

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

SUZANNAH HEIMEL,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. SUSR024000058-LL
)	
SHARON GREGG - DIRECTOR OF)	
BOARD OF ELECTIONS and JAY)	
HANLEY - CHAIRMAN OF BOARD OF)	
ELECTIONS,)	
)	
Defendant.)	
)	

**MOTION TO INTERVENE BY SUSAN NOAKES AND COMMON CAUSE GEORGIA
 AND MEMORANDUM OF LAW IN SUPPORT**

Susan Noakes and Common Cause Georgia (“Common Cause”) (hereinafter, “Proposed Intervenors”) hereby respectfully file this Motion to Intervene and Memorandum of Law in Support in the above-styled action pursuant to O.C.G.A. § 9-11-24, showing the Court the following:

I. INTRODUCTION AND BACKGROUND

Plaintiff Suzannah Heimel (“Plaintiff”) filed an Application for a Writ of Mandamus on September 4, 2024 (the “Application”) and a Motion for Emergency Injunction on September 12, 2024 (the “Motion”) attempting to compel the Oconee County Board of Elections and Registration (“Oconee BOER”) to process challenges to the eligibility of approximately 230 Oconee County registered voters based on purported changed residence. Plaintiff fails to meet the demanding requirements for the extraordinary writ of mandamus under Georgia law because, *inter alia*, the relief she seeks would violate O.C.G.A. § 21-2-230(b)(1), which bars challenges of an elector within 45 days of an election and its resulting process for removing voters based on a change in

residency or inactivity. Proposed Intervenors seek to intervene as a matter of right pursuant to O.C.G.A. § 9-11-24(a), or in the alternative, seek to permissively intervene under O.C.G.A. § 9-11-24(b).

As the Proposed Intervenors, Susan Noakes and Common Cause seek to intervene on behalf of themselves or on behalf of their members. Ms. Noakes is a dedicated member of her community and regularly attends Oconee BOER meetings due to her concerns about voter challenges and their impact on the upcoming election. She has a strong interest in protecting not only her right to vote, but also the rights of her fellow Oconee County voters. Her concerns about voter challenges and protecting the right to vote have caused her to take time away from her other obligations, including caring for her 92-year-old ailing mother. If the BOER refrained from taking actions related to mass voter challenges during the 45 days prior to the election, Ms. Noakes would not need to attend BOER meetings to obtain additional information to protect her right to vote as well as the right to vote of her fellow Oconee County voters.

Common Cause is dedicated to eliminating barriers to voting and increasing civic engagement among their members and voters in traditionally disenfranchised communities, including among members and voters in Oconee County. Plaintiff's requested relief would not only threaten these members' fundamental right to vote but would also cause Common Cause to divert resources from their voter registration, mobilization, education, and election protection efforts toward identifying, contacting, and assisting voters affected by the Application and Motion in time to participate in the upcoming General Election on November 5, 2024. Accordingly, Proposed Intervenors, on their own behalf (Ms. Noakes) and on behalf of their members (Common Cause), have a direct interest in (1) the proper administration of Georgia's elections, (2) ensuring that the eligible members, constituents, and voters in the community they serve remain registered

to vote and are able to successfully participate in the upcoming General Election, and (3) continuing to engage in critical election-year activities and other organizational priorities without being forced to divert resources to address harms to their members, constituents, and voters in the community that would flow from Plaintiff's requested relief. These interests are not otherwise adequately represented in this action. The Court should grant intervention as of right, or, in the alternative, the Court should grant permissive intervention.

II. ARGUMENT AND CITATION TO AUTHORITY

A. **Legal Standard for Intervention.**

Georgia courts have defined intervention as “the procedure by which a third person, not originally a party to a suit, but claiming an interest in the subject matter, comes into the case, in order to protect his right or interpose his claim.” *AC Corp. v. Myree*, 221 Ga. App. 513, 515 (1996). The standard for allowing intervention in a civil case is set forth in O.C.G.A. § 9-11-24, which permits intervention both as of right (O.C.G.A. § 9-11-24(a)) and on a permissive basis (O.C.G.A. § 9-11-24(b)). If a motion for intervention is timely and the party seeking to intervene meets the requirements set forth in O.C.G.A. § 9-11-24(a), courts must allow intervention. O.C.G.A. § 9-11-24(a) (“Upon timely application anyone *shall* be permitted to intervene” (emphasis added)); *see also AC Corp.*, 221 Ga. App. at 515; *Baker v. Lankford*, 306 Ga. App. 327, 330 (2010) (“Where intervention appears before final judgment, where the rights of the intervening party have not been protected, and where the denial of intervention would dispose of the intervening party’s cause of action, intervention should be allowed and the failure to do so amounts to an abuse of discretion”); *Buckler v. DeKalb Cnty.*, 290 Ga. App. 190, 193 (2008) (the statute “requires a three-fold showing of (1) interest, (2) potential impairment, and (3) inadequate representation.”) (quoting *DeKalb Cnty. v. Post Props.*, 245 Ga. 214, 219 (1980)).

As set forth below, Proposed Intervenors' motion is timely and they have satisfied the requirements for both intervention as a matter of right and for permissive intervention under O.C.G.A. § 9-11-24 (a) and (b), respectively.

B. Proposed Intervenors' Motion Is Timely.

Proposed Intervenors' motion is timely. They move to intervene only one month after the filing of the Application, before any answers or motions to dismiss have been filed, before defense counsel has entered an appearance, and before any scheduled hearing has occurred. There is thus no prejudice to the parties based on an untimely motion to intervene here. “[W]hether a motion to intervene is timely is a decision entrusted to the sound discretion of the trial court,” *AC Corp.*, 221 Ga. App. at 515 (citation omitted), and Georgia courts have routinely found intervention motions filed much later to be timely, *see, e.g., Liberty Mut. Fire Ins. v. Quiroga-Saenz*, 343 Ga. App. 494, 499 (2017) (finding intervention motion timely when intervenor “waited a month after hiring counsel to move to intervene”); *Stephens v. McGarrity*, 290 Ga. App. 755, 758 (2008) (finding that trial court abused its discretion in concluding that motion to intervene was untimely when filed 21 days after intervenor learned of proposed settlement and before the settlement hearing). The instant motion is indisputably timely.

C. The Moving Intervenors May Intervene as a Matter of Right.

Pursuant to O.C.G.A. § 9-11-24(a), there are three requirements for intervention as a matter of right: (1) interest in the subject matter, (2) impairment resulting from an unfavorable decision, and (3) inadequate representation. *See Baker*, 306 Ga. App. at 329; *Buckler*, 290 Ga. App. at 193. If a prospective party satisfies these requirements, a court may not deny intervention; the party “shall be permitted to intervene.” O.C.G.A. § 9-11-24(a) (emphasis added). The Proposed Intervenors satisfy each of these requirements.

1. *Proposed Intervenors and their members have interests that support their intervention in this action as a matter of right.*

An intervening party has an interest in the case sufficient for intervention as of right when the litigation is “of such a direct and immediate character that he will either gain or lose by the direct effect of the judgment, and such interest must be created by the claim in suit, or a claim to a lien upon the property, or some part thereof, which is the subject matter of the litigation.” *Rossville Fed. Sav. & Loan Ass’n v. Chase Manhattan Bank*, 223 Ga. 188, 189 (1967) (internal citations omitted). Proposed Intervenors have at least three significant, protectable interests at risk of impairment in this litigation: (1) ensuring that Oconee County elections are administered according to state law; (2) ensuring that voters in the community they serve remain registered to vote and are able to successfully participate in the upcoming General Election, and (3) for Common Cause, continuing to engage in critical election-year activities and other priorities without being forced to divert resources to address harms to their members, constituents, and voters in the community that would flow from Plaintiff’s requested relief.

First, Georgia voters and organizations with members that have a stake in the community—like Proposed Intervenors—have a legally cognizable injury to vindicate public rights when elections are not administered according to the law. *See Sons of Confederate Veterans v. Henry Cnty. Bd. of Comm’rs*, 315 Ga. 39, 60–63 (2022); *Barrow v. Raffensperger*, 308 Ga. 660, 667 (2020) (finding that the plaintiff “has a right as a Georgia voter to pursue a mandamus claim to enforce the Secretary’s duty to conduct an election that is legally required . . . [and] does not need to establish any special injury to bring that claim as a voter.”); *Rothschild v. Columbus Consol. Gov’t*, 285 Ga. 477, 479-480 (2009) (finding that plaintiffs’ allegations that defendants failed to perform public duty promised to voters was sufficient to establish standing); *Manning v. Upshaw*, 204 Ga. 324, 326 (1948) (finding that plaintiff, as a “citizen and a voter” of Alpharetta,

may maintain a petition for mandamus to compel the mayor and city council members to call for an election to elect their successors). Because the actions Plaintiff demands would violate O.C.G.A. § 21-2-230(b)(1), the Proposed Intervenor's interests in ensuring Georgia's elections are conducted in compliance with state law are directly implicated.

Second, Proposed Intervenor has an interest in protecting the rights of their members who reside in Oconee County or their own right to vote in the upcoming General Election, some of whom are likely to be directly impacted by Plaintiff's mass voter challenges. *See* Affidavit of Susan Noakes (Exhibit 1, "Noakes Aff.") ¶¶ 18, 24, 25; Declaration of John W. Young, II (Exhibit 2, "Young Decl.") ¶¶ 20, 21, 23. The disposition of this suit will directly impact Ms. Noakes and Common Cause's members and constituents—eligible voters who could be disenfranchised if the Oconee BOER is ordered to process challenges during the O.C.G.A. § 21-2-230(b)(1) quiet period. *See* Noakes Aff. ¶¶ 18, 25; Young Decl. ¶¶ 20, 29-30.

Third, Proposed Intervenor Common Cause has an interest in avoiding the need to divert resources to respond to a mass removal of voters, particularly during the run up to the General Election when, consistent with its mission, Common Cause is already extraordinarily busy mobilizing voters. Proposed Intervenor's diversion of resources injures here are more than sufficient to show impairment. *See, e.g., Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1350-51 (11th Cir. 2009), *cert. denied*, 129 S. Ct. 2770 (2009) (concluding Georgia NAACP had standing to challenge photo ID statute because it needed to divert resources to educate and assist voters); *Fla. State Conf. of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1165 (11th Cir. 2008) ("[A]n organization suffers an injury in fact when a statute 'compel[s]' it to divert more resources to accomplishing its goals") (citation omitted); *Ga. Coalition for People's Agenda, Inc. v. Kemp*, 347 F. Supp. 3d 1251, 1258 (N.D. Ga. 2018) (concluding that Georgia NAACP and GCPA have

standing based upon diversion of resources); *Ga. State Conf. of the NAACP v. DeKalb Cnty.*, 484 F. Supp. 3d 1308, 1316 (N.D. Ga. 2020) (citations omitted) (holding that “an organization suffers an injury in fact when a statute compels it to divert more resources to accomplishing its goals” and “the fact that the added cost has not been estimated and may be slight does not affect standing, which requires only a minimal showing of injury”); *Fair Fight Action, Inc. v. Raffensperger*, 413 F. Supp. 3d 1251, 1267 (N.D. Ga. 2019); *Gwinnett Cnty. NAACP v. Gwinnett Cnty. Bd. of Registration & Elections*, 446 F. Supp. 3d 1111, 1119 (N.D. Ga. 2020). Further, Proposed Intervenor Common Cause’s election-related and other programming to assist challenged voters in the 30 days before the General Election is at risk of being impaired if this Court orders the Oconee BOER to process voter challenges within O.C.G.A. § 21-2-230(b)(1)’s 45-day quiet period. *See* Young Decl. ¶¶ 9, 22. Notably, as of October 7, 2024, it will be too late to re-register voters who are inappropriately removed from voter rolls.

2. *An unfavorable disposition will impair the Proposed Intervenor’s interests as well as the interests of Common Cause’s members.*

The second requirement is whether an unfavorable disposition would impair an intervenor’s own interests. *See Liberty Mut. Fire Ins. Co.*, 343 Ga. App. at 499-500; *see also Bibb Cnty. v. Monroe Cnty.*, 294 Ga. 730, 740 (2014) (finding that “disposition . . . could impair [intervenor’s] ability to protect its interest . . .” in a mandamus proceeding). This litigation presents the very real danger that Common Cause’s core mission to protect the voting rights of their members and other eligible Georgia voters would be thwarted if voter challenges and purges are allowed to occur within 45 days of an election. The litigation also directly targets and harms Common Cause’s members and other voters in the community at large who are on the list of

approximately 230 challenged Oconee County voters.

Plaintiff's Application and Motion seek to initiate a process that can disenfranchise and purge from the rolls Common Cause's members and other voters in the community just weeks before the 2024 General Election. Plaintiff's Application and Motion also directly attack and seek to undo and neutralize the good work of the Proposed Intervenors. Proposed Intervenors have registered to vote or have been assisting their members and other prospective voters in registering to vote; educating them about voting in the upcoming General Election; and planning activities to mobilize these voters to the polls, including in Oconee County. *See* Noakes Aff. ¶ 3; Young Decl. ¶¶ 5, 8, 21. Common Cause also has commitments to furthering their work in other areas such as civic education and ethics reform. *See* Young Decl. ¶ 8. Common Cause's staff are already stretched thin, and an outcome in this case that requires Defendants to initiate an improper purge would further drain the Proposed Intervenors' limited resources. *See* Young Decl. ¶¶ 7, 22. If the Application and Motion are successful and challenge hearings are convened to consider purging approximately 230 voters from the voting rolls, the Proposed Intervenors would have to invest substantial resources—in addition to those already expended to encourage voter registration and voter engagement this year—to monitor those challenge hearings, to obtain records related to those challenges, to quickly identify and connect with the affected voters, and to assist them in protecting their eligibility to vote in the upcoming November 5, 2024 General Election, in which voting is set to begin in a matter of days, all of which would require inordinate staff and volunteer time and resources these Proposed Intervenors cannot afford to lose at this juncture in the election cycle. *See* Young Decl. ¶¶ 7, 26, 27, 30.

Plaintiff's attack on and potential unwinding of Common Cause's extensive voter registration and get out the vote efforts in Oconee County demonstrate that its interests may be

impaired if Common Cause is denied the ability to intervene in this case, there is a high risk of injury to its core organizational interests and programs, and its members and constituents will be at risk of disenfranchisement, *see supra* Section II(C)(1)-(2), particularly because, as explained below, Defendants are not situated to adequately protect those interests. *See infra*, Section II(C)(3). The Proposed Intervenors sufficiently satisfy the impairment prong.

3. *The named respondents will not adequately represent the Proposed Intervenor Noakes and Proposed Intervenor Common Cause's members.*

Finally, the interests of the intervening parties are not adequately represented by the current parties to the action. *See Sw. Ga. Prod. Credit Ass'n v. Wainwright*, 241 Ga. 355, 356 (1978) (“The issue of adequacy of representation is a question of fact which must be ruled on by the trial court in considering the application for intervention, assuming the other requirements are met.”). While there ordinarily is a presumption under Georgia law where a party seeks to intervene on the side of a governmental entity and “the interest of the intervenor is identical to that of a governmental body . . .” that representation is adequate, *Post Props.*, 245 Ga. at 219, courts have recognized that this presumption is a “weak” one that can be rebutted without much “difficult[y].” *See, e.g., Clark v. Putnam Cnty.*, 168 F.3d 458, 461 (11th Cir. 1999). All that is required is for Proposed Intervenors to meet the “minimal” burden of showing that their interests *may* be inadequately represented. *Id.* This requirement is readily satisfied here, because, just as in *Putnam County*, the Proposed Intervenors’ interests are divergent and conflict with those of the Defendants, and there are strong reasons to think the Proposed Intervenors’ interests will not be adequately represented by the Oconee County officials named in the action. *Id.* at 462-63.

First, as county officials, the named Defendants are charged with representing the interests of all Oconee County citizens at large, including the Plaintiff. But the duty to represent *every other citizen* in Oconee County indicates that the respondents cannot robustly represent the interests of

the Proposed Intervenors. *Id.* at 461-62. As the court found in *Putnam County*, the defendant county commissioners’ “intent to represent everyone in itself indicates that the commissioners represent interests adverse to the proposed intervenors; after all, both the plaintiffs and the proposed defendant-intervenors are Putnam County citizens. The commissioners cannot adequately represent the proposed defendants while simultaneously representing the plaintiffs’ interests.” *Id.* at 461-62. The Defendants cannot adequately represent the Proposed Intervenors when this inherent divergence exists between the citizens whose interests the respondents must concurrently represent. *Id.* Moreover, as county officials, Defendants’ “interests and interpretation of [O.C.G.A. § 21-2-230(b)(1)] may not be aligned and its reasons for seeking dismissal” may very well be different from those of Proposed Intervenors. *Putnam Cnty.*, 168 F.3d at 461–62 (holding that county representatives, who represent all county citizens, including both plaintiffs and the proposed defendant-intervenors, reflect an interest distinct from that of the proposed intervenors).

Second, the named Defendants are individuals appointed by elected officials who, like all such officials, have an interest in “remain[ing] politically popular and effective leaders[,]” and, as such, they also have an incentive to compromise. *Putnam Cnty.*, 168 F.3d at 462 (internal quotations omitted) (alterations in original); *see also Meek v. Metro. Dade County*, 985 F.2d 1471, 1478 (11th Cir. 1993), *abrogated on other grounds by Dillard v. Chilton County Comm’n*, 495 F.3d 1324, 1330-33 (11th Cir. 2007), *cert. denied*, 554 U.S. 918 (2008). As county officials appointed by elected individuals, the named Defendants may thus have a disincentive to zealously represent the interest of the Proposed Intervenor Noakes and Proposed Intervenor Common Cause's members. *Id.* While the named Defendants may assert that they will adequately represent

the interest of Proposed Intervenors, there is no reason to believe that Defendants can do so in the same zealous, unconflicted manner as the Proposed Intervenors themselves.

Moreover, named Defendants have already demonstrated an unwillingness to defend fully against Plaintiff's demands by convening a challenge hearing within 45 days of the approaching general election. Noakes Aff. ¶¶ 9-10, 15-17; Minutes from Oconee BOER's 10/1/2024 Meeting (Exhibit 3). Specifically, at their recent October 1, 2024, meeting, the BOER processed approximately 80 challenges, finding probable cause as to all of them. *Id.*; *see also, e.g.*, Consent Decree, *Ga. State Conf. of the NAACP v. Hancock Cnty. Bd. of Elections & Registration*, No. 5:15-CV-414, Doc. 67-1 at 2-3 (M.D. Ga. Mar. 1, 2017). These facts together show that the Defendants' representation of the Proposed Intervenors "may be" inadequate; and "that is enough to entitle the [Proposed Intervenors] to intervene." *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972); *Clark*, 168 F.3d at 461-62.

Only the Proposed Intervenors, an organization that has a non-partisan mission to zealously protect the interests of Georgia voters and a dedicated community advocate and an Oconee County voter, can adequately represent the interests of the organization, their members, and other voters in the community in this litigation. Accordingly, this Court should grant the Proposed Intervenors' Motion to Intervene as a matter of right under O.C.G.A. § 9-11-24(a) because they have demonstrated an interest in the matter, that those interests would be impaired by an unfavorable decision, and that the named Defendants do not adequately represent their interests in this action.

D. In the Alternative, the Court Should Grant the Proposed Intervenors Permissive Intervention Under O.C.G.A. § 9-11-24(b).

Even if the Court determines that Proposed Intervenors are not entitled to intervene as a matter of right, the Court should exercise its broad discretion to grant permissive intervention, *see Allgood v. Georgia Marble Co.*, 239 Ga. 858, 859 (1977), as Proposed Intervenors have satisfied

the requirements for permissive intervention under Georgia law. Under O.C.G.A. § 9-11-24(b), a court may allow intervention on a permissive basis where the Proposed Intervenors' interests share common questions of law or fact with the underlying action. *See DeLoach v. Floyd*, 160 Ga. App. 728, 730 (1981). Permissive intervention is appropriate when such common questions exist and the intervention will not unduly delay or prejudice the original parties. *See* O.C.G.A. § 9-11-24(b). Proposed Intervenors have satisfied the requirements for permissive intervention because there are undeniably common questions of law and fact shared between the action engendered by Plaintiff and the interests of the Proposed Intervenors in opposing the Plaintiff's claims and demands for relief.

The Proposed Intervenors' interests arise from and are threatened by the exact same facts as the Application and Motion, and the relief Proposed Intervenors seek is specifically opposed to the relief Plaintiff seeks—preventing the holding of the requested challenge hearings and resulting removal of voters during the 45-day quiet period because those hearings would violate O.C.G.A. § 21-2-230(b)(1) and negatively impact the Proposed Intervenor Common Cause's voter protection, voter registration, get-out-the-vote activities, voter education, and advocacy initiatives and risk the protected rights of Proposed Intervenor Ms. Noakes. Additionally, intervention will not cause delay or prejudice to the parties because the Application was filed just one month ago, and a hearing has yet to be held. *See, e.g., Ga. Aquarium, Inc. v. Pritzker*, 309 F.R.D. 680, 691 (N.D. Ga. 2014) (finding intervention would not prejudice parties where “litigation is in a relatively nascent stage and none of the deadlines” had yet passed). Indeed, the Proposed Intervenors are fully prepared to meet any schedule set by the Court and appear at the hearing already scheduled for this matter. Intervention at this early stage will cause no delay or prejudice to the parties.

Accordingly, and in the alternative to intervention as a matter of right, the Proposed Intervenor have satisfied the requirements for this Court to allow their permissive intervention under O.C.G.A. § 9-11-24(b).

III. CONCLUSION

For the reasons set forth above, the Court should grant the Proposed Intervenor's Motion to Intervene as a matter of right under O.C.G.A. § 9-11-24(a) or, in the alternative, for permissive intervention under O.C.G.A. § 9-11-24(b).

Respectfully submitted, this 4th day of October, 2024.

/s/ Jeremy Burnette

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*motion for admission *pro hac vice* forthcoming

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SHARON GREGG - DIRECTOR OF)	
BOARD OF ELECTIONS and JAY)	
HANLEY - CHAIRMAN OF BOARD OF)	
ELECTIONS,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that, on October 4, 2024, the foregoing was served upon the following persons by electronic mail and through the Court's electronic service delivery to:

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/s/ Jeremy Burnette
Jeremy Burnette (GA Bar No. 142467)

EXHIBIT 1

AFFIDAVIT OF SUSAN NOAKES

I, Susan Noakes, declare as follows:

1. I am over 18 years of age, and I am competent to make this declaration.
2. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
3. I am a registered voter in Oconee County. I have been registered to vote in Oconee County since 1995.
4. I have been volunteering with Fair Fight Action since March 2024 related to mass voter challenges for the upcoming election in Georgia. During my tenure as a volunteer with Fair Fight Action, I first learned that private individuals could submit challenges to other individuals' eligibility to vote.
5. I started attending the Oconee County Board of Elections and Registration ("BOER") meetings because I was so concerned about these mass voter challenges and I wanted to learn more about them.
6. I have a strong interest in protecting my right to vote in Oconee County.
7. On July 9, 2024, I attended a BOER meeting and gave public comment sharing my concern that these mass voter challenges have the potential to be abused to remove valid, eligible voters from the rolls and make it harder for voters to cast a ballot and have it counted.
8. From my time as a volunteer with Fair Fight Action, I learned that most other counties paused consideration of any mass voter challenges submitted to their county board of elections in the 90-day period prior to an election.
9. I learned through attending BOER meetings that Oconee County continued to consider challenges during the 90-day period prior to the general election. I was surprised that Oconee County also continued to take action on those mass voter challenges by finding probable cause to sustain those challenges.
10. I also learned through attending BOER meetings and reading the local news that the BOER removed some voters during the 90-day period prior to an election.
11. The BOER actions related to voter challenges during the 90-day period continued to be very concerning to me because these actions could affect my right to vote as well as the rights of fellow Oconee County voters.

12. Because it is difficult to find information about the BOER's actions and the BOER meetings are one of the only places to get information about the BOER's actions related to mass voter challenges, I continue to attend BOER meetings during this 90-day period prior to the November election.
 13. I had to expend time and resources to attend the BOER meetings during this 90-day period prior to the November election.
 14. The time I have spent following the BOER's actions have caused me to divert time away from other important activities, such as taking care of my mother. I am a caregiver for my 92-year-old mom. I nurse her when she is sick, take her to all of her doctor and dentist appointments, take care of all her prescriptions, and make sure her medicine is taken appropriately. I also take care of all her finances. She lives in a retirement home, but I have to buy groceries for her and make sure that she goes to her afternoon meal each day. I have great concerns related to her health, and sometimes, I have had to choose between taking care of her and attending a BOER meeting. For example, I had planned to make public comments at the June BOER meeting but was unable to attend specifically due to my mom's health problems. The July, September, and October BOER meetings were held on days that she had doctor appointments. I felt rushed on the day of the July and October meeting, and I had to hurriedly leave my mom before I was completely sure everything was okay with her. But, I believed it was important for me to go to the Oconee BOER meetings in light of all the voter challenges that were occurring.
 15. On October 1, 2024, I attended a BOER meeting and gave public comment advocating against the BOER's consideration of more voter challenges as well as their vote to sustain such challenges.
 16. During that same meeting, I also heard Victoria Cruz testify in support of the challenges she submitted on various dates in September 2024. I heard Ms. Cruz testify that she used "a systematic way to compare voter rolls" to create her challenge lists. Mr. Stephen Aleshire also testified at the meeting in support of voter challenges he had submitted.
 17. During that meeting on October 1, 2024, I also learned that the BOER considered and sustained dozens of challenges pursuant to O.C.G.A. § 21-2-230 ("Section 230 Challenges") during the 45 days prior to an election.
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18. The BOER's actions to consider and sustain Section 230 Challenges in the 45 days prior to an election raise concerns about my right to vote as well as the right to vote of fellow Oconee County voters.
19. If the BOER was no longer taking actions related to mass voter challenges during the 90-day period prior to the November election, or taking actions related to Section 230 Challenges in the 45 days prior to an election, I would not be concerned about issues related to mass voter challenges in Oconee County and I would not need to attend the BOER meetings to get more information in order to protect my right to vote as well as the right to vote of fellow Oconee County voters.
20. I am aware, through my counsel, that Suzannah Heibel filed a lawsuit to force the BOER to sustain and take other actions related to challenges.
21. I am concerned that Ms. Heibel is asking the BOER to purge voters so close to a general election.
22. I am also concerned that Ms. Heibel is asking the BOER to consider voter-eligibility challenge lists that are riddled with errors.
23. I am also concerned that the BOER has considered and sustained mass voter challenges submitted by Victoria Cruz who used a systematic method to create the challenge lists.
24. Therefore, I am concerned that Plaintiffs' litigation, if successful, risks potentially disenfranchising Oconee County voters.
25. I am concerned that a legal ruling mandating that the BOER must hear voter challenges within 90 days of a federal election and Section 230 Challenges within 45 days of an election would invite chaos into and impair the voting process where clear bounds have previously existed. I am also concerned that it would undermine voters' confidence in being registered and able to participate in the voting process.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 3rd day of October 2024 in Oconee County, Georgia.

Susan Noakes
Susan Noakes

And in
10/3/2024

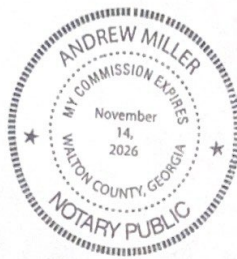


EXHIBIT 2

DECLARATION OF JOHN W. YOUNG, III

I, John W. Young, III, declare as follows:

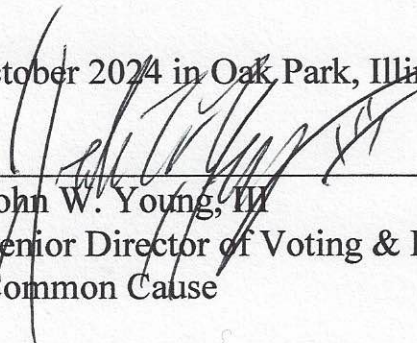
1. I am the Senior Director of Voting & Democracy of Common Cause, over 18 years of age, and competent to make this declaration.
2. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
3. Common Cause is a not-for-profit corporation that carries out its mission in Georgia through Common Cause Georgia, whose offices are located in Atlanta, Georgia, and who conducts activities and has members across the state.
4. Common Cause is one of the nation's leading grassroots democracy-focused organizations and has over 1.2 million members nationwide and chapters in 25 states, including Georgia.
5. In Georgia, Common Cause works to "strengthen public participation in our democracy and ensure that public officials and public institutions are accountable and responsive to citizens." Common Cause Georgia, <https://www.commoncause.org/georgia/>. Common Cause Georgia is engaged in voter education, voter ID assistance, election protection, census participation, redistricting advocacy, Get Out the Vote ("GOTV") efforts, and impact litigation involving voting rights. We primarily engage with Georgia voters through our suite of online voter assistance tools, emails to our members, and our Election Protection volunteer recruitment and deployment program in DeKalb County and a dozen rural counties in Georgia, including Oconee County.
6. Common Cause has over 26,000 members in Georgia.
7. Common Cause has limited resources to cover all of this work with only three paid full-time staff members within the state.
8. In addition to our work in voting rights, we regularly offer civic education information on issues relating to our broad democracy agenda, including campaign finance and ethics reform.
9. I am aware, through my counsel, that Suzannah Heimel filed a lawsuit seeking an emergency injunction seeking to force the Oconee County Board of Elections and Registration ("BOER") to sustain and take other actions related to challenges of the eligibility of other Oconee County voters pursuant to O.C.G.A. § 21-2-230 ("Section 230 Challenges").
10. My counsel has also informed me that the Superior Court of Oconee County ("Court") has scheduled a hearing pertaining to Ms. Heimel's lawsuit on October 7, 2024.

11. The next election in Georgia is the General Election on November 5, 2024.
12. If the Court grants Ms. Heibel's relief on October 7, 2024 and orders the BOER to hear her Section 230 Challenges, only 29 days will remain before the next election.
13. My understanding from my research is that the last day to register to vote for the November 5 General Election is also October 7, 2024.
14. Voter purges so close to the election directly frustrate and impede Common Cause's core missions of making government more responsive to the interests of communities by diminishing the voices of the voters Common Cause works to engage and forces Common Cause to divert resources toward directly combatting the ill effects of unlawful purges.
15. If the BOER grants any of Ms. Heibel's Section 230 Challenges before the General Election, the BOER will have fewer than 30 days to notify the voters of their removal before that election.
16. I am concerned that Ms. Heibel is asking the BOER to purge voters so close to a general election.
17. I am also concerned that Ms. Heibel is asking the BOER to consider voter-eligibility challenge lists that are riddled with errors.
18. I am also concerned that the BOER has considered and sustained mass voter challenges submitted by Victoria Cruz who used a systematic method to create the challenge lists in the 90 days prior to a federal election.
19. I am also concerned that the BOER has considered and sustained mass Section 230 Challenges, submitted by Victoria Cruz who used a systematic method to create the challenge lists in the 45 days prior to an election.
20. I am concerned that Plaintiffs' litigation, if successful, risks potentially disenfranchising Oconee County voters.
21. I am concerned that a legal ruling mandating that the BOER must hear voter challenges within 90 days of a federal election and Section 230 Challenges within 45 days of an election would invite chaos into and impair the voting process where clear bounds have previously existed. I am also concerned that it would undermine voters' confidence in being registered and able to participate in the voting process.
22. Based upon a review of internal, confidential membership information, Common Cause has individual members who reside in Oconee County. At this time, Common Cause has members registered to vote in Oconee County who intend to vote in the upcoming November 5, 2024 General Election and any ensuing runoff election.
23. I am worried that Common Cause's members and constituents will go to their polling places on November 5, 2024 only to find themselves purged from the list of eligible voters and will not be able to re-register to vote

- because the voter registration deadline is October 7, 2024. Accordingly, those voters will not be able to vote in the upcoming General Election.
24. Common Cause has worked, and continues to work, to prevent efforts to suppress or disenfranchise Black and other underrepresented communities' voters and has been involved in voting rights litigation in Georgia to vindicate their rights.
 25. Ahead of the November General Election, Common Cause has conducted, and continues to conduct, voter outreach efforts throughout the State of Georgia. Our voter empowerment programs include educating prospective voters about how to register to vote and to confirm their registration status. But, if voters, including many of our members, stand to be kicked off the rolls because of Plaintiffs' lawsuit, then I worry that our hard work registering voters will be all for naught.
 26. Common Cause will also have to divert our precious, limited staff time away from other activities the organization had planned. For instance, in normal times, Common Cause typically performs a lot of work on matters outside of the voting process. As examples, Common Cause has recently advocated for a U.S. Supreme Court code of ethics, opposed Cop City in Atlanta, combatted online dis/misinformation, advocated for transparent and accessible governmental systems, and advocated for "money in politics" solutions. Common Cause seeks to balance its limited time and resources among these areas.
 27. Instead, depending on what the Court decides to do here, Common Cause and our members may have to deal with the aftermath of any potential purge before the General Election. This would include digital and perhaps phone-banking outreach to impacted voters, including members, to ensure that they have the information they need to re-register and cast a ballot. Direct services with individual members would otherwise comprise a small percentage of our core business activities. Our advocacy activities unrelated to voting rights like Supreme Court ethics and government transparency will suffer.
 28. If successful, Ms. Heimel's suit could result in the erroneous removal and subsequent disenfranchisement of eligible registered voters, including Common Cause members.
 29. Common Cause and its members have a strong interest in preventing the disenfranchisement of eligible voters in Georgia, including within Oconee County.
 30. A ruling ordering the Oconee County BOER to consider Ms. Heimel's Section 230 Challenges to remove voters from the list of eligible voters would directly harm Common Cause's organizational mission to ensure communities of color are not disenfranchised.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 3rd day of October 2024 in Oak Park, Illinois.



John W. Young, III
Senior Director of Voting & Democracy
Common Cause

VERIFICATION ON OATH OR AFFIRMATION

State of Illinois }
County of Cook } ss.

Subscribed and sworn to (or affirmed) before me

this 3 day of October, 2024, by
Day Month Year

John W. Young III
Name of Signer No. 1

Name of Signer No. 2 (if any)



Jason Franklin
Signature of Notary Public

Place Notary Seal/Stamp Above

Any Other Required Information
(Residence, Expiration Date, etc.)

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Declaration of John W. Young III

Document Date: October 3, 2024 Number of Pages: 3

Signer(s) Other Than Named Above: _____

EXHIBIT 3



Oconee County

Board of Elections and Registration

Sharon Gregg, Director

Board Members:
Jay Hanley, Chair
Kirk Shook, Vice Chair
Ken Davis
Douglas Hammond
Shami Jones

October 1, 2024
Board Meeting Minutes
Draft

Members Present: Jay Hanley, Kirk Shook, Ken Davis, Shami Jones

Others Present: Sharon Gregg, Jennifer Stone, Susan Noakes, Harold Thompson, Caitlin May, Tarin Smith, Stephen Aleshire, Victoria Cruz, Kevin McHugh, Doug Hammond

Hanley called the meeting to order at 5:00 p.m.

Hanley stated after reviewing minutes from September 4, 2024 that the "others present" section needed to be updated. After corrections are made, upon motion by Shook and second by Jones, minutes from the September 4, 2024 meeting were unanimously approved.

Public Comment – Public comment was made by the following respectively: Victoria Cruz, Stephen Aleshire, Susan Noakes.

Unfinished Business – None

New Business

- a) Hanley brought forth an amendment from Attorney Haygood to be made to the voter challenge procedures. Hanley read aloud the addition to be made. The addition states that any challenges to voters under O.C.G.A. 21-2-228 could be handled administratively. This is to be added after the third paragraph in the previously approved procedure. Haygood stated that it gives an informal approach for challenges. Upon motion by Davis and second by Shook, the revised procedures were passed unanimously.
- b) Consideration of Hearing from the 21-2-230 voter challenge issued on 08/27/24 and probable cause determined on 09/04/24. Gregg stated that letters and a residency affidavit form as well as a cancellation form along with a link to the website were sent to challenged voters with no response. Gregg recommended to uphold the challenge. Gregg read each name of challenged electors. Cruz (the challenger) spoke about her

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WATKINSVILLE, GA 30677
PHONE: 706-769-3958 FAX: 706-310-3486
sgregg@oconee.ga.us



Oconee County

Board of Elections and Registration

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investigation into the research for the challenged voters. Voters are to remain in a challenged status through the General election unless they cure their residency.

- c) Challenges were made to voters under O.C.G.A. 21-2-230 challenging their residency. The following challenges were submitted for the board to determine probable cause:
- a. Challenge submitted on 9-8-24 by Victoria Cruz – 2 names were read and probable cause was determined on both voters. Upon motion by Shook and second by Jones, vote unanimously passed.
 - b. Challenge submitted on 9-10-24 by Victoria Cruz – 9 names were read and probable cause was determined on all voters. Upon motion by Shook and second by Jones, probable cause was determined by a vote of 3 to 1.
 - c. Challenge submitted on 9-10-24 by Stephen Aleshire – 5 names were read – 1 voter has already cancelled their registration. Upon motion by Shook and second by Jones, probable cause was determined on 3 of the voters. Vote unanimously passed. The board determined no probable cause was found and no further evidence was submitted by the challenger. Upon motion by Shook and second by Davis, vote unanimously passed that probable cause was not determined.
 - d. Challenge submitted on 9-11-24 by Victoria Cruz – 11 names were read and probable cause was determined on all voters. Davis made motion to not find probable cause on 3 of the voters, but later withdrew the motion. Upon motion by Shook and second by Jones, vote unanimously passed.
 - e. Challenge submitted on 9-10-24 by Stephen Aleshire – 11 names were read and probable cause was determined on 9 of the voters. 2 of the voters have already cancelled or showed no record. Upon motion by Shook and second by Davis, vote unanimously passed that probable cause was determined.
 - f. Challenge submitted on 9-16-24 by Stephen Aleshire – 11 names were read and probable cause was determined on 9 of the 11 voters. Upon motion by Shook and second by Jones, vote unanimously passed that probable cause was determined. Of the 2 remaining, Mr. Aleshire withdrew 1 of the names because of lack of verifiable evidence. Jones stated she had personal knowledge that the other voter had in fact moved. Upon motion by Shook and second by Davis, vote unanimously passed that probable cause was determined on the remaining voter.



Oconee County

Board of Elections and Registration

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- g. Challenge submitted on 9-18-24 by Stephen Aleshire – 10 names were read and probable cause was determined on 8 of the 10 voters. Upon motion by Shook and second by Davis, vote unanimously passed that probable cause was determined. Of the remaining 2, probable cause was not determined. Upon motion by Davis and second by Shook, vote unanimously passed that probable cause was not determined.
- h. Challenge submitted on 9-19-24 by Stephen Aleshire – 4 names were read and probable cause was determined on 3 of the 4 voters. 1 of the voters was a duplicate. Upon motion by Shook and second by Jones, vote unanimously passed that probable cause was determined on the 3.
- i. Challenge submitted on 9-19-24 by Stephen Aleshire – 9 names were read and probable cause was determined on 8 of the 9 voters. Upon motion by Shook and second by Jones, vote unanimously passed that probable cause was determined on 8 of the voters. Of the remaining 1, probable cause was not determined due to lack of information. Upon motion by Davis and second by Shook, vote unanimously passed that probable cause was not determined.
- j. Challenge submitted on 9-19-24 by Victoria Cruz – 1 name was read and probable cause was determined on the voter. Upon motion by Jones and second by Shook, vote unanimously passed that probable cause was determined.

Director's Report

- a) Gregg reviewed status of Logic and Accuracy testing on all equipment to be used in the November 5, 2024 General election. Testing is 95% complete and all have proven accurate.
- b) Gregg gave Absentee by Mail update. As of 09-30-24, 999 civilian absentee ballots have been requested and 106 UOCAVA ballots have been requested.
- c) Gregg recommended update for the SEB Rules be tabled due to pending litigation.
- d) Gregg gave voter registration totals as of 09-30-24. As of 09-30-24, there are a total of 34051 registered voters in Oconee County.
- e) The challenged voters hearing was set for 10-24-24 at 5:30. Upon motion by Davis and second by Shook, vote to set hearing date passed unanimously.



Oconee County

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Upcoming Events

- a) October 1, 3 Poll Worker Training
- b) October 7, 2024 Voter registration deadline/ First day to mail civilian absentee ballots
- c) October 11, 2024 Advance Voting Training
- d) October 15 through November 1, 2024 Advance Voting
- e) October 25, 2024 Last day to receive absentee applications for the November General Election.
- f) November 5, 2024 General Election
- g) November Board meeting TBD – Board discussed certification meeting date and time. The meeting was set for 11/8/24 at 5:30. Upon motion by Shook and second by Jones, vote to set meeting date passed unanimously.

Executive Session – Upon motion by Shook second by Jones, motion was made to go into executive session at 6:39 pm. Upon motion by Shook and second by Davis the board adjourned back into regular session at 6:49 pm.

There being no further business, on motion by Shook and second by Davis, the meeting adjourned at 6:54 pm.