOR THIS COURT TO MAKE A
23 DECISION TO ENJOIN US, YOU MUST HAVE SUFFICIENT EVIDENCE. ALL
24 OF THAT IS NOT -- ALMOST NONE OF THAT IS EVIDENCE.

25 NOW, WHAT EVIDENCE DO WE HAVE? WE HAVE AN AFFIDAVIT

1 THAT'S A STANDING AFFIDAVIT. NOW, THEY ARGUE THAT NO EVIDENCE
2 IS REQUIRED, THAT YOU CAN ENJOIN US -- ENJOIN US, PROHIBIT US
3 FROM OUR LAWFUL ACTIVITY, EXERCISE THE POWER OF THE FEDERAL
4 CONSTITUTION AGAINST -- AND FEDERAL LAW AGAINST US WITH NO
5 EVIDENCE.

6 AND WHAT IS THEIR ARGUMENT ON THAT? THEY SAID THAT
7 THE STANDARDS OF EVIDENCE ARE RELAXED SO THAT HEARSAY EVIDENCE
8 IS PERMITTED. NOW, THAT IS TRUE, HEARSAY EVIDENCE IS
9 PERMITTED. BUT WHAT IS HEARSAY EVIDENCE? HEARSAY EVIDENCE IS
10 WHEN SOMEBODY STANDS UP AND SWEARS THAT JOE BLOW SAID
11 SOMETHING, BUT THAT PERSON HAS SWORN THAT JOE BLOW SAID
12 SOMETHING.

13 THE COURT: WELL, THEY HAVE NEWSPAPER ARTICLES FOR
14 HEARSAY EVIDENCE.

15 MR. BOPP: THE ARTICLES ARE NOT AUTHENTICATED,
16 THEY'RE NOT VERIFIED. YOU KNOW, I'VE BEEN DOING THIS FOR 47
17 YEARS. I'VE NEVER SEEN ANYTHING LIKE THIS. WHAT IS CUSTOMARY
18 IN THESE SITUATIONS IS THAT SOMEONE VERIFY THROUGH AN
19 AFFIDAVIT, I GOT THIS, YOU KNOW, WEB PAGE FROM THIS WEBSITE. I
20 GOT THIS PRESS RELEASE FROM SUCH AND SO, THIS NEWSPAPER ARTICLE
21 WAS PUBLISHED IN, YOU KNOW, SUCH AND SO AT SUCH AND SUCH A TIME
22 SO THAT THERE IS SOME EFFORT, SOME MINIMAL EFFORT -- WITH ALL
23 THESE LAWYERS FROM ALL OVER THE UNITED STATES, THEY HAD NO
24 INTENTION OF BRINGING UP A PI. I MEAN, THIS -- THE FIRST THING
25 THEY DID BEFORE -- BEFORE THEY FILED THEIR COMPLAINT WAS TO

1 CALL THE PRESS. AND THERE'S A NATIONAL --

2 THE COURT: STOP IT. STOP IT. STOP IT. LET'S KEEP
3 IT TO THE CASE. I UNDERSTAND -- I'VE READ WHAT YOU'VE ALREADY
4 SAID, THAT THEY CALLED BEFORE THEY FILED IT, AND I SEE WHERE
5 YOU'RE FIXING TO GO, BUT LET'S KIND OF KEEP IT ON WHAT TO DO
6 LEGALLY.

7 MR. BOPP: THEY CANNOT -- THEY CANNOT CLAIM THAT THEY
8 DIDN'T HAVE TIME. THEY CANNOT CLAIM THAT THEY -- THEY DON'T
9 HAVE ENOUGH LAWYERS. THEY CANNOT CLAIM ANYTHING TO JUSTIFY
10 THEIR FAILURE TO PROVIDE EVIDENCE BEFORE THIS COURT, AND THEY
11 NEED TO BE HELD TO THAT. AND JUST SPRINGING AN AFFIDAVIT, TWO
12 AFFIDAVITS -- TWO DECLARATIONS ON US AT THIS POINT IS REALLY
13 KIND OF SHOCKING, BUT I'VE AGREED TO IT. OKAY? BUT THEY NEED
14 TO BE HELD TO A STANDARD THAT THE LAW REQUIRES.

15 THE COURT: WELL, LET ME SAY THIS, MR. BOPP, ANYTHING
16 THAT THEY BRING, I'M DEFINITELY GOING TO ALLOW YOU TO RESPOND.
17 AND AS I POINTED OUT, I MAY NOT BE ABLE TO ISSUE AN ORDER
18 TODAY.

19 YOU KNOW, MS. BRANCH HAS INDICATED THAT SHE'S GOING
20 TO GIVE ME MORE INFORMATION. ANYTHING SHE GIVES ME, YOU'RE
21 GOING TO BE GIVEN THE RIGHT UNDER DUE PROCESS TO RESPOND --
22 WELL, ALL OF THE DEFENDANTS ARE GIVEN THE RIGHT TO RESPOND.

23 AND IF THAT RESULTS IN ME NOT BEING ABLE TO ISSUE AN
24 ORDER TODAY, OR JANUARY THE 5TH, THAT'S JUST THE WAY IT'S GOING
25 TO BE, BUT YOU ARE NOT -- YOU ARE NOT GOING TO BE PUT IN A

1 SITUATION WHERE THEY GIVE ME SOMETHING AND I RULE JUST BASED ON
2 THAT. NO. ANYTHING THEY GIVE ME, YOU'RE GOING TO HAVE A RIGHT
3 TO RESPOND AND YOU ALSO HAVE THE RIGHT TO SAY, JUDGE, I NEED
4 MORE TIME TO RESPOND TO THIS.

5 MR. BOPP: JUDGE, I APPRECIATE THAT AND I AM
6 CONFIDENT THAT THAT IS THE CASE, THAT YOU WILL ALLOW US TO
7 RESPOND. BUT WHAT I AM SAYING IS THIS SHOULD BE CUT OFF. IN
8 OTHER WORDS, THEY HAD A 5:00 DEADLINE IN ORDER FOR US TO
9 RESPOND. WE SHOULDN'T BE JUST SUPPLEMENTING, SUPPLEMENTING,
10 SUPPLEMENTING AND, YOU KNOW --

11 THE COURT: AND THAT'S AN ARGUMENT TO TAKE INTO
12 CONSIDERATION THAT MAYBE, YOU KNOW, I SHOULDN'T CONSIDER
13 ANYTHING ELSE. YOU KNOW, THAT'S ALWAYS -- I'LL TAKE THAT AS AN
14 ORAL MOTION BY YOU, JUDGE, YOU SHOULDN'T CONSIDER ANYTHING
15 ELSE. ISN'T THAT RIGHT? THAT'S SO NOTED. THAT THERE IS AN
16 ORAL MOTION THAT, JUDGE, YOU SHOULD GO ON THE RECORDS YOU HAVE.

17 MR. BOPP: ALL RIGHT. THANK YOU, YOUR HONOR.
18 THIRD -- THIRD --

19 THE COURT: WHAT'S YOUR THIRD ONE?

20 MR. BOPP: THIRD IS THE 230 PROCEDURE. NOW, THE 230
21 PROCEDURE IS -- ALLOWS FOR AN ELECTOR, A VOTER, TO SUBMIT A
22 CHALLENGE TO A PARTICULAR OTHER VOTER BASED ON EVIDENCE THAT
23 THEY MAY HAVE, THAT THEY HAVE, THAT THAT VOTER IS NO LONGER
24 ELIGIBLE TO VOTE IN THIS ELECTION. IT HAS NOTHING TO DO WITH
25 THAT, RIGHT, IT HAS NOTHING TO DO WITH THE VOTER REGISTRATION

1 ROLLS.

2 THE COURT: BUT IS THAT THE CASE? THAT'S MY
3 QUESTION. YOU JUST RAISED MY FIRST QUESTION.

4 MR. BOPP: YES.

5 THE COURT: THERE IS NO QUESTION THAT IN THAT
6 21-2-230 THAT AN ELECTOR IN THAT COUNTY CAN CHALLENGE ANOTHER
7 ELECTOR WITH INDIVIDUAL INFORMATION.

8 BUT HERE, DO WE REALLY HAVE THAT? IS THIS NOT A
9 SYSTEMATIC CHALLENGE? IT'S BEEN POINTED OUT THAT OVER 85
10 COUNTIES IN THIS STATE HAVE ALREADY HAD CHALLENGES, THEY'VE
11 CHALLENGED OVER 360,000 PEOPLE. IS THAT REALLY INDIVIDUAL
12 VOTERS? IN OTHER WORDS -- IT'S INDIVIDUAL VOTERS DOING IT, BUT
13 IT'S LIKE AN ORGANIZED SET OF INDIVIDUAL VOTERS.

14 MR. BOPP: WELL, OKAY. FIRST, YOUR HONOR, THEY DID
15 NOT MAKE AN NVRA CHALLENGE OR CLAIM. AND WE SHOULDN'T BE --
16 AND THEY SHOULDN'T BE ABLE TO PARACHUTE THAT IN AT THAT POINT.
17 OKAY? THAT'S NOT IN THEIR COMPLAINT, IT'S NOT IN THE PI.

18 THE COURT: IT'S NOT IN THEIR COMPLAINT, IT IS NOT,
19 HOWEVER, IT CAN BE CONSIDERED. ONE OF THE THINGS THAT THE
20 ELEVENTH CIRCUIT HAS POINTED OUT, AT LEAST I CAN THINK ABOUT
21 FOUR CASES IN THE LAST FIVE MONTHS IN THIS CIRCUIT, IF WE DO
22 THINGS ON THE EVE OF THE ELECTION, IT CAUSES CONFUSION. AND
23 ONE OF THE THINGS THAT THEY'RE TRYING TO KEEP THEM FROM
24 DOING -- FEDERAL COURTS, IN PARTICULAR -- FROM DOING IS CAUSING
25 CONFUSION IN STATE ELECTIONS, BECAUSE STATE GOVERNMENT OVERSEES

1 THE ELECTION. IF YOU'VE GOT OVER 360,000 CHALLENGES, WITHIN 20
2 DAYS, I THINK YOU-ALL FILED THIS ON DECEMBER THE 18TH, AND YOU
3 HAVE OVER 360,000 CHALLENGES WITHIN 20 DAYS OF AN ELECTION,
4 DOES THAT NOT CAUSE CONFUSION AND WEIGHT AGAINST WHAT THE
5 ELEVENTH CIRCUIT AND THE SUPREME COURT SAYS, WHICH IS THAT IT
6 SHOULD NOT BE ALLOWED.

7 MR. BOPP: YEAH, BUT THAT'S THE PURCELL PRINCIPLE,
8 YOUR HONOR. AND THE PURCELL PRINCIPLE APPLIES TO FEDERAL
9 COURTS AND STATE COURTS AND GOVERNMENTAL OFFICIALS. THIS IS
10 NOT A CHANGE IN LAW, YOUR HONOR.

11 THE COURT: BUT THIS IS NOT --

12 MR. BOPP: IN SECTION 230 --

13 THE COURT: BUT YOU'RE NOT --

14 MR. BOPP: IN SECTION 230 --

15 THE COURT: I'M SORRY. GO AHEAD. I'M SORRY. GO
16 AHEAD.

17 MR. BOPP: THIS IS NOT A CHANGE IN THE LAW, THAT'S
18 WHAT THEY ARE TALKING ABOUT, CHANGING THE LAW ON THE EVE OF AN
19 ELECTION. 230 IS THE LAW. IT'S ADOPTED BY THE GEORGIA
20 LEGISLATURE. IT PROVIDES AN OPPORTUNITY -- IT PROVIDES AN
21 OPPORTUNITY AND IT SAYS NOTHING ABOUT HOW MANY CHALLENGES A
22 PERSON MAKES AT ALL.

23 THE COURT: WHAT YOU ARE DOING, IT SAYS YOU ARE
24 CIRCUMVENTING THE LAW -- YOU'RE CIRCUMVENTING IT BY CONFLICTING
25 IT WITH ANOTHER LAW. THERE IS A FEDERAL LAW THAT INDICATES

1 THAT, YOU KNOW, IT'S NOT -- IT'S ON THE NRVA, I UNDERSTAND,
2 THAT WITHIN 90 DAYS OF AN ELECTION, AND I UNDERSTAND YOUR
3 ARGUMENT, WELL, WE'RE NOT REMOVING THEM FROM THE VOTE, BUT IN A
4 SENSE, IF THEY CAN'T VOTE, YOU ARE IN A SENSE REMOVING THEM.

5 MR. BOPP: BUT YOU'RE NOT, YOUR HONOR, THEY'RE NOT
6 REMOVED FROM THE VOTER ROLLS. THE NVRA --

7 THE COURT: IF THE BOARD OF ELECTIONS FINDS THAT JOHN
8 DOE NO LONGER LIVES IN THAT ELECTORAL COUNTY, WHAT HAPPENS?

9 MR. BOPP: IF THEY'RE NO LONGER ELIGIBLE TO VOTE,
10 THEY CAN'T VOTE IN THAT PARTICULAR ELECTION. THEY ARE NOT
11 REMOVED FROM THE VOTER ROLLS.

12 THE COURT: IF THEY DON'T LIVE ANY LONGER IN THAT
13 COUNTY, YOU'RE SAYING THE ONLY THING THAT HAPPENS IS YOU CAN'T
14 VOTE IN THAT PARTICULAR ELECTION?

15 MR. BOPP: THE ONLY THING THAT RESULTS FROM A 230
16 CHALLENGE IS THEY CANNOT VOTE IN THAT ELECTION. THE 229 IS THE
17 PROCEDURE UNDER GEORGIA LAW THAT DEALS WITH REMOVING PEOPLE
18 FROM THE VOTER ROLLS. RIGHT? 229 IS GOVERNED BY THE NVRA.

19 THE 230 IS NOT BECAUSE IT HAS NOTHING TO DO WITH YOUR
20 PRESENCE ON THE VOTER ROLL, IT HAS TO DO WITH WHETHER OR NOT
21 YOU'RE ELIGIBLE TO VOTE IN A PARTICULAR ELECTION. AND LOOK,
22 YOU WELL KNOW, YOU HANDLED THE BLACK VOTERS MATTER FUND WHICH
23 YOU JUST RECENTLY ISSUED AN OPINION ON, THAT PEOPLE MOVE --

24 THE COURT: THAT IS NOT EXACTLY WHAT I INTENDED, BUT
25 GO AHEAD.

1 MR. BOPP: WELL, I UNDERSTAND THAT. BUT PEOPLE MOVE,
2 SOME 10 PERCENT OF THE PEOPLE MOVE. YOU HANDLED THE CASE IN
3 WHICH HUNDREDS OF THOUSANDS OF PEOPLE WERE REMOVED FROM THE
4 VOTER ROLLS BECAUSE THEY HAD MOVED. ALL RIGHT. AND BECAUSE
5 THE STATE OF -- AND YOU UPHELD THE STATE OF GEORGIA USING THE
6 SAFE HARBOR PROCEDURE WHICH INVOLVED A TRIGGER WHICH WAS THE
7 NATIONAL CHANGE OF ADDRESS SYSTEM OF THE POST OFFICE, THAT IS
8 THE SYSTEM -- THAT IS THE TRIGGER, IT'S NOT, AGAIN, THEY'RE
9 CONCLUSIVE, JUST SO LONG AS UNDER 230 IT IS NOT CONCLUSIVE.
10 OKAY?

11 THE COURT: BUT THAT'S THE TRIGGER THAT YOU ALL WERE
12 USING --

13 MR. BOPP: YES, YOU UPHELD IT AS THE TRIGGER.

14 THE COURT: WELL --

15 MR. BOPP: BECAUSE THAT IS WHAT FEDERAL LAW PROVIDES
16 FOR IT.

17 THE COURT: WELL, I DON'T KNOW IF THE WAY YOU'RE
18 READING IT AND INTERPRETING IT IS THE SAME WAY I INTENDED FOR
19 IT TO BE READ, BUT I DO KNOW THAT YOU-ALL ARE USING THE
20 NATIONAL CHANGE OF ADDRESS LIST AS THE TRIGGER TO CHALLENGE
21 THESE INDIVIDUALS, BUT YET YOU ARGUE --

22 MR. BOPP: THAT IS CORRECT.

23 THE COURT: -- THE NATIONAL VOTER REGISTRATION ACT
24 GIVES YOU THE RIGHT TO DO THIS.

25 MR. BOPP: BUT WHAT -- BUT WE HAVE TO BE SPECIFIC

1 ABOUT WHAT WE MEAN BY CHALLENGE. OKAY?

2 THE COURT: WELL, LET'S START WITH A. A, YOU ARE
3 USING THE NATIONAL CHANGE OF ADDRESS LIST TO CHALLENGE?

4 MR. BOPP: THE VOTE -- THE VOTERS WHO HAVE FILED THE
5 CHALLENGES, BECAUSE TRUE THE VOTE FILED NO CHALLENGES.

6 THE COURT: THAT IS CORRECT. I UNDERSTAND THAT.

7 MR. BOPP: UNDER 230, TRUE THE VOTE COULD NOT FILE A
8 CHALLENGE BECAUSE THEY'RE NOT AN ELECTOR IN THE STATE OF
9 GEORGIA, RIGHT?

10 THE COURT: RIGHT.

11 MR. BOPP: SO THE VARIOUS INDIVIDUAL VOTERS FILED
12 CHALLENGES, WHICH -- WHICH TRUE THE VOTE ASSISTED THEM WITH,
13 THAT'S CERTAINLY TRUE, IN -- IN THOSE CHALLENGES, WAS BASED
14 PRINCIPALLY ON THE NATIONAL CHANGE OF ADDRESS INFORMATION.

15 NOW, THAT -- WHEN -- WHEN YOU DO -- AND -- AND THE
16 PLAINTIFFS, THE WAY THEY TALK ABOUT THIS, YOU WOULD THINK THAT
17 WHEN THEY -- WHEN A VOTER FILES A CHALLENGE UNDER 230, YOU'RE
18 JUST REMOVED. OKAY. OR OFTEN THEY SAY YOU'RE REMOVED FROM THE
19 VOTER LIST, BUT THEY ALSO SAY YOU CAN'T VOTE.

20 OKAY. WELL, SEE, THAT'S PATENTLY FALSE. THE
21 ELECTION BOARD -- IT TRIGGERS -- A CHALLENGE TRIGGERS A
22 PROCEDURE. THE FIRST THING IS THAT THE ELECTION BOARD LOOKS AT
23 THE EVIDENCE PRESENTED BY THE VOTER AND MAKES THE DECISION
24 WHETHER OR NOT THERE'S PROBABLE CAUSE FOR WHAT?

25 THE COURT: TO HAVE A HEARING.

1 MR. BOPP: IF THERE'S PROBABLE CAUSE -- THE PROBABLE
2 CAUSE IS NOT TO REMOVE THE VOTER. IF YOU FIND PROBABLE CAUSE,
3 IT'S PROBABLE CAUSE TO CONTACT THE VOTER TO GET VERIFICATION OF
4 THE PERSON'S ELIGIBILITY.

5 THE COURT: ALL RIGHT. BUT HERE'S THE KEY -- HERE'S
6 THE KEY.

7 MR. BOPP: OKAY.

8 THE COURT: THE NATIONAL CHANGE OF ADDRESS IS WHAT
9 STARTS IT. AND YOU REFERRED TO IT, AND I SAID I WASN'T GOING
10 TO DO IT AGAIN, BUT YOU REFERRED TO JUDGE GARDNER'S ORDER. IN
11 HER ORDER --

12 MR. BOPP: YEAH.

13 THE COURT: -- SHE POINTS OUT MUSCOGEE COUNTY
14 DEFENDANTS ARE ENJOINED FROM UPHOLDING THEIR CHALLENGE TO ANY
15 VOTER ELIGIBILITY SOLELY ON THE BASIS OF INFORMATION ON THE
16 NCOA REGISTRY, SO THEREFORE --

17 MR. BOPP: EXACTLY.

18 THE COURT: -- THE INTENT BEHIND 230 WAS FOR AN
19 INDIVIDUAL ON INDIVIDUAL KNOWLEDGE TO CHALLENGE SOMEONE.
20 THEY'RE NOT CHALLENGING ON INDIVIDUAL KNOWLEDGE, THEY'RE
21 CHALLENGING BASED ON A NAME APPEARING ON AN NCOA REGISTRY,
22 WHICH IS ORGANIZED BY TRUE THE VOTE.

23 MR. BOPP: BUT THAT IS EVIDENCE. I MEAN, PEOPLE --
24 PEOPLE -- HOW DO YOU GET ON THE REGISTRY? I MEAN, YOU KNOW
25 THIS. YOU HANDLED THE OTHER CASE. HOW DO YOU GET ON IT?

1 WELL, BECAUSE YOU FILE WITH THE POST OFFICE THAT YOU WANT TO
2 CHANGE THE ADDRESS FOR YOUR MAIL. SO THIS IS SOMETHING THE
3 VOTER HAS DONE. THIS IS NOT SOMEBODY ELSE DOING IT. OKAY?
4 THE VOTER DID THIS. ALL RIGHT?

5 AND WE KNOW -- WE KNOW THAT ABOUT TEN PERCENT OF THE
6 PEOPLE MOVE EVERY YEAR. WE KNOW MANY OF THOSE PEOPLE MOVE
7 OUT-OF-STATE AND ARE NO LONGER ELIGIBLE TO VOTE IN A PARTICULAR
8 ELECTION. AND WE KNOW THAT THERE ARE MANY OF THESE PEOPLE THAT
9 ARE VOTERS, ON VOTER REGISTRATION ROLLS, THAT THEN DO THIS.
10 OKAY? AND ARE NO LONGER ELIGIBLE TO VOTE IN THE ELECTION.

11 THE COURT: BUT WE ALSO KNOW --

12 MR. BOPP: SO THIS IS A FAILSAFE MECHANISM --

13 THE COURT: BUT WE ALSO KNOW -- BUT WE ALSO KNOW THAT
14 THAT NCOA LIST IS SO INCONSISTENT THAT CONGRESS AND THE COURTS
15 HAVE SAID THAT YOU CANNOT REMOVE SOMEONE BASED ON THAT LIST
16 ALONE. YOU HAVE A TWO-STEP SYSTEM.

17 MR. BOPP: OF COURSE.

18 THE COURT: 230 GENERAL ELECTIONS --

19 MR. BOPP: OF COURSE.

20 THE COURT: -- NOTICES.

21 BUT YOUR ARGUMENT IS THAT, BUT JUDGE, WE'RE NOT
22 DEALING WITH THAT, YOUR ARGUMENT IS THAT WE'RE JUST DEALING
23 WITH 230.

24 MR. BOPP: WELL, THAT'S PRECISELY TRUE. AND UNDER
25 JUDGE GARDNER'S ORDER, THAT WILL CONTINUE TO BE TRUE, THAT YOU

1 CANNOT RE -- SHE HAS ORDERED THAT YOU CANNOT REMOVE -- PREVENT
2 A VOTER FROM VOTING IN AN ELECTION UNDER 230 BASED ON THE
3 NATIONAL CHANGE OF ADDRESS INFORMATION.

4 SHE DID NOT, THOUGH, ENJOIN FILING A CHALLENGE BASED
5 ON THAT INFORMATION. IN FACT, SECTION -- BECAUSE NUMBER --
6 SECTION 1, YOU READ THE WORDS ARE ENJOIN FROM UPHOLDING A
7 CHALLENGE. UPHOLDING A CHALLENGE IS NOT FINDING PROBABLE CAUSE
8 AND INVESTIGATING IT. OKAY? IT IS THE END RESULT WHERE YOU
9 HAVE A HEARING, YOU CONSIDER THE EVIDENCE FROM THE VOTER AND
10 THEN YOU, QUOTE, UPHOLD. PROBABLE CAUSE IS TO INVESTIGATE.
11 ALL RIGHT?

12 NOW, SECONDLY, SECTION 2 ON PAGE 2 IS OBVIOUSLY
13 TALKING ABOUT A CHALLENGE THAT THE ELECTION BOARD IS
14 CONSIDERING. IN OTHER WORDS, THAT AN ELECTOR BASED ON THE
15 NATIONAL CHANGE OF ADDRESS REGISTRY HAD FILED THE CHALLENGE,
16 THEY HAD DETERMINED THERE WAS PROBABLE CAUSE BASED UPON THE
17 EVIDENCE PRESENTED, ONE OF THE -- ONE OF THOSE ITEMS CERTAINLY
18 WOULD BE OR COULD VERY WELL BE THE NCOA.

19 AND THEN NUMBER TWO PROVIDES THE DUE PROCESS
20 PROTECTIONS ON HOW THAT SECOND STAGE IS GOING TO BE HANDLED,
21 THAT IS THE CONSIDERATION OF THE CHALLENGE WITH A HEARING, THE
22 VOTER HAVING THE OPPORTUNITY TO PRESENT EVIDENCE, ET CETERA.

23 SO THERE IS NOTHING -- LOOK, SHE -- THESE -- MANY OF
24 THESE SAME LAWYERS FILED SUIT AGAINST THESE TWO COUNTIES ON THE
25 BASIS THAT THE NVRA PROHIBITED THIS.

1 JUDGE GARDNER HAS ALREADY CONSIDERED THIS ARGUMENT.
2 THEY ARGUED -- ONE OF THEIR THREE COUNTS WAS THAT THE 90-DAY
3 RULE, THAT YOU'VE CITED TO, IN THE NVRA PROHIBITS THIS
4 PROCEDURE WITHIN 90 DAYS OF AN ELECTION.

5 OBVIOUSLY JUDGE GARDNER REJECTED THAT. SHE'S
6 AUTHORIZING THE PROCEDURE AND PROVIDING FOR DUE PROCESS
7 PROTECTIONS DURING THE PROCEDURE. IF IT WERE TRUE THAT THE
8 NVRA IS APPLICABLE TO THIS PROCEDURE AND PROHIBITS ANYONE --
9 ANY CHALLENGE BEING MADE WITHIN 90 DAYS OF AN ELECTION, WHICH
10 YOU REFERRED TO, SHE WOULD HAVE ENJOINED THE WHOLE PROCEDURE
11 AND SAID YOU CANNOT USE THIS PROCEDURE DURING THAT 90 DAYS, BUT
12 SHE DOESN'T DO THAT.

13 THE COURT: HOW DOES YOUR ARGUMENT SQUARE, THOUGH,
14 WITH THE *ARCIA* CASE THAT COMES OUT OF THE ELEVENTH CIRCUIT? IN
15 OTHER WORDS, HOW --

16 MR. BOPP: BECAUSE IF IT'S -- BECAUSE THAT INVOLVED
17 STRIKING SOMEONE FROM THE VOTER REGISTRATION ROLL, WHICH IS
18 SPECIFICALLY THE ACTIVITY THAT IS REGULATED BY THE NATIONAL
19 VOTING RIGHTS ACT -- THE VOTER REGISTRATION ACT. THAT'S THE
20 REASON THEY CALL IT VOTER REGISTRATION ACT IS BECAUSE IT
21 APPLIES TO VOTER ROLLS, REGISTRATION ROLLS, NOT THE
22 CIRCUMSTANCE IN WHICH AN INELIGIBLE VOTER COMES TO VOTE BUT IS
23 NO LONGER ELIGIBLE TO VOTE AND THEREFORE, THIS LAW PROVIDES A
24 PROCEDURE IN ORDER FOR A CHALLENGE TO YOUR ELIGIBILITY TO VOTE
25 IN A PARTICULAR ELECTION, WHICH IS 230, TO BE DETERMINED AND

1 HAS NO EFFECT ON THE VOTER REGISTRATION ROLL, THE PERSON
2 CONTINUES.

3 THE COURT: SEE, I --

4 MR. BOPP: NO EFFECT.

5 THE COURT: WE'LL KNOW MORE AFTER THIS, BUT I THINK
6 YOU'RE TRYING TO SEPARATE 229 AND 230 --

7 MR. BOPP: OF COURSE I AM, BECAUSE THEY'RE COMPLETELY
8 DIFFERENT.

9 THE COURT: THEY ARE DIFFERENT, BUT THE WAY YOU'RE
10 DOING IT, WHAT YOU'RE DOING -- YOUR ORGANIZATION IS DOING,
11 THOUGH, IS YOU ARE ORGANIZING INDIVIDUALS SYSTEMATICALLY TO
12 CHALLENGE OVER 360,000 PEOPLE'S RIGHT TO VOTE, AND THAT'S WHAT
13 WE'RE HERE FOR, FOR ME TO DETERMINE UNDER 11(B) WHETHER OR NOT
14 THIS ORGANIZED EFFORT IS ORGANIZED TO INTIMIDATE THESE
15 INDIVIDUALS.

16 MR. BOPP: YEAH, I --

17 THE COURT: IN OTHER WORDS, I THINK WE'RE KIND OF
18 GETTING OFF A LITTLE BIT TOO MUCH INTO JUDGE GARDNER'S ORDER IN
19 THAT ASPECT. THE QUESTION IS WHETHER OR NOT THIS ORGANIZED,
20 SYSTEMATIC EFFORT TO CHALLENGE 360,000 PEOPLE IS DONE WITH THE
21 IDEA OF INTIMIDATING PEOPLE TO KEEP THEM FROM VOTING.

22 MR. BOPP: AND NOW I'M VERY HAPPY TO ADDRESS THAT
23 NEXT. THIS WAS RAISED BY COUNSEL AND BY YOU AS TO WHETHER OR
24 NOT THE NATIONAL VOTER -- THE VOTER REGISTRATION ACT APPLIED
25 HERE. I'VE EXPLAINED WHY IT DOES NOT APPLY. I'VE EXPLAINED

1 WHAT -- THAT JUDGE GARDNER REJECTED THAT, THAT VERY CLAIM,
2 AND --

3 THE COURT: OF COURSE JUDGE GARDNER'S ORDER DOES NOT
4 BIND THIS COURT.

5 MR. BOPP: WELL, OF COURSE IT DOESN'T.

6 THE COURT: I HAVE GREAT RESPECT FOR JUDGE GARDNER.

7 MR. BOPP: AND YOU CAN COLLATERALLY ATTACK IT OR YOU
8 CAN GO TALK TO HER ABOUT THAT, I GUESS.

9 THE COURT: WELL, I WON'T BE TALKING TO HER ABOUT IT.

10 MR. BOPP: I KNOW. I KNOW. SO NOW -- AND ONE OTHER
11 PRELIMINARY THING, IF THE COURT WOULD PERMIT, BEFORE I GET TO
12 THE SPECIFICS OF 11(B).

13 AND THAT IS WE NOW KNOW WHAT THE CLAIM OF THE
14 PLAINTIFFS TRULY ARE -- IS. OKAY? AND THAT IS BECAUSE OF A
15 CULTURE THAT HAS BEEN CREATED OF UNFOUNDED VOTER FRAUD THAT
16 ANYBODY WHO RAISES IT, ANYBODY THAT EMPLOYS ANY LEGAL PROCEDURE
17 THAT IS AVAILABLE TO THEM TO PREVENT IT, ANYBODY THAT QUESTIONS
18 IT IS INVOLVED IN VOTER INTIMIDATION AND CAN BE PUNISHED UNDER
19 FEDERAL LAW, ANYONE.

20 BECAUSE I CAN'T -- MY CLIENT CAN'T DO ANYTHING ABOUT
21 THIS CULTURE -- I MEAN, YOU LOOK AT THEIR COMPLAINT, THEY --
22 YOU KNOW, THEY'RE COMPLAINING ABOUT TRUMP LAWYERS AND SIDNEY
23 POWELL AND ALL THESE DIFFERENT PEOPLE THAT HAVE NOTHING TO DO
24 WITH MY PLAINTIFF -- OR MY DEFENDANT HERE, OR DEFENDANTS HERE,
25 NOTHING. AND THAT THAT CULTURE WILL EXIST WHETHER --

1 WHETHER -- SUCH AS IT IS, AND I THINK IT IS GROSSLY UNFAIRLY
2 DESCRIBED, BUT THAT WILL EXIST NO MATTER WHAT TRUE THE VOTE
3 DOES OR DOESN'T DO. AND THIS MEANS ANYONE -- EVERYONE, THAT
4 RAISES THE QUESTION OF THE ELIGIBILITY OF A VOTER, WHETHER OR
5 NOT THERE IS VOTER FRAUD, WILL BE GUILTY UNDER FEDERAL LAW OF
6 INTIMIDATION AND CAN BE PUNISHED.

7 THE COURT: MR. BOPP, COME ON NOW. LET'S BE
8 REALISTIC HERE. WE'RE NOT TALKING ABOUT A FEW PEOPLE, 20 OR 25
9 PEOPLE INDIVIDUALLY CHALLENGING 20 OR 25 OTHER PEOPLE. WE'RE
10 TALKING ABOUT A CHALLENGE TO OVER 300,000 PEOPLE. THAT IS NOT
11 AN EVERYDAY OCCURRENCE, THAT IS NOT JUST -- I'M NOT DISAGREEING
12 WITH YOU THAT PEOPLE HAVE A RIGHT UNDER 229 AND 230,
13 PARTICULARLY 230, TO CHALLENGE AN ELECTOR IN A PARTICULAR
14 ELECTION. STATE OF GEORGIA LAW MAKES THAT QUITE CLEAR.

15 BUT IN THIS CASE, THE REASON WHY WE'RE HAVING THIS
16 HEARING, WHEN YOU AND I OUGHT TO BE GETTING READY FOR NEW
17 YEAR'S DAY AND WE'RE DEALING WITH THIS HEARING IS BECAUSE THERE
18 ARE OVER 300,000 PEOPLE THAT YOU ALL YOURSELVES SAY ARE GOING
19 TO BE CHALLENGED, AND I DON'T KNOW IF THAT MEANT IT'S HAPPENED
20 SO FAR IN 84 COUNTIES, IT'S NOT JUST A REGULAR OCCURRENCE. ARE
21 YOU ARGUING THIS IS JUST A REGULAR OCCURRENCE OF SOMEBODY
22 EXERCISING THEIR RIGHTS?

23 MR. BOPP: WELL, LET'S -- LET'S -- LET'S ADDRESS THAT
24 IN TWO WAYS. THERE IS NOTHING UNDER 230 THAT SAYS YOU'RE
25 LIMITED TO EITHER -- EITHER PERSONAL KNOWLEDGE OR YOU CAN ONLY

1 MAKE SO MANY. AND -- AND LOOK, WE HAVE TO BE REALISTIC,
2 THERE'S THINGS -- A THING CALLED MODERN TECHNOLOGY. OKAY?
3 THAT -- THAT -- AND MODERN TECHNOLOGY ALLOWS THE TAKING -- THE
4 CHANGE OF ADDRESS REGISTRY AND COMPARING IT TO THE VOTER
5 REGISTRATION ROLL.

6 AND JUST BECAUSE THERE'S A BUNCH OF PEOPLE THAT ARE
7 POTENTIALLY -- POTENTIALLY, BECAUSE IT'S A PROCESS, INELIGIBLE
8 DOESN'T MEAN IT'S OKAY. SO, IN OTHER WORDS, WHAT WOULD BE
9 WRONG HERE IS YOU CAN CHALLENGE 20 OR 30 PEOPLE BUT YOU CAN'T
10 CHALLENGE 1,000 PEOPLE BECAUSE IT'S TOO MANY. WELL, YEAH, BUT
11 THESE TOO MANY ARE VOTERS THAT ARE -- THAT IF IT'S DETERMINED
12 BY THE COUNTY IS VOTING -- BASED ON EVIDENCE -- IS VOTING
13 ILLEGALLY, WE'RE TALKING ABOUT AFFECTING ELECTIONS, AND THEY
14 WANT TO MAKE THAT ILLEGAL, BECAUSE THERE ARE TOO MANY
15 POTENTIALLY INELIGIBLE PEOPLE.

16 THE COURT: WHAT WAS THE REASON FOR TRUE THE VOTE TO
17 FEEL THAT WE NEED, IN THE STATE OF GEORGIA, WE NEED TO
18 CHALLENGE, YOU KNOW, ON DECEMBER THE 18TH, FOUR DAYS AFTER
19 EARLY VOTING BEGAN AND PROBABLY TWO WEEKS BEFORE OUT-OF-STATE
20 BALLOTS BEGIN, WHAT WAS THE REASONING OR LOGICAL THOUGHT BEHIND
21 WE NEED TO CHALLENGE THESE 360,000 PEOPLE? I DON'T THINK
22 THERE'S ANY ARGUMENT THAT TRUE THE VOTE IS ORGANIZING THESE
23 INDIVIDUALS TO CHALLENGE IN DIFFERENT COUNTIES. YOU'RE RIGHT,
24 TRUE THE VOTE CAN'T DO IT. IT HAS TO BE AN ELECTOR IN THAT
25 PARTICULAR COUNTY, SO OBVIOUSLY TRUE THE VOTE HAS ORGANIZED

1 THESE INDIVIDUALS IN THESE DIFFERENT 159 COUNTIES IN GEORGIA TO
2 CHALLENGE THESE PEOPLE THAT THEY FEEL ARE VOTING ILLEGALLY
3 IS --

4 MR. BOPP: WELL, BASED UPON --

5 THE COURT: -- BECAUSE THESE PEOPLE COULD BE VOTING
6 ILLEGALLY THAT COULD AFFECT AN ELECTION?

7 MR. BOPP: YES. BECAUSE THEY'RE -- THEY'RE --
8 THEY'RE -- THEY HAVE A NATIONWIDE GOAL OF PRESERVING THE
9 INTEGRITY OF OUR ELECTIONS. AND PART OF THAT IS TO ENSURE THAT
10 ONLY ELIGIBLE VOTERS VOTE.

11 NOW, THERE IS A CONSTITUTIONAL DIMENSION TOO, TO THAT
12 ACTIVITY, ONE IS THEY'RE PETITIONING THE GOVERNMENT FOR REDRESS
13 OF GRIEVANCES WHEN THEY ASSIST PEOPLE AND THOSE PEOPLE FILE
14 A -- UNDER THIS STATUTE, PROPERLY, LEGALLY UNDER THIS STATUTE
15 TO TRIGGER -- POTENTIALLY TRIGGER A PROCESS TO ENSURE THAT THIS
16 PERSON IS AN ELIGIBLE VOTER, RIGHT?

17 THAT'S PETITIONING YOUR GOVERNMENT AT THE HEART.
18 THEIR -- THEIR DISCUSSION OF ALL OF THAT, THEIR RECRUITMENT OF
19 PEOPLE TO DO THAT, THEIR DISCUSSION -- THEIR PUBLIC
20 COMMUNICATIONS ABOUT THAT ARE ALSO PROTECTED BY THE
21 FIRST AMENDMENT AT THE VERY CORE. OKAY? THE -- SO -- SO
22 THEY'RE -- SO THE PLAINTIFFS HERE ARE TRYING TO USE THE
23 VOTING RIGHTS ACT TO -- TO TARGET CORE FIRST AMENDMENT
24 ACTIVITY.

25 NOW, THERE'S ANOTHER RIGHT THAT THESE INDIVIDUAL

1 ELECTORS WHO ARE MAKING THE CHALLENGES ARE ALSO VINDICATING,
2 WHICH IS THEIR RIGHT TO VOTE, BECAUSE UNDER RANDALLS V. DASIMS,
3 THE RIGHT TO VOTE CAN BE ABRIDGED IN TWO WAYS, YOU PROHIBIT
4 SOMEBODY FROM VOTING OR YOU DILUTE THE VOTE BY, QUOTE, BALLOT
5 STUFFING, END OF QUOTE. WHAT IS BALLOT STUFFING? THEY USE
6 THAT WORD, THE U.S. SUPREME COURT USED THE WORD BALLOT STUFFING
7 TO DESCRIBE VOTE DILUTION. WHAT WERE THEY TALKING ABOUT?
8 INELIGIBLE PEOPLE VOTING.

9 THE COURT: IN THE STATE OF GEORGIA --

10 MR. BOPP: GEORGIA --

11 THE COURT: GO AHEAD.

12 MR. BOPP: SO THAT -- AND SO GEORGIA HAS INITIATED A
13 PROCEDURE TO PROTECT THE RIGHT TO VOTE FROM INELIGIBLE PEOPLE
14 BEING -- VOTING, AND THAT IS THE 230 PROCEDURE.

15 THE COURT: IN THE STATE OF GEORGIA, WE'RE TALKING
16 ABOUT --

17 MR. BOPP: SO THERE ARE TWO --

18 THE COURT: WE HAD A PRIMARY IN JUNE, WE HAD A
19 RUNOFF, I THINK, IN AUGUST, AND WE HAD A GENERAL ELECTION IN
20 NOVEMBER. WHY DID TRUE THE VOTE WAIT UNTIL DECEMBER THE 18TH
21 TO FEEL THAT WE NEED TO STOP THIS FRAUD IN GEORGIA?

22 MR. BOPP: WELL, THEY -- THEY -- THEY -- THEY
23 ASSISTED IN MAKING THESE CHALLENGES BECAUSE THERE'S A RUNOFF
24 ELECTION COMING UP.

25 AND, YOUR HONOR, YOU SURELY KNOW THAT THERE IS

1 WALL-TO-WALL TV AND RADIO AND MAIL AND EVERYTHING ELSE GOING ON
2 IN GEORGIA RIGHT NOW, AND THERE WILL PROBABLY BE \$2 BILLION
3 SPENT, EITHER DIRECTLY OR INDIRECTLY, TO INFLUENCE THAT RUNOFF
4 ELECTION.

5 AND -- AND, YOU KNOW, IT'S OF NATIONAL IMPORTANCE AND
6 THAT IS WHY EVERY CELEBRITY FROM HOLLYWOOD IS IN GEORGIA AND
7 ALL THESE POLITICIANS AND PRESIDENTS AND PRESIDENTS-ELECT AND
8 ALL OF THIS ARE COMING TO GEORGIA. IT'S AN IMPORTANT ELECTION.
9 AND -- AND IT WILL MAKE A BIG DIFFERENCE TO OUR COUNTRY.

10 SO OF COURSE, THERE'S ALL SORTS OF PEOPLE. I MEAN,
11 I'M LOOKING AT LAWYERS AROUND WASHINGTON, D.C., YOU KNOW,
12 SEATTLE, WASHINGTON, ALL OVER THE PLACE, YOU KNOW, WHO ARE HERE
13 BRINGING THE CHALLENGE IN ORDER TO STRIKE DOWN A KEY ANTIFRAUD
14 PROTECTION, WHICH IS TO ALLOW VOTERS TO CHALLENGE -- WITH
15 SUFFICIENT EVIDENCE, TO ALLOW VOTERS TO MAKE A CHALLENGE ON --
16 TO DETERMINE WHETHER OR NOT A PARTICULAR PERSON IS ELIGIBLE TO
17 VOTE IN THE ELECTION, IF THEY HAVE SUFFICIENT GROUNDS.

18 AND SO OBVIOUSLY, IT'S IMPORTANT TO EVERYONE, YOU
19 KNOW, AND CERTAINLY TRUE THE VOTE SHOULDN'T BE FAULTED FOR
20 COMING IN AND PURSUING THE PROTECTION OF THE FIRST AMENDMENT,
21 THE PROTECTION OF THE RIGHT TO VOTE, THE INTEGRITY OF OUR
22 ELECTIONS WHICH ARE ALL AT STAKE UNDER THIS 230 PROCEDURE.

23 I MEAN, IF IT'S ILLEGAL TO CHALLENGE THE ELIGIBILITY
24 WITH SUFFICIENT EVIDENCE IN A DUE PROCESS PROCEDURE, IF IT'S
25 ILLEGAL TO DO THAT, WELL, THEN THAT MEANS EVERY INELIGIBLE

1 VOTER ON THE VOTER REGISTRATION ROLL HAS CARTE BLANCHE TO VOTE
2 ILLEGALLY, BECAUSE NO ONE CAN CHALLENGE IT, NO ONE CAN QUESTION
3 IT, AND IF ANYBODY DOES, THEY'RE GOING TO BE PUNISHED, THEY'RE
4 GOING TO BE SUED AND PUNISHED UNDER FEDERAL LAW.

5 THE COURT: I DON'T THINK -- I THINK YOU'RE QUITE
6 FAMILIAR WITH THE CASES I'VE HANDLED. TWO YEARS AGO, I HANDLED
7 A CASE WHERE THE SECRETARY OF STATE WAS ALLOWED TO PURGE OVER
8 300,000, YOU KNOW, VOTERS. SO I DON'T THINK PEOPLE -- I DON'T
9 THINK THE STATE OF GEORGIA, I DON'T THINK SECRETARY
10 RAFFENSPERGER IS ALLOWING PEOPLE TO VOTE ILLEGALLY. LET'S MOVE
11 ON.

12 MR. BOPP: SO THE VOTING RIGHTS.

13 THE COURT: YES.

14 MR. BOPP: SO THE SECTION 11(B), YOUR HONOR.

15 THE COURT: RIGHT.

16 MR. BOPP: YOU KNOW, SO WHAT I'VE JUST ARGUED IS THAT
17 WE HAVE A LAWFUL PROCEDURE, AND UNDER THE DUE PROCESS
18 PROTECTIONS OF JUDGE GARDNER, WE HAVE A LAWFUL PROCEDURE. WE
19 HAVE A LAWFUL PROCEDURE THAT HAS A LAWFUL END. THE LAWFUL END
20 IS PROTECTING ELECTION INTEGRITY AND THE RIGHT TO VOTE FROM
21 ILLEGAL VOTERS VOTING THAT ALLOWS VOTERS TO CHALLENGE THE
22 ELIGIBILITY UNDER -- WITH SUFFICIENT FACTS AND WITH A DUE
23 PROCESS PROCEDURE, THEIR ABILITY TO VOTE IN A PARTICULAR
24 ELECTION.

25 AND THIS HAS BEEN ENGAGED IN LAWFULLY, THAT IS

1 ENGAGED IN -- TRIGGERING THIS PROCEDURE HAS BEEN A LAWFUL
2 EXERCISE. IN OTHER WORDS, THERE IS NOTHING -- AND IF YOU READ
3 THESE CASES ABOUT VOTER INTIMIDATION, ALMOST EVERY CASE -- AND
4 I WOULD ARGUE EVERY CASE INVOLVES SOME SORT OF WRONGFULNESS,
5 INAPPROPRIATENESS. NOW, SOMETIMES ILLEGALITY OR VIOLENCE, BUT
6 CERTAINLY -- AND THAT'S NOT REQUIRED, OKAY, IT DOESN'T HAVE TO
7 BE ILLEGAL, IT DOESN'T HAVE TO BE VIOLENT. OKAY?

8 THE COURT: YES.

9 MR. BOPP: BUT SOMETHING WRONGFUL OR INAPPROPRIATE,
10 THEY -- THEY TALK ABOUT A THREAT OF INJURY, IN OTHER WORDS,
11 YOU'RE MAKING A THREAT OF INJURY, OR THEY'RE TALKING ABOUT
12 YOU'RE CALLING UP IN ROBO CALLS, WHICH IS ONE OF THE CASES THEY
13 CITE, AND TELLING BLACK VOTERS THAT THE COPS ARE GOING TO GO
14 AFTER YOU IF YOU HAVE ANY OUTSTANDING WARRANTS AND THE CREDIT
15 CARD COMPANY'S GOING TO GO AFTER YOU BECAUSE -- IF YOU VOTE
16 MAIL-IN BALLOT. OKAY? I MEAN, AND THAT WAS ALL FALSE. THOSE
17 STATEMENTS WERE ALL FALSE. AND THEY MISREPRESENTED THEMSELVES.
18 ALL RIGHT? BY USING THE NAME OF A -- OF THE VERY UNFORTUNATE
19 VICTIM, A BLACK VICTIM OF VIOLENCE, THE MOTHER'S NAME. AND SO
20 EVERY ONE OF THESE CASES INVOLVED THAT SORT OF LEVEL OF
21 WRONGFULNESS, INAPPROPRIATENESS, INTENTIONAL DECEPTION, IN
22 OTHER WORDS, SOMETHING'S WRONG ABOUT THIS, OKAY, DOING THIS.

23 THE COURT: DOES THIS MEAN, THEN, THAT TRUE THE VOTE
24 IS DISAVOWING CRUSADE FOR FREEDOM'S TWITTER INFORMATION AND
25 DISAVOWING ANY THREATS THAT HAVE BEEN MADE TO INDIVIDUALS OR

1 ANYBODY'S HOUSE HAS BEEN CALLED? TRUE THE VOTE IS SAYING WE
2 DIDN'T DO IT AND WE'RE NOT INVOLVED WITH IT AND WE DISAVOW IT?

3 MR. BOPP: ABSOLUTELY, 100 PERCENT. WE HAVE NO IDEA
4 WHO CRUSADE FOR FREEDOM IS. COUNSEL SAID -- MADE A STATEMENT
5 OF FACT -- WE ARE ASSOCIATED -- TRUE THE VOTE IS ASSOCIATED
6 WITH THAT GROUP, THAT'S PATENTLY FALSE. AND LOOK, THERE IS NO
7 ALLEGATION, YOU KNOW, THERE'S NO EVIDENCE, THERE'S NO NOTHING
8 OF THAT. AND OF COURSE THEY DISAVOW THAT. TRUE THE VOTE
9 DOESN'T THINK WE OUGHT TO BE PUBLISHING THESE CHALLENGES ON THE
10 INTERNET, AND THERE'S NO EVIDENCE THAT WE HAVE -- THAT TRUE THE
11 VOTE HAS EVER CONSIDERED DOING THAT.

12 THE COURT: TELL ME ABOUT THIS BOUNTY, THIS
13 MILLION-DOLLAR BOUNTY. THE PLAINTIFFS ARGUE THAT EXHIBIT 4,
14 THERE'S A ONE-MILLION-DOLLAR BOUNTY THAT'S SET BY YOUR
15 DEFENDANTS AS A WHISTLEBLOWER FUND FOR CATCHING PEOPLE VOTING
16 ILLEGALLY.

17 MR. BOPP: THAT'S A TOTAL MISREPRESENTATION OF
18 EXHIBIT 4. IF YOU TURN TO THE SECOND PAGE OF THE PRESS
19 RELEASE, YOU WILL FIND AT THE TOP THE PURPOSE OF THE FUND. IT
20 SAYS, QUOTE, TRUE THE VOTE IS STEPPING UP TO PROVIDE THE
21 RESOURCES NEEDED THAT WILL ENSURE VOTERS, ELECTION WORKERS AND
22 VOLUNTEERS WHO ARE OBSERVING THE EXTENDED BALLOT COUNTING
23 PROCESS AND SEE FIRSTHAND THE ILLEGAL -- ILLEGAL ACTIONS TAKING
24 PLACE, HAVE THE RESOURCES NEEDED TO DOCUMENT AND REPORT THE
25 MALFEASANCE WITH CONFIDENCE THAT THE ISSUES WILL BE PURSUED.

1 THE COURT: OKAY. ARE YOU TALKING ABOUT --
2 MR. BOPP: THERE IS NOTHING IN HERE ABOUT GIVING THEM
3 ANY MONEY. THERE IS NO BOUNTY HERE. THIS IS NO REWARD. THIS
4 IS TO COVER EXPENSES TO DOCUMENT THEY'RE -- WHAT THEY HAVE
5 OBSERVED.

6 THE COURT: ALL RIGHT. THAT'S A GOOD CLEAR POINT.
7 TWO QUESTIONS THEN. ARE YOU SAYING, THEN, THAT THIS CAN BE
8 MONEY TO PAY TO -- THE PLAINTIFFS' ARGUE THIS IS MONEY TO HAVE
9 INDIVIDUALS SHOW UP OUTSIDE OF POLLING PLACES AND VIDEOTAPE
10 PEOPLE GOING TO VOTE, WRITE DOWN THEIR TAG NUMBERS, SO
11 YOU'RE -- BY SHAKING YOUR HEAD, I'M SEEING THAT YOU'RE SAYING
12 NO, THAT IS NOT WHAT THIS MONEY IS FOR.

13 MR. BOPP: ABSOLUTELY NOT. THIS IS FOR --

14 THE COURT: BUT ARE PEOPLE DOING THAT? I UNDERSTAND
15 WHAT YOU'RE SAYING, YOU'RE GOING TO HAVE INDIVIDUALS -- AND I'M
16 GOING TO ASK YOU ABOUT THE POLL MONITORS -- BUT BY YOUR BODY
17 MOVEMENT, YOU'RE SAYING, JUDGE, WE'RE NOT GOING TO HAVE ANYBODY
18 VIDEOTAPING ANYBODY, WRITING DOWN TAG NUMBERS. WE JUST WANT
19 PEOPLE INSIDE OF THE VOTING PLACES, THE ONES THAT ARE INSIDE,
20 AND THEY'RE TAKING THE DAY OFF --

21 MR. BOPP: AND AUTHORIZED.

22 THE COURT: AND AUTHORIZED, I FORGOT THE AUTHORIZED.
23 AND I WAS GOING TO ASK YOU, I THINK YOU MADE A TYPOGRAPHICAL
24 ERROR WHEN YOU QUOTED IT POLL MONITORS BASED ON 21-2-208 AND I
25 THINK IT'S 21-2-408.

1 MR. BOPP: WELL, THANK YOU FOR THE CORRECTION. I'M
2 SORRY.

3 THE COURT: THEY MAY HAVE TO BE SELECTED BY A
4 POLITICAL PARTY. BUT WHAT YOU'RE SAYING, THEN, IS THAT IF ANY
5 OF THESE PEOPLE THAT ARE SELECTED BY A POLITICAL PARTY TO BE
6 INSIDE THESE PLACES OBSERVING, YOU'RE PAYING THEM FOR TAKING
7 THEIR TIME OFF FROM WORK, AS YOU SAID, TO REALLY DOCUMENT THESE
8 THINGS, THAT'S WHAT THAT MILLION DOLLARS IS FOR.

9 MR. BOPP: RIGHT. IT'S NOT A BOUNTY, IT'S FOR
10 EXPENSES TO -- TO ASSIST THEM IN DOCUMENTING WHAT THEY BELIEVE
11 TO BE ILLEGAL ACTIVITY AND HAVE IT PRESENTED TO PROPER -- THE
12 PROPER OFFICIALS TO DEAL WITH IT.

13 REGARDING TAPING PEOPLE OR VIDEOTAPING THEM, THERE'S
14 NOTHING -- LOOK AT ALL OF THESE. WHAT IS THIS?

15 THE COURT: WELL, I'M JUST ASKING. IT'S IN THERE SO
16 I HAVE TO ASK YOU ABOUT IT.

17 MR. BOPP: I KNOW SHE SAID -- I KNOW SHE SAID IT WAS
18 IN THERE, BUT I'M JUST SAYING, WHERE -- WHERE IS IT?

19 THE COURT: SO WHAT I HEAR YOU SAYING, THEN, IS THAT
20 IF AN INDIVIDUAL MEETS THE REQUIREMENTS UNDER 21-2-408, AND WAS
21 SELECTED BY A POLITICAL PARTY TO BE THERE, YOU-ALL ARE PREPARED
22 TO REIMBURSE THEM FOR THEIR EXPENSES?

23 MR. BOPP: YES. YES. AND THAT -- AND THAT OFFER HAS
24 BEEN MADE TO BOTH THE REPUBLICAN AND DEMOCRAT PARTIES, AND --
25 AND THE -- BECAUSE WATCHERS SHOULD BE BIPARTISAN. THERE IS

1 BIPARTISAN EVIDENCE OF VOTER FRAUD -- YOU REMEMBER THAT NORTH
2 CAROLINA CONGRESSIONAL SEAT WHERE REPUBLICAN'S OPERATIVES
3 COMMITTED VOTER FRAUD. THAT WAS INVALIDATED. THERE WAS A
4 SPECIAL ELECTION.

5 I MEAN, YOU KNOW, THE PENDERGAST MACHINE IN KANSAS
6 CITY WAS A REPUBLICAN MACHINE. THE TAMMANY HALL IN NEW YORK
7 CITY WAS A DEMOCRAT MACHINE. I MEAN, THIS IS JUST -- YOU KNOW,
8 THE INTEGRITY OF OUR ELECTIONS, IS A -- YOU KNOW, CAN BE UNDER
9 THREAT BY ANY AND ALL POLITICAL PARTIES OR POLITICAL
10 PERSUASIONS OR WHATEVER, AND SO THAT'S WHY IT'S IMPORTANT ON A
11 BIPARTISAN BASIS AND NON-PARTISAN BASIS, ACTUALLY, TO PRESERVE,
12 YOU KNOW, THE NECESSARY PROVISIONS THAT ENSURE ONLY ELIGIBLE
13 VOTERS GET TO VOTE AND ENSURE THAT THEY DO GET TO VOTE.

14 THE COURT: I'VE GOT TWO LAST QUESTIONS FOR YOU AND
15 THEN YOU CAN CLOSE OUT WHAT YOU WANT TO TELL ME.

16 MR. BOPP: OKAY.

17 THE COURT: WHAT I'M HEARING YOU SAYING, THEN, YOUR
18 ORGANIZATION IS NOT ENCOURAGING PRIVATE INDIVIDUALS TO SHOW UP
19 AT THE POLLS AND RECORD OR REPORT ANY ILLEGAL ACTIVITY UNLESS
20 THEY'RE MEETING THE REQUIREMENTS UNDER 21-2-408?

21 MR. BOPP: THAT'S CORRECT.

22 THE COURT: AND YOU DISAVOW ANY -- YOU'VE ANSWERED
23 THIS, BUT I JUST WANT TO HAVE IT REINFORCED -- TRUE THE VOTE IS
24 DISAVOWING ANY ACTIVITY THAT IT HAS AN INTENT TO INTIMIDATE OR
25 HARASS ANY VOTER. OBVIOUSLY THE PLAINTIFFS DISAGREE WITH YOU

1 ABOUT WHETHER OR NOT FILING ALL OF THESE CHALLENGES, BUT AS FAR
2 AS CALLING PEOPLE UP, TELLING THEM THAT YOUR NAME'S ON A LIST
3 OR PUTTING THEIR NAME ON THE INTERNET, THINGS LIKE THAT,
4 TRUE THE VOTE IS NOT DOING THAT?

5 MR. BOPP: THAT'S RIGHT. THEY'RE NOT DOING IT. AND
6 NOT ONLY DO THEY DISAVOW IT, THEY CONDEMN IT. THAT'S WRONG.
7 IT'S WRONG TO INTIMIDATE VOTERS, IT'S WRONG TO HARASS VOTERS,
8 IT'S WRONG TO TARGET MINORITIES, IT'S WRONG.

9 AND, YOU KNOW, THESE VOTERS THAT TRUE THE VOTE
10 ASSISTED WERE NOT JUST FILED IN A COUPLE OF COUNTIES. THESE
11 WERE FILED IN EVERY COUNTY -- AS FAR AS I KNOW, EVERY COUNTY IN
12 THE STATE, THEY -- THEY WERE CHALLENGED. NOW, THERE MAY BE A
13 FEW SMALL ONES THAT DIDN'T GET DONE BECAUSE THEY, YOU KNOW,
14 WHATEVER PROCEDURE OCCURRED.

15 BUT THIS WAS FILED -- INTENTIONALLY DESIGNED AND
16 FILED ALL THROUGHOUT THE STATE BECAUSE THERE ARE PEOPLE THAT
17 MOVE AND BECOME INELIGIBLE, EVEN THOUGH THEY'RE VALIDLY ON THE
18 VOTER REGISTRATION ROLLS AND THEY'RE NO LONGER ELIGIBLE TO VOTE
19 IN A PARTICULAR ELECTION.

20 NOW, WHETHER THAT'S IN A REPUBLICAN COUNTY OR A
21 DEMOCRAT COUNTY, THAT -- THAT'S IRRELEVANT. AN INELIGIBLE
22 VOTER VIOLATED THE RIGHT TO VOTE IF THEY VOTE BECAUSE IT
23 DILUTES THE VOTE OF ELIGIBLE VOTERS. THAT'S A CONSTITUTIONALLY
24 PROTECTED RIGHT. THIS PROCEDURE PROTECTS THAT RIGHT. BECAUSE
25 EVEN THOUGH VOTER REGISTRATION ROLLS GOT CLEANED UP A COUPLE OF

1 YEARS AGO, AS YOU WERE DESCRIBING IN GEORGIA, WHICH YOU
2 APPROVED, RIGHT, FROM A CHALLENGE, IN THE NEXT TWO YEARS PEOPLE
3 MOVE. OKAY?

4 AND NOW, THEY -- IF PEOPLE KNOW THAT SOMEBODY
5 MOVES -- MOVED AND WANT TO TAKE THEM OFF THE VOTER REGISTRATION
6 ROLL, THEY CAN DO THAT UNDER 229, THE GEORGIA PROCEDURE, BUT
7 UNDER FEDERAL LAW, THAT HAS TO BE DONE AT LEAST 90 DAYS PRIOR
8 TO THE ELECTION. RIGHT?

9 NOW, IF THEY WANT TO JUST SIMPLY PREVENT THEM FROM
10 VOTING IN A PARTICULAR ELECTION, THEY CAN FILE A CHALLENGE
11 UNDER 230, AND THAT'S THE ONLY EFFECT THAT THAT HAS IN DOING
12 THAT.

13 THE COURT: SO AGAIN, IF WE -- I'M SORRY.

14 MR. BOPP: SO THIS IS PROTECTING THE INTEGRITY OF OUR
15 ELECTIONS, IT'S PROTECTING THE RIGHT TO THE VOTE, IT'S -- IT'S
16 MAKING -- IT PROVIDES A FAILSAFE PROCEDURE, BECAUSE EVERYBODY
17 KNOWS REGISTRATION -- PEOPLE MOVE AND THESE REGISTRATION ROLLS
18 ARE ONLY CLEANED UP PERIODICALLY, DESPITE -- AND USUALLY OVER
19 INTENSE OPPOSITION OF PEOPLE THAT WANT TO KEEP THEM ON THE
20 ROLLS, EVEN THOUGH THEY'RE INELIGIBLE AND THEY'VE MOVED.

21 BUT YOU KNOW -- AND YOU'VE HANDLED ONE OF THOSE
22 CHALLENGES, AND -- BUT IN THE MEANTIME, THIS HAPPENS. AND
23 THAT'S WHY WE -- WE HAVE THOSE. AND IT SEEMS TO ME WE SHOULD
24 LOOK AT THIS AND SAY, WELL, THE MORE INELIGIBLE VOTERS THAT
25 ACTUALLY VOTE IN AN ELECTION, ISN'T THAT WORSE? I MEAN, THE

1 MORE THE VOTE, THE WORSE IT IS, ISN'T IT?

2 I MEAN, SO, TRUE THE VOTE OUGHT TO BE LOOKED AT AS,
3 WELL, THEY JUST WEREN'T, YOU KNOW, PICKING A FEW PEOPLE AND
4 SAYING YOU CAN'T VOTE. BUT THEY WERE TRYING -- TRYING, BASED
5 UPON SUFFICIENT EVIDENCE, WHICH IS THE CHANGE OF ADDRESS, TO
6 TRIGGER THE PROCEDURE THAT THEY WERE TRYING TO GET ALL
7 INELIGIBLE VOTERS OFF -- FROM BEING ABLE TO VOTE IN THE
8 ELECTION.

9 AND THAT MEANS WHETHER THEY'RE IN DEMOCRAT COUNTIES,
10 REPUBLICAN COUNTIES, THEY'RE WHITE, THEY'RE BLACK, THEY'RE
11 HISPANIC, THEY'RE WHATEVER, ALL THROUGHOUT THE STATE. THIS
12 SHOULD BE PRAISED TO THE HILT, NOT HAVE PEOPLE SUE YOU IN
13 FEDERAL COURT AND TRY TO PUNISH YOU UNDER A LAW DESIGNED TO
14 PROTECT AGAINST THE KU KLUX KLAN, BECAUSE THAT'S WHERE THE
15 ORIGIN OF THE VOTING RIGHTS ACT IS, OF COURSE.

16 NOW, IT HAS BEEN AMENDED, I AGREE. BUT THAT'S WHERE
17 THE -- THAT'S THE ORIGIN, IS THE SYSTEMATIC TARGETING OF BLACKS
18 BY ORGANIZATIONS THAT WERE SEEKING, USING -- THROUGH WRONGFUL
19 MEANS, OF SOME SORT OR ANOTHER TO INTIMIDATE PEOPLE FROM
20 PARTICIPATING IN THE RIGHT TO VOTE.

21 NOW --

22 THE COURT: ONE LAST QUESTION.

23 MR. BOPP: YES.

24 THE COURT: AND I THINK I KNOW THE ANSWER, BUT I WANT
25 TO ASK IT: DO YOU AGREE WITH MS. BRANCH'S ASSESSMENT ON

1 WHETHER OR NOT INTENT HAS TO BE SHOWN?

2 MR. BOPP: WE BELIEVE INTENT HAS TO BE SHOWN. WE
3 AGREE WITH THE NINTH CIRCUIT DECISION, AND BY THE WAY --

4 THE COURT: I'M SHOCKED THAT YOU AGREE WITH THE
5 NINTH CIRCUIT DECISION.

6 MR. BOPP: LOOK, I'VE HANDLED ABOUT 15 CASES IN THE
7 NINTH CIRCUIT, AND I'VE WON MOST OF THEM, SO I THINK WELL OF
8 THE NINTH CIRCUIT. I KNOW THERE ARE SOME REPUBLICANS THAT
9 DON'T.

10 BUT ANYWAY, THIS CAN BE FOUND AT 797 F.2D 1511, AND
11 IT'S A 1986 DECISION, AND THAT'S ITS CITE, AND IT SAYS:
12 HOWEVER, AS DISCUSSED BELOW, WE FIND THAT THE APPELLANTS HAVE
13 FAILED TO ESTABLISH A VOTING RIGHTS ACT VIOLATION, WHICH IS --
14 THEY'RE REFERRING TO 11(B) HERE. TO ESTABLISH A VOTING ACT
15 VIOLATION, UNLIKE A CONSTITUTIONAL VIOLATION OF THE CITIZEN'S
16 RIGHT TO VOTE, THE PLAINTIFF MUST SHOW AN INTENT TO DENY OR
17 ABRIDGE THE RIGHT TO VOTE, END OF QUOTE.

18 NOW, LOOK, I KNOW THAT THERE IS ONE OR TWO DISTRICT
19 COURT DECISIONS THAT DISAGREE WITH THIS. I MEAN, IN MY
20 PRACTICE, I PAY MORE ATTENTION TO THE CIRCUIT COURTS THAN -- AS
21 MUCH AS I RESPECT DISTRICT COURT JUDGES --

22 THE COURT: THANK YOU.

23 MR. BOPP: -- I DO PAY A LOT MORE ATTENTION TO
24 CIRCUIT COURTS, BECAUSE IF THIS CASE GETS ON THE APPEAL, WE --
25 WE BOTH KNOW THAT THE ELEVENTH CIRCUIT IS GOING TO PAY A HECK

1 OF A LOT MORE ATTENTION TO THE NINTH CIRCUIT DECISIONS THAN
2 THEY ARE SOME DISTRICT COURT IN NEW YORK, AND THAT'S JUST THE
3 WAY THINGS WORK.

4 NOW, THE ADDITIONAL THING THAT I WOULD SAY IS THE
5 ONLY -- YOU KNOW, THEY BASE THEIR CLAIM OF NOT ONLY STANDING,
6 BUT HARM, OKAY, OR INTIMIDATION, SIMPLY BASED ON THE FILING OF
7 THESE CHALLENGES, SAY -- THEY SAY THAT PUTS YOU ON THE PUBLIC
8 RECORD. AND IT HAS NOTHING EVEN TO DO WITH WHETHER OR NOT IT'S
9 ONLINE OR ANYTHING LIKE THAT. THEIR CLAIM IS IF YOU FILE THEM,
10 YOUR NAME IS ON THE LIST, IT'S A -- THAT LIST IS PUBLIC RECORD.
11 NOW, I THINK IT IS PUBLIC RECORD. ALL RIGHT?

12 AND THEN THEY SAY FROM THAT, THAT THEY -- THEY FEAR
13 HARASSMENT AND INTIMIDATION. YOU KNOW, HARASSMENT AND
14 INTIMIDATION HAS TO BE OBJECTIVE, NOT SUBJECTIVE. AND THE
15 COURT IN *DOE V. REED* CONSIDERED THAT VERY QUESTION, BECAUSE
16 WHAT WAS INVOLVED IN *DOE V. REED*, AND I REPRESENTED DOE THAT
17 LOST, IS A PETITION TO PUT AN INITIATIVE ON THE BALLOT IN THE
18 FACE OF THREATS BY PEOPLE WHO OPPOSE THE PETITION. THAT IF
19 PEOPLE SIGN THIS PETITION, THAT THE -- THAT THEY WILL PURSUE
20 THEM, OKAY, AND HARASS THEM. SO THAT WAS THE THREAT THAT WAS
21 MADE AGAINST PEOPLE TO TRY TO GET THEM NOT TO SIGN THIS
22 PETITION.

23 ON THE BASIS OF THAT THREAT, WE BROUGHT SUIT TO HAVE
24 THE PETITION, ONCE FILED, BE CONFIDENTIAL SO THAT THEIR NAMES
25 WERE NOT DISCLOSED AND COULD BE THEN PUNISHED BY THESE PEOPLE

1 WHO HAD ALREADY THREATENED TO HARASS THEM, ALL RIGHT?

2 THIS WENT ALL THE WAY TO THE SUPREME COURT, AND I
3 ARGUED IT IN THE SUPREME COURT AND I LOST, BECAUSE WHAT THE
4 SUPREME COURT SAID IS, YOU KNOW, THIS OR THAT -- OR THE
5 SUBJECTIVE FEAR OR THIS OR THAT PERSON'S STATEMENT, YOU KNOW,
6 THAT THEY MIGHT DO SOMETHING LIKE THAT, LIKE HARASS SOMEBODY,
7 IS JUST NOT ENOUGH, OKAY, FOR A PETITIONER'S SIGNATURE OR, IN
8 AFFECT, FOR ANYTHING THAT YOU HAVE TO SHOW A, QUOTE, REASONABLE
9 PROBABILITY THAT THE PEOPLE WILL BE SUBJECT TO HARASSMENT AND
10 INTIMIDATION.

11 SO IT'S NOT AN ANECDOTAL, YOU KNOW, THIS PERSON SAID
12 THIS, LIKE WHOEVER THIS PERSON IS IN EXHIBIT 2, IS I'LL PUT
13 YOUR NAME ON THE INTERNET. THAT'S NOT EVEN A THREAT OF
14 HARASSMENT, OTHER THAN IF YOU FEAR PUTTING YOUR NAME ON THE
15 INTERNET HARASSMENT ITSELF. AND MAYBE IT IS, I DON'T KNOW.
16 BUT YOU HAVE TO HAVE A REASONABLE PROBABILITY THAT THE PEOPLE,
17 WHOSE NAMES ARE GOING TO BE DISCLOSED -- AND THERE WERE
18 HUNDREDS OF THOUSANDS OF NAMES ON THESE PETITIONS IN THE STATE
19 OF WASHINGTON -- WILL BE SUBJECT TO HARASSMENT AND
20 INTIMIDATION.

21 HERE WE ARE, HOW LONG SINCE THE 100 -- THE 350 NAMES
22 HAVE BEEN FILED WITH VARIOUS COUNTIES? HOW LONG ARE WE AWAY
23 FROM THAT? A WEEK, TEN DAYS.

24 THE COURT: 12 DAYS -- 13 DAYS, ACTUALLY.

25 MR. BOPP: THEY DON'T HAVE THE EVIDENCE OF A SINGLE

1 PERSON BEING HARASSED OR INTIMIDATED. THEY DON'T MAKE AN
2 ALLEGATION IN THEIR COMPLAINT OF A SINGLE PERSON BEING HARASSED
3 OR INTIMIDATED -- OR HARASSED, SOMEBODY TRYING TO INTIMIDATE
4 THEM OR HARASSED, NOT BY SUBJECTIVE FEARS, OKAY, THEY DON'T --
5 THEY HAVE NO EVIDENCE OF THAT, THEY DON'T EVEN ALLEGE IT IN THE
6 COMPLAINT -- IN THE PI MOTION -- IN THE COMPLAINT THAT THEY
7 FILED ON THE 23RD AND THE PI MOTION THAT THEY FILED THE DAY
8 BEFORE YESTERDAY, THEY JUST SAID THAT THE DOES FEAR IT, NOT
9 THAT THEY'VE BEEN SUBJECTED TO IT.

10 SO TALK ABOUT NO EVIDENCE OR NO ALLEGATIONS THAT
11 WOULD MEET THE STANDARD OF *DOE V. REED*, WHERE IS THE REASONABLE
12 PROBABILITY THAT THESE PEOPLE WHOSE NAMES HAVE NOW BEEN, QUOTE
13 ON, THE PUBLIC RECORD, END QUOTE, 12 DAYS WILL BE SUBJECT TO
14 WHAT THEY CLAIM TO FEAR?

15 I MEAN, THIS HAS GONE SO BEYOND ANY OF THE CASES I'VE
16 READ IN TERMS OF WHERE, YOU KNOW, YOU HAVE -- YOU DO HAVE
17 CASES, A POLICE OFFICER SHOWING UP AT MEETINGS OF BLACKS WHO
18 ARE ORGANIZING REGISTRATION EFFORTS AND YOU HAVE THEM SHOWING
19 UP AND SURVEILLING AND WRITING DOWN THE LICENSE PLATES OF ALL
20 THE CARS, VIDEOTAPING THEM, AND THEN SOME OF THEM BEING SUBJECT
21 TO UNLAWFUL ARREST AND PROSECUTION, UNLAWFUL ARREST AND
22 PROSECUTION, THAT'S INTIMIDATION, THAT'S ILLEGAL, THAT IS
23 PROHIBITED BY THE VOTING RIGHTS ACT. AND DOGGONE IT, IT SHOULD
24 BE. ALL RIGHT?

25 BUT BECAUSE SOMEBODY IS CONCERNED ABOUT THEIR OWN

1 RIGHT TO VOTE BEING DILUTED BY ILLEGAL VOTERS, PROPERLY EMPLOYS
2 WITHIN THE VERY CONFINES OF THAT STATUTE A PROCEDURE THAT
3 PROTECTS THAT RIGHT TO VOTE FROM ILLEGAL VOTERS, TO CALL THAT
4 VOTE SUPPRESSION, IS TO TURN THE KU KLUX KLAN ACT INTO A WEAPON
5 AGAINST THE FIRST AMENDMENT AND THE RIGHT TO VOTE OF EVERYONE.
6 AND I HOPE THIS COURT DOES NOT COUNTENANCE THAT EFFORT.

7 THE COURT: THANK YOU, MR. BOPP.

8 IF THERE'S ANYTHING ELSE THAT COMES FROM THE
9 PLAINTIFFS, OBVIOUSLY, AGAIN, YOU WILL HAVE A RIGHT TO RESPOND.

10 THANK YOU, MS. BRANCH, ANY FINAL WORD ON THIS?

11 WOULD 15, 20 MINUTES BE ENOUGH TIME?

12 MS. BRANCH: YES, YOUR HONOR. THANK YOU. I WANT TO
13 ADDRESS A COUPLE OF POINTS THAT MR. BOPP MADE AND ALSO RESPOND
14 TO QUESTIONS EARLIER FROM THE COURT.

15 THE FIRST IS THAT THE NINTH CIRCUIT CASE THAT
16 YOUR HONOR HAS REFERENCED HAS ACTUALLY BEEN VACATED BY THE
17 UNITED STATES SUPREME COURT IN A CASE CALLED *STATE V.*
18 *MUNSINGWEAR*, AND THE CITE FOR THAT IS 340 U.S. 36. SO THAT
19 CASE ACTUALLY IS NOT PRECEDENTIAL AND SHOULD NOT BEAR ON
20 YOUR HONOR'S DECISION IN THIS CASE.

21 THE COURT: WHAT DOES THAT CASE SAY? WHAT ARE THEY
22 SAYING IN VACATING IT?

23 MS. BRANCH: IT MAKES CLEAR THAT -- THE VACATOR OF IT
24 MAKES CLEAR THAT INTENT WAS NOT REQUIRED TO PROVE AN 11(B)
25 VIOLATION. AND I'M ACTUALLY PULLING UP THE CASE NOW, BUT IT

1 WAS VACATED BY THE SUPREME COURT, AND IT DOESN'T HAVE ANY
2 OPINION PRECEDENTIAL --

3 THE COURT: OKAY. THANK YOU.

4 MS. BRANCH: THANK YOU.

5 THE OTHER POINT I WANTED TO MAKE IS IN RESPONSE TO
6 MR. BOPP'S ARGUMENT THAT THEY'RE BEING FORCED TO LITIGATE A
7 MOVING TARGET, AND THAT OUR RELIEF HAS CHANGED, IT HAS NOT.
8 OUR COMPLAINT ACTUALLY STATES IN THE PRAYER FOR RELIEF ON
9 PAGE 29, REQUEST C, WE ASK FOR THE COURT TO ORDER DEFENDANTS TO
10 WITHDRAW THEIR PENDING CHALLENGES TO VOTERS IN EACH OF
11 GEORGIA'S 159 COUNTIES.

12 AND PRAYER FOR REQUEST -- FOR RELIEF TO REQUEST D, WE
13 ORDER -- WE ASK THE COURT TO ORDER TRUE THE VOTE TO CEASE ANY
14 AND ALL OPERATIONS IN THE STATE OF GEORGIA, YOUR HONOR, SO THE
15 DEFENDANTS ARE ON NOTICE THAT WE HAVE REQUESTED THAT RELIEF.
16 THE FACT THAT IT'S NOT INCLUDED IN OUR PROPOSED ORDER SHOULD
17 NOT CONSTRAIN THE COURT. AS I'M SURE THE COURT KNOWS, IT HAS
18 THE POWER TO FASHION INJUNCTIVE RELIEF AS IT SEES FIT, BUT THE
19 DEFENDANTS CANNOT SAY THAT THEY WERE NOT ON NOTICE THAT WE'D
20 REQUESTED THAT SPECIFIC RELIEF, AND WE DO THINK WE ARE ENTITLED
21 TO IT.

22 THE OTHER POINT I WANTED TO MAKE ON STANDING IS
23 THAT --

24 THE COURT: LET ME ASK YOU ONE QUESTION ON THE
25 VACATED CASE. YOU DON'T DISAGREE, THOUGH, THAT I CAN STILL

1 GIVE THE VACATED CASE -- USE ITS PERSUASIVE AUTHORITY ON IT?

2 MS. BRANCH: YES, YOUR HONOR, BUT I DO THINK THAT THE
3 NINTH CIRCUIT CASE IS DISTINGUISHABLE FROM THE CIRCUMSTANCES
4 HERE. THE FIRST IS THAT THERE IS NO STATUTORY INTERPRETATION
5 ANALYSIS IN THAT CASE, IT MERELY ASSUMES THAT INTENT IS
6 REQUIRED, AND THEN IT WAS VACATED LATER BY THE SUPREME COURT.
7 SO THERE ISN'T ACTUALLY ANY ANALYSIS IN THAT CASE. THE CASE
8 THAT THAT CASE DOES CITE TO AND RELIES ON FOR THIS INTENT
9 REQUIREMENT ACTUALLY REFERENCES THE CIVIL RIGHTS ACT OF 1957,
10 WHICH INCLUDES THE SPECIFIC PURPOSE LANGUAGE IN THE STATUTE, SO
11 THAT IS CLEAR. THAT CASE IS CLEARLY DISTINGUISHABLE, BECAUSE
12 IT RELIES ON THE CIVIL RIGHTS ACT. HERE WE'RE TALKING ABOUT
13 SECTION 11(B) OF THE VOTING RIGHTS ACT, WHICH DOES NOT CONTAIN
14 THAT PURPOSE LANGUAGE.

15 SO I DO THINK THAT THAT CASE IS NOT ON ALL FOURS WITH
16 THIS ONE, AND THAT IT IS DISTINGUISHABLE, BUT I DON'T THINK
17 THAT IT SHOULD BE RELIED ON FOR PERSUASIVE EVIDENCE, AND THE
18 FACT THAT THE SUPREME COURT -- OR PERSUASIVE AUTHORITY, I'M
19 SORRY, AND THE FACT THAT THE SUPREME COURT VACATED IT.

20 THE COURT: WELL, THE SUPREME COURT INSTRUCTED THE
21 NINTH CIRCUIT TO REMAND THE CASE TO THE DISTRICT COURT, SO IT'S
22 MOOT, RIGHT?

23 MS. BRANCH: YES, YOUR HONOR.

24 THE COURT: OKAY. ALL RIGHT. GO AHEAD.

25 MS. BRANCH: WITH RESPECT TO STANDING, I KNOW THAT

1 THERE HAS BEEN DISCUSSION HERE TODAY ABOUT YOUR HONOR REVIEWING
2 THE DECLARATIONS THAT WE WILL SUBMIT ON BEHALF OF THE DOES, AND
3 THAT THAT MAY TAKE TIME TO REVIEW. I WANT TO MAKE CLEAR THAT,
4 YOU KNOW, FAIR FIGHT HAS STANDING IN THIS CASE, IT'S BLACK
5 LETTER LAW THAT ONLY ONE PLAINTIFF IS REQUIRED TO HAVE
6 STANDING, AND DEFENDANTS DON'T EVEN REALLY CHALLENGE FAIR
7 FIGHT'S STANDING, SO IT IS -- WE WILL CERTAINLY DO AS
8 YOUR HONOR REQUESTED AND SUBMIT THOSE DECLARATIONS, BUT I DON'T
9 THINK THEY'RE NECESSARY FOR YOUR HONOR TO FIND THAT STANDING IS
10 HERE.

11 THE COURT: NO, IF YOU DON'T THINK THEY'RE NEEDED,
12 DON'T SUBMIT THEM.

13 MS. BRANCH: SO I DO THINK THAT THEY ARE RELEVANT TO
14 OUR MOTION TO PROCEED ANONYMOUSLY, AND THAT WOULD BE THE
15 PURPOSE OF SUBMITTING THEM. BUT -- AND THEY'RE ALSO RELEVANT
16 TO THE DOE STANDING, BUT I DID WANT TO MAKE THE POINT THAT ONLY
17 ONE PLAINTIFF IS REQUIRED TO HAVE STANDING.

18 THE COURT: LET ME SAY THIS: ANYTHING THAT IS
19 IN-CAMERA, ALL THOSE THINGS, THE IDEA THAT THIS IS COMING FROM
20 THE COURT, YOU HAVE TO PRESENT YOUR CASE AS YOU SEE FIT. IF
21 YOU DON'T THINK ANY OF THOSE THINGS ARE NEEDED, DON'T SUBMIT
22 THEM, BECAUSE I CAN START DRAFTING MY ORDER IMMEDIATELY AFTER
23 THIS IF YOU DON'T THINK THEY'RE NEEDED AND THEY'RE NOT GOING TO
24 BE SUBMITTED, THEN I CAN GO AHEAD AND START WORKING ON MY
25 ORDER.

1 MS. BRANCH: I DO THINK THEY'RE NEEDED WITH RESPECT
2 TO THE MOTION TO PROCEED ANONYMOUSLY. I THINK THEY ARE HELPFUL
3 TO YOUR HONOR'S ANALYSIS ON THAT POINT, BUT WITH RESPECT TO
4 STANDING, I DO THINK THAT WE HAVE PROVEN STANDING ON BEHALF OF
5 FAIR FIGHT AND THE DEFENDANTS DON'T OBJECT TO THAT.

6 THE OTHER POINT I WANT TO MAKE IS THAT OPPOSING
7 COUNSEL TAKES ISSUE WITH A LOT OF EVIDENCE AND THE FACTS THAT
8 HAVE BEEN PRESENTED TODAY, BUT A LOT OF THE FACTS HERE ARE
9 ABSOLUTELY UNDISPUTED. OPPOSING COUNSEL DOES NOT DISPUTE THAT
10 THEY ASSISTED VOTERS WITH MAKING THESE MASS CHALLENGES, THEY
11 DON'T DISPUTE THAT THERE IS A CLIMATE OF INTIMIDATION, IN FACT,
12 THEY SAY THEY'VE CREATED THIS FUND TO HELP WITH THEIR
13 SUPPORTERS WHO MIGHT BE INTIMIDATED. THEY DON'T DISPUTE THAT
14 CHALLENGE --

15 THE COURT: I DON'T THINK HE SAID THAT. I DON'T
16 THINK HE SAID THAT. AS FAR AS THE FUND, HE DIDN'T SAY THAT IT
17 WAS ASSIST THEIR PEOPLE WHO MAY BE INTIMIDATED. HE SAID TO
18 REIMBURSE EITHER DEMOCRAT OR REPUBLICAN MONITORS THAT ARE
19 MEETING REQUIREMENTS OF THE 21-2-408.

20 MS. BRANCH: WELL, AND I DO WANT TO -- I WANT TO
21 ADDRESS THE FUNDS, BECAUSE I DO THINK THAT OPPOSING COUNSEL'S
22 REPRESENTATION OF THAT TODAY HAS BEEN INACCURATE. IN THE PRESS
23 AND ON THE TRUE THE VOTE WEBSITE, THEY -- YOU KNOW, THEY
24 CLEARLY SAY THAT THEY HAVE LAUNCHED A VALIDATE THE VOTE
25 INITIATIVE AND WHISTLEBLOWER COMPENSATION FUND TO ENSURE

1 ELECTION INTEGRITY AND THE FUND HAS ESTABLISHED IN EXCESS OF
2 ONE MILLION DOLLARS TO INCENTIVIZE ELECTION MALFEASANCE
3 REPORTING. SO THAT'S FROM THE TRUE THE VOTE'S OWN WEBSITE,
4 THAT THIS FUND WAS ESTABLISHED TO INCENTIVIZE ELECTION
5 MALFEASANCE REPORTING.

6 NOT ONLY THAT, THE EXECUTIVE DIRECTOR OF
7 TRUE THE VOTE STATED ON NOVEMBER THE 6TH, IN ANNOUNCING THAT
8 VALIDATE THE VOTE FUND, QUOTE, EARLIER TODAY WE LAUNCHED AN
9 INITIATIVE CALLED VALIDATE THE VOTE. AND WHAT VALIDATE THE
10 VOTE IS ABOUT IS PUTTING A BOUNTY ON THE FRAUD.

11 SO THE IDEA THAT THIS IS SOME INNOCENT COMPENSATION
12 FUND IS JUST NOT -- IT'S NOT HOW IT'S BEEN REPRESENTED BY
13 TRUE THE VOTE, THE ORGANIZATION ITSELF, OR THE EXECUTIVE
14 DIRECTOR OF THAT ORGANIZATION.

15 AND IT MATTERS HOW THIS FUND IS PERCEIVED BY VOTERS
16 IN GEORGIA, BY PEOPLE WHO ARE THE SO-CALLED ELECTION WATCHDOGS.
17 THESE PRESS STATEMENTS THAT THEY -- THAT THEY RELEASED TALK
18 ABOUT PUTTING A BOUNTY ON THE FRAUD. THEY TALK ABOUT PROVIDING
19 INCENTIVES FOR REPORTING ELECTION MALFEASANCE, WHATEVER THAT
20 MEANS. AND SO IT MATTERS THAT VOTERS ARE RECEIVING THESE
21 MESSAGES, SUPPORTERS OF TRUE THE VOTE ARE RECEIVING THESE
22 MESSAGES, AND THAT'S HOW THEY CHARACTERIZE THIS FUND. SO I
23 DON'T THINK THAT THE CHARACTERIZATION THAT WAS PRESENTED TODAY
24 IS ACCURATE.

25 I ALSO WANT TO ADDRESS THE FACT THAT, YOU KNOW,

1 TRUE THE VOTE IS MAKING IT SOUNDS LIKE ALL OF THEIR ACTIVITIES
2 ARE INNOCENT, AND THAT THERE IS RAMPANT VOTER FRAUD AND THAT
3 ALL THEY'RE DOING IS HELPING TO DETECT IT. AND THAT'S JUST NOT
4 THE CASE. THEY HAVE BEEN INVOLVED IN MULTIPLE ATTEMPTS TO
5 EXPOSE, QUOTE/UNQUOTE, VOTER FRAUD AT THE EXPENSE OF THE RIGHTS
6 OF GEORGIA VOTERS.

7 FOR EXAMPLE, THEY PUBLISHED THE VIDEO OF A JACKSON
8 COUNTY MEETING WHERE THE JACKSON COUNTY BOARD OF ELECTIONS WAS
9 CONSIDERING THE CHALLENGES, THEY PUBLISHED THAT. AND SO THAT
10 WAS MADE PUBLIC, THE VOTERS' NAMES AND ADDRESSES AND INDIVIDUAL
11 IDENTIFYING INFORMATION THAT WAS DISCUSSED DURING THAT MEETING
12 WAS MADE PUBLIC BY TRUE THE VOTE.

13 SO IT IS NOT THAT THEY'RE THESE INNOCENT BYSTANDERS
14 IN THIS EFFORT. THEY ARE ATTRIBUTING TO THE CULTURE OF VOTER
15 FRAUD AND THEY ARE FANNING THE FLAMES AND MAKING THESE PUBLIC
16 STATEMENTS AND EXPOSING THIS INFORMATION PUBLICLY, AND SO WE
17 WANT TO MAKE THAT CLEAR.

18 ANOTHER EFFORT THAT THEY'VE BEEN INVOLVED IN WITH
19 RESPECT TO RECENT ELECTIONS IS THAT THEY ENGAGED IN EFFORTS TO
20 RECRUIT FORMER MILITARY SNIPERS TO BE POLL OBSERVERS. THERE
21 WAS PRESS ON THAT, THE FACT THAT THESE INDIVIDUALS WOULD BE
22 LOCATED AT POLLING LOCATIONS AND COULD INTIMIDATE VOTERS.

23 THE COURT: YOU UNDERSTAND THAT TO BE A POLL MONITOR
24 OR A POLL WATCHER, THERE ARE CERTAIN REQUIREMENTS THAT HAVE TO
25 BE MET UNDER THE STATUTE, RIGHT?

1 MS. BRANCH: YES, YOUR HONOR.

2 THE COURT: SO ARE YOU ARGUING THAT THESE PEOPLE ARE
3 BEING SELECTED, ARE BEING SUBMITTED BECAUSE THESE MILITARY
4 SNIPERS ARE GOING TO BE INSIDE OBSERVING?

5 MS. BRANCH: I MEAN, THEY HAVE MET GEORGIA'S LAW
6 REQUIREMENTS, BUT THESE -- THEY WERE SPECIFICALLY RECRUITED BY
7 TRUE THE VOTE BECAUSE THEY ARE INTIMIDATING, BECAUSE THEY HAVE
8 THIS MILITARY TRAINING, THEY'VE BEEN ENGAGED IN AS FORMER
9 MILITARY SNIPERS.

10 THE COURT: THEY'RE OBVIOUSLY NOT GOING TO WALK IN
11 THERE WITH RIFLES.

12 MS. BRANCH: RIGHT, BUT THEY'RE -- I MEAN, LOOK, I
13 DON'T KNOW SPECIFICALLY WHAT THEIR TACTICS ARE BEHIND THIS, BUT
14 IT IS PUBLICIZED, IT IS OUT IN THE PUBLIC TO MAKE IT CLEAR THAT
15 THEY HAVE RECRUITED FORMER MILITARY SNIPERS TO STAND AT POLLING
16 LOCATIONS. IF I'M A VOTER AND I SEE THAT, THEN I COULD BE
17 INTIMIDATED BY THAT. I DO THINK THAT'S INTIMIDATING. AND I
18 THINK THAT THIS CULTURE THAT THEY'RE CONTRIBUTING TO BY
19 UNDERTAKING THESE EFFORTS DELIBERATELY AND THESE CHALLENGES OF
20 360,000 VOTERS ARE THE MOST RECENT, AND THEY'RE EXTREMELY
21 EGREGIOUS, BUT I JUST WANT TO BE CLEAR THAT TRUE THE VOTE IS
22 NOT THIS INNOCENT BYSTANDER.

23 THIS IS AN ORGANIZATION THAT IF YOU LOOK AT THEIR
24 WEBSITE AND THE EXHIBITS THAT WE SUBMITTED TO OUR COMPLAINT,
25 THAT WAS CREATED TO FAN THE FLAMES OF THIS CULTURE OF VOTER

1 FRAUD.

2 AND, I MEAN, COURTS HAVE REPEATEDLY SAID THAT
3 ELECTION FRAUD DOESN'T EXIST. THIS IDEA THAT JUST BECAUSE A
4 VOTER HAS CHANGED THEIR ADDRESS IN THE MIDDLE OF A PANDEMIC, I
5 MEAN, THERE'S A LOT OF PEOPLE WHO ARE TRANSIENT AT THIS TIME,
6 IT JUST -- IT IS JUNK SCIENCE, AND IT'S NOT -- IT HAS NO BASIS
7 IN FACT. VOTERS SHOULD NOT BE CHALLENGED ON THOSE GROUNDS.

8 THE COURT: MR. BOPP HAS MANY ARGUMENTS, BUT AS I
9 TAKE IT, HIS MANY ARGUMENTS ARE: WE ARE FOLLOWING THE LAW THAT
10 THE STATE OF GEORGIA SAYS. WE CAN FOLLOW IT. AND THAT WE HAVE
11 A RECENT ORDER FROM JUDGE GARDNER SAYING THAT IS NOT ILLEGAL IF
12 WE FOLLOW THIS LAW.

13 MS. BRANCH: RIGHT. AND I UNDERSTAND THAT ARGUMENT.
14 I THINK IT IS INCORRECT. JUDGE GARDNER'S ORDER SAYS THAT YOU
15 CAN'T CHALLENGE VOTERS ON THIS ONE DATA POINT.

16 AND MR. BOPP HAS LAUNCHED THESE CHALLENGES BASED ON
17 THAT DATA POINT.

18 THE COURT: NO, THEY CAN'T BE REMOVED. THEY CAN'T BE
19 REMOVED.

20 MS. BRANCH: THEY CAN'T BE REMOVED ON THAT BASIS.

21 THE COURT: THEY CAN'T BE REMOVED ON THAT NCOA, BUT
22 THEY CAN BE CHALLENGED. IN OTHER WORDS, BEN HILL, WHO HAD 150
23 VOTERS, THE TRO SAYS BEN HILL REMOVED, NO PRELIMINARY
24 INJUNCTION.

25 SO WHAT MR. BOPP HAS SAID IS, JUDGE, UNDER MY

1 FIRST AMENDMENT RIGHTS, WELL, NOT HIS FIRST AMENDMENT RIGHTS,
2 BUT UNDER THE FIRST AMENDMENT THEY ARE FOLLOWING THE LAW THAT
3 THE STATE OF GEORGIA SAID IT CAN DO. IN FACT, I THINK THE
4 SECRETARY OF STATE OF THIS STATE THINKS THAT THEY CAN DO IT
5 THAT WAY.

6 MS. BRANCH: SO I -- I MEAN, I DON'T THINK THAT
7 TRUE THE VOTE HAS A CONSTITUTIONAL DUTY OR ALLOWANCE TO
8 CHALLENGE THE VOTERS. IT'S A RIGHT CREATED UNDER GEORGIA LAW.
9 AND TO THE EXTENT THAT IT CONFLICTS WITH BETTER LAW, BECAUSE IT
10 IS INTIMIDATING VOTERS, THEN IT IS PREEMPTED, AND I THINK
11 THAT'S EXACTLY THE CASE HERE.

12 THE COURT: THANK YOU, MS. BRANCH.

13 AND THANK YOU, MR. BOPP.

14 WHAT I WILL DO -- JUST ONE QUICK QUESTION,
15 MS. BRANCH, ARE YOU GOING TO SEND THE COURT ANYTHING? IF YOU
16 ARE --

17 AND, MS. LAWRENCE, I'M GOING TO BE HERE. IT WOULD
18 PROBABLY BE BETTER, MS. LAWRENCE, IF YOU CAN JUST BRING ME A
19 COURTESY COPY, IF YOU-ALL DECIDE TO SUBMIT ANYTHING.

20 NOW, LET ME SAY THIS, BASED ON WHAT YOU SEND ME,
21 OBVIOUSLY I'M GOING TO REDACT EVERYTHING, SEND IT BACK TO
22 YOU-ALL. BUT YOU ALSO TALKED ABOUT SENDING SOME ADDITIONAL
23 INFORMATION, THAT MIGHT -- AND I'M NOT SAYING IT WILL -- THAT
24 MIGHT PREVENT ME FROM BEING ABLE TO ENTER AN ORDER TODAY,
25 PARTICULARLY IF MR. BOPP SAYS, JUDGE, I NEED TIME TO RESPOND TO

1 THIS.

2 BUT IF POSSIBLE, IF YOU CAN GET ME THIS
3 INFORMATION -- AND, MS. LAWRENCE, TELL ME IF I'M ASKING YOU TOO
4 MUCH -- BEFORE 4:00 -- OR YOU NEED MORE TIME?

5 MS. LAWRENCE-HARDY: JUDGE, THE COURIER IS ON HIS WAY
6 TO YOU. I'M GOING TO LOOK AT MS. BRANCH TO LET ME KNOW HOW SHE
7 WANTS TO RESPOND TO THE OPENING THE COURT HAS JUST OFFERED, BUT
8 WE CAN ABSOLUTELY GET IT TO YOU BY 4:00, IF THAT'S THE
9 DIRECTION IN WHICH WE GO.

10 THE COURT: DO YOU NEED MORE TIME? YOU KNOW, I ALSO
11 WILL GIVE YOU THE TIME. BUT ALL I'M JUST SAYING TO YOU,
12 MS. BRANCH AND MS. LAWRENCE, IS THAT WHAT I GET IS GOING TO
13 SORT OF DETERMINE HOW QUICK I CAN PUT OUT AN ORDER, BECAUSE
14 AGAIN, THERE'S -- WHATEVER I GET, THROUGH SOME MEANS, I HAVE TO
15 LET MR. BOPP KNOW ABOUT IT. AND WHAT HE DOES AFTER THAT WILL
16 DETERMINE, YOU KNOW, HOW I PROCEED WITH MY ORDER.

17 MS. LAWRENCE-HARDY: YOUR HONOR, MAY I JUST CONFIRM
18 THAT YOU ARE AT THE RICHARD RUSSELL BUILDING, THAT YOU'RE
19 DOWNTOWN?

20 THE COURT: YEAH, THE RICHARD RUSSELL BUILDING. I'M
21 IN THE RICHARD RUSSELL BUILDING. THERE ARE A NUMBER OF THINGS
22 I HAVE TO DO TODAY, SO I'M IN THE RICHARD RUSSELL BUILDING.

23 AND AGAIN, MS. LAWRENCE, IF YOU CAN'T GET IT BY 4:00
24 JUST SEND ME -- OR SEND MS. WRIGHT AN EMAIL TO SAY TELL THE
25 JUDGE -- I'M GOING TO BE HERE. YOU KNOW, I'VE ALREADY TOLD MY

1 WIFE, MY NEW YEAR'S MAY COME IN SITTING AT THE RICHARD RUSSELL
2 BUILDING. SHE LOVED THAT, BUT, YOU KNOW, SO I'LL BE HERE.

3 AND, MR. BOPP, THERE'S NOT GOING TO BE ANY DECISIONS
4 MADE ON ANYTHING UNTIL YOU SEE IT OR KNOW ABOUT IT.

5 I WANT TO THANK ALL THE LAWYERS INVOLVED IN THIS
6 CASE. I APOLOGIZE, I UNDERSTAND I'VE PUSHED MS. BRANCH AND
7 MR. BOPP, AND I'VE PUSHED YOU-ALL HARD. AND MS. LAWRENCE AND
8 MS. BRYAN'S DEALT WITH ME ENOUGH TO KNOW THAT THAT'S JUST MY
9 STYLE. IT'S NOTHING PERSONAL. IT'S JUST THAT I NEED TO KNOW
10 CERTAIN THINGS, AND YOU-ALL RESPONDED VERY WELL TO QUESTIONS.

11 WHEN I SIT DOWN TO WRITE THIS ORDER, I MAY THINK
12 MAYBE I SHOULD HAVE ASKED THEM THAT QUESTION.

13 BUT YOU-ALL BOTH HAVE RESPONDED VERY WELL, AND YOU
14 WERE VERY, VERY PREPARED. AND I ALWAYS LIKE LAWYERS THAT ARE
15 PREPARED, AND YOU-ALL WERE.

16 SO THANK YOU FOR BEING HERE AND THANK YOU FOR YOUR
17 ARGUMENT, AND I'LL BE IN TOUCH.

18 HAVE A HAPPY NEW YEAR TO EVERYBODY, AND LET'S HOPE IN
19 2021, THAT WE GO BACK TO NORMAL.

20 MR. BOPP: YES.

21 THE COURT: AND WE GET RID OF THIS VIRUS. THANK YOU,
22 EVERYBODY.

23 MS. LAWRENCE-HARDY: THANK YOU, YOUR HONOR.

24 MS. BRANCH: THANK YOU.

25 MR. BOPP: THANK YOU.

1
2 (WHEREUPON, THE PROCEEDINGS WERE ADJOURNED AT 1:12
3 P.M.)
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1 REPORTERS CERTIFICATE
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3

4 I, JANA B. COLTER, OFFICIAL COURT REPORTER FOR THE
5 UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
6 GEORGIA, WITH OFFICES AT ATLANTA, DO HEREBY CERTIFY:

7 THAT I REPORTED ON THE STENOGRAPH MACHINE THE
8 PROCEEDINGS HELD IN OPEN COURT ON DECEMBER 31, 2020, IN THE
9 MATTER OF *FAIR FIGHT, INC ET AL V. TRUE THE VOTE ET AL*, CASE
10 NUMBER 2:20-CV-00302-SCJ; THAT SAID PROCEEDINGS IN CONNECTION
11 WITH THE HEARING WERE REDUCED TO TYPEWRITTEN FORM BY ME; AND
12 THAT THE FOREGOING TRANSCRIPT (107 PAGES) IS A TRUE AND
13 ACCURATE RECORD OF THE PROCEEDINGS.

14 THIS THE 19TH DAY OF JANUARY, 2021.

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17
18 /S/ JANA B. COLTER, FAPR, RMR, CRR, CRC
19 OFFICIAL COURT REPORTER
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