

1. Several news outlets, led by one in particular, have mischaracterized the nature of this the relief as “seeking to install Donald Trump as President.”¹ To the extent the Court takes any similar view of this case, this idea must be firmly cast aside. Given that the entire 2020 federal election was illegal, this would mean that, even if Donald Trump had been declared the winner, he would ALSO be an illegal, illegitimate president because the ballots themselves cast in the election were in violation of HAVA,² and were thus, illegal. Moreover, as clearly referenced in the Plaintiff’s Original Complaint, (Doc. 1) (the “Complaint”), the 20th Amendment provides that President Trump’s term ended on January 20, 2021. Complaint, ¶ 4. With regard to Trump, the Complaint merely requested he take “all reasonable and necessary” steps, prior to his term ending to “preserve the lawful and orderly continuity of government” during the Constitutional Crisis of an illegal election. Complaint, ¶ 125. This suit categorically does NOT seek to reinstall Donald Trump.³

¹ See **Exhibit A**, Tweets of Roger Sollenberger of Salon.com and Article by Mr. Sollenberger explicitly stating, as echoed by celebrities and other media that this lawsuit “asks a federal judge to install Trump as president” and focusing on a literary analogy to Lord of the Rings as an ostensible distraction to the sound underlying legal claims of Plaintiffs for a new election and a temporary check on government power pending an evidentiary hearing and then trial on the merits.

² All Capitalized terms not defined herein shall have the meaning ascribed to them in the Amended Proposed Temporary Restraining Order (Doc. 7) or in the Complaint.

³³ Likely, media merely assumed, without reviewing the Complaint, that the lawsuit sought to reinstall President Trump because undersigned counsel was the victim of a “Twitter Mob” where a video was selectively edited and words twisted out of the context, which showed clear contrary intent, in order to claim the Mr. Davis’s words “trying to get into the Capitol,” meant according to Mr. Sollenberger’s tweet, to “storm[] the capitol in an attempt to stage a coup against the US government,” a preposterous assertion, if viewed in the context of the rest of the video. See **Exhibit B**, The Original Tweet of Roger Sollenberger.

Indeed, “get into the Capitol” can have more than one meaning, including, as Mr. Davis intended, asking Capitol police to allow him to get within earshot of Congressmen to make his voice heard after he had been daily telephoning and emailing to request a true audit of ballots and tabulating machines to ensure election integrity. **To be clear, Mr. Davis had no violent intent, see Declaration of Paul M. Davis (Doc. 8)),** and only voted for Mr. Trump because he views him as an outsider and not inherently tainted by a life in corrupt politics and further views his policies as good for common, everyday Americans as opposed to elites, and not for any other reason. Yet, Mr. Sollenberger, apparently in keeping with the acts of the various partisan enterprises and persons described in the Complaint, has continued his “reporting” on Mr. Davis, painting him in a false light as an extreme lunatic, and now,

2. To be clear, as stated in the relief requested in the Complaint, this lawsuit merely seeks a return to the system of government contemplated by the founders of this nation—a republic where representatives are elected by its citizens—through a new election that conforms with existing law, namely, HAVA, upon a trial on the merits. Despite the exaggerated ravings of such media outlets, it is actually not unreasonable to ask for a return to the rule of law through a legal election. That much is ignored by these outlets.

B. The Illegal Congress Moves to Eliminate Election Integrity Forever.

3. While the relief proposed in the previous form of order may admittedly have been too heavy handed (what *is* an appropriate temporary remedy for an entirely illegal election?), the need for this Court to take some form of action to keep the Disputed Congress and Disputed President in check has never been more urgent. **Congress has now proposed eliminating HAVA and replacing it with the ironically-named misnomer, the “For the People Act of 2021,”** which would forever extinguish Plaintiffs’ right to a new election, free from illegal failures to

has painted the Plaintiffs in a similar light by twisting words in the Complaint and making false representations as to the nature of this lawsuit. Plaintiffs urge the Court not to let the ravings of an irrelevant “journalist” regarding their Counsel taint the Court’s view of Plaintiff’s lawsuit.

In an even more shocking move, Mr. Sollenberger’s attorney, Anne Champion of Gibson Dunn, sent Mr. Davis the letter attached hereto as **Exhibit C**, claiming that Mr. Davis, despite Mr. Sollenberger’s outrageous and factually incorrect Tweets, which led to Mr. Davis being summarily terminated from Goosehead Insurance (without being the chance to even give a statement of his side of the events), had committed the tort of defamation against Mr. Sollenberger by referring to him as a “radical left-wing journalist” (a clear statement of opinion that is patently not actionable in Texas, as any cursory review of Texas tort law would show) in a subsequent Facebook post which attempted to mitigate the public outrage against Mr. Davis caused by Mr. Sollenberger’s false statements in his Tweet and Goosehead’s refusal to listen to his side of the story. Plaintiffs only point this out because such actions by Sollenberger and Champion appear to be nothing more than an intimidation campaign to discourage their attorney from standing up for their civil rights for free and fair elections in this lawsuit. Such apparent tactics by these partisan actors to interfere in Plaintiffs’ constitutional rights should not be tolerated in a civil society and should be condemned. At worst, these actions may even be part of a greater coordinated effort to perpetrate an illegal election and silence any voice that speaks out to expose such an injustice.

ensure integrity in the election process. This bill provides for, *inter alia*, (1) NATIONWIDE VOTING BY MAIL,⁴ (2) abolishing the requirement to provide notarization or witness signature as a condition of obtaining or casting a ballot, (3) nationwide ballot harvesting by permitting voters to designate any other person to return their ballot, (4) federal takeover of congressional redistricting from state legislatures, (5) allowing convicted felons to vote, (6) mandatory allowance for early voting, (7) internet-only registration with electronic signature submission, (8) banning requirement for submission of Social Security Numbers for voter registration, (9) lowering the voting age to 16, and (10) nationwide same-day voter registration.⁵

4. This bill would be catastrophic to American election integrity and makes it appear that the goal of Defendants was to simply move past the pervasive violations of HAVA in the 2020 election as quickly as possible to achieve complete reversal of the election integrity provisions in HAVA and, thereby, to forever deprive the American people of free and fair elections.

C. Alternative More Reasonable Form of Relief Proposed.

5. Salon.com and other media outlets, apparently due solely to Counsel making a literary analogy (something not remotely uncommon to legal writing) have characterized this lawsuit as a mere fantasy. *And perhaps they are right in a sense.*

⁴ Until the 2020 election, voting by mail had been near-universally condemned as inherently insecure by many notable scholars and public officials. The footnotes in the following Heritage Foundation report contain references to previous studies and memos showing this to be true. https://www.heritage.org/election-integrity/report/elections-exclusively-mail-terrible-idea-whose-time-should-never-come#_ftn7

⁵ See H.R.1 – For the People Act of 2021, available at <https://www.congress.gov/bill/117th-congress/house-bill/1/text?q=%7B%22search%22%3A%5B%22hr1%22%5D%7D&r=1&s=2>

Admittedly, Counsel has struggled greatly⁶ with the question of what is an appropriate remedy when an entire federal election has been conducted illegally, as has been demonstrated in the Complaint and the Motion for Temporary Restraining Order, as amended. There is no precedent for such a situation, and Counsel has tried his best to craft an appropriate remedy for the Court to consider that would adequately keep an illegally-elected rogue government in check while the Plaintiffs await their right to a trial of their civil rights claims by jury to manifest.

6. Perhaps the process described in the previous form of order was too heavy-handed and overly punitive. Perhaps many of the politicians involved, including the Disputed President himself, were simply unaware of HAVA and were mere unknowing beneficiaries of an illegally-conducted election. The newly proposed “For the People Act” makes that a bit difficult to believe. Nonetheless, the fact that an entire American election was conducted outside the rule of law is certainly shocking to the conscience. So, it would make sense for the remedy to be equally shocking by comparison.

7. However, after getting a bit of rest and pondering it over the weekend, attached hereto is an Alternative Proposed Temporary Restraining Order (the “Alternative Order”), which does not seek to appoint any “Stewards” or similar but simply seeks to curb the power of a disputed Congress and President by limiting their

⁶ Further complicating this process is Counsel’s intense amount of sleep-deprivation, having to do the work of several attorneys, mostly alone, with a skeleton staff while being plagued with threats to his safety and an apparent act of vandalism at his home where someone stuffed bundles of wood and garbage into the drain sewer at his home causing a massive sewage backup. Indeed, it is now 5:21 A.M. and counsel has not slept in an attempt to get more reasonable relief in front of the Court prior to the court opening at 9:00 A.M.

ability to enact new laws and policies while the litigation process of determining whether Plaintiffs' allegations are supported by a preponderance of the evidence, and of course, pending an evidentiary hearing on Plaintiffs' application for Preliminary Injunction.

8. Surely, no one can say it is unreasonable to wait another 14 to 28 days for the new Congress and President to implement their agenda for drastic policy changes while there is a real question as to whether they were legitimately elected in the first place. Of course the media will say the Court is a Trump fanatic buying into "baseless conspiracy theories," just like they say about undersigned Counsel, but Plaintiffs like to think the Court knows the truth. Such feigned media outrage, similar to the ridiculous articles, Tweets, from Mr. Sollenberger, and the letter from Mr. Sollenberger's attorney (after which she took the outrageous step of publicly Tweeting the letter, which her client then retweeted at Counsel for Plaintiffs, *see Exhibit D*, Tweet of Anne Champion), appears to be merely all part of the partisan, intimidating campaign to silence all dissent and forever secure rule by the elite over the People, who will have no voice in future elections if the Court does not intervene.

9. If this lawsuit is truly baseless (it absolutely is not baseless), then Congress and the President can proceed with their agenda to end the Keystone XL Pipeline construction;⁷ rejoin the Paris Climate Accords;⁸ require biological men and boys be allowed to compete against biological women and girls in sports;⁹ reverse the

⁷ <https://www.cbsnews.com/news/keystone-xl-pipeline-biden-revoke-permit/>

⁸ <https://thehill.com/policy/energy-environment/535075-biden-recommits-us-to-paris-climate-accord>

⁹ <https://www.wsj.com/articles/joe-bidens-first-day-began-the-end-of-girls-sports-11611341066>

travel ban from countries known to harbor terrorist activities (the so-called “Muslim Ban”);¹⁰ halt construction of the border wall;¹¹ codify *Roe v. Wade*;¹² enact Medicare-for-all;¹³ repeal the 2017 tax cuts; raise minimum wage to \$15 per hour;¹⁴ add the District of Columbia as a state;¹⁵ enact the Green New Deal or some version of it;¹⁶ and even pack the Supreme Court.¹⁷

10. But, if Plaintiffs, who have already demonstrated a probable right to relief, are given time to further develop their evidence in discovery and put forth an even more robust case before this Court to prove that the 2020 federal elections were illegally conducted in violation of HAVA, then 14 to 28 days to conduct discovery and prepare witnesses and exhibits for a preliminary injunction hearing while the government remains operational—yet unable to make radical departures from previously existing policies and laws—does not seem like a lot to ask from this Court to forever preserve free and fair election in these United States.

D. Additional Evidence in Support of Amended Motion for Temporary Restraining Order.

11. Mr. Vanderbol, a U.S. combat veteran, cancer survivor, and survivor of a traumatic brain injury, which affects his balance and other function but does NOT affect his cognitive abilities, has also been attacked in Roger Sollenberger’s hit pieces

¹⁰ www.latimes.com/politics/story/2021-01-20/biden-reverses-trump-travel-ban-muslim-majority-countries

¹¹ <https://www.cnn.com/2021/01/22/politics/joe-biden-executive-orders-first-week/index.html>

¹² https://www.theepochtimes.com/white-house-announces-it-will-codify-federal-abortion-law_3667860.html

¹³ <https://www.democratsagenda.com/>

¹⁴ *Id.*

¹⁵ https://www.washingtonpost.com/local/dc-politics/dc-statehood-bowser/2021/01/07/91eeacae-511d-11eb-83e3-322644d82356_story.html

¹⁶ <https://www.npr.org/2021/01/13/956192132/progressives-gear-up-for-broad-new-push-on-climate-action>

¹⁷ <https://www.politico.com/news/magazine/2020/09/19/how-democrats-could-pack-the-supreme-court-in-2021-418453>

for having “40% of his cerebellum removed,” which Mr. Sollenberger mentions in his article, ostensibly for the purpose of discrediting Mr. Vanderbol without citing any medical evidence that such a surgery would affect Mr. Vanderbol’s cognitive abilities. *See Exhibit A* (last paragraph of article). Not only is this yet another vindictive attack on Counsel for Plaintiffs and their lawsuit by a partisan actor, but Mr. Vanderbol, if given the chance to testify before this Court, will demonstrate an unparalleled intellectual ability to understand and explain complex systems, drawing from the expertise he has gained over his extraordinary career.¹⁸ Over the weekend, Mr. Vanderbol conducted some additional research and analysis regarding the various states’ clear violations of HAVA and also, as Mr. Vanderbol discovered, of Section 301 of the Civil Rights Act of 1960, 52 U.S.C. § 20701, (“Section 301”), which Plaintiffs now offer in support of the Motion and the TRO.

12. Most notably, Mr. Vanderbol’s research, citing to, among other sources, the “Stanford-MIT Healthy Elections Project,” reveals that the process used by the several states, in particular all of the “swing states,” used a process of separating ballots from the envelopes in the pretabulation process, which clearly violates the requirement in Section 301 for “Every officer of election” to “retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election . . . all records and papers” related to voting in the election.¹⁹ The states also violated Section 301 in various other ways as explained in Exhibit E. Accordingly,

¹⁸ Mr. Vanderbol’s CV is attached to the Motion.

¹⁹ *See Exhibit E*, “Report to the Court: Failure to Preserve Data” by J.S. Vanderbol III and numbered exhibits attached thereto.

Plaintiffs urge the Court to review Mr. Vanderbol's new report and grant the relief requested herein.

II.
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court ignore the vicious media attacks against Plaintiffs' lawsuit and injunctive relief requested, grant their Motion, enter either the attached Alternative Order, the Amended Temporary Restraining, or fashion a reasonable remedy somewhere in the middle to prevent the immediate and irreparable harm Plaintiffs will suffer and grant Plaintiffs all other and further relief to which they may be justly entitled.

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[certificate of service not required for ex parte relief]