

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

CIVIL ACTION NO.
1:17-CV-2989-AT

**ELECTRONIC PRIVACY INFORMATION CENTER'S MOTION FOR
LEAVE TO FILE A BRIEF AS *AMICUS CURIAE* IN SUPPORT OF
PLAINTIFFS**

This case deals with an issue at the core of our democracy: voter privacy. The secret ballot reduces the threat of coercion, vote buying and selling, and tampering. For individual voters, it provides the ability to exercise their right to vote without intimidation or retaliation. The secret ballot and voter privacy are the cornerstones of modern democracies. The threats to the integrity of the March 24 Georgia Presidential Primary and future elections justify preliminary injunctive relief to protect Plaintiffs' constitutional rights and Georgia's democratic integrity.

EPIC hereby seeks leave to file the attached *Amicus Curiae* Brief to explain that voter privacy is widely recognized as critical for election

integrity, that ballot secrecy is vital for democracy, and to urge the Court to grant Coalition Plaintiffs' motion for a preliminary injunction.

Interest of *Amici Curiae*

EPIC is a public interest research center in Washington, D.C. EPIC was established in 1994 to focus public attention on emerging civil liberties issues and to protect privacy, the First Amendment, and other constitutional values. EPIC frequently participates as *amicus curiae* in federal and state courts in cases about emerging issues that implicate emerging privacy issues, including voter privacy. *See, e.g.*, Brief of *Amici Curiae* EPIC et. al, *Crawford v. Marion County Election Board*, 128 S. Ct. 1610 (2008) (opposing voter photo-ID requirements as infringing on citizens' right to cast a secret ballot); Brief of *Amici Curiae* EPIC et al., *Doe v. Reed*, 561 U.S. 186 (2010) (arguing that the First Amendment protects the right to anonymity in referenda signatures); *Brief of Amici Curiae* EPIC et al., *Watchtower Bible and Tract Society of N.Y., Inc. v. Village of Stratton*, 536 U.S. 150 (2002) (supporting First Amendment Right to anonymous door-to-door speech). EPIC previously filed a brief as *amicus curiae* in this case concerning the vulnerabilities of DRE voting systems to manipulation, attack, and fraud.

EPIC co-authored the preeminent report on state ballot secrecy laws and constitutional provisions in 2016. Caitriona Fitzgerald, Susannah

Goodman, and Pamela Smith, *The Secret Ballot at Risk: Recommendations for Protecting Democracy* (Aug. 2016).¹

Reasons the *Amicus Curiae* Brief Will Assist the Court

EPIC believes that the *amicus* brief will be helpful to the Court's consideration of this motion, including Georgia's long standing case law protecting voter privacy while marking, verifying, and casting a ballot. The brief will bring to the Court's attention evidence that voter privacy is widely recognized by federal and state courts, as well as legislatures, as essential for election integrity.

EPIC's brief will also provide evidence in the public record of recent attempts of political pressure in the workplace, highlighting why voter privacy is so crucial in preventing coercion.

EPIC's proposed *amicus* brief highlights recent and historic scholarship, government reports, state statutes and case law, and news reporting, which establish that (a) voter privacy is widely recognized as critical to election integrity; and (b) voter privacy is necessary for preventing coercion. This context will help the Court evaluate factual arguments that diminish the importance of voter privacy and the secret ballot.

¹ <https://secretballotatrisk.org>.

Amicus has no interest other than the protection of democratic values, constitutional rights, and voter privacy.

For the foregoing reasons, EPIC requests that the Court grant leave to file the attached amicus brief. Plaintiffs consent to the filing of this motion and the *amicus curiae* brief. Defendants have not consented to the filing.

Dated: March 11, 2020

Respectfully Submitted,

Marc Rotenberg

EPIC President and Executive Director

/s/ Alan Butler

Alan Butler (pro hac vice)

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CERTIFICATE OF SERVICE

I certify that I have this 11th day of March, 2020, served the foregoing Motion upon all counsel of record by way of the Court's electronic case filing (ECF) system.

/s/ Alan Butler

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