

**IN THE SUPREME COURT
STATE OF GEORGIA**

**GARLAND FAVORITO et al.,
APPELLANTS,**

v.

CASE NO.: S22C1285

**ALEX WAN et al.,
APPELLEES.**

**APPELLANTS' MOTION TO EXPEDITE PETITION FOR WRIT OF
CERTIORARI**

COME NOW, THE APPELLANTS, by and through their attorneys of record, who file this Motion to Expedite Petition for Writ of Certiorari, pursuant to Supreme Court of Georgia Rule 26. The Appellants show the Court the following:

1.

Georgia law holds that ballots and other evidence from elections are required to be preserved via O.C.G.A § 21-2-73 and O.C.G.A § 21-2-500 for twenty-four (24) months.

2.

The ballots and other evidence are in the custody of the Fulton County Clerk of Superior Court, who is not a party to this action, but is bound by orders executed by the trial court.

3.

The trial court granted a temporary injunction in this civil action to preserve the subject ballots and other evidence which maintained the status quo pertaining

to the retention of the subject ballots and other potential evidence on January 7, 2021, attached hereto as Exhibit “A”.

4.

The trial court dismissed this civil action for lack of standing on October 13, 2021.

5.

The Appellants filed a timely notice of appeal to the Court of Appeals of Georgia on November 10, 2021, and presented oral arguments to that Court on May 4, 2022.

6.

The Appellants filed a motion to restore the temporary injunction previously granted to the trial court on May 16, 2022, a copy of which is attached hereto as Exhibit “B”.

7.

The Court of Appeals of Georgia affirmed the trial court decision on July 1, 2022.

8.

After receiving no response to the above Motion to Restore Temporary Injunction from the Appellees, the Appellants filed a Notice of Hearing on the pending motion in the trial court on August 16, 2022.

9.

The trial court refused to hear the Appellants Motion to Restore Temporary Injunction on or about August 31, 2022.

10.

The Appellants filed their Motion to Restore Temporary Injunction Pending Petition for Writ of Certiorari to the Supreme Court of Georgia on September 1, 2022.

11.

The Supreme Court of Georgia denied the Appellants' Motion on October 28, 2022, dismissing the same without prejudice.

12.

The Appellants sent a litigation hold to counsel of the Fulton County Clerk of Superior Court on November 1, 2022 by overnight mail, a copy of which, along with proof of mailing, is attached hereto as Exhibit "C".

13.

The aforementioned twenty-four (24) month period will expire by November 30, 2022.

14.

The issue for determination before this Court is whether voters must have an individualized, particularized injury to support standing to assert their cause of action.

15.

This Court recently held in Sons of Confederate Veterans v. Henry County Board of Commissioners, S22G0039, S22G0045 (October 25, 2022) that certain individuals, such as voters, do not need an individualized injury to assert a grievance against their government, and the Court can apply the rule from that case to the present case.

16.

Because the destruction of the ballots and other evidence, which are the subject of this litigation, is imminent, the Appellants respectfully file this Motion to Expedite Petition for Writ of Certiorari, to preserve the status quo and prevent the destruction of any potential evidence.

WHEREFORE, THE APPELLANTS PRAY:

- a) That the Court **GRANTS** the Appellants' Motion to Expedite Petition for Writ of Certiorari; and

b) For any other relief this Court **DEEMS** just and proper.

This submission complies with the rules imposed by Rule 26.

Respectfully submitted this the 15th day of November, 2022.

HARDING LAW FIRM, LLC

/s/ Todd A. Harding

Todd A. Harding, For the Firm
Ga. Bar No. 105162
Attorney for Appellants

PAUL C. KUNST, PC

/s/ Paul C. Kunst

Paul C. Kunst, For the Firm
Ga. Bar. No. 735307
Attorney for Appellants

Harding Law Firm, LLC
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770-229-4578
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Paul C. Kunst, PC
Attorney at Law
941 Thomaston Street
Barnesville, GA 30204
678-359-1LAW (1529)

**IN THE SUPREME COURT
STATE OF GEORGIA**

**GARLAND FAVORITO et al.,
APPELLANTS,**

v.

CASE NO.: S22C1285

**ALEX WAN et al.,
APPELLEES.**

CERTIFICATE OF SERVICE

This is to certify that I have this day served the Parties via their counsels of record, a true and correct copy of the **APPELLANTS' MOTION TO EXPEDITE PETITION FOR WRIT OF CERTIORARI** via U.S. Mail, to the following addresses:

Donald F. Samuel
3151 Maple Drive, N.E.
Atlanta, Georgia 30305

Amanda Clark Palmer
3151 Maple Drive, N.E.
Atlanta, Georgia 30305

David Joyner
1305 Mall of Georgia Blvd
Buford, Georgia 30519

Respectfully submitted this the 15th day of November, 2022.

HARDING LAW FIRM, LLC

/s/ Todd A. Harding

Todd A. Harding, For the Firm
Ga. Bar No. 105162
Attorney for Appellants

PAUL C. KUNST PC

/s/ Paul C. Kunst

Paul C. Kunst, For the Firm
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Attorney for Appellants

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Paul C. Kunst, PC
Attorney at Law
941 Thomaston Street
Barnesville, GA 30204
678-359-1LAW (1529)

EXHIBIT A

Fulton County Superior Court
EFILEDTB
Date: 1/7/2021 11:43 AM
Cathelene Robinson, Clerk

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GARLAND FAVORITO, MICHAEL
SCUPIN, TREVOR TERRIS, SEAN
DRAIME, CAROLINE JEFFORDS,
STACEY DORAN, CHRISTOPHER
PECK, and ROBIN SOTIR,

PETITIONERS,

v.

CIVIL ACTION NO. 2020CV343938

MARY CAROLE COONEY, VERNETTA
KEITH NURIDDIN, KATHLEEN RUTH,
AARON JOHNSON, MARK WINGATE,
and RICHARD BARRON in their
individual capacities,

RESPONDENTS.

ORDER GRANTING PETITIONERS' REQUEST FOR TEMPORARY INJUNCTION

The Court having held a hearing on January 6, 2021 and after oral argument by the Parties on Petitioners' Emergency Motion to Shorten the Time to Respond to a Discovery Request and Petitioners Emergency Motion for a Court Order to Enforce the Notice to Inspect, Copy, or Scan pursuant to Ga. Code Ann. § 9-11-34, the Court finds that Petitioners have established good cause for the entry of a temporary injunction to preserve the November 3, 2020 cast mail-in ballots and certain Dominion ballot images and election reports in certain formats for potential technical inspection and validation by Petitioners at a later date.

THEREFORE, IT IS HEREBY ORDERED THAT, Respondents, and all persons acting in concert with them, shall preserve and prevent the damage to, destruction of, removal of, revision of, or tampering with the following documents and things which this Court classifies as potential evidence related to Petitioners' claims as set out in the Petition for Declaratory and Injunctive Relief, as follows:

1. The paper ballots cast for all mail-in and absentee ballots which were counted in the November 2020 general election in Fulton County;

2. The original spoiled paper ballots completed by voters from the November 2020 general election by any voter in Fulton County, Georgia which were spoiled or otherwise unable to be electronically scanned;

3. The paper adjudicated ballots, or ballots cast by election officials for voters whose ballots were spoiled or otherwise unable to be electronically scanned, from the November 2020 general election in Fulton County, Georgia;

4. From the Dominion electronic election management system or other electronic election management system used by Fulton County, Georgia, the:

- a) Dominion or other Electronic Cast Vote Record;
- b) Ballot Images - Raw Images;
- c) Ballot Images - Ballot Audit and Review;
- d) Vote-by-Mail Ballot Report;
- e) Provisional Ballot Report;
- f) Conditional Voter Registration Ballot Report;
- g) Cast Vote Record (Raw data) - JSON;
- h) ImageCast Central Logs;
- i) Ballot Scanning/Tabulation Machine Logs;
- j) Ballot Scanning/Tabulation Machine Tape;
- k) Ranked-Choice Voting: Board of Supervisors, Final Detailed Report;
- l) Report of all spoiled ballots; and,
- m) Report of all the adjudicated ballots.

5. All electronic devices and electronically shared information contained on all such devices used by Respondents in connection with the November 2020 General Election.

SO ORDERED this 7 of January, 2021.



BRIAN J. AMERO, CHIEF JUDGE
Superior Court Judge, Flint Circuit

Prepared by:
Robert D. Cheeley
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Attorney to Petitioners

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GARLAND FAVORITO, MICHAEL SCUPIN,
TREVOR TERRIS, SEAN DRAIME,
STACEY DORAN, CHRISTOPHER PECK,
AND BRANDI TAYLOR,
PETITIONERS,

v.

CIVIL ACTION NO.: 2020CV343938

ALEX WAN, VERNETTA KEITH NURIDDIN,
KATHLEEN RUTH, AARON JOHNSON, AND
MARK WINGATE, in their individual capacities,
RESPONDENTS.

THE FAVORITO PETITIONERS' MOTION TO RESTORE TEMPORARY
INJUNCTION PENDING APPEAL AND DURING ANY PENDING PETITION FOR
CERTIORARI TO THE SUPREME COURT OF GEORGIA

COME NOW, PETITIONERS GARLAND FAVORITO, MICHAEL SCUPIN,
TREVOR TERRIS, SEAN DRAIME, STACEY DORAN, CHRISTOPHER PECK, AND
BRANDI TAYLOR (the Favorito Petitioners), in the above-captioned action, by and through
their attorneys of record, and file this motion to restore temporary injunction pending appeal and
during any pending petition for certiorari to the Supreme Court of Georgia pursuant to Ga. Code
Ann. §9-11-62 (c), as follows:

1.

This Court granted a temporary injunction to preserve the subject ballots and other evidence
which maintained the status quo pertaining to the retention of the items enumerated in Exhibit "A"
on 01/07/2021.

2.

The Court dismissed this civil action for lack of standing on 10/13/2021.

3.

The Favorito Petitioners timely filed a notice of appeal on 11/10/2021.

4.

The Favorito Petitioners did not seek to restore the temporary injunction pending that appeal
because a temporary injunction that preserved the subject ballots had been entered in Perdue et al. v.
Barron et al., Civil Action Number: 2021CV 357748, in the Superior Court of Fulton County.

5.

The Superior Court of Fulton County dismissed the Perdue et al. v. Barron et al. civil action on 05/11/2022.

6.

The ballots and other evidence are required to be preserved via Ga. Code Ann. §21-2-73 and Ga. Code Ann. §21-2-500 (a) for twenty-four (24) months.

7.

The Favorito Petitioners seek to have the terms of the 01/07/2021 temporary injunction restored pending the adjudication of the Favorito Petitioners' appeal and during any pending petition for certiorari to the Supreme Court of Georgia, so as to preserve the status quo and prevent the destruction of any potential evidence.

WHEREFORE, THE PETITIONERS pray:

- a). that the Court **RESTORES** the terms and provisions of the 01/07/2021 temporary injunction pending the adjudication of the Favorito Petitioners' appeal and during any pending petition for certiorari to the Supreme Court of Georgia; **AND**
- b). for any other relief the Court **DEEMS** just and proper.

Respectfully submitted this the 16th day of May, 2022.

HARDING LAW FIRM, LLC



Todd A. Harding, For the Firm
Ga. Bar No. 101562
Attorney for Favorito, Scupin,
Terris, Draime, Doran, Peck,
and Taylor

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

GARLAND FAVORITO, MICHAEL SCUPIN,
TREVOR TERRIS, SEAN DRAIME,
CAROLINE JEFFORDS, STACEY DORAN,
CHRISTOPHER PECK, ROBIN SOTIR,
AND BRANDI TAYLOR,
PETITIONERS,

v.

CIVIL ACTION NO.: 2020CV343938

FULTON COUNTY,
FULTON COUNTY BOARD OF
REGISTRARION AND ELECTION, AND
CLERK OF THE FULTON COUNTY
SUPERIOR AND MAGISTRATE COURTS,
RESPONDENTS.

CERTIFICATE OF SERVICE

I hereby certify that I have served upon the Parties via their counsels of record, a true and correct copy of **THE FAVORITO PETITIONERS' MOTION TO RESTORE TEMPORARY INJUNCTION PENDING APPEAL AND DURING ANY PENDING PETITION FOR CERTIORARI TO THE SUPREME COURT OF GEORGIA** in the above-styled case by email and the automated Odyssey service system.

Respectfully submitted this the 16th day of May, 2022.

HARDING LAW FIRM, LLC



Todd A. Harding, For the Firm
Ga. Bar No. 101562
Attorney for Favorito, Scupin,
Terris, Draime, Doran, Peck,
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EXHIBIT C

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Dominique.Martinez@fultoncountyga.gov

Office of the County Attorney
Kaye Woodward Burwell
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141 Pryor Street S.W.
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Atlanta, Georgia 30303

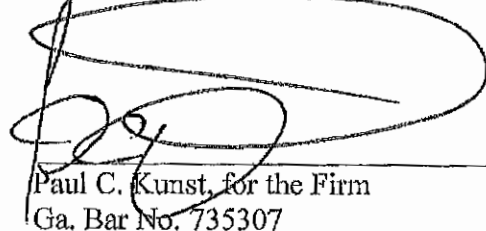
Re: Favorito, et al v. Wan, et al,
Supreme Court of Georgia Case S22C1285

Dear Counselors;

I hope this letter finds you well. As you are aware, the Plaintiffs in Favorito, et al, v. Wan, et al, Fulton County Superior Court Civil Action No. 2020CV343938, have petitioned the Supreme Court of Georgia for a writ of certiorari. Please consider this letter as a notice for a litigation hold, to request that your client, Fulton County Clerk of Superior Court Cathelene "Tina" Robinson, preserve all paper ballots cast in the November 2020 general election pending the completion of all trial and appellate processes.

Best regards,

PAUL C. KUNST PC



Paul C. Kunst, for the Firm
Ga. Bar No. 735307
Attorney for Plaintiffs



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 Approval #: 937014
 Transaction #: 559
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