

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

THE DEMOCRATIC PARTY OF  
GEORGIA, INC., AND AFG GROUP  
INC,

PLAINTIFFS,

V.

ROBYN A. CRITTENDEN, IN HER  
OFFICIAL CAPACITY AS  
SECRETARY OF STATE OF THE  
STATE OF GEORGIA; STEPHEN  
DAY, JOHN MANGANO, ALICE  
O'LENICK, BEN SATTERFIELD,  
AND BEAUTY BALDWIN, IN  
THEIR OFFICIAL CAPACITIES AS  
MEMBERS OF THE GWINNETT  
COUNTY BOARD OF  
REGISTRATION & ELECTIONS;  
AND MICHAEL COVENY,  
ANTHONY LEWIS, LEONA  
PERRY, SAMUEL TILLMAN, AND  
BAOKY VU, IN THEIR OFFICIAL  
CAPACITIES AS MEMBERS OF  
THE DEKALB COUNTY BOARD  
OF REGISTRATION & ELECTIONS,

DEFENDANTS.

Civ. Act. No. 1:18-cv-5181-SCJ

**PLAINTIFFS' RESPONSE TO COURT'S REQUEST FOR  
INFORMATION AT EMERGENCY MOTION HEARING**

COME NOW Plaintiffs Democratic Party of Georgia, Inc. and AFG Group Inc d/b/a Stacey Abrams for Governor, in support of their Emergency Motion for Preliminary Injunction and their Complaint for Declaratory and Injunctive Relief, and state as follows:

1. At this Court's Hearing on November 13, 2018 concerning Plaintiffs' Emergency Motion and others, the Court asked Plaintiffs to provide information concerning how many provisional ballots were cast by a voter in what the county believed is their county of residence, because voter registration records showed the voter as registered in another county. *See, e.g.* Buettner Decl. [D.E. 17-4].

2. Plaintiffs cannot produce a reliable, fixed number of voters who cast provisional ballots because they were voting in a county other than their county of residence (according to state voter registration records) in the November 6, 2018 General Election, for several reasons.

3. First, upon poll workers finding that a voter's registration address lay in a county other than the one in which the voter sought to vote (because the voter resided in that county and in good faith believed she was registered to vote in her county of residence), some voters were told to contact the registrars in that other county. Determining whether those voters actually voted or were discouraged and

did not vote at all is not capable of measurement because these data are not, to Plaintiffs' knowledge, available in any reliable form.

4. Second, the data available to Plaintiffs was compiled through extensive data collection efforts by field staff and volunteers from "raw" data kept in handwritten form by the 159 counties in Georgia. *See generally* Woods Decl. [D.E. 17-2]; DeLapp Decl. [D.E. 17-3]. Such data collection measures are inherently unreliable both due to the manner in which they were recorded and the necessarily scattered measure in which they were collected. *Id.* Counsel attaches examples of such forms collected by Plaintiff Democratic Party of Georgia, Inc. as Exhibits 1-3 to this Response.

5. Third, further complicating matters, most counties – though not all – code such provisional voters "OP," which is the same code applied to voters whose residence matches the county of residence named in their voter registration, yet vote at the wrong precinct within that county. Other counties reportedly fold "OP" voters into the "PR" code examined in the *Common Cause* Order cited by the Court and participants in today's Hearing. *Compare* Exhibits 1 (Walton County), 2 (Bulloch County) *with* Exhibit 3 (Cobb County).

6. Plaintiffs state that according to their compiled records, **13,138** provisional ballots were tagged by county poll officials with the code "OP," or

some variation thereof, but analysis of which specific ballots were cast in a county other than the county of residence according to state voter registration records, versus out of precinct within the same county according to state voter registration records, is not available at this time.

7. That having been said, Plaintiffs can provide some measure of intensity of the problem by looking to voters who reported problems through Democratic Party of Georgia poll watchers or its Voter Protection Hotline. From a brief review conducted this evening of multiple, exclusive sets of data (such that the likelihood that all data points reflect a unique voter is high), the Democratic Party of Georgia states that it has received at least **456** incident reports, compiled by poll watchers or Hotline attendees, in which a registered voter seeking to cast a ballot in one county was told, contrary to the voter's understanding of her registration, that the voter resided in a different county and needed either to return to that different county to vote or to vote provisionally, through November 9, 2018.

Dated: November 13, 2018

Respectfully submitted,

**KREVOLIN & HORST, LLC**

/s/ Adam M. Sparks

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**CERTIFICATE OF COMPLIANCE**

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

This 13th day of November 2018.

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 13, 2018, a copy of the foregoing PLAINTIFFS' RESPONSE TO COURT'S REQUEST FOR INFORMATION AT EMERGENCY MOTION HEARING was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

This 13th day of November 2018.

**KREVOLIN & HORST, LLC**

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