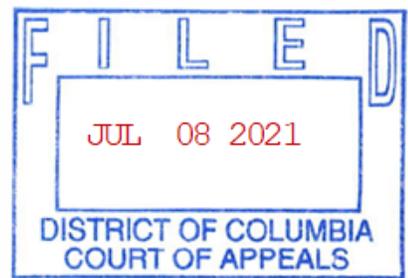


DISTRICT OF COLUMBIA  
COURT OF APPEALS



In the Matter of Rudolph W. Giuliani,  
Bar No.: 237255

Respondent,

An Inactive Member of the Bar of the District of Columbia  
Court of Appeals.

21 BG 423  
DDN 2020-D253

**NOTICE OF MOTION**

PLEASE TAKE NOTICE THAT, upon the annexed Affirmation of John Leventhal, Esq. and Barry Kamins, Esq., the undersigned counsel will move this Court for an Order (1) reconsidering the Court's order filed July 7, 2021, granting the recommendation of Disciplinary Counsel to suspend the respondent pending the final disposition of this proceeding; (2) permitting Counsel to show cause why discipline, identical to that imposed in New York, should not be imposed upon respondent; and (3) granting such other and further relief as to the Court seems just and proper.

Dated: July 7, 2021

New York, New York

Handwritten signature of Barry Kamins in black ink.

Barry Kamins

Aidala, Bertuna & Kamins, P.C.

*Attorneys for the Respondent*

*Rudolph W. Giuliani*

546 Fifth Avenue, 6<sup>th</sup> Floor

New York, New York 10036

(212) 486-0011

[judgekamins@aidalalaw.com](mailto:judgekamins@aidalalaw.com)

Respectfully Submitted,

Handwritten signature of John M. Leventhal in black ink.

John M. Leventhal

Aidala, Bertuna & Kamins, P.C.

*Attorneys for the Respondent*

*Rudolph W. Giuliani*

546 Fifth Avenue, 6<sup>th</sup> Floor

New York, New York 10036

(212) 486-0011

[judgeleventhal@aidalalaw.com](mailto:judgeleventhal@aidalalaw.com)

TO: Hamilton P. Fox, Esq.  
Disciplinary Counsel  
Office of Disciplinary Counsel  
515 5<sup>th</sup> Street, NW  
Building A, Room 117  
Washington, D.C. 20001

**DISTRICT OF COLUMBIA  
COURT OF APPEALS**

In the Matter of Rudolph W. Giuliani,  
Bar No.: 237255

Respondent,

An Inactive Member of the Bar of the District of Columbia  
Court of Appeals.

21 BG 423  
DDN 2020-D253

**AFFIRMATION**

1. We are the attorneys for the Respondent Rudolph W. Giuliani and appear in this matter pro hac vice.

2. We submit this affirmation in support of the motion (1) to reconsider the Court's order filed July 7, 2021, granting the recommendation of Disciplinary Counsel to suspend the respondent pending the final disposition of this proceeding: and (2) to permit Counsel to show cause why discipline, identical to that imposed in New York, should not be imposed upon respondent.

**REASON TO RECONSIDER RESPONDENT'S MOTION**

3. Upon receiving the Proposed Order of reciprocal interim suspension, we immediately reached out to Mr. Hamilton P. Fox III, Disciplinary Counsel and informed him of our intention to request this Court to refrain from reciprocally suspending Mr. Giuliani on an interim basis.

4. We had trouble reaching the Pro Hac Vice Clerk and were informed that she was on vacation until July 6, 2021.

5. We applied for Pro Hac Vice admission on July 6, 2021.

6. We received notice that our application to be admitted Pro Hac Vice was approved at 4:44 and 4:47 pm on July 7, 2021.

7. On July 6, 2021, the day prior to the Court's Order, we had written a letter to Mr. Julio A. Castillo, Esq., the Clerk of the Court, informing him that we were awaiting our admission Pro Hac Vice and notified him of our intention to file a motion to oppose the Proposed Order of the Office of Disciplinary Counsel reciprocally suspending Mr. Giuliani in the District of Columbia Court of Appeals pending the conclusion of disciplinary hearings in New York (see **letter** to Mr. Castillo attached hereto as Exhibit A).

#### **REASON TO GRANT RESPONDENT'S MOTION**

8. On June 24, 2021, the Appellate Division, First Department, Supreme Court, State of New York, suspended the respondent on an interim basis pending the further disciplinary proceedings in New York.

9. Based on the above suspension, Disciplinary Counsel has submitted a proposed order to this Court, recommending that the respondent be suspended but that the matter be stayed pending the conclusion of disciplinary proceedings in New York.

10. We oppose the recommendation of Disciplinary Counsel based on D.C. Bar Rule XI § (c)(1) which provides that reciprocal discipline shall not be imposed when, "[t]he procedure elsewhere was so lacking in...[an] opportunity to be heard as to constitute a deprivation of due process."

11. The decision by the Appellate Division, First Department was based on two essential findings by that court; (1) uncontroverted claims of misconduct based on knowingly

made false statements by the respondent; and (2) that respondent poses an immediate threat to the public interest.

12. In his answer to the petition filed by the New York Attorney Grievance Committee (see **Answer** attached hereto as Exhibit B), respondent states that he never knowingly misrepresented any facts that were attributed to him by the Grievance Committee.

13. In addition, the respondent states that he relied on information given to him from other individuals. He stated that he was prepared to produce the source of this information, during an investigation by the Grievance Committee which, under 22 NYCRR 1240.7, would normally be conducted based on the initial complaint made to the Grievance Committee.

14. The respondent also alleged that a number of his statements were protected as an exercise of his First Amendment right to free speech.

15. The order issued by the Appellate Division was made before (1) any investigation was conducted by the Grievance Committee; (2) before any evidentiary hearing was conducted; and (3) before the respondent had an opportunity to present evidence or testify in his defense.

16. Notably on December 23, 2020, the District of Columbia Office of Disciplinary Counsel requested in a letter that Mr. Giuliani respond to certain allegations about his conduct and claims made regarding the 2020 Presidential Pennsylvania election in the case *Trump et al v. Boockvar et al*, No. 4:20-CV-02078 (M.D. Pa).

17. Mr. Giuliani was asked to identify all evidence and include copies of all documentary evidence, witness statements, affidavits or declarations and the like prior to

November 21, 20290 to support certain claims made by him in the litigation.

18. On March 9, 2021, in a 13-page letter, Mr. Giuliani responded to the Office of Disciplinary Counsel's request by submitting 15 exhibits (among them 10 affidavits).

19. In his response to the New York Attorney Grievance Committee's motion for an interim suspension, Mr. Giuliani offered to provide affidavits, declarations, and expert testimony should a hearing be conducted.

20. Remarkably, no request was made of this evidence by the New York Attorney Grievance Committee, nor were charges made or a hearing provided *prior to* the interim suspension being imposed.

21. It was only after the entry of the order suspending the respondent in New York on an interim basis that we received a letter from the Attorney Grievance Committee informing Mr. Giuliani that it was first going to commence its investigation of the complaint initially brought against the respondent.

22. As part of its investigation, the Committee has sought certain discovery from respondent to support his statements for which he was disciplined and has notified us that respondent will be required to give a deposition under oath at a later time.

23. Thus, it is our position that the order suspending respondent on an interim basis was premature and respondent was effectively denied the opportunity to be heard on the initial complaint filed with the Attorney Grievance Committee.

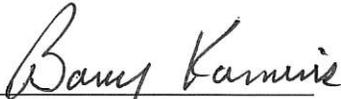
24. As a result, we argue that this Court should not impose reciprocal discipline upon the respondent pursuant to D.C. Bar Rule XI § 11(b).

25. In addition, respondent is an inactive member of the Bar of the District of Columbia Court of Appeals and will refrain from practicing before this Court until the instant disciplinary matter is resolved.

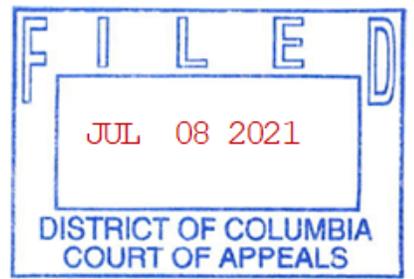
Wherefore for the above reasons, Disciplinary Counsel's request to suspend the respondent pending the final disposition of this proceeding should be denied.

Dated: July 7, 2021  
New York, New York

Respectfully submitted,

  
\_\_\_\_\_  
Barry Kamins  
Aidala, Bertuna & Kamins, P.C.  
*Attorneys for the Respondent*  
*Rudolph W. Giuliani*  
546 Fifth Avenue, 6<sup>th</sup> Floor  
New York, New York 10036  
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\_\_\_\_\_  
John M. Leventhal  
Aidala, Bertuna & Kamins, P.C.  
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# EXHIBIT A

LAW OFFICES OF

*Aidala, Bertuna & Kamins, P.C.*

ARTHUR L. AIDALA  
MARIANNE E. BERTUNA  
HON. BARRY KAMINS (RET.)  
HON. JOHN LEVENTHAL (RET.)  
JOHN S. ESPOSITO  
MICHAEL T. JACCARINO  
IMRAN H. ANSARI  
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OF COUNSEL  
JOSEPH A. BARATTA  
ANTOINETTE LANTERI  
WILLIAM R. SANTO  
PETER S. THOMAS  
LAWRENCE SPASOJEVICH

SENIOR COUNSEL  
LOUIS R. AIDALA  
JOSEPH P. BARATTA

July 6, 2021

Julio A. Castillo, Esq.  
Clerk, District of Columbia Court of Appeals  
430 E Street, N.W., Suite 209  
Washington DC 20001

Re: 21-BG 423  
Rudolph W. Giuliani  
DDN 2020-D253  
Bar No.: 237255

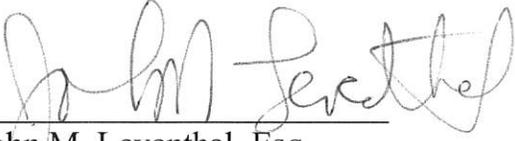
Dear Mr. Castillo:

We represent Mr. Giuliani in his New York Discipline matter. Later today we will be filing with the District Court of Appeals our application with proof of payment of fees for admission Pro Hac Vice. Upon our Pro Hac Vice admission, we intend to file a motion to oppose the Proposed Order by the Office of Disciplinary Counsel reciprocally suspending Mr. Giuliani in the District Court of Appeals pending the conclusion of disciplinary proceedings in New York.

Our motion papers are ready to be filed upon our receiving an order that we are admitted Pro Hac Vice. A copy of our Pro Hac Vice application and the Office of Disciplinary Counsel's Proposed Order are enclosed.

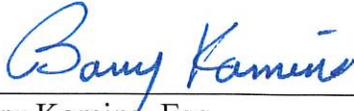
We would respectfully request that the decision by the Court to rule on Mr. Giuliani's reciprocal suspension be delayed until our Pro Hac Vice application is granted and our motion papers have been considered by the Court.

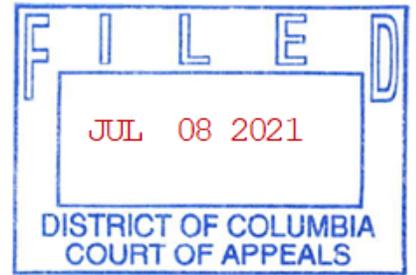
Thank you for your consideration of this request.

  
\_\_\_\_\_  
John M. Leventhal, Esq.

JML/BK/clp  
Enclosures

Respectfully submitted,

  
\_\_\_\_\_  
Barry Kamins, Esq.



# EXHIBIT B

CONFIDENTIAL

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: FIRST JUDICIAL  
DEPARTMENT

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In the Matter of Rudolph W. Giuliani,  
(admitted as Rudolph William Giuliani),  
and attorney and counselor-at-law:

AFFIDAVIT  
#2021-00506

Attorney Grievance Committee  
For the First Judicial Department,

Petitioner,

Rudolph W. Giuliani,  
(OCA Atty. Registration No. 1080498),

Respondent

-----

STATE OF NEW YORK     )  
  )ss:  
COUNTY OF NEW YORK    )

Rudolph W. Giuliani, being duly sworn, deposes and says the following to be true  
under the penalties of perjury:

1.     This affidavit is in response to and in opposition to the Petitioner's  
motion for my interim suspension and in reply to the allegations that there is  
uncontroverted evidence that I violated New York Rules of Professional Conduct

3.3(a), 4.1, 8.4(c) and 8.4(h), and that I presently pose an immediate threat to the public interest.

2. I note that as a member in good standing of the New York Bar for 52 years, a former Associate Attorney General of the United States, United States Attorney and Mayor of the City of New York, I understand and take very seriously the nature of an oath and my ethical responsibility as an attorney representing a client. I am confident that the Court will recognize that this petition is unprecedented in that as far as we can determine, no attorney has been suspended on an interim basis under similar facts. In addition, this action impacts on the ability of an attorney to represent zealously an unpopular client.

**CONDUCT IMMEDIATELY THREATENING THE PUBLIC INTEREST**

3. The Petitioner asks for my interim suspension based on my conduct that allegedly “threatens the public interest.” Such conduct, according to Petitioner, consists of statements made: (1) in litigation and before a court; (2) at legislative hearings; and (3) on my radio program on the ABC network.

4. The appearances before any court or legislative hearing were concluded several months ago. Thus there is no present and continuing danger, if there ever was any danger, of my creating any kind of public disturbance.

5. On February 3, 2021, I agreed to refrain from making any comments about Dominion Voting Systems Corporation out of a concern that Dominion Voting

Systems Corporation may commence litigation against the network. I have been mindful that any statements about the election could create liability for the network and, therefore, I have been disciplined in my discussion of the election.

6. Petitioner fails to allege a single fact connecting any comments that I made in the past to any act of violence by anyone. A sensational and damaging allegation like that should be based on particularized factual allegations, similar to allegations of fraud. There are no specific facts alleged, nor are there any facts alleged, showing a nexus between any comment of mine and any act of violence. Just as Petitioner can point to no connection between my comments then and any act of violence, Petitioner does not allege any continuing course of conduct, justifying the extraordinary and professionally ruinous punishment of suspension from the practice of law. In addition, Petitioner's allegations regarding statements that I made, violates my First Amendment right of free speech and my ability to give my client the same zealous representation that I, or any good lawyer, would give to any client.

### **UNCONTROVERTED EVIDENCE**

7. Petitioner argues that I have violated various Rules of Professional Conduct based on statements made by me which I knew to be false.

8. Any statements, that I made as outlined below, that were made in court or before legislative bodies were made as an attorney on behalf of a client during my representation of that client. I did not knowingly misrepresent any facts presented

and relied on information presented to me by other individuals. I believed those statements to be true and believe they had substantial “evidentiary support.”

9. Many statements were made in the context of election law challenges which, as courts have noted, are expedited proceedings with a paucity or non-existent discovery due to a truncated timeline.

10. Notably, I have not been sanctioned by any court for filing a frivolous lawsuit regarding the 2020 Presidential election or criticized by any legislative body.

### **PRELIMINARY COMMENTS**

11. My statements in court or to legislatures or to the public were based on information received from hundreds of affidavits and declarations relating to election improprieties from citizens in Pennsylvania, Michigan, Georgia, and Arizona, and information from other attorneys, expert witnesses, videos, and other material. Should a further inquiry be necessary, I will make this material available.

12. Although the Petitioner states that the witnesses who testified before the various legislative hearings were all unsworn, no one was required to be sworn in any of the state legislative hearings and our team has collected hundreds and hundreds of affidavits and declarations, none of which have been found to be fraudulent or false by any court. The facts that were alleged to be true were based on affidavits and declarations of citizens, affirmations, and statements by other attorneys, and by experts who rendered their opinions.

13. There were gross irregularities in the use of the USBs (Universal Serial Bus or thumb or flash drives) in all four states. They were seen in zip lock bags in Pennsylvania. In Georgia there is a video of persons changing USBs. There are affidavits of irregularities of the USBs also in Michigan and Arizona.

14. In all four states, there was a denial of meaningful observation and inspection of the mail in ballots necessary to ensure the integrity of the election. The envelopes were separated from the ballots making a check of the validity of the ballots next to impossible. The denial of meaningful observations and inspection constituted voting irregularities which, it was argued in all four states, led to a reasonable inference of voter fraud. All these facts came from hundreds of witnesses, experts, and investigative reports. If necessary, I am prepared to demonstrate this to be true.

15. For example, the practice of not allowing Republican inspectors to observe absentee and mail in ballots was uniformly followed in these four states. In each case it was done in Democratic controlled cities. Multiple witnesses informed the Respondent and presented supporting photographic and video evidence that Democrat officials in charge of the vote counting placed Republicans in fences, pens, or corrals. They were placed so far away from the counting that they could not see any of the signatures and other items used for verification. This was a stark departure from prior elections in which Republicans and Democrats uniformly sat next to each

other to verify ballots. One need only recall the video footage of the vote count in Florida in the 2000 Presidential election to remember Republicans and Democrats examining the ballots side-by-side to agree or to dispute the vote. In 2020, in the large Democratic controlled cities in the four states mentioned in the petition, millions of mail in ballots were counted with Republicans not being allowed to observe. A reasonable inference can be drawn that these ballots were prevented from Republican inspection because they had been illegitimate.

## **MAIL IN BALLOTS**

### **Background**

16. During the representation of the President in connection with the election, my team researched the issue of mail in ballots on a national and international level. We found evidence that, in the past, there had been numerous instances of fraud in connection with this type of voting.

17. In Pennsylvania, a State Senate race was overturned, and the purported loser was declared the winner by the District Court Judge when the supposed victor engaged in and conducted an illegal absentee ballot conspiracy and that election officials facilitated the scheme with the specific purpose of ensuring a victory for that candidate ([\*Marks v. Stinson\*, 1994 WL 146113 \(D Pa April 26, 1994\)](#)). One of the findings by the District Court, in *Marks v. Stinson*, was that once the inner

envelopes are mixed and opened, it is difficult, if not impossible, to match a ballot with a particular voter; aff'd in part and modified as to remedy, [19 F.3d 873 \(3d Cir. 1994\)](#) (The evidence and the factual findings of the district court clearly support its conclusion regarding the existence of irreparable injury and the likelihood of success on plaintiffs' Civil Rights Act claims, i.e. that the defendants operating under color of state law violated plaintiffs' rights under the First and Fourteenth Amendments; original victor should not be seated, but remedy of declaring opponent as victor was set aside).

18. In 2005, former President Jimmy Carter and former Secretary of State James Baker III issued a Report of the Commission on Federal Election Reform entitled [Building Confidence in U.S. Elections](#). ([Building Confidence in U.S. Elections \(foxnews.com\)](#)). In their report, they stated that voting by mail “raises concerns about privacy, as citizens voting at home may come under pressure to vote for certain candidates, and it increases the risk of fraud...Vote by mail is, however, likely to increase the risk of fraud and of contested elections... where there is some history of troubled elections, or where the safeguards for ballot integrity are weaker...[A]bsentee balloting in other states [other than Oregon] has been one of the major sources of fraud.” Oregon has been singled out because that state had introduced safeguards to help ensure ballot integrity including signature verification. Still the Commission Report cautions that better precautions are needed to ensure

that the return of absentee ballots are not intercepted. President Carter and Secretary Baker certainly could not have contemplated the amount of absentee or mail in ballot voting that occurred in the 2020 Presidential Election whereby the potential for the fraud that they noted was dramatically increased. In states where previously there were at most 200,000 or 300,000 absentee or mail in ballots, there were now two to four million.

19. Likewise, an October 6, 2012 New York Times article by Adam Liptak, entitled Error and Fraud at Issue as Absentee Voting Rises, maintains that voter fraud is easier via mail. For example, collection of absentee ballots in senior citizen centers and nursing homes are fraught with problems. These senior voters can be subjected to subtle pressure, outright intimidation, or fraud. The secrecy of their vote is compromised, and their ballots can be intercepted coming and going. Fraud relating to absentee ballots is not limited to the elderly. It is easier to sell and buy votes. The article cites the invalidation of mayoral elections in Illinois and Indiana because of fraudulent absentee ballots, the rejection of 12,000 absentee ballots in the 2008 Minnesota Senate race and the suspension of a school board member in Florida for charges of absentee ballot fraud. (<https://www.nytimes.com/2012/10/07/us/politics/as-more-vote-by-mail-faulty-ballots-could-impact-elections.html>).

20. In 2019, North Carolina held a new election for a congressional seat when the first election was set aside because of strong evidence that a consultant for

one of the candidates illegally collected, falsely witnessed, and tampered with absentee ballots which also resulted in the counting of spoiled absentee ballots. ([Election Fraud in North Carolina Leads to New Charges for Republican Operative - The New York Times \(nytimes.com\)](#)).

21. Fourteen states require verification of absentee ballots to ensure voter integrity: Alabama (2 witnesses or a notary public); Alaska (1 witness or a notary public); Arkansas (a copy of valid voter identification must be included with an absentee ballot); Kansas (an application for an absentee ballot must either include the applicant's current and valid Kansas driver's license number or non-driver ID number, or a photocopy of other identification); Louisiana (the absentee ballot return envelope must be signed by a witness); Mississippi (absentee ballot application and absentee ballot envelope must be signed by an official witness); Missouri (absentee ballot envelope must be signed by election official, notary or other officer authorized to administer oaths, except for individuals who have declared themselves to be permanently disabled); North Carolina (absentee ballot envelope must be signed by two witnesses or a notary public); Oklahoma (absentee ballot envelope must be notarized); Rhode Island (two witnesses or a notary public must sign the absentee ballot envelope for most absentee voters. Military and overseas voters do not need a signature or notary); South Carolina (the absentee ballot envelope must be signed by the voter and a witness. Military and overseas voters are exempt from the witness

requirement); South Dakota (an application for an absentee ballot must be accompanied by either an oath verifying the information, administered by a notary public or authorized officer, or a copy of the voter's ID); Virginia (absentee envelopes must be signed by the voter and a witness); Wisconsin (a copy of ID must be included with the absentee ballot application and the ballot must be voted in the presence of a witness, who signs an affidavit on the absentee ballot envelope) ([VOPP: Table 14: How States Verify Voted Absentee Ballots \(ncsl.org\)](#)).

### **Post-Election Decisions**

22. After the election, several court decisions buttressed the arguments that our team had made in relation to numerous voting irregularities leading to an inference of fraud.

23. Notably on March 9, 2021 in [Republican Party v. Jocelyn Benson, No. 20-000216-MM, unpublished order \(Mich. Ct. Cl. 2021\)](#), Court of Claims Judge Christopher Murray ruled invalid Secretary of State Jocelyn Benson's guidance issued to Michigan clerks in early October that instructed them to presume the accuracy of absentee ballot signatures. Benson did not go through the proper rule-making process when issuing the guidance and her guidance was in violation of the Michigan Administrative Procedure Act. "The presumption is found nowhere in state law...The mandatory presumption goes beyond the realm of mere advice and

direction, and instead is a substantive directive that adds to the pertinent signature-matching standards."

24. Another decision by the Pennsylvania Supreme Court negating a legislative rule that dates must be included on mail in ballots could have caused a change of the declared winner in a state senate race especially where it was alleged that two counties involved (Allegheny and Westmoreland) treated the lack of date on the mail in ballots differently. ([Zicarelli v. Allegheny Co. Bd of Elections, 2021 WL 101683 \\*1 \[WD Pa., Jan. 12, 2021\]](#)).

25. At least one Supreme Court Justice and perhaps three wanted to hear the allegations of fraud relating to the mail in ballots in Pennsylvania. Justice Clarence Thomas acknowledged the heightened risk of fraud with mail in voting. ([Republican Party of Pennsylvania v. Degraffenreid, 141 S. Ct. 732 \(2021\)](#)) (Justice Thomas dissenting from denial of writ of certiorari; Justices Alito and Gorsuch dissent in a separate opinion). Justice Thomas noted, while quoting the above New York Times article by Liptak that "absentee voting allows for 'simpler and more effective alternatives to commit fraud' on a larger scale, such as stealing absentee ballots or stuffing the ballot box, which explains 'why all the evidence of stolen elections involves absentee ballots and the like.' "

26. Similarly, the above dissenting opinion of Justice Thomas found that the entire voting system in Pennsylvania, legislated by the court and not by the

legislature, as required by the United States Constitution, [Art. 2, § 1, cl. 2](#), also indicates that the gross irregularities in the Pennsylvania 2020 vote left it wide open for fraud. See [Republican Party of Pennsylvania v. Degraffenreid, cert. denied, 141 S. Ct. 732 \(2021\)](#) (Thomas J., dissenting). These conclusions, although one in a case that was reversed with dissents and the other a dissent, demonstrate that the arguments that I had made concerning gross irregularities certainly had enough support to be accepted by independent jurists and was a reasonable argument to be made by counsel representing a client. Justices Alito and Gorsuch, also in dissent, thought that the Supreme Court should review the Pennsylvania election case as “an important recurring constitutional question” is implicated: “whether the Elections or Electors Clauses of the United States Constitution, [Art. I, § 4, cl. 1](#); [Art II, § 1, cl. 2](#), are violated when a state court holds that a state constitutional provision overrides a state statute governing the manner in which a federal election is to be conducted.” These justices noted that the Eighth Circuit disagrees with the Third Circuit in this regard and called into question whether it was proper for a state court to change the rules of voting contrary to laws enacted by the legislature. (See [Carson v. Simon, 978 F.3d 1051, 1059-1060 \(8th Cir. 2020\)](#) (Consent decree extending the deadline to count ballots received was invalid because it changed the statutory mandated absentee ballot receipt deadline which only allowed the counting of ballots received by election day).

## PENNSYLVANIA

27. With respect to the litigation in Pennsylvania, the Petitioner alludes to the fact that I told the court (Judge Brann) that the case was not about fraud. (See ¶24, Petition). This is then used to argue that I, on other occasions, claimed fraud but not to the court. This is a particularly egregious misrepresentation of the specific question I answered in court which was accurate and truthful regarding the pleading before the court but certainly not the overall issue in the case.

28. There were two amended complaints filed in the case. That occurred because we had two last minute changes of counsel. I was not counsel of record until November 21, 2020, the day of oral argument of the First Amended Complaint. The original counsel had filed a complaint which could be read as alleging that by the commission of many illegal acts, and numerous gross irregularities, it provided support for a charge of fraud. That lawyer was forced to withdraw because he had been threatened with dismissal by his law firm, and both he and his family were also subjected to outside harassment and threats. The second lawyer, also burdened with threats and requiring protection, obviously had a different view of the case and unknown to me (because the time frame was so short) drafted and filed a First Amended Complaint. That First Amended Complaint was very abbreviated and did not contain any allegation of fraud or even an inference of fraud.

29. Immediately, we prepared and submitted a motion seeking leave to file a Second Amended Complaint containing the original fraud allegations and some new material. We moved the court to substitute the Second Amended Complaint which was the document which reflected our legal theories, but the judge required me to defend the First Amended Complaint. I did not agree with the First Amended Complaint as a matter of tactics, but it was an adequate legal pleading. However, the only answer I could give to a question about whether that complaint, the First Amended Complaint, contained a fraud allegation, was a plain and simple "no." I was giving a narrow answer regarding only the First Amended Complaint. I want the Grievance Committee and the Court to understand that it was a truthful answer to a much narrower question than the press reported. I in no way acted to deceive anyone but answered the court truthfully.

30. It is for that reason, and that reason alone, that I was required to state in open Court that the (First Amended) complaint "did not allege fraud." That statement was true because it referenced the First Amended Complaint and not the Second Amended Complaint that I sought to file. The media has thereafter taken the statement I made and misused it to claim I made an admission that there was no fraud in the November 3, 2020 election. This material omission by the media has been used as the lynchpin for their claim that I admitted there was no fraud. That was not my position.

31. In making statements to the court and in making statements to the legislature, I relied on a variety of sources. For example, it is instructive to view the November 25, 2020, Gettysburg hearing of the Pennsylvania Legislature. (<http://www.youtube.com/watch?v+ohe2d0bNJwM>) or (<http://www.youtube.com/watch?v=vfBD0JpeKEw>). When one views the video, it is obvious that in making my statements, I was relying on witnesses and documents that were already in existence. Although the hearing took place on November 25, 2020, I was aware of this evidence prior to the November 21, 2020 hearing before Judge Brann when we requested to file a Second Amended Complaint.

32. The evidence that I had possessed, taken as a whole, reasonably shows that in at least four Pennsylvania counties — Philadelphia, Montgomery, Delaware, and Chester — the counting of absentee and mail in ballots was deliberately organized to exclude Republican watchers in clear violation of Pennsylvania law. Democrat election officials placed Republican poll watchers and vote inspectors behind barriers and created additional obstructions, so they were unable to observe any of the identifying data on the envelopes to verify whether they were legitimate votes. As a result, an argument that all of these votes should have been eliminated from the vote count in the offending counties was reasonable and made in good faith as President Trump's attorney (See [Marks v. Stinson, 1994 WL 146113 \(D Pa April 26, 1994\)](#)) aff'd in part and modified as to remedy, [19 F.3d 873 \(3d Cir. 1994\)](#)).

[Counties must admit qualified poll “watchers” to observe votes being tallied. [25 Pa. Stat. § 2650\(a\)](#). Poll watchers must be registered to vote in the county where they will serve. [§ 2687\(b\)](#). Each candidate can pick two poll watchers per election district: each political party, three. [§ 2687\(a\)](#). The poll watchers remain at the polling place while election officials count in-person ballots. [§ 2687\(b\)](#). They can ask to check voting lists. *Id.* And they get to be present when officials open and count all the mail-in ballots. [§ 3146.8\(b\)](#). Likewise, candidates and political parties’ “representatives” may be present when absentee and mail-in ballots are inspected, opened, or counted, or when provisional ballots are examined. [§§ 2602\(a.1\), \(q.1\), 3050\(a.4\)\(4\), 3146.8\(g\)\(1.1\) & \(2\)](#); *see also* [§ 3050\(a.4\)\(12\)](#) (defining provisional ballots as those cast by voters whose voter registration cannot be verified right away)].

33. Specifically, Jeremy Mercer, a Republican who was in charge of the Republicans sent to do the inspection in Philadelphia County, testified in court, and submitted two declarations, stating that he was not allowed to position himself, and other Republican watchers, within 15 feet of the tables where the ballots were being processed. Often, they were further away. He was able, himself, occasionally to get within six feet from the table, but often he was 100 feet away. Metal fences were put in place preventing Republican observers from effectively performing their duties. At no time were Republicans able to observe the markings, if any, on the envelopes to verify their legitimacy. Mr. Mercer was informed that at least

135,000 ballots had been processed without any Republican observation and as such were illegal and null and void. The reasonable basis for this claim is underscored by the findings of the Honorable Christine Fizzano Cannon of the Commonwealth Court of Pennsylvania who found that the practices mentioned above would render the election procedure meaningless. ([\*In Re Canvassing Observation\*, 2020 WL 6551316](#)). Although the appellate court's ruling was reversed ([\*In Re Canvassing Observation\*, 241 A.3d 339 \(2020\)](#) (Chief Justice Saylor and Justice Mundy dissenting)), Judge Cannon's conclusion that the process prevented the required observation and inspection, certainly supports the argument that our position was reasonable and had evidentiary support.

34. Justin Kweder, another Republican poll watcher and an attorney who spent 22 hours of *attempted* observation, states that all watchers and observers were forced to stand behind a fence, 15 - 260 feet away, making it impossible to observe the tally. He also testified that he was at the Philadelphia Convention Center for all ten days of mail vote counting and at no time were Republicans given an opportunity to observe the mail in ballots. He also corroborates the fact that Republicans were forced to stand in corrals. (Gettysburg Hearing [GH], 11/24/20 at 37:30).

35. A brief excerpt from Mr. Kweder's affirmation/declaration is an example of the irregularities that were being presented to the legislature:

"At NO time did I ever see any Election Board worker compare the voter's names/info that were to be written on the outside of the thousands of mail-in ballots to any type of list or database;

"At NO time was I able to observe any reason why a ballot was accepted or rejected;

"At NO time was I able to challenge or question any single action by an Electoral Board worker;

"At NO time were the Observers able to see or verify that the provisional or post 8 pm election night ballots were being kept separate and segregated from other ballots;

"At NO time were the Observers able to get close enough to the Adjudication section to hear or understand any of what was being discussed." Justin Kwerder's affidavit will be presented should further inquiry be necessary.

36. Gregory Stenstrom, who is an expert on fraud, testified at the Gettysburg hearing. He provided both direct and circumstantial evidence of irregularities and that Democrat officials gave an uneven treatment between Democrats and Republicans. When Stenstrom first arrived at the Delco Chester City counting center he presented his credentials and had to make it clear he would not leave. As he tried to get into position to observe, he was immediately threatened with physical removal and arrest. He persisted anyway. When he found one of the two Republican watchers there, he was informed that the observer "couldn't see anything from behind the barriers." He witnessed overall "organized chaos". There was no chain of custody of any kind. Ballots kept appearing in very unofficial looking boxes. Stenstrom " ... had no meaningful opportunity to observe any part

of the count." He asked the Sheriff where these rather unofficial looking containers for ballots and ballots came from; the answer was no one knew. When he asked this of the Democrat election official who was in charge, he was told he had no right to ask a question.

37. Even after constant requests and caustic exchanges, Stenstrom and other Republicans were not allowed access to the back rooms where much of the counting was taking place. He observed 47 USB cards being used to count votes without any inspection or explanation as to their use. He calculates that this put at least 120,000 votes in question. This entire area was being exclusively occupied by Democrat officials and poll watchers.

38. As an expert on fraud, Stenstrom also found that the extensive and heavy-handed actions to exclude Republican observers from the count of the mail in votes or the USB process constituted clear indicia of fraud (GH at 52:55). Stenstrom's declaration will be presented at any hearing should further inquiry be necessary.

39. Stenstrom's experience, as well as the experience of many other witnesses, justify a reasonable inference that the voter count was fraudulent and illegal and contrary to the election law. This reasonable inference was supported at many levels of Democrat controlled Philadelphia. In fact, Philadelphia has a long history of individuals who have been convicted of voter fraud. Thus, an argument

that voter fraud had occurred in Philadelphia was not unprecedented.

40. Notably, other persons testified that there were votes cast in the names of deceased individuals in the 2020 presidential election in Pennsylvania. One blogger agrees that someone cast a vote several times for the former heavyweight champion, Joe Frazier, after his death on November 7, 2011. This is contrary to the representation made by the Grievance Committee. **See Exhibit “A”** (Also answering a purported Ancillary Falsehood allegation contained in Petition, ¶ 132); see also, Pennsylvania has agreed to remove the names of about 21,000 dead people from voter registration rolls before the general elections this year (<https://www.dailysignal.com/2021/04/08/pennsylvania-agrees-to-exhume-dead-from-its-voter-rolls/>).

41. In some other Pennsylvania counties, Republicans were similarly denied their legal right to observe the counting of the mail in ballots by Democrat officials. The practice most often involved the use of pens or corrals to confine Republican watchers and not let them close enough to see if the ballots were legitimate. The similar conduct of Democrat party officials and members in these four different counties — Philadelphia, Montgomery, Delaware, and Chester — justifies the inference that it was part of a plan to count these ballots secretly and illegally. Given the history of voter fraud in these counties, particularly Philadelphia, and the statistical improbability of making up a 750,000 Trump lead

with 65% of the vote counted, a reasonable inference that this iron curtain of secrecy was erected with the intent to allow Democrats to enter fraudulent votes for Biden is very strong. Otherwise, it made no sense to go to these elaborate efforts to block out Republican watchers and observers.

42. For example, in Chester County John P. McBlain, an attorney and Republican watcher, was denied access to the Chester County Office by a county employee. He noted that approximately five other Republican watchers were also denied entry. After finally gaining some access, the Republicans were limited to a "pen" that was cordoned off by elastic barriers. Like many other observers, McBlain was provided no meaningful opportunity to observe.

43. An attorney and a member of Lawyers for Trump who chooses to remain nameless, noted in her summary of vote counting in Pittsburgh that GOP observers did not review any of the 334,000 mail in ballots that were counted on November 3d and 4th rendering them all arguably illegal and void. Her summary will be presented in the future should further inquiry be necessary.

44. Kim Peterson, a Republican canvasser also from Pittsburgh, corroborated the summary given to me by the attorney, testified that the Republicans in Pittsburgh were placed in corrals no closer than 20 feet and no more than 50 feet away from the ballot counters. At that distance, they were unable to see

anything. Even the addition of TVs, which she said were quite old, did not help. (GH at 44:30 to 46:56).

45. Colonel Phillip Waldron, USA (Ret.), an expert in information warfare, reviewed the voting charts and testified, among other things, that 682,270 mail in ballots were illegal because they were counted without an inspection. (GH at 1:18:14).

46. Elizabeth Preate Havey and Juley Bakey of Montgomery County, both testified that Republicans were uniformly prevented from observing the Democrat count of mail in ballots. (GH at 1:40:00 to 1:42:20 & 1:46:11).

47. Finally, there were no uniform rules for curing defects of mail in ballots. Certain counties were allowing defects to be cured while others did not. The Supreme Court of Pennsylvania in [\*Democratic Party v. Boockvar\*, 238 A.3d 345,374 \(2020\)](#) held that counties were not required to adopt a notice and cure policy of ballots under the Election Code but did not provide direction whether a notice and cure practice was forbidden. Secretary Boockvar sent out an email the day prior to the election encouraging counties to allow curing of defective mail in ballots. Judge Brann noted that it was unclear which counties were sent the email or which counties followed the direction to allow curing. Thus, it was reasonable to make an equal protection argument before Judge Brann as some counties allowed curing and others did not. ([2020 WL 6821992 \(M. D. Pa\)](#)).

48. After reviewing this evidence that Republicans were systemically prevented from observing, inspecting, and verifying the legitimacy of hundreds of thousands of mail votes, I was duty bound as an advocate to advance the position in the light most favorable to my client. Once the envelopes were separated from the ballots, there was no way to ensure the integrity of the vote. Therefore, observation and inspection were critical to ensure a fair election. Based on the overwhelming evidence of voting irregularities, I advocated that there was a reasonable inference of voter fraud.

49. My statement that there were only 1.8 million mail in ballots requested was inadvertently taken by our team from the Pennsylvania website which mistakenly listed the requested mail in ballots for primary election instead of the general election. (Also answering purported Ancillary Falsehoods alleged in the Petition at ¶131).

### **MICHIGAN**

50. Similarly, regarding my testimony before the Michigan House Oversight Committee on December 2, 2020 (<https://www.facebook.com/woodtv/videos/giuliani-to-testify-at-michigan-housecommitteehearing/416381859497332/>), I had received more than 160 statements including more than ninety affidavits of gross irregularities and fraud. In these affidavits, the following irregularities were reported, e.g. adjustment of dates on absentee or mail in ballots

to an earlier date when sent; instructions by supervisors not to ask for identification or to look at signatures to match the voter on mail in ballots to verify integrity of vote; affidavits of mail in ballots coming in by truck in garbage cans and paper bags; ballots only for Joe Biden with no votes indicated for lower offices (down ticket). These affidavits will be available should further inquiry be necessary.

51. An excel spread sheet was created by our investigators indicating that there were nearly 8,300 ballots cast in the names of deceased individuals. This chart will be available should further inquiry be necessary. A recent report by Douglas G. Frank, Ph.D. indicates that there were over 66,000 ballots recorded that are not associated with a registered Michigan voter in the October data base.

52. In addition, one need only watch the seven-hour Senate Oversight Committee on Elections held on December 1, 2020 which is the day before I attended the Michigan House Oversight Committee. At that time, numerous witnesses testified as to the irregularities and violation of the election law as well as alleged fraud; this demonstrated that my statements were based on reasonably substantiated evidence. (<https://www.youtube.com/watch?v=X0-vyw9qbdw>).

53. In Antrim County, a so called “glitch” switched 6,000 Trump ballots to Biden. This was the result of machine error, not human error. See also Antrim Michigan Forensics Report (<https://www.documentcloud.org/documents/>

[20423772-antrim-county-forensics-report](#)) (Answering purported Ancillary Falsehood in Petition, ¶¶146 and 148).

54. Notably on March 9, 2021 in [Republican Party v. Jocelyn Benson, No. 20-000216-MM, unpublished order \(Mich. Ct. Cl. March 9, 2021\)](#), Court of Claims Judge Christopher Murray ruled invalid Secretary of State Jocelyn Benson's guidance issued to Michigan clerks in early October that instructed them to presume the accuracy of absentee and mail in ballot signatures. Benson did not go through the proper rule-making process when issuing the guidance and her guidance was in violation of the Michigan Administrative Procedure Act. The court held that "[t]he presumption is found nowhere in state law...The mandatory presumption goes beyond the realm of mere advice and direction, and instead is a substantive directive that adds to the pertinent signature-matching standards."

55. After the election, three dissenting Justices on the Michigan Supreme Court found that the “petitioners have presented a significant constitutional question pertaining to the process and scope of the constitutional right to an election audit—a right placed in our Constitution...” These justices acknowledge that “petitioners here allege that election officials engaged in fraudulent and improper conduct in administering the election. In support of these claims, petitioners have submitted hundreds of pages of affidavits and expert reports

detailing the alleged improprieties.” ([\*Johnson and Tarver v. Secretary of State et al\*, 951 NW2d 310, 319 \(2020\)](#)).

## **GEORGIA**

56. At the Georgia Senate election hearing on December 3, 2020, witnesses testified to numerous irregularities in voting, leading to a reasonable inference of voter fraud. (<https://www.youtube.com/watch?v=Ur4vI5UTN8g>).

57. For example, one expert testified that 96,600 votes were counted when 231,188 ballots were recorded with no return and only 134,000 of these were canceled. In fact, a reasonable argument was made that all 231,188 ballots should have been canceled.

58. In addition, a video taken by security cameras was shown depicting Georgia election officials engaged in activity which any reasonable observer could interpret was the illegal counting of mail in ballots. The video showed these election officials supervising and counting mail in ballots that were hidden below a large table covered with a full-length blanket. It showed them retrieving large bins from under the table and giving them to other officials who proceeded to enter them into the counting machines.

59. The counting of these ballots was done only after all outside observers, who had been confined to a lookout area for the entire day, were unceremoniously ushered out of the room which was, as one witness noted,

contrary to Georgia law. The law requires that all ballot counting take place not only in the presence of designated inspectors of the candidates and the political parties, but also in front of the public. [[O.C.G.A. 21-2-483](#). Counting of ballots; public accessibility to tabulating center and precincts; execution of ballot recap forms; preparation of duplicate ballots; Section (b) reads in pertinent part: All proceedings at the tabulating center and precincts shall be open to the view of the public...]

60. The allegation that thousands of out-of-state individuals voted was based upon an affidavit from an expert (Matt Braynard) analyzing permanent change of address notices filed with the United States Postal Service's National Change of Address (NCOA) system and out of state voter registration data base records.

61. In addition, the same expert (Braynard) opines that more than 1,000 early and absentee ballots were cast by voters who were illegally registered, using a post office address disguised as a residential address and that nearly 400 persons in Georgia voted in multiple states. The affidavit will be produced if necessary.

62. Another expert (Bryan Geels) opined as to the following irregularities in an affidavit: a) more than 300,000 individuals had applied for absentee ballots more than 180 days prior to the general election contrary to Georgia law; b) more than 4,500 individuals who voted, had not registered to vote; c) more than 65,000

individuals who voted had registered to vote prior to their 17<sup>th</sup> birthday (when Georgia finally releases the voting rolls, I believe that it will reveal a large number of these youngsters never voted, but that their registrations were used to account for manufactured fraudulent ballots); d) thousands of ballots were cast in the names of individuals who were deceased; e) there could have been more than 2,500 individuals who cast ballots that were accepted and counted, but who were incarcerated; and f) numerous other unlawful irregularities. The affidavit will be produced if necessary. (Also answering purported Ancillary Falsehoods alleged in the petition at ¶¶ 134-136).

63. As in Pennsylvania and Michigan, there are hundreds of pages of affidavits and declarations in my possession that document gross irregularities and allegations of fraud relating to the Presidential election in Georgia. The campaign also collected a table of overvotes that I relied upon in my statements.

### **ARIZONA**

64. At the Public Hearing of the Arizona state legislature, an expert testified as to numerous voting irregularities leading to a reasonable inference of voter fraud during the 2020 election. (<https://www.youtube.com/watch?v=KXyOtzADUCU>).

65. The testimony revealed the following irregularities: fraud regarding the mail in system of voting; 2,000 voters gave false addresses such as a vacant lot;

6,000 voters with no gender listed and with a default date of birth (these voters were nonexistent in Lexis Nexis research); thousands of votes in Maricopa County were counted without any verification; one witness testified that as to 8,000 over votes in Maricopa County including 4,000 out of state voters (our calculation of overvotes in Arizona were greater than that, and although our number disagreed with the Board of Elections, our calculation was eminently reasonable); other witnesses testified that thousands of individuals voted although they could not prove their citizenship; and thousands of votes were cast in the names of deceased individuals. State Senator Kelly Townsend collected information on non-citizen voters and voters at addresses without buildings/houses. (Also answering purported Ancillary Falsehoods alleged in the petition at ¶ 140).

66. I have affidavits as to these gross irregularities leading to an inference of voter fraud and these can be provided should further inquiry be necessary.

67. Witnesses testified that poll watchers were unable to observe the voting process or check or examine signatures to determine the integrity of vote, e.g., 2,000 ballots per table times 17 tables= 34,000 ballots. One witness testified that she had to wait outside the voting areas.

68. Two experts, one a former Michigan State Senator, testified that Dominion machines were connected to the internet and thus open to manipulation.

69. Much of the information disclosed at the Public Hearing of the Arizona state legislature and any statements made were merely the repetition of what I learned from the statements and testimony of the witnesses.

70. I have recently learned that the Arizona State Senate has secured a court order to conduct a forensic audit of the 2020 election especially in Maricopa County, based at least in part, on the testimony and evidence presented at the Public Hearing of the Arizona state legislature (<https://media.kjzz.org/s3fs-public/CV2020-016840-901-02252021.pdf>). The Maricopa County Board is contesting that court order and refusing to allow an independent forensic examination of the Dominion machines in Maricopa County. The adamant unwillingness to allow such an audit certainly justifies an inference that they are concerned that the Dominion machines did not accurately calculate the vote. Certainly, a lawyer would be justified in making such an argument viewing the evidence in the light most favorable to the client.

### **WISCONSIN**

71. Parenthetically, the Petitioner refers to a case ([Feehan v Wisconsin Elections Commn., 2020 US Dist. LEXIS 231603 \[ED Wis Dec. 9, 2020, No. 20-cv-1771-pp\]](#)) to ridicule the Respondent's position. However, the Petitioner fails to refer to [Wisconsin Voters Alliance v. Wisconsin Election Commission, No. 2020AP1930-OA, unpublished order \(Wis. Dec. 4, 2020\)](#), a 4 to 3 decision where Respondent's position is shown by the dissent to be patently reasonable. In that case, the rationale

for the holding in not granting injunctive relief is as follows: “[W]e conclude that this petition does not satisfy our standards for granting leave to commence an original action. Although the petition raises time sensitive questions of statewide significance, ‘issues of material fact [would] prevent the court from addressing the legal issues presented.’ [State ex rel. Ozanne v. Fitzgerald, 2011 WI 43, ¶19, 334 Wis. 2d 70, 798 N.W.2d 436](#) (Prosser, J., concurring). It is therefore not an appropriate case in which to exercise our original jurisdiction.” However, three Justices in dissent “would grant the petition and address the people of Wisconsin's concerns about whether WEC's conduct during the 2020 presidential election violated Wisconsin statutes. As I said as I began, it is critical that voting in Wisconsin elections not only be fair, but that the public also perceives voting as having been fairly conducted. The Wisconsin Supreme Court should not walk away from its constitutional obligation to the people of Wisconsin for a third time.”

72. Support for our position can also be found in [Trump v. Biden, 951 N.W.2d 568 \(2020\)](#) (Three judge dissent disagrees with four judge majority that the challenge to alleged violations of the election law is barred by laches. These justices stated, in part, with respect to absentee ballots that in order “ ‘to prevent the potential for fraud or abuse’ associated with absentee voting, the legislature requires the laws governing the absentee balloting process to be followed. [Wis. Stat. § 6.84\(1\)](#). If an absentee ballot is cast ‘in contravention’ of the absentee balloting procedures, it

‘may not be counted.’ [Wis. Stat. § 6.84\(2\)](#). If an absentee ballot is counted ‘in contravention’ of the absentee balloting procedures, it ‘may not be included in the certified result of any election.’ Id. Long ago, this court understood that ‘we are obliged to conclude that if absentee ballots are improperly delivered in contravention of [Wisconsin's statutes], the Board of Canvassers is under duty to invalidate and not include such ballots in the total count, whether they are challenged at the election, or not.’ [Olson v. Lindberg, 2 Wis. 2d 229, 238, 85 N.W.2d 775 \(1957\)](#). Accordingly, if absentee ballots were counted in contravention of the law, the people of Wisconsin, through their elected representatives, have commanded the board(s) of canvassers to exclude those absentee ballots from the total count, independent of any legal challenge an aggrieved candidate may (or may not) bring.” See also [Jefferson and Republican Party v. Dane County, 951 N.W.2d 556 \(2020\)](#) (Wisconsin Supreme Court held that Dane County Clerk lacked the authority to issue an interpretation of Wisconsin's election law allowing all electors in Dane County to obtain an absentee ballot without a photo identification and Governor Evers' Emergency Order #12 did not authorize all Wisconsin voters to obtain an absentee ballot without a photo identification.).

### **ANSWERING PURPORTED ANCILLARY FALSEHOODS**

73. Petitioner lists several “ancillary falsehoods” which he attributes to the Respondent. I take issue with the nomenclature of “falsehood,” and even

assuming arguendo, that any particular statement is inaccurate, there was a reasonable basis for that statement at the outset.

74. The purported “Ancillary Falsehoods” alleged in the Petition are answered and noted in the context of each section above as well in this section.

### **Dominion**

75. As early as in 2006, Congress Member Carolyn Maloney expressed concerns to the Secretary of the Treasury about “a Venezuelan company’s acquisition of a manufacturer of voting machines widely used in the United States” ... “to see whether it poses a national security threat, broadly defined.” (She had expressed repeated concerns about “a Venezuelan company’s acquisition of a manufacturer of voting machines widely used in the United States” and that this acquisition (Smartmatic’s acquisition of Sequoia Voting Systems later sold by Smartmatic to Dominion) should certainly be investigated to see if it poses any national security threat, broadly defined.” Maloney cited the “growing voter concerns and diminishing confidence in electronic voting machines...” She ended the letter with “Americans want to be assured that their government is making sure our electoral process is not at risk from foreign ownership.” (See Petitioner’s Exhibit 2). Representative Maloney was reportedly disturbed by a 2004 Miami Herald article revealing that the Venezuelan government owned 28% of Bizta, a company operated by two of the same people who owned Smartmatic. Smartmatic owned

Sequoia Voting Systems (“Sequoia”). (<https://www.tampabay.com/archive/2006/10/29/united-states-digs-for-voting-machine-links-to-hugo-chavez/>); See also, U.S. Investigates Voting Machines’ Venezuelan Ties (<https://www.nytimes.com/2006/10/29/washington/29ballot.html>).

76. In 2007, Smartmatic Corp. sold its United States subsidiary Sequoia, ending an investigation by the U.S. Treasury Department’s Committee on Foreign Investment as to whether Smartmatic was partially owned by the Chavez led Venezuelan government. (<https://maloney.house.gov/media-center/press-releases/smartmatic-announces-sale-sequoia-voting-systems>).

77. In 2010, Dominion Voting Systems, purchased Sequoia and therefore had available the original software that allowed Smartmatic and Sequoia to set algorithms to alter votes and to do fractional calculations.

78. In December of 2019, three senators—Elizabeth Warren, Amy Klobuchar, and Ron Wyden—noted that “[e]lection security experts have noted for years that our nation’s election systems and infrastructure are under serious threat.” These three senators went on to note: “In 2018 alone ‘voters in South Carolina[were] reporting machines that switched their votes after they’d inputted them, scanners [were] rejecting paper ballots in Missouri, and busted machines [were] causing long lines in Indiana.’ In addition, researchers recently uncovered previously undisclosed vulnerabilities in ‘nearly three dozen backend election systems in 10 states.’ And,

just this year, after the Democratic candidate’s electronic tally showed he received an improbable 164 votes out of 55,000 cast in a Pennsylvania state judicial election in 2019, the county’s Republican Chairwoman said, “[n]othing went right on Election Day. Everything went wrong. That’s a problem.’ These problems threaten the integrity of our elections and demonstrate the importance of election systems that are strong, durable, and not vulnerable to attack.” (<https://www.warren.senate.gov/imo/media/doc/H.I.G.%20McCarthy,%20&%20Staple%20Street%20letters.pdf>). See also “[Public Citizen Calls on Largest Voting Machine Vendor to Stop Selling Machines That Connect to the Internet, Increase Costs to Taxpayers,](https://www.citizen.org/news/public-citizen-calls-on-largest-voting-machine-vendor-to-stop-selling-machines-that-connect-to-the-internet-increase-costs-to-taxpayers/)” (July 26, 2018) (<https://www.citizen.org/news/public-citizen-calls-on-largest-voting-machine-vendor-to-stop-selling-machines-that-connect-to-the-internet-increase-costs-to-taxpayers/>).

79. I had relied on the information later collected on November 29, 2020 in the Peter Navarro Team Report entitled Dominion Voting Systems authored by Joanna Miller. **See Exhibit “B”**. Peter Navarro is an American economist and author of twelve books. He served in the Trump administration as the Assistant to the President, Director of Trade and Manufacturing Policy, and the national Defense Production Act policy coordinator. He is a professor emeritus of economics and public policy at the Paul Merage School of Business, University of California, Irvine.

80. The full Navarro Report dated February 2, 2021 outlines the problems, gross irregularities, and fraud in the 2020 presidential election.

<https://www.dropbox.com/s/584r7xtmngauc4t/The%20Navarro%20Report%20Volume%20I%2C%20II%2C%20III%20-%20Feb.%202%2C%202021.pdf?dl=0>

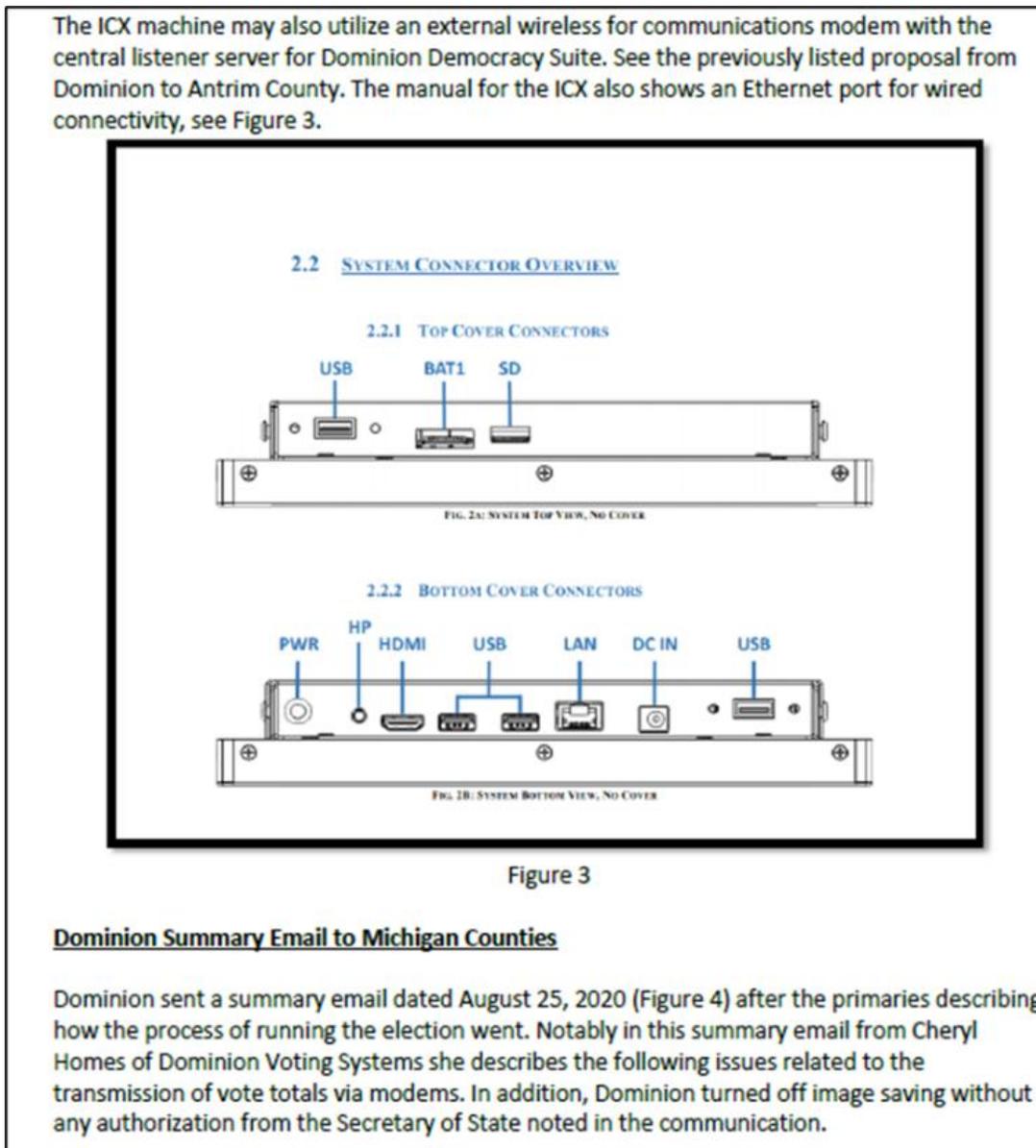
81. We were not alone in taking to task the Dominion voting machines utilized in the election. Dominion voting machines have not been accepted for use in Texas as recently as in 2020 in part because of concerns whether it “is suitable for its intended purpose; operates efficiently and accurately; and is safe from fraudulent or unauthorized manipulation.” (<https://www.sos.texas.gov/elections/forms/sysexam/dominion-d-suite-5.5-a.pdf>).

82. Our team also relied on information provided by a confidential informant who is a former high ranking security official in Venezuela serving under both Hugo Chavez, and after Chavez’s death, under the President of the National Assembly of Venezuela, Diosdado Cabello. This informant explained how Smartmatic conspired with the powers in Venezuela to manipulate the voting system to guarantee victory for Chavez in 2006 and victory for Nicolas Maduro in 2013. He made clear that Dominion acquired Smartmatic’s manipulative software, and they did business together. He also voiced his concern that the 2020 election in the United States could likewise be manipulated as it was so similar to an election manipulated by Smartmatic.

83. My argument that Dominion engaged in fraudulent practices was based, in part, on the testimony given under oath before the Michigan legislature on December 12, 2020 by Dominion CEO John Poulos. (<https://www.youtube.com/watch?v=CRJIXfp72jc>). His testimony about material matters was contradictory to say the least, rendered his credibility in doubt, and would constitute admissible false exculpatory statements.

84. Poulos, accompanied by his lawyer, testified to a number of statements that were contradicted: (1) “there were no switched or deleted votes,” (two independent reports of forensic audits show votes were switched from Trump to Biden by Dominion machines, and not, as he testified, by human error); (2) “the Dominion machines could not be accessed by the internet;” (3) “the Dominion machines are not accessible to the internet, and are designed not to be;” (4) “no internet connectivity for Dominion, and none in Antrim county;” (5) “the machines are designed to not be accessible to the internet;” (6) “for your county and Antrim county there was no internet connectivity at all” (two independent reports and the Dominion user manual clearly state to the contrary, that the Dominion machines were accessible to the internet and the reports particularly state that the machines in Antrim county were accessible to the internet); (7) “it is not possible to insert a USB system, it is designed not to be connected” (the Dominion user manual has an illustration of USB ports (see diagram below) and witnesses observed USB

connections on the Dominion machines in direct contradiction to CEO Poulos’ sworn testimony); (8) “Ballots were preserved” (contrary to CEO Poulos’ sworn testimony was an independent report from the ‘Cyber Ninja’ Company concluded at page 6 that “ballot images should be imported... but this was never done... Without ballot images, it's near impossible to match up and see the origin of where errors might be happening,” and “Ballot images...are essential for any type of



system audit to determine how an electronic voting machine interpreted results and to determine where it malfunctioned.”). (See relevant pages from Dominion user Manual attached as Exhibit C).

### **Trial by Combat**

85. While Petitioner does not attribute any negative connotation to my “trial by combat” comment (FN 2, page 5 of Petition), he has nonetheless mentioned the comment. I believe it necessary to correct the false impression that I was encouraging violence in any way.

86. My reference concerning “trial by combat” was made in the context of discussing a side-by-side comparison of a legitimate voting machine which is limited to counting votes against the Dominion machines which permits the manipulation of votes by outside technological interference. A closer look at my comment in the context of my earlier remarks that day indicates that I was talking about a contest between voting machines and not people.

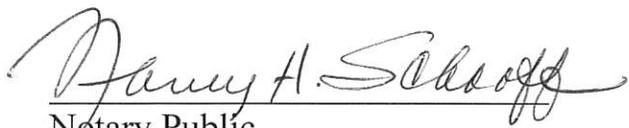
### **CONCLUSION**

87. I reiterate that I did not knowingly or intend to deceive or misrepresent any facts that I have presented to any court, any legislative hearing or to the public. All my statements were based on facts presented or available to

me which I believed to be true and certainly were well within an interpretation, and presentation, in a light most favorable to my client.

  
Rudolph W. Giuliani

Sworn to before me  
this 14<sup>th</sup> day of April 2021

  
Notary Public



# EXHIBIT A

# BIG TRIAL

FRIDAY, NOVEMBER 6, 2020

## Smokin' Joe Frazier Among 22 Dead People Who Still Vote In Philly



By **Ralph Cipriano**  
for **BigTrial.net**

Smokin' Joe Frazier, the city's most famous boxer, may have died on Nov. 7, 2011. But he still lives on at the polls.

In 2018, according to city records, the former heavyweight champ voted in the general election in his adopted hometown.

On city records that provide a "detailed inquiry" on voters, they got Smokin' Joe's birthdate right, Jan. 12, 1944. In a touch of nostalgia, the records also list Frazier's address as 2917 N. Broad Street. That's the location of the old Smokin' Joe's Gym, the three-story converted brick warehouse where, in the 1970s, Frazier trained for all of three of his championship fights against Muhammed Ali, while living in an apartment on the third floor.

Frazier leads a parade of 22 dead people, who according to city records gathered by Big Trial, miraculously came back to life to vote in past Philadelphia elections. Others on the list that's been uncovered so far include seven hero cops who died in the line of duty, a murdered community activist, and 11 dead relatives of cops.

The other celebrities on the list to date is Will Smith's late father, Willard Carroll Smith Sr., who died on Nov. 7, 2016, but still managed to vote in the 2017 and 2018 general elections.

And Anna Henderson, the oldest living person in Pennsylvania, who died on July 1, 2014, at the ripe old age of 114. But, according to city records, she still managed to vote in the 2017 and 2018 general elections, when she would have been 117 and 118 years old respectively.

Going by the brazenness of these examples, it's a safe bet that there may be more, many more, dead people voting in Philadelphia elections.

It's a voter fraud scandal that comes at a time when the attention of the nation is riveted on Philadelphia, where the board of elections is still counting mail order ballots cast in the presidential election.

Big Trial has attempted to reach city officials for comment on what appears to be voter fraud, but so far, Lisa Deeley, chairwoman of the city Board of Elections, Vice-Chair Al Schmidt, and Secretary Omar Sabir, have not responded to requests for comment.

Meanwhile, Rudy Giuliani, President Trump's personal lawyer, is in town to monitor the vote. At a press conference, Giuliani attacked the "Democratic crooked machine of Philadelphia" that he says is in the process of stealing an election.

Philadelphia, Giuliani said at a press conference here, not only "has a reputation for voter fraud" but also has "a reputation for dead people voting. And we're gonna look at just how many dead people voted here," Giuliani promised.

"Your know theses big city machines are crooked," Giuliani said at a press conference outside the Civic Center, after the Trump team got a court order that permitted them to watch the vote counting being conducted by the city's Board of Elections.

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Giuliani's primary focus is "highly suspicious mail-in ballots . . . that could be from Mars," or from the Democratic National Committee, or from Camden, he said. When one political party controls the same town for, say 68 years, Giuliani said, as has happened in Philadelphia, and, "You own the media, you think you can do anything you want."

"You think we're stupid. You think we're fools?" Giuliani asked rhetorically at his Philadelphia press conference. "We're not gonna let them get away with it. We're not gonna let them steal the election."

In the spirit of draining the swamp, Big Trial invites the former New York City mayor, and the U.S. Attorney in Philadelphia, to take a look at these dead people who are still voting in Philadelphia.

The list includes seven hero cops:

-- Officer Moses Walker, who was robbed and shot to death in 2012 while walking to a bus stop after he finished his night shift at the city's 22nd Police District. According to city records, despite being dead, Walker voted in the 2018 general election.

-- Officer Brian Lorenzo, a motorcycle cop killed in 2012 by a drunk driver going the wrong way on I-95. But after he died, according to city records, Lorenzo voted in the 2016, 2017, and 2018 general elections.

-- Officer Paris Williams, who died in 2005 after suffering a heart attack while scuffling with protesters outside the Philadelphia Convention Center. But after his death, Williams managed to vote in the primary and general elections of 2016, the 2017 general election, and both the primary and general elections in 2018.

-- Officer Gary Skerski, who was shot and killed in 2006 while responding to an armed robbery at a cafe. But after he died, Skerski voted in the 2015 primary, the 2016 primary and general elections, and the 2018 general election.

-- Sgt. Timothy Simpson, who was killed in 2008 when his patrol car was hit by a vehicle operated by a drunk driver. But Simpson still voted in the 2015 primary election, and the general elections in 2017 and 2018.

-- Officer Charles "Chuck" Cassidy, who was gunned down in 2007 after he interrupted a robbery in a doughnut shop. But after his death, Cassidy came back to vote in the 2015 general election, the primary and general elections in 2016 and 2017, and the general election in 2018.

-- Officer Douglas Bamberger, who suffered a heart attack at the Criminal Justice Center and died on Oct. 16, 2016, but still managed to vote in the 2016 primary, and in primary and general elections in 2018.

Also on the list is Gerard Grandzol, a community activist, who was shot to death on Sept. 17, 2017, in front of his two-year-old daughter during a robbery. But according to city records, Grandzol voted in the Nov. 7, 2017 and 2018 general elections.

In addition, Big Trial has gathered the records of 11 dead relatives of police officers, who have been voting in primary and general elections in recent years. The list of these private individuals includes three mothers, two fathers, three grandfathers, a grandmother, and a father-in-law.

While good government types like Philadelphia lawyer Marc Stier have emailed me to say that this can't possibly be happening in Philadelphia, an old pro gave an interview yesterday where he declared that voter fraud in Democratic controlled big cities is a "time honored tradition."

In an interview with Newsmax, former Illinois Governor Rod Blagojevich, a Democrat who did time for corruption before being pardoned by Trump, asked rhetorically, "If the question is, 'Are Democrats stealing votes in Philadelphia?' my answer is, Is the Pope Catholic?"

"It's a time-honored tradition in big, Democrat-controlled cities like Chicago, and my hometown, Philadelphia, to do precisely what they're doing," the former governor said. And then he went on to explain precisely how that's done.

"They control polling places, they stop votes when their candidate's behind, and then in wee hours in the morning, in the dark of night, the stealing starts."

And that's when the dead come back to life to cast their votes for Democrats:

# VOTER DETAILED INQUIRY

VOTER ID NUMBER	37103972870		DATE LAST MAINT		
LAST NAME	FRAZIER	FIRST NAME	JOSEPH	INITIAL	SUFFIX
STREET	BROAD	DIRECT N	DESIG ST	HOUSE NBR	02917 HALF CODE
APARTMENT	APART NBR				
ZIP CODE	191 32	REGIST DT (MM/DD/YY)	04/19/99	BIRTH DT (MM/DD/YY)	01/12/44
SEX	NATIVITY A	RACE			
PRIMARY	2019	2018	2017	2016	2015
GENERAL	NO	NO	NO	NO	NO
SPECIAL	NO	YES	NO	NO	NO
	NO	NO	NO	NO	NO

Any more tips about the dead voting in Philadelphia? Ralph Cipriano can be reached at [ralph@bigtrial.net](mailto:ralph@bigtrial.net).

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### 58 comments

Anonymous [November 6, 2020 at 5:09 PM](#)

Bravo, keep turning up the Heat Ralph.

Come on Vincenzo, this is Your Historical and Monumental Time to expose the Corrupt Democrat Machine that you played and refined through your Brilliant Career.

It would be an achievement of the Highest Order for Senator Fumo to expose the lying Cheating Rat, Jumbo Kenney, and end the Nightmare of his Reign.

When will US Attorney McSwain convene a Grand Jury and require All Democrat Committeemen and Ward Leaders to testify to their Institutionalized Practice of Fixing Elections??

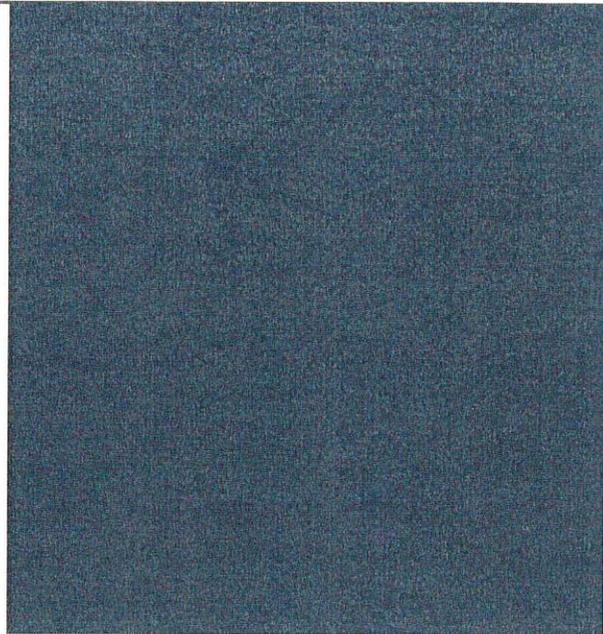
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What site can u check to see if you have family members voting still? Can you post link

# EXHIBIT B



# DOMINON VOTING SYSTEMS

OVERVIEW 11/29/20 – History,  
Executives, Vote Manipulation  
Ability and Design, Foreign Ties

*Authored by:*

Joanna Miller

PETER NAVARRO TEAM REPORT

November 29, 2020

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## An Overview of Dominion Voting Systems

Dominion Voting System is a Canadian company that sells electronic voting hardware and software, founded in 2002 by John Poulos, the company's current CEO. It is currently the second largest voting hardware and software company in the world.<sup>i</sup> Dominion Voting Systems is subjected to multiple hardware, software, and cybersecurity vulnerabilities, as exemplified by various electronic voting equipment tests conducted by universities and state government officials. The Canadian company uses Smartmatic software, according to an affidavit of a high ranking Venezuelan military official who was present when Smartmatic was first used in Venezuelan elections.<sup>ii</sup> Dominion is also tied to the Clinton Foundation, as well as several state-run Venezuelan software and telecommunications companies, which had been involved with rigging elections for authoritarian leaders, like Hugo Chavez, and Nicolas Maduro. For example, Antonio Mugica, the founder of Smartmatic, admitted that his software could be hacked to rig an election when he told a press conference in London that Maduro's government had inflated voter turnout by 1 million votes.<sup>iii</sup> Dominion Voting Systems was used in 29 states across the U.S. during the 2020 Election, and is responsible for several glaring technology "glitches" which resulted in thousands of votes being added to Joe Biden's total ballot count.

## History and Timeline of Dominion Voting Systems

2000	Smartmatic was founded in 2000 by three Venezuelan engineers, Antonio Mugica, Alfredo José Anzola and Roger Piñate, to rig election results in favor of Venezuelan dictator Hugo Chavez, according to an affidavit of a former high-ranking Venezuelan military official who was present at the founding of the company <sup>iv</sup> Smartmatic was officially incorporated in Delaware in 2000 by Alfredo Jose Anzola. <sup>v</sup> Later that year, Smartmatic located its headquarters in Boca Raton, Florida, after receiving funds from private investors. <sup>vi</sup> The company was then contracted to automate the electoral processes for the 2004 Venezuelan election. <b>Since 2004, Smartmatic software has been used in local and national elections in Africa, Argentina, Belgium, Brazil, Chile, Ecuador, Italy Mexico, the Philippines, Singapore, the United Kingdom, the United States, and Venezuela.</b>
2002	Dominion Voting Systems, a Canadian company that sells electronic voting hardware and software, was founded by John Poulos in 2002. It was originally headquartered in Denver, Colorado. The company provides election technology to countries globally, including the U.S., Canada, and Venezuela. <sup>vii</sup> The company uses Smartmatic software, and sends all of its vote tabulation data to Smartmatic during elections, according to the high-ranking Venezuelan military official's affidavit. <sup>viii</sup>
2004	By 2004, Smartmatic expanded, with offices in Venezuela, London, Florida, and California. Smartmatic also had acquired Bizta, 28% owned by the Venezuelan government, which Smartmatic also had a large stake in. <sup>ix</sup> Bizta is also operated the owners of Smartmatic, Antonio Mugica and Alfredo Anzola. <sup>x</sup>  During the 2004 Venezuelan election, Bizta and Smartmatic partnered with CANTV, a state-run Venezuelan telecommunications company, <sup>xi</sup> to win a \$91 million contract to supply electronic voting machines for the upcoming election. <sup>xii</sup> Prior to this, Smartmatic was a "little-known firm" with no experience in voting technology before it was chosen by Venezuelan government officials to replace elections machinery prior to the

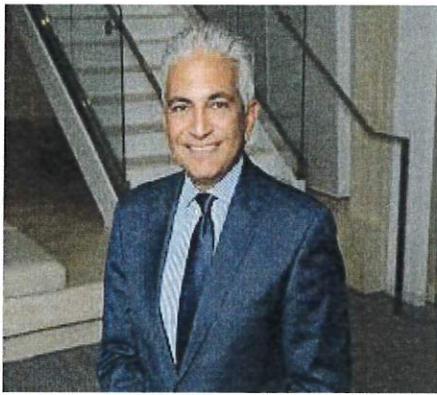
	controversial August 2004 election. <sup>xiii</sup> Smartmatic, to date, denies any sort of link to the Chavez regime. <sup>xiv</sup>
2005	In 2005, Smartmatic purchased Sequoia Voting Systems, which is based in the U.S., but is owned by Venezuelan nationals. <sup>xv</sup>
2006	<p>Sequoia provided technical assistance in the elections held in Chicago and Cook County by sending a number of Venezuelan nationals to support the machines manufactured by Sequoia.<sup>xvi</sup> In April of 2006, a Carnegie Mellon University computer science professor tested the Sequoia machines, and found that the machines could be easily manipulated and tampered with. This prompted Pennsylvania's Allegheny County to turn down the purchasing of these voting machines.<sup>xvii</sup></p> <p>In May of 2006, Congresswoman Carolyn Maloney (D-NY) wrote a letter to the Treasury Department<sup>xviii</sup> raising concerns about Venezuelan state-owned Smartmatic's purchase of Sequoia voting machines, which provides election machinery throughout the United States. She also cites Antonio Mugica and Alfredo Anzola who own Smartmatic, also own and operate Bizta, which is partially owned by the Venezuelan government.<sup>xix</sup> This sparked an investigation conducted by the U.S. Committee on Foreign Investment in the U.S. (CFIUS) on Smartmatic's takeover of Sequoia, due to speculations of being linked to the regime of Hugo Chavez.<sup>xx</sup> Smartmatic quickly sold Sequoia, and the investigation ended.<sup>xxi</sup></p>
2010	Canadian company, Dominion Voting Systems, purchased the assets of Sequoia Voting Systems in 2010, a subsidiary of Smartmatic up until the CFIUS investigation in 2006. <sup>xxii</sup>
2013	Dominion Voting Systems and Smartmatic contracted in both 2010 and 2013 to provide electronic voting machinery and software for the Philippines elections, where claims of fraud, technology glitches, and malfunctions abounded. <sup>xxiii</sup>
2014	<p>In 2014, Dominion Voting Systems agreed to provide "emerging" and "post-conflict" democracies with donated voting technologies through the DELIAN project, which the Clinton Foundation provided up to \$2.25 million in funding to.<sup>xxiv</sup> The DELIAN project is a non-governmental organization registered in Canada that was launched in 2014. Through this project, Dominion Voting Systems technology was donated to Barbados, Dominica, Guyana, Jamaica, and South Africa.<sup>xxv</sup></p> <p>In 2014, Lord Malloch Brown became the chairman of the board of SGO Corporation Limited, a holding company based in London whose primary asset is Smartmatic electronic voting machine technology.<sup>xxvi</sup> Lord Malloch-Brown is a member of the British House of Lords, and a former vice-chairman of George Soros' Investment Funds, and former vice-president at the World Bank.<sup>xxvii</sup> The <i>Washington Examiner</i> reported that Smartmatic's "globalist ties" have raised serious concern in the U.S. government for interference U.S. electoral processes.<sup>xxviii</sup></p>
2016	During the 2016 Trump-Clinton election, seventy-one million voters in 1,635 jurisdictions used Dominion, also tied to the Clinton Foundation, and a \$2.25 million project together. <sup>xxix</sup>

## Key Figures



### **John Poulos, CEO of Dominion Voting Systems**

- John Poulos founded Dominion Voting Systems with James Hoover in 2003.
- Hoover is currently the company's Vice President of product line management.<sup>xxx</sup>
- Dominion sells electronic voting hardware and software in the United States and Canada.



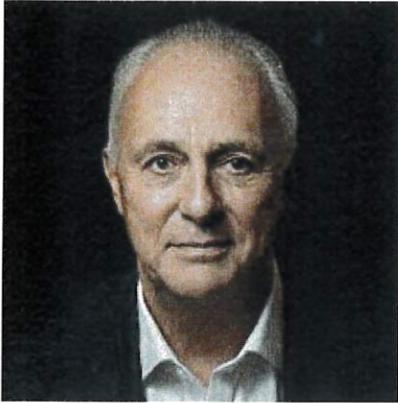
### **Nadeam Elshami, Lobbyist @ Brownstein, Hyatt et al.**

- Nadeam Elshami was a former Chief of Staff to House Speaker Nancy Pelosi (D-CA).<sup>xxxix</sup>
- Elshami currently lobbies for Dominion Voting Systems; Dominion has paid him \$150,000 this year so far, <sup>xxxii</sup> and \$120,000 in 2019.<sup>xxxiii</sup>



### **Antonio Mugica, Founder of Smartmatic**

- Founder of Anoto Group AB, a Swedish cloud-based software provider, and Director of Panagroup Corporation in Caracas, Venezuela.
  - Smartmatic provides software for Dominion Voting Systems, according to a high-ranking Venezuelan military official present when the Smartmatic software was created.<sup>xxxiv</sup>
- In the late 1990s, Mugica and his two other Venezuelan colleagues, Jose Anzola and Roger Pinate, created a system where thousands of data inputs could be placed into a network simultaneously. This system eventually build the foundation of Smartmatic.



## **Lord Mark Malloch-Brown, Former Minister of State for Africa, Asia, and the United Nations**

- In 2014, Mugica partnered with British Lord Malloch-Brown to launch the SGO Corporation Limited, considered the London-based parent company of Smartmatic.<sup>xxxv</sup>
- Lord Mark Malloch Brown has been closely associated with George Soros.
- Through his work at Refugees International, he was part of the Soros Advisor Committee on Bosnia from 1993-1994,
- Mark Malloch-Brown rented an apartment owned by Soros while working at the United Nations.<sup>xxxvi</sup>
- In 2002, Malloch Brown proposed that the United Nations and Soros's Open Society Institute, and other organizations, should work together to fund humanitarian functions.<sup>xxxvii</sup>
- In 2007, George Soros appointed Malloch Brown vice-President of the Quantum Fund.<sup>xxxviii</sup> Later that year, Malloch Brown was named vice-chairman of the Soros Fund Management and the Open Society Institute, two of Soros's most prominent organizations.<sup>xxxix</sup>



## **Admiral Peter Neffenger, Chairman of the Board of Directors for Smartmatic, Biden Transition Team**

- Admiral Neffenger of the United States Coast Guard served under the Obama-Biden Administration as the Transportation Security Agency Administrator, from 2015 to 2017.
- Admiral Neffenger is currently the Chairman of the Board of Directors of Smartmatic.<sup>xl</sup>
- Neffenger currently is on Vice President Biden's "Transition Team," conducting Agency Review for the U.S. Department of Homeland Security team.
- Neffenger was made a 'distinguished fellow' at the Atlantic Council think tank after he left the US government in 2017.
- Ukrainian energy firm Burisma Holdings, which employed Biden's son Hunter in controversial circumstances, donated \$100,000 a year to the council from 2016 to 2018, while Neffenger was there.<sup>xli</sup>
- In 2019, the British government, the government of the United Arab Emirates, Facebook, Goldman Sachs & Co, Bahaa Hariri, the brother of the former Lebanese Prime Minister, Saad Hariri, and the Rockefeller Foundation all donated over \$1 million to the Atlantic Council.<sup>xlii</sup>

## Dominion Hardware and Software Vulnerabilities

### Hardware

#### Dominion Voter Systems has Components Manufactured in China

John Polous, the CEO of Dominion Voting Systems, admitted that there are components in Dominion Voter Systems electronic vote tabulation machines that are made in China: these components include LCD components, actual glass screen on interface, chip component level of capacitors and resistors.<sup>xliii</sup>

#### Test Voting Failures

During voting tests conducted on the Democracy Suite 5.5 Dominion Voting Systems electronic ballot recording technology by an engineer named James Sneeringer of the Texas Attorney General's office in 2019, party names and proposition text were not displayed properly on the display screen, and one scanner was not accepting any ballots. Sneeringer concluded that these errors were caused by mistakes Dominion had made while setting up the standard test election used by the Texas Secretary of State. Additionally, the scanner had supposedly been accidentally configured not to accept machine-marked ballots.

#### Misleading Message

During testing, the ballot-marking devices **incorrectly informed voters** that they were casting their ballots, when in fact they were **only printing them**. The ballots are not counted until they were scanned on a different device.<sup>xliv</sup>

#### Disappearing Message

While scanning ballots during the test run, a message quickly flashed on the display so briefly that it could not be read. After several attempts to re-scan the ballot, Sneeringer discerned that the message read "Ambiguous Marks," which was displayed for a second or less, then reverts to a "System Ready" message. Sneeringer concluded that the voter would have absolutely no way of knowing what, if anything, is wrong with their ballot or if it was recorded, since the error message does not stay on the screen long enough to read it.<sup>xlv</sup>

#### Sharpie-Marked Ballots

In January 2019, Brandon Hurley of the Texas Secretary of State's office conducted another inspection on the Democracy Suite 5.5 voting systems. Dominion Voting Systems instructed that only black Sharpie markers should be used for marking ballots to be counted by the Democracy Suite 5.5 ballot scanner. However, when the black sharpie was used during testing, it did, on a few occasions, bleed through to the back side of the two-sided ballot in such a way that it could confuse the ballot scanner or kick the ballot out. This poor resolution on the scanner also failed to pick up some of the printed wording on the ballots.<sup>xlvi</sup>

### Software

#### Dominion Software is Vulnerable to Cyber Attacks

Jake Stauffer, an Air Force cyber analyst who tested Dominion voting systems for the state of California prior to the 2020 election, observed vulnerabilities in Dominion's Democracy Suite

(DDC) voting equipment which enabled remote code execution, denial of service attacks, and off-line ballot tampering.<sup>xlvi</sup>

The election software “glitching” in GA & MI, which incorrectly gave Joe Biden thousands of votes, is used in 29 states nationwide. Dominion blamed these glitches on a day-before “update,” which never actually happened, according to supervisor Marcia Ridley, of the Spalding County Board of Elections in Georgia. Dominion then corrected their statement, citing that its last update to its software was Oct 31.<sup>xlvi</sup>

Dominion’s instruction manual explains how votes can be wiped away in an instant, with the capability of “dragging and dropping” votes to a separate folder, then deleting that folder entirely.<sup>xlvi</sup> Several Democrats over the years like Caroline Maloney, [Elizabeth Warren](#), [Amy Klobuchar](#) have written letters with expert reports and some documentation of how corrupt this (Smartmatic) software is, and nobody in the U.S. government has taken action to date.<sup>1</sup>

### Commercial Off the Shelf (COTS) Products Can Cause Malfunctions

The use of COTS printers with the ImageCast system, which takes pictures of ballots (in ballot marker mode) is a cost-savings measure, but the COTS hardware presents issues for service. During the inspection in Texas in 2019, one examiner noted that having the printer tray ajar during the voting process caused the system to wipe out all selections and require the voter to start over after the print tray is fixed. This would require a poll worker interaction and could greatly slow down the voting process.<sup>li</sup>

### Smartmatic Software is Corrupt by Design

In a sworn affidavit, a former high-ranking Venezuelan Military Officer states that the Smartmatic software was designed so that votes could be changed without being detected, and was set up so that there would be no public evidence of tampering with votes.<sup>lii</sup> He also mentions that Smartmatic software is used in Dominion Voting Systems.<sup>liii</sup> He cites that voters could scan their thumbprints on the Dominion scanner, fingerprints would be tied to his or her name and identity on record as having voted, but that voter would not be made aware that his or her vote had been changed in favor of another candidate. The officer cites that Smartmatic agreed to develop the software and hardware to accomplish favorable electoral results for President Chavez in 2004. After the Smartmatic electoral system was put in place, the officer closely observed several elections where results were manipulated by the Smartmatic software.<sup>liiv</sup>

For example, in December 2006, when Chavez ran against Rosales, Chavez ended up winning with a landslide over Rosales with a margin of nearly 6 million votes for Chavez, and 3.7 million votes for Rosales due to vote manipulation by the Smartmatic software.<sup>li</sup>

The military official was in the control room where multiple digital display screens were showing results and voting, because the Smartmatic machines all over Venezuela were connected to the internet. Because of this, government officials in the control room could observe the actual voting results in real time, and figure out if the vote was in their favor or against them.<sup>li</sup>

Government officials in charge of the computer tabulation of votes had control of the reporting of votes by moving votes from one candidate to another through the Smartmatic software connected to the internet. When a candidate is losing, for example, during the Maduro-Radonski election in 2013, Maduro’s supporters utilized the Smartmatic software to calculate how many votes were needed to defeat the opponent, and made a decision mid-election to reset the entire system to fix results.<sup>li</sup>

Maduro and his supporters ordered the network controllers to take the internet offline in all parts of Venezuela: it took voting operators approximately 2 hours to change the votes from Radonski to Maduro. When they the internet was turned back on, Maduro's supporters checked each screen state by state to be certain that each vote was changed in favor of Maduro.<sup>lviii</sup>

Admiral Neffenger, who is the chairman of the board of directors at Smartmatic, is assigned to Agency Review under the Department of Homeland Security on Biden's 2020 Presidential "transition" team.<sup>lix</sup>

Sidney Powell cites that this Smartmatic software has been used to change election results all over the world, so it would be highly unlikely that Gina Haspell and the entire CIA would not know about it. During the 2020 election, Dominion voting machines were connected to the internet in 29 different states; anywhere these machines were connected to the internet, votes were being watched in real time, and switched for Biden if President Trump was ahead.<sup>lx</sup>

## **Evidence of Dominion Voting Systems and Smartmatic Election Technology Corruption**

### **Affidavit of a Venezuelan Lawyer<sup>lxi</sup>**

A Venezuelan lawyer legally residing in Florida who contested the Venezuelan presidential elections before the Venezuelan Supreme Court in 2012, 2013, along with the Venezuelan voting system in 2018 before the Venezuelan Supreme Court cited that in 2018, the Venezuelan Supreme Court came to a decision and determined that Smartmatic software was not acceptable for managing the Venezuelan elections.<sup>lxii</sup> The Court also ordered that the Venezuelan Prosecutor open an investigation to Smartmatic's Directors because of their "participation in corrupt activities violating bidding law provisions."<sup>lxiii</sup> In 2004, she noted that Bitza and Smartmatic entered a bidding process to provide both voting equipment and software to the Venezuelan National Electoral Council. Both companies had been "practically inactive" until then and had "no previous experience in performing elections."

Two members of the Board of Directors of the Venezuelan National Council were not allowed to supervise the bidding process because they were "perceived as favoring the opposition," and one of the resigned because of this.<sup>lxiv</sup> Shortly before the 2004 elections, Jorge Rodriguez, an officer in the Venezuelan government who would serve as Chavez's appointed Vice President in 2007, said that all optic scanners in Venezuela had to be substituted for electronic voting machines.<sup>lxv</sup> She mentioned that there was no rational reason to support the contracting of Smartmatic-Bizta in 2004 for the Venezuelan elections, especially since the Venezuelan government had spent \$94 million on voting equipment just 5 years earlier.<sup>lxvi</sup>

After the 2004 Venezuelan Recall Referendum in 2004, she cites statistical studies such as Guillermo Salas's paper entitled "The Beginning of the electronic vote in Venezuela and the debate on its performance," that proved that Chavez had, in fact, lost the referendum. After numerous reports of fraudulent elections involving Smartmatic software used in both the 2004 Chavez election, and the 2013 Maduro election, in addition to a growing "global international repulsion" for President Maduro, Smartmatic then decided to stop backing Venezuelan elections in 2018.<sup>lxvii</sup>

### **Affidavit of a Corporate Finance Consultant**<sup>lxviii</sup>

An investment banker and corporate finance consultant reported on concerns of two highly qualified colleagues in the technology space; one is an engineer in developing networks for Fortune 500 companies, and one is an architect for major Healthcare HMO networks and the largest software companies in the world.

The two individuals reported concerns about reports of Dominion Voting Systems “crashing” in Georgia’s counties. Dominion’s website denied this claim, but the technology experts suspect this is a “dodge.” The experts suspect that the Log-in-System “KnowInc” connected to the Dominion “PollPad-System,” are the systems that crashed, which resulted in poll logging in voters with their own poll-worker ID cards and codes, which compromised every single vote cast this way; once this happened, all votes cast were linked to the identities of the poll workers instead of the voters.<sup>lix</sup>

He also cites that versions of Android used in the Dominion systems noted by analyst Brian Mechler, who conducted an inspection of Dominion electronic voting machines for the Secretary of State of Texas in 2019, are so outdated that they are not even supported by Google from a security standpoint.<sup>lxx</sup> For this reason, the affiant cites that it is unclear how Dominion could have met its obligations to maintain adequate security practices, or secure any faith in this system or its results.<sup>lxxi</sup>

The affiant mentions that the report from Texas alone should warrant an audit of the Dominion system, and votes should be recast.<sup>lxxii</sup>

### **Affidavit of a Former Venezuelan Professor**<sup>lxxiii</sup>

A former professor at the Universidad Central de Venezuela and current U.S. citizen and automotive industry algorithm technical specialist at ZF cites his involvement in the 2004 Chavez Recount Referendum, experience with Smartmatic technology, and parallels in the Trump-Biden 2020 Election. He had written a report in 2011 entitled “Analysis of the 2004 Venezuela Referendum: The Official Results Versus the Petition Signatures.”<sup>lxxiv</sup> The report found that it is verified that the 2004 Recall Referendum results in each automated voting center were invented based on the “number of signatures requesting referendum collected in each voting center,” and that the set of voting centers that were same-day audited is correlated with the number of signatures collected in those centers.”<sup>lxxv</sup> This meant that the exit polls anomalies would only be explainable if results were manipulated in some way related to the signatures, and that the difference between the official and true result is estimated at 1.3 million votes with an error of 20%.

When the affiant heard that the Smartmatic technology was being used in Dominion Voting Systems equipment, he was alarmed and cited several critical parallels. In 2004, a “continuous satellite” connection was introduced by Smartmatic since 2004 in Venezuela’s voting centers, and was only supposed to be used for laptops in the voting center entrance to verify identity of electors and prevent people from voting twice. The equipment was used in close proximity to the voting machines in Venezuela, which left possibilities of communication with an illegal command center providing unfair advantages to one of the parties, similarly to the affidavit of the high-ranking Venezuelan military official. The affiant mentions that in the U.S., there are now reports of voting machines being connected to the internet, similar software glitches changing votes, voting software updates the night before the election, which is “unacceptable” he mentions because a new audit would be needed after the update, and that the Newcomb-Benford distributions to voting data follow votes for Donald Trump more than those of Joe Biden. This is similar to how votes for

Chavez in 2004 similarly did not follow the distribution, while those of the opposition followed it well.

## **Affidavit of a Concerned Citizen in Antrim County, MI<sup>lxxvi</sup>**

The morning after the election, William Bailey (Finishing write up)

## **The Trump-Biden 2020 Election: A State by State Review**

### **Arizona**

Maricopa County used the same Dominion Voting Systems (ImageCast 6 Hardware and Democracy Suite software) that caused problems in Antrim County, Michigan.

Maricopa is home to 4.5 million residents, making it by far the state's most populous county, and the fourth most populous county in the United States. The county seat is Phoenix, the state capital and the fifth-most populous city in the United States.<sup>8</sup> • As results currently stand, Maricopa will be the only county in the entire state of Arizona to flip from Republican to Democrat in the 2020 election. Of these 2 million votes, about 1.875 million of them have been cast via absentee ballots, or nearly 94% of the total.

Joe Biden currently leads President Trump by 2% in Maricopa County, resulting in nearly a 5% swing from the 2016 outcome.

### **Georgia**

A surge of 20,000 mail-in votes suddenly appeared for Joe Biden resulting from a Dominion Voting System glitch, while approximately 1,000 votes for President Trump disappeared. Joe Biden currently holds a razor-thin lead.<sup>lxxvii</sup> In Gwinette County, vote tabulating at 3:00 AM on November 4<sup>th</sup> halted, when a Dominion tabulation glitch occurred, in which 4,400 mail-in ballots had arrived that were left to count, along with 1,000 provisional ballots.<sup>lxxviii</sup>

Garland Favorito filed an affidavit to the Georgia Secretary of State's office claiming that the votes were "artificially inflated" by Dominion, in favor of Joe Biden.<sup>lxxix</sup> In 2019, Georgia contracted with Dominion to automate vote tabulations in all 159 of its counties.<sup>lxxx</sup> Ahead of Georgia's early voting on October 12<sup>th</sup>, Secretary of State Raffensperger mandated that Georgia's 30,000 voting machines adopt Dominion Voting Systems software for the upcoming 2020 Election.<sup>lxxxi</sup>

### **Michigan**

Dominion Voting Systems switched 6,000 votes for President Trump to Biden, in Antrim County.<sup>lxxxii</sup> Dominion Voting Systems is used in 47 counties across Michigan.<sup>lxxxiii</sup>

### **Pennsylvania**

In 2019, 67 counties in Pennsylvania, including Jefferson, York and Montgomery, installed Dominion Voting Systems electronic ballot counting machines.<sup>lxxxiv</sup> There were several issues reported already, for example, in York, in which Dominion's electronic voting machines were jamming and not counting ballots which caused delays.<sup>lxxxv</sup>

## Resources

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- <sup>xvi</sup> ABC Local, 7 April 2006, [Alderman: Election Day troubles could be part of 'international conspiracy'](#)
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<sup>lxi</sup> Affidavit of Adriana Vigilanza

<sup>lxii</sup> Affidavit of Adriana Vigilanza

<sup>lxiii</sup> Affidavit of Adriana Vigilanza

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# EXHIBIT C

# Democracy Suite<sup>®</sup> EMS Results Tally & Reporting User Guide

Version: 5.11-CO::7

May 28, 2019

DOMINION  
VOTING



Our customers come first.

## 2.2.2 Post-Voting Activities

- Acquiring, importing or manually entering Election Results from the ImageCast® series of tabulation devices.
- Previewing and validating the Election Results.
- Publishing the unofficial Election Results for further processing or reporting (i.e. by news and media feeds).
- Producing a variety of Election Results Reports in the desired format.
- Auditing Election Results, including ballot images and log files.

## 2.2.3 Summary of Activities

The pre-voting and post-voting groups of activities, in the process of defining and managing elections, are integrated within the Democracy Suite EMS domain model and implemented in the two main end-user software applications:

- Democracy Suite EMS Election Event Designer (EED)
- Democracy Suite EMS Results Tally & Reporting (RTR)

Both applications are architecturally designed as rich-client applications for intranet deployment or, optionally, distributed for Internet deployment using VPN connections. This means that in addition to these client applications, the system integrates associated server platforms (the EMS Data Center back-end system) with required services and data repositories. Democracy Suite provides the ImageCast® series of precinct and centralized tabulation devices for the full election cycle (pre-voting, voting, post-voting phases).

In addition to the EMS Election Event Designer and Results Tally & Reporting client applications, you can use EMS Audio Studio, Mobile Ballot Production, Election Data Translator, helper client applications, as part of the pre-voting process.

## 2.3 EMS Results Tally & Reporting Overview

EMS Results Tally & Reporting (RTR) is an end-user application within the Democracy Suite EMS system. RTR can only be used if it is part of the overall EMS system, which consists of the following server components:

- EMS Application (EMS APPS)
- Database (EMS DB)
- EMS Data Center Manager (DCM)
- EMS Network Attached Storage (NAS)

The Democracy Suite EMS Results Tally & Reporting application is responsible

## CHAPTER 6: IMPORTING ELECTION RESULTS

Election results (including the scanned ballot images and log files) are stored on the Removable Media and can be stored on local file system or on the NAS. Each file type (result files, ballot images and log files) may be imported together or separately. This allows for the flexible management of results after the election occurs. Since ballot images take a significant amount of time to import, your jurisdiction may decide that they are imported after the results have been completely tallied. Result and log files, however, take only a few seconds to load. Tasks covered in this section:

- Connecting the Removable Medium
- Loading Results From Removable Medium
- Resetting the Removable Medium
- Loading Results From Directory
- Automatic Result Loading

### 6.1 Connecting the Removable Medium

The following components are necessary in connecting the removable medium reader/writer to the EMS Results Tally & Reporting workstation:

- A USB cable between component removable medium reader/writer and EMS Results Tally & Reporting workstation
- Memory card reader/writer
- Memory card

**NOTE:** If the computer you are using already has a Compact Flash card reader/writer, skip this section.

To connect the card reader/writer, please perform the following steps:

1. Connect the USB cable to the card reader/writer.
2. Connect the USB cable to the USB port of the EMS Results Tally & Reporting workstation.
3. Insert the memory card into the memory card reader/writer's card slot. Ensure the card is completely inserted. The content from the Compact Flash card can now be viewed.
4. When the reader/writer is actively reading/writing to a card, an indicator light appears. When the process finishes, the lighted indicator goes out, and you can remove the memory card from the card reader/writer. Anytime you want to read or write data to a new memory card, insert the a memory card following these instructions.

**NOTE:** The card reader/writer and/or memory card design can vary depending on the vendor of the device. Never insert or remove a Compact Flash card while the indicator is lit.

## 6.2 Loading Results from the Removable Medium

**NOTE:** In order to load results, make sure to install File System Service (please see the *Democracy Suite EMS Standard System Installation and Configuration Procedures* or the *Democracy Suite EMS Express Installation and Configuration Procedures* documents).

1. Connect the card reader/writer to the EMS Results Tally & Reporting workstation. For more information, see the *Connecting the Removable Medium* section.
2. Expand the **Actions** menu, then click **Removable Media Management**.
3. Load Results dialog appears. See Figure 6-1 .

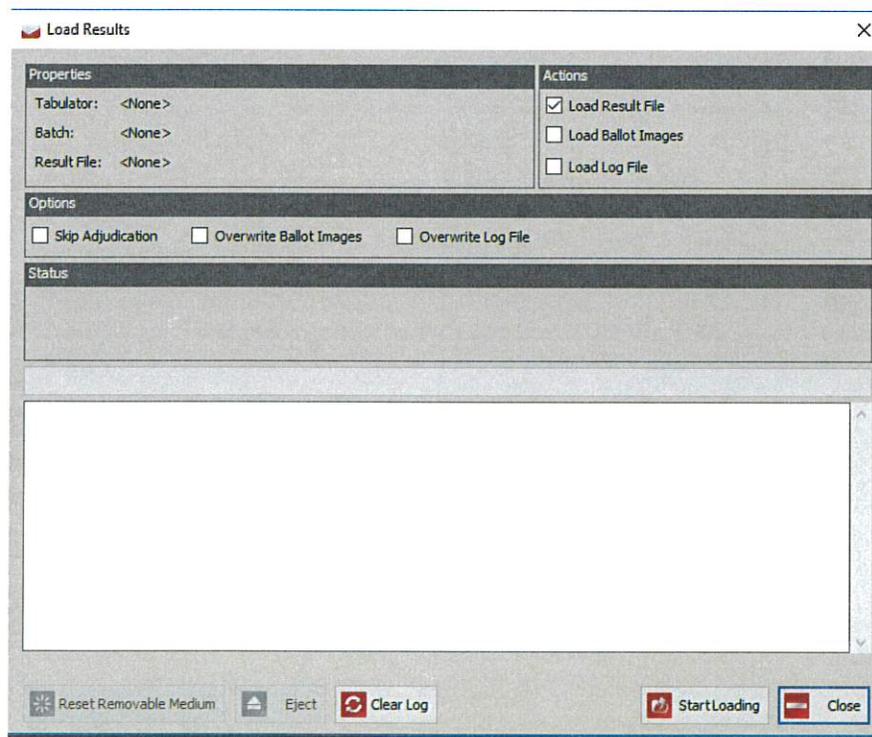


Figure 6-1: Waiting for Removable Media Dialog

**NOTE:** If the Use test results option was checked in the Project Settings - Project Parameters dialog, header will contain a post fix " - Testing Mode" to indicate that only TEST result files can be loaded. See *Project Settings - Project Parameters* section.