

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

DONNA CURLING, et al.,)	
)	
Plaintiffs,)	CA No.
)	
v.)	
)	
BRIAN KEMP, et al.,)	
)	
Defendants.)	

NOTICE OF REMOVAL

**To: The Judges of the United States District Court for the Northern
District of Georgia, Atlanta Division.**

COME NOW Defendants Brian P. Kemp, David J. Worley, Rebecca N. Sullivan, Ralph F. Simpson, Seth Harp, the State Election Board, Merle King, and the Center for Election Systems at Kennesaw State University (hereafter “State Defendants”), and pursuant to 28 U.S.C. §§1441 and 1446, and with the consent of all Defendants served in this action and within the time prescribed by law, file this Notice of Removal. Defendants appear specially to file this notice subject to and without waiving any defenses available under state and federal law. Defendants respectfully show the following:

1.

Plaintiffs, Donna Curling, Coalition for Good Governance, Donna Price, Jeffrey Schoenberg, Laura Digges, William Digges III, and Ricardo Davis, have brought a civil action against Defendants Brian P. Kemp, David J. Worley, Rebecca N. Sullivan, Ralph F. Simpson, Seth Harp, the State Election Board, Merle King, and the Center for Election Systems at Kennesaw State University (hereafter “State Defendants”); Defendants Richard Barron, Mary Carole Cooney, Vernetta Nuriddin, David J. Burge, Stan Matarazzo, Aaron Johnson and the Fulton County Board of Registration and Elections (hereafter “Fulton County Defendants”); Defendants Maxine Daniels, Michael P. Coveny, Anthony Lewis, Leona Perry, Samuel E. Tillman, Baoky N. Vu, and the DeKalb County Board of Registrations and Elections (hereafter the “DeKalb County Defendants”); Defendants Janine Eveler, Phil Daniell, Fred Aiken, Joe Pettit, Jessica Brooks, Darryl O. Wilson, and the Cobb County Board of Elections and Registration (hereafter the “Cobb County Defendants”), said action being designated as *Curling et al., v. Kemp, et al.*, Civil Action No. 2017CV292233 (Fulton County Superior Court).

2.

Plaintiffs seek declaratory and injunctive relief for alleged violations of rights pursuant to the Fourteenth Amendment of the United States Constitution. Specifically, Plaintiffs allege that Defendants have violated their rights pursuant to both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment by conducting the June 20, 2017 special election run-off for the Sixth Congressional District utilizing direct recording electronic voting machines (DRE's).

3.

This action is a civil rights action, and presents a federal question over which this court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and questions of state law which this court has pendent jurisdiction pursuant to 28 U.S.C. §1367.

4.

This action is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441(a) and 1441(c). Defendants attach hereto a copy of all documents filed in the Fulton County Superior Court.

5.

Defendant Brian Kemp, Georgia Secretary of State and chair of the State Election Board, was served on August 3, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

6.

Defendant Ralph Simpson, member of the State Election Board, was served on July 13, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

7.

Defendant Seth Harp has been served. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

8.

Defendant Rebecca Sullivan, member of the State Election Board, was served on July 26, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

9.

Defendant David Worley, member of the State Election Board, has not been served. Defendant Worley consents to removal of this action to the United States District Court for the Northern District of Georgia.

10.

Defendant State Election Board, served on August 3, 2017 by service on its chairperson, consents to removal of this action to the United States District Court for the Northern District of Georgia.

11.

Defendant Merle King, Executive Director of the Center for Election Systems at Kennesaw State University, has not been served. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

12.

Defendant Center for Election Systems at Kennesaw State University has not been served. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

13.

Defendant Maxine Daniels, Director of Voter Registrations and Elections for DeKalb County, was served on Aug. 3, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

14.

Defendant Michael P. Coveny, member of the DeKalb County Board of Registrations and Elections, was served on July 30, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

15.

Defendant Anthony Lewis, member of the DeKalb County Board of Registrations and Elections, was served on July 30, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

16.

Defendant Leona Perry, member of the DeKalb County Board of Registrations and Elections, was served on July 28, 2017. This Defendant consents

to removal of this action to the United States District Court for the Northern District of Georgia.

17.

Defendant Samuel E. Tillman, member of the DeKalb County Board of Registrations and Elections, was served on Aug. 1, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

18.

Defendant Baoky N. Vu, member of the DeKalb County Board of Registrations and Elections, was served on Aug. 1, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

19.

Defendant DeKalb County Board of Registrations and Elections was served on Aug. 3, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

20.

Defendant Richard Barron, Director of Fulton County Board of Registration and Elections, was served on July 30, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

21.

Defendant Mary Carole Cooney, Chair of the Fulton County Board of Registration and Elections, was served on August 5, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

22.

Defendant Vernetta Nuriddin, member of the Fulton County Board of Registration and Elections, was served on July 30, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

23.

Defendant David J. Burge, member of the Fulton County Board of Registration and Elections, was served on August 1, 2017. This Defendant

consents to removal of this action to the United States District Court for the Northern District of Georgia.

24.

Defendant Stan Matarazzo, a *former* member of the Fulton County Board of Registration and Elections, was served on July 30, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia. Mr. Matarazzo's replacement on the Board, Mark Wingate, has not been served.

25.

Defendant Aaron Johnson, member of the Fulton County Board of Registration and Elections, was served on July 28, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

26.

Defendant Fulton County Board of Registration and Elections was served on August 7, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

27.

Defendant Janine Eveler, Director of Cobb County Board of Elections and Registration, has not been served.

28.

Defendant Phil Daniell, member of the Cobb County Board of Elections and Registration, was served on August 4, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

29.

Defendant Fred Aiken, member of the Cobb County Board of Elections and Registration, was served on August 4, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

30.

Defendant Joe Pettit, member of the Cobb County Board of Elections and Registration, was served on August 7, 2017. This Defendant consents to removal of this action to the United States District Court for the Northern District of Georgia.

31.

Defendant Jessica Brooks, member of the Cobb County Board of Elections and Registration has not been served.

32.

Defendant Darryl O. Wilson, member of the Cobb County Board of Elections and Registration, has not been served.

33.

Defendant Cobb County Board of Elections and Registration has not been served

34.

This Notice of Removal, pursuant to 28 U.S.C. § 1446(b), is filed within Thirty (30) days from service of this Complaint on Defendants.

WHEREFORE, Defendants move that this Notice of Removal be filed, that said action be removed to and proceed in this Court, and that no further proceedings be had in the Fulton County Superior Court, State of Georgia.

Respectfully submitted,

CHRISTOPHER M. CARR
Attorney General 112505

ANNETTE M. COWART 191199
Deputy Attorney General

RUSSELL D. WILLARD 760280
Senior Assistant Attorney General

/s/Cristina Correia
CRISTINA CORREIA 188620
Assistant Attorney General

ELIZABETH MONYAK 005745
Assistant Attorney General

/s/Josiah B. Heidt
JOSIAH B. HEIDT 104183
Assistant Attorney General

Georgia Department of Law
40 Capitol Square SW
Atlanta, GA 30334
404-656-7063

Attorneys for State Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this day, I served the within and foregoing **NOTICE OF REMOVAL** prior to filing the same, by depositing a copy thereof, postage prepaid, in the United States Mail, properly addressed upon:

Bryan Ward
Marvin Lim
Holcomb + Ward LLP
3399 Peachtree Rd NE, Suite 400
Atlanta, GA 30326
Bryan.Ward@holcombward.com
Marvin@holcombward.com

Daniel W. White
Haynie, Litchfield, Crane & White, PC
222 Washington Avenue
Marietta, Georgia 30060
dwhite@hlclaw.com

Rep. Karen Handel
U.S. Congressional District 6
85C Mill Street
Suite 300
Roswell, GA 30076

Overtis Hicks Brantley
Bennett D. Bryan
DeKalb County Law Department
1300 Commerce Drive 5th Floor
Decatur, GA 30030
Email: bdbryan@dekalbcountyga.gov

Patrise M. Perkins-Hooker
Kaye Burwell
Cheryl Ringer
Fulton County Attorney's Office
141 Pryor Street SW Suite 4038
Atlanta, GA 30303
Facsimile: (404) 730-6324
Email: cheryl.ringer@fultoncountyga.gov

Jon Ossoff
Candidate for Congress
1580 Holcomb Bridge Road #24
Roswell, GA 30076

This 8th day of August, 2017.

/s/Cristina Correia
Cristina Correia
Ga. Bar No. 188620
Assistant Attorney General
40 Capitol Square SW
Atlanta, GA 30334
404-463-8850