

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

VOTERGA AND)	
PHILIP SINGLETON,)	
)	
Petitioners,)	
)	
v.)	CIVIL ACTION NO.
)	2021CV353604
)	
STATE OF GEORGIA,)	
)	
Respondent.)	

ANSWER AND DEFENSES OF RESPONDENT THE STATE OF GEORGIA

The State of Georgia (“the State”) answers the Petition for Declaratory and Injunctive Relief of VoterGA and Philip Singleton (collectively “Petitioners”) as follows:

FIRST DEFENSE

The Petition should be dismissed for lack of subject matter jurisdiction, pursuant to O.C.G.A. § 9-11-12(b)(1).

SECOND DEFENSE

The Petition should be dismissed because it is barred by the State’s sovereign immunity.

THIRD DEFENSE

The Petition should be dismissed because it is barred by laches.

FOURTH DEFENSE

The Petition should be dismissed because the Petition fails to state a claim upon which relief can be granted, pursuant to O.C.G.A. § 9-11-12(b)(6).

FIFTH DEFENSE

Without waiving the above defenses, or any other defenses to which the State may be entitled, the State answers the allegations of the Petition as follows. Any admission herein is limited to the express language of the response and shall not be deemed an implied admission of additional facts.

The Parties

1.

The State lacks sufficient knowledge to admit or deny the allegations contained in this paragraph and therefore denies the allegations.

2.

The State lacks sufficient knowledge to admit or deny the allegations contained in this paragraph and therefore denies the allegations.

3.

The State denies the allegations in this paragraph.

4.

The State denies the allegations in this paragraph, and further states that the State's electronic voting equipment complies with state law.

Jurisdiction and Venue

5.

The State denies that the Court may properly exercise jurisdiction in this action.

6.

The State denies that venue is proper in this Court.

Factual Background

7.

The State admits that the Georgia Secretary of State's office is required by state law to procure and distribute ballot marking devices to the counties within the State of Georgia pursuant to Ga. Code Ann. § 21-2-300(a)(1).

8.

The State admits that the Georgia Secretary of State's office is authorized by state law to conduct pilot programs to test and evaluate ballot marking devices pursuant to Ga. Code Ann. § 21-2-300(a)(4).

9.

The State admits that the Georgia Secretary of State's office procured the current ballot marking devices from Dominion Voting Systems, Inc. on or about 07/29/2019 pursuant to the contract titled the Master Solution Purchase and Services Agreement By and Between Dominion Voting Systems, Inc. as Contractor, and Secretary of the State of Georgia as State.

10.

The State admits that the Georgia Secretary of State issued a Certification of the Dominion Voting Systems as meeting all applicable provisions of the Georgia Elections Code and Rules of the Secretary of State on August 9, 2019.

11.

The State admits that the Georgia Secretary of State's office and Dominion Voting Systems, Inc. signed the 1 Amendment to the original contract on or about 04/28/2020.

12.

The State admits that the Georgia Secretary of State's office and Dominion Voting Systems, Inc. signed the 2 Amendment to the original contract on or about 05/10/2020.

13.

The State denies the allegations contained in paragraph 13.

14.

The State denies the allegations contained in paragraph 14.

15.

The State denies the allegations contained in paragraph 15.

16.

The State denies the allegations contained in paragraph 16.

17.

The State denies the allegations contained in paragraph 17.

18.

The State denies the allegations contained in paragraph 18.

19.

The State denies the allegations contained in paragraph 19.

20.

The State denies the allegations contained in paragraph 20.

**COUNT I: DECLARATORY JUDGMENT FOR FAILURE TO COMPLY WITH STATE
LAW (VERIFIABILITY)**

21.

The State incorporates its responses to paragraphs 1 through 21 as if specifically stated herein.

22.

The State admits the allegations contained in paragraph 22 of Count I.

23.

The State admits that an elector can verify the written portion of the paper ballot, and denies the remaining allegations contained in paragraph 23 of Count I.

24.

The State denies the allegations contained in paragraph 24 of Count I.

25.

The State denies the allegations contained in paragraph 25 of Count I.

26.

The State denies the allegations contained in paragraph 26 of Count I.

27.

The State denies the allegations contained in paragraph 27 of Count I.

28.

The State denies the allegations contained in paragraph 28 of Count I.

29.

The State lacks sufficient knowledge to admit or deny the allegations contained in paragraph 29 of Count I and therefore denies the allegations.

30.

The State lacks sufficient knowledge to admit or deny the allegations contained in paragraph 30 of Count I and therefore denies the allegations.

31.

The State lacks sufficient knowledge to admit or deny the allegations contained in paragraph 31 of Count I and therefore denies the allegations.

32.

The State lacks sufficient knowledge to admit or deny the allegations contained in paragraph 32 of Count I and therefore denies the allegations.

33.

The State lacks sufficient knowledge to admit or deny the allegations contained in paragraph 33 of Count I and therefore denies the allegations.

COUNT II: TEMPORARY INJUNCTION

34.

The State incorporates its responses to paragraphs 1 through 33 as if specifically stated herein.

35.

The State denies the allegations contained in paragraph 35 of Count II.

36.

The State denies the allegations contained in paragraph 36 of Count II.

37.

The State denies the allegations contained in paragraph 37 of Count II.

38.

The State denies the allegations contained in paragraph 38 of Count II.

39.

The State denies the allegations contained in paragraph 39 of Count II.

40.

The State denies the allegations contained in paragraph 40 of Count II.

41.

The State denies the allegations contained in paragraph 41 of Count II.

42.

The State denies the allegations contained in paragraph 42 of Count II.

43.

The State denies the allegations contained in paragraph 43 of Count II.

COUNT III: PERMANENT INJUNCTION

44.

The State incorporates its responses to paragraphs 1 through 43 as if specifically stated herein.

45.

The State denies the allegations contained in paragraph 45 of Count III.

46.

The State denies the allegations contained in paragraph 46 of Count III.

47.

The State denies the allegations contained in paragraph 47 of Count III.

48.

The State denies the allegations contained in paragraph 48 of Count III.

49.

The State denies the allegations contained in paragraph 49 of Count III.

50.

The State denies the allegations contained in paragraph 50 of Count III.

51.

The State denies the allegations contained in paragraph 51 of Count III.

52.

The State denies the allegations contained in paragraph 52 of Count III.

53.

The State denies the allegations contained in paragraph 53 of Count III.

Response to Petitioner's Prayer for Relief

The State denies that Petitioner is entitled to any of the relief requested in paragraphs (a) through (e) of the Prayer for Relief, and further states that the requested relief is contrary to Georgia law and outside the scope of the authority of this Court to grant.

* * *

The State denies any and all remaining allegations contained in the Petition not previously admitted, denied, or otherwise controverted.

WHEREFORE, the State respectfully requests that this Court dismiss this action in its entirety.

[signatures on the following page]

Respectfully submitted, this 27th day of September, 2021.

CHRISTOPHER CARR 112505

Attorney General

BRYAN K. WEBB 743580

Deputy Attorney General

RUSSELL D. WILLARD 760280

Senior Asst. Attorney General

/s/ Charlene S. McGowan

CHARLENE MCGOWAN 679316

Assistant Attorney General

ISABELLA LUGO 409821

Assistant Attorney General

Attorneys for Defendant State of Georgia

Office of the Georgia Attorney General
40 Capitol Square
Atlanta, Georgia 30334
(404) 458-3658
cmcgowan@law.ga.gov

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **ANSWER AND DEFENSES** with the Clerk of Court using the electronic filing system which will automatically send email notification of such filing to all attorneys of record via electronic notification.

Dated: September 27, 2021

/s/ Charlene S. McGowan
Charlene S. McGowan
Assistant Attorney General