


# **EXHIBIT M**

**From:** "Rachel Roberts"   
**Subject:** RE: ORR and Subpoenas to Coffee County Board of Elections and Registration and Cheney - Curling v. Raffensperger  
**Date:** July 26, 2022 at 1:06 PM  
**To:** Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>, Vickers, Tracie <Tracie.Vickers@coffeecounty-ga.gov>  
**Cc:** Vickers, Wesley <Wesley.Vickers@coffeecounty-ga.gov>, arowe @hallboothsmith.com



There was a laptop I came across not certain of the color, I believe it was the old voter id laptop. It wouldn't turn on and Brad(IT) said it wasn't any good so he has it.

**Rachel Roberts**

Coffee County Georgia

Elections Supervisor

912-384-7018

[rachel.roberts@coffeecounty-ga.gov](mailto:rachel.roberts@coffeecounty-ga.gov)

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**From:** Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>  
**Sent:** Tuesday, July 26, 2022 12:50 PM  
**To:** Rachel Roberts <Rachel.Roberts@coffeecounty-ga.gov>; Vickers, Tracie <Tracie.Vickers@coffeecounty-ga.gov>  
**Cc:** Vickers, Wesley <Wesley.Vickers@coffeecounty-ga.gov>; arowe@hallboothsmith.com  
**Subject:** RE: ORR and Subpoenas to Coffee County Board of Elections and Registration and Cheney - Curling v. Raffensperger

I have the information from Tracie on Misty's phone – if no one has an objection, we are going to plan to produce that in its entirety (she has redacted cell phone numbers).

My understanding from Stephen is that James Barnes testified there was “an old gray laptop” – but per Tracie and my previous communications on the subject of the laptop I was told there was not a laptop issues to the BOE/its staff and so the only laptop had to be Misty's personal laptop. But that wouldn't make sense if James is saying there was a laptop there? Rachel, any old gray laptops around? We need to try to get to the bottom of this question asap as I need to produce any documents responsive to the subpoena by week's end.

Thanks!

**Jennifer Dorminey Herzog**

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**From:** Jennifer Dorminey Herzog <[jherzog@hallboothsmith.com](mailto:jherzog@hallboothsmith.com)>  
**Sent:** Friday, July 22, 2022 2:52 PM  
**To:** Rachel Roberts <[Rachel.Roberts@coffeecounty-ga.gov](mailto:Rachel.Roberts@coffeecounty-ga.gov)>; Vickers, Tracie <[Tracie.Vickers@coffeecounty-ga.gov](mailto:Tracie.Vickers@coffeecounty-ga.gov)>  
**Cc:** Vickers, Wesley <[Wesley.Vickers@coffeecounty-ga.gov](mailto:Wesley.Vickers@coffeecounty-ga.gov)>; Anthony A. Rowell <[ARowell@hallboothsmith.com](mailto:ARowell@hallboothsmith.com)>  
**Subject:** FW: ORR and Subpoenas to Coffee County Board of Elections and Registration and Cheney - Curling v. Raffensperger

Let's discuss on Monday – maybe late morning about 10:30 or 11am so Tracie has time to get settled back from her trip? This is for the document production that went with that subpoena to the board. I have reattached it here in case helpful. (so basically we don't have to re-produce anything already produced to Marks, which is good – but will be a near impossible pain to figure out what records were withheld, if any, which would have mostly been communications between our office and ya'll, or just between our office.) also I want to understand exactly what we have searched previously as far as her phone, computers etc. so can respond accurately to that.

Thanks!

## Jennifer Dorminey Herzog

Attorney at Law | Hall Booth Smith, P.C.

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**From:** Bruce Brown <[bbrown@brucepbrownlaw.com](mailto:bbrown@brucepbrownlaw.com)>  
**Sent:** Friday, July 22, 2022 2:36 PM  
**To:** Jennifer Dorminey Herzog <[jherzog@hallboothsmith.com](mailto:jherzog@hallboothsmith.com)>; Adam M. Sparks <[sparks@khlawfirm.com](mailto:sparks@khlawfirm.com)>; Russ Abney <[rabney@wattsguerra.com](mailto:rabney@wattsguerra.com)>; Halsey G. Knapp, Jr. <[hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)>; David D. Cross <[dcross@mofo.com](mailto:dcross@mofo.com)>; Kaiser, Mary <[MKaiser@mofo.com](mailto:MKaiser@mofo.com)>; Conaway, Jenna B. <[JConaway@mofo.com](mailto:JConaway@mofo.com)>; Robert McGuire <[ram@lawram.com](mailto:ram@lawram.com)>; Daniella P. Stucchi <[daniella@khlawfirm.com](mailto:daniella@khlawfirm.com)>; [brad@bradcollinslaw.com](mailto:brad@bradcollinslaw.com)  
**Cc:** Anthony A. Rowell <[ARowell@hallboothsmith.com](mailto:ARowell@hallboothsmith.com)>; Nick Kinsley <[NKinsley@hallboothsmith.com](mailto:NKinsley@hallboothsmith.com)>; Stephen Delk <[SDelk@hallboothsmith.com](mailto:SDelk@hallboothsmith.com)>; Marilyn Marks <[REDACTED]>

**Subject:** ORR and Subpoenas to Coffee County Board of Elections and Registration and Cheney - Curling v. Raffensperger

Ms. Herzog,

Along with Russ Abney, I represent Coalition for Good Governance. There are a lot of moving pieces in this matter, but I did want to get back to you in response just to your paragraph 4 from your email below:

The Open Records Request and responses filed by Ms. Marks and CGG have been shared with Curling Plaintiffs and there is no need to reproduce those documents. However, it is our understanding that unspecified documents were withheld on the basis of attorney-client privilege but a privilege log was not provided. We would require the identification of specific records withheld and the basis of the asserted privilege.

Additionally, it is our understanding that the responses to the ORRs indicate that the email records of Ms. Hampton and Ms. Ridlehoover have not been preserved, but also, more recently that Ms. Hampton's county-issued cell phone can now be searched for relevant communications. Certainly our document subpoenas would cover such a device. It is not clear whether the ORR responses were based on a thorough search of computers used by Ms. Hampton in the conduct of her duties. We presume that a diligent search will be made of the hard drives and archives of the computers Ms. Hampton and Ms. Ridlehoover used, including a search for archived Outlook files. If Ms. Hampton or Board members have responsive records on their personal computers or other devices, we expect those records to be searched although they apparently were not searched in response to the ORRs. As well, we expect that all reasonable efforts will be made with respect to attempting to recover the relevant records from Microsoft.

If you have further questions, feel free to contact me (or Ms. Marks).

We greatly appreciate your assistance in this case and will be in touch on the other open matters.

Thanks and have a good weekend.

Bruce

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**From:** Jennifer Dorminey Herzog <[jherzog@hallboothsmith.com](mailto:jherzog@hallboothsmith.com)>  
**Date:** Tuesday, July 12, 2022 at 3:24 PM  
**To:** "Adam M. Sparks" <[sparks@khlawfirm.com](mailto:sparks@khlawfirm.com)>, Russ Abney <[rabney@wattsguerra.com](mailto:rabney@wattsguerra.com)>, "Halsey G. Knapp, Jr." <[hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)>, "David D. Cross" <[dcross@mofo.com](mailto:dcross@mofo.com)>, "Kaiser, Mary" <[MKaiser@mofo.com](mailto:MKaiser@mofo.com)>, "Conaway, Jenna B." <[JConaway@mofo.com](mailto:JConaway@mofo.com)>, Robert McGuire <[ram@lawram.com](mailto:ram@lawram.com)>, "Daniella P. Stucchi" <[daniella@khlawfirm.com](mailto:daniella@khlawfirm.com)>, "[brad@bradcollinslaw.com](mailto:brad@bradcollinslaw.com)" <[brad@bradcollinslaw.com](mailto:brad@bradcollinslaw.com)>  
**Cc:** "Anthony A. Rowell" <[ARowell@hallboothsmith.com](mailto:ARowell@hallboothsmith.com)>, Nick Kinsley <[NKinsley@hallboothsmith.com](mailto:NKinsley@hallboothsmith.com)>, Stephen Delk <[SDelk@hallboothsmith.com](mailto:SDelk@hallboothsmith.com)>, Coalition for Good Governance <[REDACTED]>  
**Subject:** RE: [EXTERNAL] Subpoenas to Coffee County Board of Elections and Registration and Cheney - Curling v. Raffensperger

Good afternoon, a few important items for discussion:

1. I trust that you all received the notice earlier today re: the hearing on the Motion to Quash being officially canceled, but in an abundance of caution wanted to confirm.
2. It is my understanding that Mr. Brad Collins will be representing James Barnes for the limited purpose of his deposition. I have copied him here and his contact information may be located on his website which is as follows:

<https://bradcollinslaw.com/>

As Mr. Collins is out of the office this week, he asked that I copy him on this email to you all for ease of reply. I have been made aware that Mr. Barnes' deposition is currently scheduled for this Thursday 7/14, but Mr. Collins requests that the deposition of Barnes be postponed and coordinated along with the other Coffee County depositions. He will confirm, but it is my understanding he is in agreement with the timeline/terms below which prompted the withdrawal of our Motion to Quash.

3. On a related note, there are obviously a number of personal and professional schedules to coordinate for these depositions to occur. Please advise who we need to loop in from the Defendant's side for the purpose of scheduling these depositions the 1<sup>st</sup> or 2<sup>nd</sup> week of August (to occur in Douglas, GA) and once we determine number of expected attendees, I can assist in recommendation of a location.
4. Also, as Ms. Marks has been added to this communication, I did want to address one further issue as we launch into our search for documents responsive to the subpoena for document production. Coffee County has produced a significant number of documents to Ms. Marks over the course of the past months in response to open records requests. I understand that there are two sets of Plaintiffs (David Cross, Halsey Knapp, and Adam Sparks representing the Curling Plaintiffs, and Russ Abney and Robert McGuire representing Coalition Plaintiffs). I assume Coffee County will again search for and re-produce all documents we believe responsive to the subpoena

again search for and re-produce all documents we believe responsive to the subpoena issued (and ultimately withdrawn) by Knapp to all Plaintiffs' counsel, even if previously produced to Marks. Please confirm that understanding as I expect the alternative could save significant time and expense.

Obviously #2 above is extremely time sensitive so please advise at your earlier convenience with regard to same. Thank you,

Jennifer

## Jennifer Dorminey Herzog

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**From:** Adam M. Sparks <[sparks@khlawfirm.com](mailto:sparks@khlawfirm.com)>

**Sent:** Monday, July 11, 2022 2:24 PM

**To:** Jennifer Dorminey Herzog <[jherzog@hallboothsmith.com](mailto:jherzog@hallboothsmith.com)>; Russ Abney <[rabney@wattsguerra.com](mailto:rabney@wattsguerra.com)>

**Cc:** Halsey G. Knapp, Jr. <[hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)>; David D. Cross <[dcross@mofo.com](mailto:dcross@mofo.com)>; Kaiser, Mary <[MKaiser@mofo.com](mailto:MKaiser@mofo.com)>; Conaway, Jenna B. <[JConaway@mofo.com](mailto:JConaway@mofo.com)>; Robert McGuire <[ram@lawram.com](mailto:ram@lawram.com)>; Daniella P. Stucchi <[daniella@khlawfirm.com](mailto:daniella@khlawfirm.com)>; Anthony A. Rowell <[ARowell@hallboothsmith.com](mailto:ARowell@hallboothsmith.com)>; Nick Kinsley <[NKinsley@hallboothsmith.com](mailto:NKinsley@hallboothsmith.com)>; Stephen Delk <[SDelk@hallboothsmith.com](mailto:SDelk@hallboothsmith.com)>; Marilyn Marks <[REDACTED]>

**Subject:** RE: [EXTERNAL] Subpoenas to Coffee County Board of Elections and Registration and Cheney - Curling v. Raffensperger

Jennifer,

Thank you. Mr. Knapp asked that I send the following email.

*First*, you asked for contact information for other counsel we understand to represent Coffee County Board current or former member or employees. That's just Stephanie Lambert and Johnathan Miller on behalf of Misty Hampton. The contact information we have is as follows:

Stephanie Lambert:

[REDACTED]

[REDACTED]  
[REDACTED]  
Jonathan R. Miller, III:  
[REDACTED]  
[REDACTED]

*Second*, we have received the NEF of the withdrawals of both motions to quash. We received a notice that tomorrow's hearing was re-set for July 13 at 10:00 a.m. in Macon, though that entry was made prior to the filing of the MDGA motion to withdraw. Should you learn that Judge Lawson has taken the rescheduled hearing off calendar entirely through means other than a docket entry, we would appreciate your letting us know promptly.

*Third*, please note that I have copied Ms. Marks, executive director of plaintiff organization Coalition for Good Governance, on this communication at the express instruction of Mr. Maguire and with the consent of Mr. Abney, both counsel for CGG.

Best regards,



**Adam M. Sparks**  
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**From:** Jennifer Dorminey Herzog <[jherzog@hallboothsmith.com](mailto:jherzog@hallboothsmith.com)>  
**Sent:** Monday, July 11, 2022 6:00 AM  
**To:** Russ Abney <[rabney@wattsguerra.com](mailto:rabney@wattsguerra.com)>  
**Cc:** Halsey G. Knapp, Jr. <[hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)>; David D. Cross <[dcross@mofo.com](mailto:dcross@mofo.com)>; Kaiser, Mary <[MKaiser@mofo.com](mailto:MKaiser@mofo.com)>; Conaway, Jenna B. <[JConaway@mofo.com](mailto:JConaway@mofo.com)>; Robert McGuire <[ram@lawram.com](mailto:ram@lawram.com)>; Adam M. Sparks <[sparks@khlawfirm.com](mailto:sparks@khlawfirm.com)>; Daniella P. Stucchi <[daniella@khlawfirm.com](mailto:daniella@khlawfirm.com)>; Anthony A. Rowell <[ARowell@hallboothsmith.com](mailto:ARowell@hallboothsmith.com)>; Nick Kinsley <[NKinsley@hallboothsmith.com](mailto:NKinsley@hallboothsmith.com)>; Stephen Dalk <[SDalk@hallboothsmith.com](mailto:SDalk@hallboothsmith.com)>

Stephen Delk <[SDelk@hallboothsmith.com](mailto:SDelk@hallboothsmith.com)>

**Subject:** Re: [EXTERNAL] Subpoenas to Coffee County Board of Elections and Registration and Cheney - Curling v. Raffensperger

Thank you David and Russ. Confirming receipt and, barring any unforeseen circumstances, we will file the withdrawal of the motion to quash in both courts this morning.

Sent from my iPhone

## Jennifer Dorminey Herzog

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On Jul 10, 2022, at 11:08 PM, Russ Abney <[rabney@wattsguerra.com](mailto:rabney@wattsguerra.com)> wrote:

For clarification, I think Mr. Cross's client(s) severed the subpoena but we are all (all Plaintiffs) in agreement with your proposal as amended by Mr. Cross so you are good to notify both Courts.

My best regards,  
russ

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**From:** Jennifer Dorminey Herzog <[jherzog@hallboothsmith.com](mailto:jherzog@hallboothsmith.com)>  
**Date:** Friday, July 8, 2022 at 5:12 PM  
**To:** "Halsey G. Knapp, Jr." <[hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)>, "David D. Cross" <[DCross@mofo.com](mailto:DCross@mofo.com)>, "Kaiser, Mary" <[MKaiser@mofo.com](mailto:MKaiser@mofo.com)>, "Conaway, Jenna B." <[JConaway@mofo.com](mailto:JConaway@mofo.com)>, Russ Abney <[rabney@wattsguerra.com](mailto:rabney@wattsguerra.com)>, Robert McGuire <[ram@lawram.com](mailto:ram@lawram.com)>, "Adam M. Sparks" <[sparks@khlawfirm.com](mailto:sparks@khlawfirm.com)>, "Daniella P. Stucchi" <[daniella@khlawfirm.com](mailto:daniella@khlawfirm.com)>  
**Cc:** "Anthony A. Rowell" <[ARowell@hallboothsmith.com](mailto:ARowell@hallboothsmith.com)>, Nick Kinsley <[NKinsley@hallboothsmith.com](mailto:NKinsley@hallboothsmith.com)>, Stephen Delk <[SDelk@hallboothsmith.com](mailto:SDelk@hallboothsmith.com)>  
**Subject:** [EXTERNAL] Subpoenas to Coffee County Board of Elections



and Registration and Cheney - Curling v. Raffensperger

Good afternoon,

I appreciate you all making yourselves available for a phone conference this afternoon with regard to the Motion to Quash filed by our office related to the subpoenas for production of documents and for depositions referenced more particularly in my initial email below (both to the Coffee Board of Elections and Registration and to Eric Cheney). It appears we are in agreement to notify Judge Lawson that the hearing next Tuesday morning with regard to our attached Motion is no longer necessary and the Motion to Quash will be withdrawn, conditional upon your agreement to the following:

1. Current subpoenas against our clients (Coffee County BOE and Cheney) for the current dates scheduled will be withdrawn.
2. Documents responsive to subpoena will be produced 2 weeks prior to the scheduled depositions.
3. Depositions for our clients will be scheduled at an agreed upon time and place in Douglas, Georgia, on or before August 15, 2022.
4. Our office will accept service of new subpoenas for our clients with regard to the above referenced dates for depositions and document production.

The above agreement is not conditional upon this following term, although I ask and believe it reasonable that with regard to any prior county employees such as Barnes and Hampton, the County will be offering/providing to those employees limited representation outside our firm for the purpose of their deposition and we request that their counsel be shown this same courtesy in scheduling, assuming they are willing to the agreed upon provisions. Please provide us with any contact information for any counsel of which you are currently aware.

Lastly, will you please confirm any current or former Board members or county employees who have been served with a subpoena – we are only aware of Barnes, Hampton and Cheney, and want to confirm there are no others issued of which we are not aware. We discussed that many topics noticed are likely more appropriately directed to former employees such as Barnes and Hampton. We will communicate further prior to any depositions scheduled in this regard. Likewise, we will exercise good faith in searching and retrieving the subpoenaed documents, but we expect that they will be limited.

Please confirm your agreement to these provisions so that we may notify the Court accordingly. As there appear to be a number of firms represented, please also clarify who exactly we need to hear from prior to notifying the Court of the agreement.

Sincerely,

Jennifer

## Jennifer Dorminey Herzog

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**From:** Jennifer Dorminey Herzog

**Sent:** Wednesday, June 29, 2022 3:53 PM

**To:** Halsey G. Knapp, Jr. <[hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)>

**Cc:** David Cross ([dcross@mofocom](mailto:dcross@mofocom)) <[dcross@mofocom](mailto:dcross@mofocom)>; Kaiser, Mary <[MKaiser@mofocom](mailto:MKaiser@mofocom)>; Adam M. Sparks <[sparks@khlawfirm.com](mailto:sparks@khlawfirm.com)>; Daniella P. Stucchi <[daniella@khlawfirm.com](mailto:daniella@khlawfirm.com)>; Anthony A. Rowell <[ARowell@hallboothsmith.com](mailto:ARowell@hallboothsmith.com)>; Nick Kinsley <[NKinsley@hallboothsmith.com](mailto:NKinsley@hallboothsmith.com)>

**Subject:** RE: Subpoenas to Coffee County Board of Elections and Registration - Curling v. Raffensperger

Mr. Knapp, your below email is misleading and candidly, inaccurate. When we spoke last Friday afternoon 6-24-22, I made you aware that the Coffee County Board of Elections and Registration has only 2 staff members employed in its office and that they were busy with a run-off election and other pressing duties of the office, which was why we were speaking on Friday. We discussed at length the 2 subpoenas in question (to produce documents and for deposition), and I specifically advised you of the tight timeline and that the Subpoena to Produce Documents was due Thursday 6-30-22 at 10 a.m.. We agreed I would send follow up correspondence to you early this week specifying our exact requests, which you stated you would give your immediate attention in light of the circumstances. In my follow up call to you yesterday evening, I re-introduced myself and reminded you that I was calling with regard to the 2 subpoenas directed to Coffee County. You at that time had not received the correspondence sent earlier as a result of the email address listed on your subpoena being inaccurate, and I in fact held on the phone until you were able to confirm to me receipt of the email.

As you have indicated you will only grant a few days to a week extension, which will not be adequate in light of the substance of the request and the limited staff available, we have no choice but to move forward with filing the Motion to Quash before close of business this afternoon.

**From:** Halsey G. Knapp, Jr. <[hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)>  
**Sent:** Wednesday, June 29, 2022 3:22 PM  
**To:** Jennifer Dorminey Herzog <[jherzog@hallboothsmith.com](mailto:jherzog@hallboothsmith.com)>  
**Cc:** David Cross ([dcross@mofo.com](mailto:dcross@mofo.com)) <[dcross@mofo.com](mailto:dcross@mofo.com)>; Kaiser, Mary <[MKaiser@mofo.com](mailto:MKaiser@mofo.com)>; Adam M. Sparks <[sparks@khlawfirm.com](mailto:sparks@khlawfirm.com)>; Daniella P. Stucchi <[daniella@khlawfirm.com](mailto:daniella@khlawfirm.com)>  
**Subject:** FW: Subpoenas to Coffee County Board of Elections and Registration - Curling v. Raffensperger

Ms. Herzog,

I have just returned from a preliminary injunction hearing in federal court and read your email of after-hours last evening. Last night's transmittal email didn't indicate it was forwarding an emergency request, and when you and I spoke by phone last night during which I corrected our email address, you did not share with me the subject or urgency of your earlier misdirected email. Notably, your client has had the service copy since June 16.

I will explore your request with our team.

You should know that our general approach is to consent to a reasonable extension if the party intends to produce documents, something on the order of a few days to a week, absent personal hardship but not to extend if the party intends to respond simply by filing a motion to quash. Please advise of your client's intention.

I'll be report back today, if possible, but it might be tomorrow.



**Halsey G. Knapp, Jr.**  
Crisis Management/Voting & Elections  
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Email: [hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)

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**To:** Halsey G. Knapp, Jr. <[hknapp@khlawfirm.com](mailto:hknapp@khlawfirm.com)>  
**Subject:** FW: Subpoenas to Coffee County Board of Elections and Registration - Curling v. Raffensperger

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**Sent:** Tuesday, June 28, 2022 4:44 PM  
**To:** [jknapp@hklawfirm.com](mailto:jknapp@hklawfirm.com)  
**Cc:** Anthony A. Rowell <[ARowell@hallboothsmith.com](mailto:ARowell@hallboothsmith.com)>; Stephen Delk <[SDelk@hallboothsmith.com](mailto:SDelk@hallboothsmith.com)>; Nick Kinsley <[NKinsley@hallboothsmith.com](mailto:NKinsley@hallboothsmith.com)>; Vickers, Wesley <[Wesley.Vickers@coffeecounty-ga.gov](mailto:Wesley.Vickers@coffeecounty-ga.gov)>; Vickers, Tracie <[tracie.vickers@coffeecounty-ga.gov](mailto:tracie.vickers@coffeecounty-ga.gov)>; Rachel Roberts <[Rachel.Roberts@coffeecounty-ga.gov](mailto:Rachel.Roberts@coffeecounty-ga.gov)>  
**Subject:** Subpoenas to Coffee County Board of Elections and Registration - Curling v. Raffensperger

Mr. Knapp,

My name is Jennifer Herzog and I am with the law firm Hall Booth Smith, PC. As we discussed late last Friday afternoon, the managing partner of HBS' Tifton office, Tony Rowell, is the County Attorney for Coffee County, and through that role our firm also represents the Board of Elections and Registration of Coffee County. We recently received two subpoenas related to the *Curling v. Raffensperger*, Civil Action No. 1:17-cv-02989-AT ([N.D.Ga.](#)) litigation, attached.

Our review has indicated this case began in 2017, challenging the results of the June 20, 2017 runoff election between Karen Handel and Jon Ossoff. Five years later, your client now seeks a burdensome document production and deposition of Coffee County BOE. There are at least 1401 docket entries in the subject lawsuit, rendering it impossible for Coffee County BOE to timely review all pleadings in support of this communication and/or an eventual Motion. In accordance with the federal rules, I am writing in good faith to attempt to resolve all issues prior to filing a Motion to Quash and/or Motion for Protective Order with regard to these subpoenas.

- **Subpoena to Produce Documents or Electronically Stored Information (currently due 6/30/22) – see “Attachment A”** - The time period requested for documents is January 1, 2020 – present.
  - Coffee BOE is a very small office with only 2 staff members. The staff was recently busy conducting an election and runoff completed last week and only since has had the space and time to turn its attention to this subpoena. The extensiveness of this request coupled with its very short time period for response is no doubt an onerous and unreasonable burden when considering the staff availability and other immediate duties. Further, there has been complete turnover of office staff during the time period requested with 3 Election Supervisors (Misty Hampton, James Barnes and current Rachel Roberts) during the time period requested.

- At least one Board member is out of the office this week and unavailable to search and/or retrieve any responsive records. Therefore, to the extent certain Board members are not available but potentially have responsive documents, we cannot provide these within the time limitation provided in the subpoena. **In light of the circumstances and the upcoming July 4<sup>th</sup> federal holiday, we would ask for at least a 3 week extension to respond to the document production, until on or after July 21, 2022.**
- In full disclosure, I did want to go ahead and note the following, based upon information provided to me previously by BOE members and staff:
  - Members of the Board of Elections and Registration of Coffee County do not have county assigned email addresses, with the exception of Chairwoman Earnestine Clark who has been only recently assigned a county email address. Personal emails or text messages may or may not be located on individual board members private accounts. However, certain board members have joined and/or left the Board during the time period requested. My recommendation is for us to request that all current board members produce any responsive documents for the time period requested and will provide to you, unless it is otherwise privileged. Coffee County has no contact or control over former Coffee County employees including Misty Hampton, Jill Riddlehoover and James Barnes.
  - IT support has confirmed that the former Election Supervisor Misty Hampton's and Jill Riddlehoover's email accounts are no longer accessible. I previously personally asked IT to again re-double their efforts to be absolutely sure this is the case and same was confirmed. In good faith to show you there was no sinister intent, I provide the following explanation for the circumstances that caused the email records of former employees Hampton and Riddlehoover to be unavailable: Coffee County has a limited number of licenses available under Microsoft 365, and it was the regular practice of IT to replace the new employee of each position with that license when a former employee of the same position was no longer employed by the county, and when that is done, unless previously archived, the former employees' emails are no longer accessible. The County has since approved and implemented an email archiving system and James Barnes' emails are accessible.
  - **Topics #1, 6, 7:** SEB Case Number 2020-250 arose out of alleged conduct by Ms. Hampton and the investigation occurred during James Barnes' tenure. Neither of these individuals are employed or under the control of Coffee County BOE. Ms. Hampton and/or Mr. Barnes contain the relevant knowledge related to this topic.
  - **Topics #2-7, 12:** These topics all relate to any

“Unauthorized Access” and it is my understanding that no current employee or board member has any knowledge or can testify about any alleged Unauthorized Access.

- **Topic #8:** Coffee County BOE does not know why the EMS server was replaced in 2021. This question should be directed to Georgia’s Secretary of State, who is a party to this case.
  - **Topics #9, 11:** Coffee County BOE does not possess knowledge related to any change of password for the EMS Server after the 2020 election. This information should be obtained from Ms. Hampton or Mr. Barnes.
  - **Topic #10:** Coffee County BOE can testify on this topic. However, the termination of any Coffee County BOE employee or personnel after October 1, 2020 is irrelevant to this litigation and unrelated to any election, election equipment, or election event. The terminations occurring during this timeframe were for business and office management purposes.
  - **Topic #13:** This is simply another way of describing an “Unauthorized Access.” The board is unaware of any security vulnerabilities in the computer systems or network environments used to support the Election System.
  - **Topic #14:** To the extent a board member is knowledgeable on this topic, Coffee County BOE can testify. However, Ms. Hampton or Mr. Barnes would likely have superior knowledge.
  - **Based on the above, we ask that these requests be narrowed in scope so as not to be overly burdensome on the Coffee BOE and staff and relevant to the current litigation.**
- **Subpoena to Testify at a Deposition (currently deposition scheduled in Valdosta 7/14/22) – see “Schedule A”**
    - This subpoena requests the Coffee Board of Elections and Registration to designate one or more of its board members or staff to testify on the topics set forth in Schedule A – again, time period at issue is noted to be July 1, 2020 - present.
    - With regard to Subpoena to Testify at a Deposition/Questions 2-7: Based on prior representations made to me, it is my understanding that the answer to each of Questions 2,3,4,5,6 and 7 about any ability to testify to Unauthorized Access are “None” but I am in the process of confirming that again.
    - With regard to Questions 1,8,9,10,11,12,13,or 14, many/most of these questions will be most accurately answered by the former Election Supervisors Misty Hampton and James Barnes. However,

I have requested the Board members notify me as to which requests they feel they can knowledgeably testify to and will communicate with you in that regard once responses are received to same.

- o **Based on our conversation, I understand you would like to have time to review the documents produced prior to the depositions occurring. Therefore, we would propose the deposition occur at a date, time and place agreed upon in Douglas, Georgia. We also request the topics be narrowed in scope so as not to be overly burdensome on the Coffee BOE, within their scope of knowledge, and relevant to the current litigation.**

A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. We very much would like to avoid the cost and expense of preparing and filing a Motion to Quash/Motion for Protective Order. Further, upon information and belief, the discovery period has expired in the instant litigation and was expired at the time the Subpoenas were issued. The issuance of a Rule 45 subpoena after the close of the discovery period is improper and grounds to quash the subpoena. I did also want to point out the subpoenas reference service upon James Barnes (former Election Supervisor, no longer a county employee) and states he was served at his residence and authorized to accept service for the Coffee County Board of Elections – obviously inaccurate. **I propose that you withdraw the subpoenas at this time to correct these procedural deficiencies, and then we communicate and, assuming issues resolved, agree to accept service of future subpoenas on behalf of the Board on the timeline proposed above.**

Lastly, it is my understanding from the documents that I have reviewed that Mr. Cheney may have received a separate subpoena for his deposition; if that is the case, we would like to coordinate that to occur similar to the scheduling set out with regard to the Subpoena to Testify at a Deposition above.

As you are aware, we are under a very short timeline until the subpoena for documents production is due, so I look forward to hearing from you at your earliest convenience.

Jennifer Herzog

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