

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COUNTY OF FULTON, <i>et al.</i> ,)	
)	
Petitioners/Appellees,)	
)	
v.)	No. 277 MD 2021
)	No. 3 MAP 2022
SECRETARY OF THE COMMONWEALTH,)	
)	
Respondent/Appellant,)	
)	
and)	
)	
DOMINION VOTING SYSTEMS, INC..)	
)	
Intervenor.)	

**INTERVENOR DOMINION VOTING SYSTEMS, INC.’S
EMERGENCY APPLICATION TO ENFORCE SUPREME COURT ORDER
AND FOR HEARING TO HOLD PETITIONERS IN CONTEMPT**

Pursuant to Pa. R.A.P. 123 and Supreme Court’s April 19, 2023 Opinion and Order (“Supreme Court Order”), Intervenor Dominion Voting Systems, Inc. (“Dominion”), files the within Emergency Application to Enforce Supreme Court Order and for Hearing to Hold Petitioners in Contempt. In support of its Application, Dominion states as follows:

INTRODUCTION

With this Application, Dominion seeks an Order immediately enjoining the Petitioners’ imminent dissemination of Dominion’s confidential proprietary information, which release is in direct violation of the Supreme Court Order. As the

Special Master is well aware, the Supreme Court found that Petitioners' actions permitting the unauthorized inspection of Dominion's voting equipment by an entity called Speckin Forensics, LLC ("Speckin") were in contempt of the Supreme Court's January 27, 2022 Order ("Injunction Order"), which plainly provided that Petitioners were prohibited from allowing third parties to access Dominion's voting equipment during the pendency of the case.

When it imposed sanctions for Petitioners' contempt, the Supreme Court specifically found that "[a]lthough Dominion's interest lay in *proprietary concerns* rather than election integrity... it, too, was prejudiced by the County's violation of the protective order." *See* Supreme Court Order, at p. 74 (emphasis added). Accordingly, because access to or release of Dominion's voting equipment and software implicates both Dominion's proprietary concerns and election integrity in general, the Court further ordered that "[a]ny effort to seek access to, or release of, *the voting equipment must be directed to the Commonwealth Court...*" *Id.* at p. 78 (emphasis added).¹

Despite the Supreme Court's clear order that any future permission to provide access to or release of the voting equipment (including its software) be

¹ The Supreme Court Opinion specifically provides that "[Dominion's Democracy Suite 5.5A Election Management System ("EMS") [] is a term that covers all devices *and software* involved in running an election. Depending on context, we refer to it primarily as 'voting equipment.'" *See* Supreme Court Opinion, at p. 4 (emphasis added).

requested from this Court, Petitioners have now, without seeking such permission, publicly voted to “*to allow utilization of the February 19, 2021 Wake TSI Report, the September 15, 2022 Speckin Forensic Report...and evidence used to form expert opinions to be utilized by clients of Stefanie Lambert with common interests.*” (emphasis added).²

Because Petitioners have publicly proclaimed that they intend disseminate, or permit third parties to “utiliz[e],” “evidence” that apparently includes copies of Dominion’s proprietary software without permission of this Court, Dominion seeks an order from this Court enforcing the Supreme Court Order and immediately enjoining the dissemination of such “evidence” to third parties, or any form of access to such “evidence” by any third parties. In addition, Dominion respectfully requests that this Court hold an evidentiary hearing to determine whether Petitioners should again be held in contempt and sanctioned for their violation of a Supreme Court Order.

UNDERLYING FACTUAL AND PROCEDURAL BACKGROUND

1. The Special Master is more than well-acquainted with the procedural and factual underpinnings of this matter. Accordingly, for sake of brevity, Dominion hereby incorporates by reference the procedural and factual findings set forth in the Supreme Court Order and Special Master’s Report.

² Attached hereto as Exhibit A is a signed copy of the Fulton County Board of Commissioners December 27, 2023 meeting minutes.

2. However, the factual and procedural matters particularly relevant to the instant Application are set forth below.

3. Petitioners³ have sued the Secretary of the Commonwealth (“Secretary”) seeking, *inter alia*, to overturn the Secretary’s decision to decertify certain voting software and machines (“Dominion Voting Equipment”), which were contractually provided by Dominion to Fulton County pursuant to an April 1, 2019 Voting System and Managed Services Agreement (“Dominion Lease Agreement”) between Dominion and Fulton County.

4. The Dominion Lease Agreement expressly prohibits Fulton County from “[t]ransfer[ing] or copy[ing] onto any other storage device or hardware or otherwise copy[ing] the Software in whole or in part except for purposes of system backup.” (*See* Supreme Court Order, at p. 15.) The purpose of this prohibition is to prevent disclosure of Dominion’s proprietary Confidential Information⁴ to

³ Petitioners include the County of Fulton (“Fulton County”), the Fulton County Board of Elections, as well as Stuart L. Ulsh and Randy H. Bunch, in their official capacities as County Commissioners of Fulton County and in their individual capacities as a residents, taxpayers and electors in Fulton County. After the November 2023 November general election, on January 2, 2024, Steven L. Wible and Harvey P. Hann, were sworn in to replace Mr. Ulsh and Ms. Shives on the Fulton County Board of Commissioners.

⁴ The Dominion Lease Agreement defines “Confidential Information” as “those materials, documents, data, and technical information, specifications, business information, customer information, or other information of a Party (the ‘Disclosing Party’) maintains as trade secrets or confidential and which are disclosed to another Party (the ‘Receiving Party’) in tangible form conspicuously marked as

unqualified individuals or private corporations that are not a federally accredited Voting System Test Lab or a National Laboratory officially utilized by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency ("CISA").

5. In accordance with that prohibition, Section 13.2 of the Dominion Lease Agreement requires Fulton County to keep Dominion's Confidential Information (including the software) confidential within its organization, "unless disclosure is made in response to, or because of, an obligation to any federal, state, or local governmental agency or court with appropriate jurisdiction, or to any person properly seeking discovery before any such agency or court." (*See* Special Master's November 18, 2022 Report Containing Proposed Findings of Fact and Recommendations Concerning the Secretary of the Commonwealth's Application for an Order Holding the County of Fulton, *et al*, in Contempt and Imposing Sanctions ("Special Master's Report") at Findings of Fact ("F/F") ¶ 12).

6. Section 13.3 of the Dominion Lease Agreement further provides that, in the event a request is made by a governmental entity, Fulton County is required to "notify Dominion of such request and the date the information will be released to the requestor unless Dominion obtains a court order enjoining such disclosure. If Dominion fails to obtain such court order enjoining such disclosure,

'confidential,' or with words having similar meaning, which includes without limitation, Dominion Software and associated documentation."

[Fulton County] will release the requested information on the date specified.” (*Id.* at F/F ¶ 13).

7. Fulton County used certain Dominion Voting Equipment and software (“Voting System Equipment”) acquired pursuant to the Dominion Lease Agreement for the conduct of the November 2020 General Election. (*Id.* at F/F ¶ 14.)

8. Following the November 2020 General Election, Commissioners Ulsh and Bunch permitted a private entity, Wake TSI, Inc. (“Wake TSI”), to inspect and copy components of Fulton County’s Dominion Voting System Equipment (the “Wake TSI Inspection”). (*Id.* at F/F ¶ 20).

9. As part of the “inspection,” unidentified “Wake [TSI] employees took backups of key data on the [Dominion Voting Equipment], includ[ing] the election database, results files, and Windows system logs. ***In addition, Wake TSI used a system imaging tool to take complete hard drive images of these computers to be able to perform further examination.*** They also obtained complete images of two USB thumb drives that had been used on election night to transfer results files from the election computers to the computer [Fulton County] used to upload results to the SURE portal.” (*Id.* at F/F ¶ 21) (emphasis added).

10. On July 8, 2021, several months after Wake TSI’s investigation and report, the Secretary issued “Directive 1 of 2021” (“Directive 1”), which prohibited county boards of elections from providing physical, electronic, or internal

access to third parties for purposes of conducting an examination of state-certified electronic voting systems. Directive 1 called for the decertification of any voting equipment that was previously accessed by a third-party (including the Dominion Voting System Equipment that was subject to the Wake TSI Inspection) and revoked funding for counties whose voting equipment was now decertified pursuant to the directive. (*Id.* at F/F ¶¶ 31-32).

11. On August 18, 2021, Fulton County, the Fulton County Board of Elections, and Commissioners Ulsh and Bunch, in their official and individual capacities, filed the instant lawsuit against the Secretary, challenging the Secretary’s authority to prohibit the future use of Fulton County’s Dominion Voting Equipment and the Secretary’s authority to issue Directive 1. (*Id.* at F/F ¶ 35).

12. On December 16, 2021, during the pendency of this litigation, counsel for Fulton County provided written notice to Dominion that it intended to permit yet another third-party entity, an entity called Envoy Sage, LLC (“Envoy Sage”), to access Fulton County’s Dominion Voting System Equipment and to copy, or image, all of the data stored thereon (the “Proposed Envoy Sage Inspection”). It is undisputed that Envoy Sage is not and has never been a federally accredited Voting System Test Lab or a National Laboratory officially utilized by CISA. (*Id.* at F/F ¶¶ 36-37).

13. Upon learning of Fulton County’s plan, both the Secretary and

Dominion immediately objected to any third-party inspection of Fulton County’s Dominion Voting System Equipment. (*Id.* at F/F ¶ 39).

14. After Petitioners refused to comply with the parties’ objections and demands to cancel the inspection, both the Secretary and Dominion took legal action to try to prevent Fulton County from allowing Envoy Sage—or any other third-party—from accessing or imaging Fulton County’s Dominion Voting Equipment. (*Id.* at F/F ¶ 40).

15. Specifically, on December 17, 2022, the Secretary filed an Emergency Application for an Order Prohibiting the Spoliation of Key Evidence Scheduled to Occur on December 22, 2021 (the “Application to Prevent Spoliation”), which sought an order preventing Fulton County “from providing any third party (other than Dominion) with access to [Fulton County’s Dominion Voting System Equipment], including but not limited to allowing the [Proposed Envoy Sage Inspection],” and further asked the Commonwealth Court to “take all necessary steps . . . to preserve those machines, and any data stored thereon, in a secured and unaltered state.” (*Id.* at F/F ¶ 41).

16. The Commonwealth Court heard oral argument on the Secretary’s Application to Prevent Spoliation and Fulton County’s answer thereto on December 21, 2021, and thereafter issued an order memorializing the agreement made by the parties during argument to postpone Envoy Sage’s inspection to January 10, 2022, by

which time the parties were directed to have negotiated adequate inspection protocols. (*Id.* at p. 6).

17. On January 3, 2022, after learning that the Commonwealth Court intended to allow the Envoy Sage inspection to proceed on January 10, 2022, Dominion filed an Emergency Application seeking to intervene in the action “for the limited purpose of securing a protective order to enforce the terms of [the Dominion Lease Agreement]” and to block any attempts by Fulton County to allow a third-party inspection in violation of those terms (“Intervention Application”). (*Id.* at F/F ¶ 54).

18. In the Intervention Application, ***Dominion asserted that Fulton County is and was prohibited from allowing third parties—or even Fulton County itself—to copy or transfer any of the software found on Fulton County’s Dominion Voting System Equipment, except for purposes of system backup.*** (*Id.* at F/F ¶ 55).

19. Dominion has consistently maintained its position that “any inspection of its equipment and software in possession of the County be conducted by a federally-accredited Voting System Test Lab” or CISA. (*Id.* at F/F ¶ 56).

20. On January 7, 2022, the Commonwealth Court held a hearing on the Intervention Application and also entered an Order postponing the Proposed Envoy Sage Inspection until January 12, 2022. (Cmwlth. Ct. Order, 1/7/2022.).

21. On January 10, 2022, the Commonwealth Court entered an Order and Memorandum Opinion denying Dominion's Intervention Application. (Cmwlth. Ct. Order, 1/10/2022.).

22. On January 11, 2022, after the parties failed to reach an agreement on protocols for the inspection, the Commonwealth Court entered an Order postponing the Proposed Envoy Sage Inspection until no earlier than 1:00 p.m. on January 14, 2022. (Cmwlth. Ct. Order, 1/11/2022.).

23. On January 13, 2022, facing an inspection scheduled to proceed at 1:00 p.m. the next day, the Secretary filed a Renewed Emergency Application for an Order to Enjoin the Third-Party Inspection Currently Scheduled for January 14, 2022, from Proceeding. (Special Master's Report at F/F ¶ 49).

24. On the morning of January 14, 2022, with the Proposed Envoy Sage Inspection set to commence later that day, the Commonwealth Court issued an order denying the Secretary's applications to enjoin that inspection. (*Id.* at F/F ¶ 59).

25. Following the Commonwealth Court's Order denying the Secretary's applications to block the inspection, the Secretary immediately appealed to this Court and sought an emergency injunction to enjoin any third-party inspection of the Dominion Voting System Equipment in Fulton County's custody until the Court resolved the Secretary's appeal. (*Id.* at F/F ¶ 62).

26. On January 14, 2022, moments before the inspection was set to begin, Justice Wecht issued a single-justice order (“Single-Justice Order”) granting the Secretary’s application on a temporary basis, pending consideration by the full Court. (*Id.* at F/F ¶ 65).

27. On January 19, 2022, Dominion appealed the Commonwealth Court’s January 10, 2022 Order denying its Intervention Application to this Court. (*Id.* at F/F ¶ 71).

28. On January 27, 2022, the full Supreme Court entered the Injunction Order granting the Secretary’s application and stating that “[t]he Single-Justice Order entered on January 14, 2022, staying the lower court’s ruling and enjoining the proposed third-party inspection of Fulton County’s electronic voting equipment, shall remain in effect pending the disposition of the above-captioned appeal.” (*Id.* at F/F ¶ 68).

29. On March 21, 2022, after briefing on the matter, this Court reversed the Commonwealth Court’s January 10, 2022 Order denying Dominion’s Intervention Application and permitted Dominion to intervene in this case for the purpose of seeking a protective order. (*Id.* at F/F ¶ 72).⁵

⁵ Because the Supreme Court Opinion effectively granted the protective order that Dominion intended to pursue (*i.e.*, the Supreme Court Opinion prohibited access to or exposure of Dominion’s voting equipment to third parties without permission of this Court), Dominion has not sought a separate protective order from this Court.

30. On September 21, 2022, Fulton County filed a separate civil action against Dominion in the Court of Common Pleas of Fulton County, Pennsylvania (“Fulton County Complaint”), alleging breach of contract and breach of warranty claims against Dominion. (*Id.* at F/F ¶ 82).

31. Despite this Court’s Injunction Order clearly prohibiting any further third-party inspections during the pendency of this Appeal, the Fulton County Complaint revealed that Petitioners had again allowed an authorized third-party unfettered access to Dominion’s Voting System Equipment. Specifically, the Fulton County Complaint referred to the activities of an entity called Speckin, as detailed in Speckin’s report (the “Speckin Report”), a copy of which was attached to the Fulton County Complaint. (*Id.* at F/F ¶ 84).

32. As stated in the Speckin Report detailing its “inspection” of Dominion’s Voting System Equipment (“Speckin Inspection”), which is dated September 15, 2022, “[a] total of six hard drives *were tendered for copying and analysis.*” The Speckin Report indicated that “[t]he images of the drives that are the subject of this report were created on July 13-14, 2022.” (*Id.* at F/F ¶ 86) (emphasis added). The Speckin Report further indicated that “[t]he hard drives from the computers were removed and connected them [sic] to a Forensic workstation.” (*Id.* at F/F ¶ 87).

33. The voting equipment imaged as part of the Speckin Inspection was the same Dominion Voting System Equipment that was used in the 2020 General Election, and the same Voting System Equipment that was the subject of the Wake TSI Inspection and Proposed Envoy Sage Inspection. (*Id.* at F/F ¶ 90).

THE SECRETARY’S APPLICATION FOR CONTEMPT

34. On October 18, 2022, the Secretary filed an application in the Supreme Court requesting an order holding Fulton County in contempt and imposing sanctions, alleging that Fulton County violated the Supreme Court’s Injunction Order by allowing Speckin to inspect the Dominion Voting Equipment at issue in this litigation on July 13 and 14, 2022 (“Contempt Application”).

35. On October 21, 2022, this Supreme Court appointed the honorable Commonwealth Court President Judge, Renee Cohn Jubelirer, to serve as Special Master in order to: (1) ascertain whether the Secretary’s requested finding of contempt is civil or criminal in nature; (2) afford the parties such process as is due in connection with that determination; (3) develop an evidentiary record; and (4) prepare a report containing proposed findings of facts and recommendations concerning the Secretary’s requested relief. (Supreme Ct. Order, 10/21/2022).

THE SPECIAL MASTER’S REPORT

36. On November 18, 2022, after holding three days of evidentiary hearings on the Contempt Application and considering the parties’ post-hearing

submissions in the matter, President Judge Jubelirer issued her Special Master’s Report.

37. The Special Master found that the Injunction Order unambiguously applied to the Speckin Inspection, and that Fulton County willfully violated the order by allowing the Speckin Inspection to occur. (*Id.* at R/R ¶¶ 1-13) (“In light of this obvious purpose that was known to the parties, Fulton County’s narrow constructions of the Injunction Order are untenable...Put simply, and as discussed above, no reasonable interpretation of the Injunction Order would render it inapplicable to the Speckin Inspection. That inspection directly implicated the ground on which the Injunction Order was sought—avoiding spoliation of evidence.”).

38. With respect to Dominion’s rights implicated by the Injunction Order, the Special Master found that:

In granting an injunction pending appeal on such narrow issues, the Supreme Court obviously intended to preserve its ability to render an appellate decision that was meaningful. And any subsequent inspection of the Dominion Voting Equipment would moot out that appeal and prevent a meaningful resolution of the issues on appeal. *Those issues were Dominion’s right to protect its property and the Secretary’s right to preserve evidence for her defense, which both depended entirely upon preventing further inspection of the Dominion Voting Equipment.*

(*Id.* at F/F ¶ 8) (emphasis added).

39. The Special Master further found that Fulton County acted with wrongful intent when it directed the Speckin Inspection to occur. (*Id.* at R/R ¶¶ 24-

25) (“The absence of testimony corroborating the County’s claimed legitimate basis for the inspection provides further circumstantial evidence of wrongful intent... Finally, as will appear on the record of these proceedings, the County repeatedly violated the Special Master’s orders, in an apparent effort to conceal facts... surrounding the Speckin Inspection and to prevent development of an evidentiary record.”).

40. Accordingly, based upon the evidentiary record, the Special Master recommended that Fulton County “be adjudged in civil contempt of the Injunction Order.” (*Id.* at R/R ¶ 27).

THE SUPREME COURT ORDER

41. Mirroring and adopting most of the findings and conclusions in the Special Master’s Report, the Supreme Court held that the County was in contempt of the Supreme Court’s January 14, 2022 and January 27, 2022 Orders, which enjoined Petitioners from allowing any further third-party inspection of Dominion’s Voting Equipment that was in the possession of the County after the 2020 general election. *See* Supreme Court Order, at p. 60 (“Accordingly, we adopt the Special Master’s recommendation that this Court hold Fulton County in contempt of this Court.”).

42. The Supreme Court further found the contemptuous conduct exhibited by the County and its counsel, Attorney Thomas J. Carroll (“Attorney

Carroll”), to be sanctionable in the form of counsel fees and costs payable to the Secretary of the Commonwealth (“Secretary”). *See* Supreme Court Order, at p. 73 (“In sum, we find that Attorney Carroll, both in tandem with and also independently of his clients, is guilty of relentlessly dilatory, obdurate, vexatious, and bad-faith conduct before this Court and the Special Master, especially, but not exclusively, during these sanction proceedings. Consequently, it would be inequitable that the County alone should bear the Secretary’s costs. Attorney Carroll, too, should be sanctioned in the form of joint and several responsibility for the Secretary’s counsel fees during the period for which he shares responsibility for the misconduct.”).

43. The Supreme Court further held that, in addition to the attorney’s fees and costs payable to the Secretary, “Dominion’s posture and entitlement to sanctions is materially identical to the Secretary’s, so Dominion also is entitled to recover its counsel fees subject to the terms and limitations described above.” (*See* Supreme Court Order, at p. 76).

44. The Supreme Court further ordered that Dominion’s voting equipment be impounded with a neutral third party during the pendency of the proceedings in this case. (*See* Supreme Court Order, at pp. 62-63).

45. In finding that the Injunction Order applied equally to Dominion’s interests, as well as the Secretary’s, the Supreme Court explained that “Although Dominion’s interest lay in *proprietary concerns* rather than election integrity, its own

objectives somewhat aligned with the Secretary's, and so Dominion benefitted equally from this Court's protective order. Consequently it, too, was prejudiced by the County's violation of the protective order...and we can think of no distinction between the Secretary's and Dominion's overarching interests in the County's compliance with our order." (See Supreme Court Order, at pp. 75-76) (emphasis added).

46. In addition to imposing sanctions for the Petitioners' contemptuous conduct and ordering impoundment of Dominion's voting equipment with a neutral third party, the Supreme Court "dismiss[ed] the underlying appeal because [it found] that the impoundment of the machines [] constructively grants the relief the Secretary sought in that appeal... *Any effort to seek access to, or release of, the voting equipment must be directed to the Commonwealth Court*, specifically whoever is then presiding over the County's underlying Petition for Review against the Secretary." (*Id.* at p. 78.)⁶

47. In the Supreme Court Order, the Court made clear that access to "voting equipment" included access to Dominion's proprietary software. (*Id.* at p. 4) ("[Dominion's Democracy Suite 5.5A Election Management System ("EMS") [] is a

⁶ The Supreme Court retained jurisdiction over the case only as to the original sanction proceedings. (*Id.* at 76) ("We retain jurisdiction just as to the sanction proceedings while they proceed to their final resolution.").

term that covers all devices *and software* involved in running an election. Depending on context, we refer to it primarily as ‘voting equipment.’”) (emphasis added).

APPLICATION FOR ENFORCEMENT OF SUPREME COURT ORDER

48. The Fulton County Board of Commissioners held a meeting on December 27, 2023. According to the approved minutes from that meeting, the Board entered an executive session at 10:08 a.m. to discuss “[p]ersonnel and legal matters.” (See Exhibit A, at p. 312). The executive session adjourned at 11:20 a.m. *Id.*

49. After entering back into regular public session, the Board considered three motions, all of which passed by a 2-1 vote (with Commissioner Bunch and Ulsh voting in favor, and Commissioner Shives voting against). The second motion is set forth verbatim, as follows:

Motion by Commissioner Ulsh, at the capacity of the Commissioners, to allow utilization of the February 19, 2021 Wake TSI Report, the September 15, 2022 Speckin Forensic Report, Wake TSI Experts and Speckin Forensic Experts, and evidence used to form expert opinions to be utilized by clients of Stefanie Lambert with common interests.

*Id.*⁷

⁷ The first motion requested the Petitioners’ Special Counsel (*i.e.*, Attorney Carroll and Attorney Stefanie Lambert) “to request Congress investigate Bill Barr and his orders pertaining to election investigation while serving as Attorney General.” The third motion directed Petitioners’ counsel to “to send a petition to the U.S. Supreme Court for a stay on the PA Supreme Court and to consider any decisions made by Special Master or PA Supreme Court.” *Id.*

50. Incredibly, with this latest action, Petitioners' have completely disregarded the express warning issued to them in the Supreme Court Order. (*See* Supreme Court Order, at p. 77) (“We can hope that the sanctions will underscore for the County, Attorney Carroll, and other observers that they trifle with judicial orders and time-honored rules and norms in litigation at their peril.”).

51. Instead, Petitioners have again flouted the Supreme Court Order, which expressly prohibits the County from allowing access to or release of Dominion's voting equipment without permission of this Court.

52. There is no question that the “evidence used to form expert opinions” in the Wake TSI Report and Speckin Forensic Report constitutes “voting equipment,” the access to and dissemination of which is expressly prohibited without consent of this Court by the Supreme Court Order. *Id.* at 78

53. The Supreme Court Order makes clear that Dominion's “voting equipment” includes the entire Democracy Suite 5.5A Election Management System and is a term that “covers all devices *and software* involved in running an election.”

54. The record in this case makes clear that Petitioners have in their possession copies of such software and other parts of Dominion's Democracy Suite 5.5A. (*See* Special Master's Report, at F/F ¶ 21) (“As part of the ‘inspection,’ unidentified ‘Wake [TSI] employees took backups of key data on the [Dominion Voting Equipment], includ[ing] the election database, results files, and Windows

system logs. *In addition, Wake TSI used a system imaging tool to take complete hard drive images of these computers to be able to perform further examination.*

They also obtained complete images of two USB thumb drives that had been used on election night to transfer results files from the election computers to the computer [Fulton County] used to upload results to the SURE portal.”) (emphasis added); (*Id.* at F/F ¶ 87) (“As stated in the Speckin Report, which is dated September 15, 2022, ‘[a]total of six hard drives were tendered for copying and analysis’. The Speckin Report indicated that ‘[t]he images of the drives that are the subject of this report were created on July 13-14, 2022.’ The Speckin Report further indicated that ‘[t]he hard drives from the computers were removed and connected them [sic] to a Forensic workstation’...*The ‘forensic image of each drive was saved on its own new unused Western Digital 4TB USB hard drive. This allowed for a later duplication and examination of the evidence.’*”) (emphasis added).

55. Indeed, the “evidence” underlying the Wake TSI Report and the Speckin Report that Petitioners have now astoundingly and publicly announced they will provide to third parties implicates precisely the type of “proprietary concerns” that prompted Dominion’s intervention in this matter in the first place. *See* Supreme Court Order, at p. 74.

56. If Petitioners are permitted to disseminate such Confidential Information to third parties, Dominion will be irreparably harmed.

57. The danger of irreparable harm is even more extreme in this case, given that the Petitioners have proposed to hand over Dominion’s Confidential Information to Attorney Stefanie Lambert, who has “been criminally indicted in Michigan on felony charges relating to unlawful access to voting machines and damage to voting machines.”) *See* Sept. 15 , 2023 Memorandum Opinion, at p. 36.

58. Accordingly, Dominion respectfully requests that this Court enter an order immediately enjoining Petitioners from disseminating to third parties any of the evidence or information in its possession that formed the basis for the February 19, 2021 Wake TSI Report and the September 15, 2022 Speckin Forensic Report, including, but not limited to, any dissemination of Dominion’s Confidential Information (as defined in the Dominion Lease Agreement) in its possession.

APPLICATION FOR CONTEMPT HEARING

59. “[I]n civil contempt proceedings the burden is on the complaining party to prove noncompliance by a preponderance of the evidence.” (*Barrett v. Barrett*, 368 A.2d 616, 621 (Pa. 1977)). “Mere noncompliance with a court order is not by itself sufficient to prove contempt; rather, the complaining party must prove: (1) That the contemnor had notice of the specific order or decree which he is alleged to have disobeyed; (2) That the act constituting the contemnor’s violation was volitional; and (3) That the contemnor acted with wrongful intent.” (*Waggle v. Woodland Hills Ass’n, Inc.*, 213 A.3d 397, 403 (Pa. Cmwlth. 2019)).

60. There is no question that Petitioners' conduct in voting to disseminate Dominion's Confidential Information constitutes civil contempt of the express directive in the Supreme Court Order that "[a]ny effort to seek access to, or release of, the voting equipment must be directed to the Commonwealth Court..." *See* Supreme Court Order, at p. 78.

61. Here: (1) Petitioners clearly had notice of the Supreme Court's published Supreme Court Order and its contents; (2) Petitioners acted within their own volition by voting on the record to approve release of the Confidential Information; and (3) knowing that their action would violate the Supreme Court Order, the Petitioners voted with wrongful intent to violate such order.

62. Petitioners' conduct is all the more reprehensible, given the Supreme Court's prior warning to them in this matter. If any litigant should be cautious or conservative in its interpretation the Supreme Court's orders, it is the Petitioners, who previously unsuccessfully argued that they did not violate the Supreme Court's Injunction Order because they found it to be ambiguous.

63. Therefore, Dominion requests that the Special Master hold an evidentiary hearing to consider whether Petitioners should again be held in civil contempt. After the hearing, Dominion respectfully requests that this Court: (1) find Petitioners in contempt of the Supreme Court Order; and (2) impose monetary sanctions against Petitioners, jointly and severally, including against either or both of

the two newly elected Commissioners, in the event they fail to vote to rescind the motion allowing dissemination of Dominion's Confidential Information.

CONCLUSION

For the foregoing reasons, Dominion respectfully requests that this Court: (1) immediately enforce the Supreme Court Order by enjoining Petitioners from disseminating to third parties any of the evidence in its possession that formed the basis for the February 19, 2021 Wake TSI Report and the September 15, 2022 Speckin Forensic Report, including, but not limited to, any dissemination of Dominion's Confidential Information; and (2) schedule a hearing to determine whether Petitioners should be held in civil contempt and sanctioned accordingly. A proposed order is attached hereto.

Respectfully submitted,

Dated: January 10, 2024

BUCHANAN INGERSOLL & ROONEY PC

By: /s/ Shawn N. Gallagher

Shawn N. Gallagher (PA I.D. No. 88524)

Kathleen Jones Goldman (PA ID. No. 90380)

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Counsel for Dominion Voting Systems, Inc.

Exhibit A



Meeting of the Fulton County Commissioners
 Tuesday December 27, 2023
 8:30 a.m. at the Commissioners' Office

Present: Commissioner Ulsh, Commissioner Bunch and Commissioner Shives

Guests: Hervey Hann and Steven Wible

Chairman Ulsh opened the meeting with silent prayer and all recited the Pledge of Allegiance to the flag.

The floor was opened up by Commissioner Ulsh for public comments. No comments were made.

Motion by Commissioner Shives to approve the Commissioners' Minutes of the December 19, 2023 meeting. All in favor.

Motion by Commissioner Bunch to approve the Accounts Payables dated December 21, 2023 in the amount of \$152,487.39. All in favor.

Fund 100	General Fund	50,604.89
	Manual Checks	\$0.00
	TOTAL GENERAL FUND	\$50,604.89
Fund 235	Law Library	457.78
Fund 238	911	597.13
Fund 256	Domestic Relations	49.75
Fund 262	Act 13 Marcellus Shale Recreational	1,250.00
Fund 275	Medical Assistance Transportation	38,826.65
Fund 300	Capital Purchase	11,486.97
Fund 400	Debt Service	43,531.46
Fund 801	Pass thru Funds	5,682.76
	TOTAL ALL FUNDS	\$152,487.39

Motion by Commissioner Ulsh to approve Payroll dated December 27, 2023 in the amount of \$126,532.04. All in favor.

Commissioners met with Deputy Sheriff Mike Sprague to discuss hiring a per diem Deputy Sheriff.

Motion by Commissioner Ulsh to hire Robert Marshall for the position of Deputy Sheriff on a per diem basis, effective January 2, 2024. All in favor.

A brief Salary Board meeting was held to set the wages of Robert Marshall. Separate minutes are on file.

Motion by Commissioner Bunch to approve Resolution 10 of 2023, 2024 Tax Levy and Appropriation Resolution, showing that the taxes will remain the same with no increase. All in favor.

Motion by Commissioner Shives to appoint Thomas Glenn and April Leese to a four-year term on the Fulton County Conservation District Board as a Director, effective January 1, 2024 through December 31, 2027. All in favor.

Motion by Commissioner Bunch giving Commissioner Ulsh authorization to sign the 2024-2025 CCAP PCoRP Renewal Application, prepared by Insurance Agent Robert Snyder, effective June 1, 2024. All in favor.

Motion by Commissioner Shives to adopt the 2024 Budget as advertised and presented. All in favor.

Motion by Commissioner Ulsh to enter into Executive Session at 10:08 a.m. for Personnel and Legal Matters. All in favor.

Motion by Commissioner Ulsh to exit Executive Session at 11:20 a.m. All in favor.

Motion by Commissioner Ulsh, at the capacity of the Commissioners, to request for Special Counsel to request Congress investigate Bill Barr and his orders pertaining to election investigation while serving as Attorney General. Motion carried on a 2 to 1 vote. Commissioner Ulsh-Yay; Commissioner Bunch-Yah; Commissioner Shives-Nay.

Motion by Commissioner Ulsh, at the capacity of the Commissioners, to allow utilization of the February 19, 2021 Wake TSI Report, the September 15, 2022 Speckin Forensic Report, Wake TSI Experts and Speckin Forensic Experts, and evidence used to form expert opinions to be utilized by clients of Stefanie Lambert with common interests. Motion carried on a 2-1 vote. Commissioner Ulsh-Yay; Commissioner Bunch-Yah; Commissioner Shives-Nay.

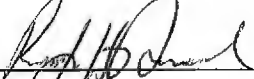
Motion by Commissioner Ulsh, at the capacity of the Commissioners, to send a petition to the U.S. Supreme Court for a stay on the PA Supreme Court and to consider any decisions made by Special Master or PA Supreme Court. Motion carried on a 2-1 vote. Commissioner Ulsh-Yay; Commissioner Bunch-Yah; Commissioner Shives-Nay.

Commissioners signed the 1st installment for the CCAP PComp Contribution for 2024 in the amount of \$8,338.00, the December 2023 Retirement Fund Report and an Annual DCED-ARF-137 Annual Re-Evaluation form for the Knobsville Waste Water Treatment Improvements Project to recertify funds for years 2020 and 2021.

Commissioner Shives talked briefly about the Farmland Preservation Program stating that she would like to set a meeting date sometime in January of 2024 since there is a new board in place.

Motion by Commissioner Ulsh to adjourn at 11:37 p.m. All in favor.

FULTON COUNTY COMMISSIONERS



Randy H. Bunch

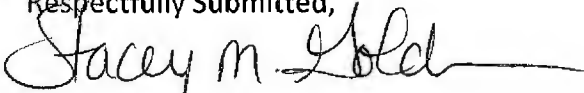


Steven L. Wible



Hervey P. Mann

Respectfully Submitted,


Stacey M. Golden,
Chief Clerk

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted By: Shawn N. Gallagher

Signature: /s/Shawn Gallagher

PA I.D. No. 88524

Dated: January 10, 2024

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COUNTY OF FULTON, <i>et al.</i> ,)	
)	
Petitioners/Appellees,)	
)	
v.)	No. 277 MD 2021
)	No. 3 MAP 2022
SECRETARY OF THE COMMONWEALTH,)	
)	
Respondent/Appellant,)	
)	
and)	
)	
DOMINION VOTING SYSTEMS, INC.,)	
)	
Intervenor.)	

[PROPOSED] ORDER

AND NOW, this ___ day of January, 2024, upon consideration of Intervenor Dominion Voting Systems, Inc.’s (“Dominion”) Emergency Application to Enforce Supreme Court Order and for Hearing to Hold Petitioners in Contempt, and any response thereto, it is hereby **ORDERED** that the Application **GRANTED**.

IT IS FURTHER ORDERED that Petitioners are hereby enjoined from disseminating to third parties any of the information or evidence in its possession that formed the basis for the February 19, 2021 Wake TSI Report and the September 15, 2022 Speckin Forensic Report, including, but not limited to, any dissemination of Dominion’s Confidential Information (as defined in the Dominion Lease Agreement).

IT IS FURTHER ORDERED that a hearing to determine whether Petitioners are in contempt of the Supreme Court's April 19, 2023 Opinion and Order shall be scheduled before the Special Master at a date and time that is convenient to all parties in this matter.

BY THE COURT:

J.