

**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

**PLAINTIFFS' JOINT OBJECTIONS TO
STATE DEFENDANTS' REDACTIONS AND MOTION TO SEAL**

State Defendants persist in their attempts to hide from the public highly-relevant information regarding the reliability of the Georgia Global Election Management System (GEMS) and the cybersecurity infrastructure of the Georgia Secretary of State's Office ("GA SOS"). During the preliminary injunction hearing, multiple witnesses and counsel (including State Defendants' own counsel) discussed in open court the many significant risks identified by Fortalice during their cybersecurity assessments of GA SOS. Nonetheless, State Defendants have refused to modify their extensive redactions to these assessments, insisting that portions of the Fortalice assessments publicly disclosed in open court remain sealed.

Moreover, State Defendants refuse to withdraw their frivolous motion to seal screenshots of the GEMS database. Dr. Halderman testified in open court that the structure of the GEMS database was not unique and instead was identical to databases that have been publicly available for many years. Dr. Halderman's testimony was confirmed by GA SOS Chief Information Officer Merritt Beaver. Therefore, State Defendants' pending motion is effectively moot, and yet they persist with it.

State Defendants have failed to carry their high burden to demonstrate that these documents should be redacted or sealed and the Court should not condone State Defendants' continued attempts to mislead the public about the extraordinary unreliability of Georgia's election cybersecurity.

ARGUMENT

Access to court records is an important component of the judicial system in this country, and "is instrumental in securing the integrity of the process." *Chicago Tribune Co. v. Bridgestone/Firestone, Inc.*, 263 F.3d 1304, 1311 (11th Cir. 2001). This is especially true where the records in question are held by a government and are relevant to fundamental civic rights such as voting. As stated in this Court's standing order, "confidentiality of proceedings is the exception, not the rule." (Doc. 11 at 22.) There is a presumption of access to judicial records, *Newman v.*

Graddick, 696 F.2d 796, 803 (11th Cir. 1983), and documents should only be sealed where there is good cause, *see Chicago Tribune*, 263 F.3d at 1315.

To determine whether to allow materials to be filed under seal, this Court must weigh “the competing interests of the parties to determine whether there is good cause to deny the public the right to access the document.” *F.T.C. v. AbbVie Prod. LLC*, 713 F.3d 54, 62 (11th Cir. 2013) (quotation marks and citation omitted). An important factor weighing against sealing information is if “access is likely to promote public understanding of historically significant events.” *Newman*, 696 F.2d at 803. Further, where information is already public, there is not good cause to allow it to be filed under seal. *See Perez-Guerrero v. U.S. Attorney General*, 717 F.3d 1224, 1236 (11th Cir. 2013) (declining to seal the name of petitioner because it had already been made public).

I. Redactions to the Fortalice Assessments

State Defendants provided redacted versions of Fortalice’s cybersecurity assessments to the Court at the preliminary injunction hearing. State Defendants have not, however, provided the Court with an explanation as to the basis for redacting any portions of Fortalice’s assessments. In a July 24, 2019 email, provided by Plaintiffs to the Court as Exhibit 13 at the preliminary injunction hearing, State Defendants represented that the redactions in the October 2017

assessment were of “unremediated vulnerabilities and the testing work around those unremediated vulnerabilities.” With respect to the 2018 assessments, however, State Defendants indicated that they “have not determined whether each of the identified vulnerabilities have been remediated, so . . . left those vulnerabilities redacted.” Both of these contentions are insufficient to justify State Defendants’ proposed redactions.¹

First, State Defendants’ redactions to the October 2017 assessment are inappropriate because State Defendants own witnesses and counsel referenced the substance of these redactions in open court. For example, State Defendants redacted portions of the October 2017 assessment related to the lack of security controls surrounding PCC, Inc.’s management of Georgia’s voter registration database. (*Compare* Pls’ Ex. 9 *with* Pls’ Ex. 1 at Payton_000023-24.) But Mr.

¹ Consistent with the Protective Order entered in this case, Plaintiffs notified State Defendants of their objections to State Defendants’ proposed redactions. By email dated July 29, 2019, Plaintiffs asked State Defendants to provide “updated versions of the previously redacted Fortalice reports reflecting what was publicly disclosed in court last week so we can see if a disagreement remains for the court to resolve.” Plaintiffs specifically noted that “[m]uch of what [State Defendants] previously redacted was publicly disclosed in the hearing.” State Defendants refused to provide updated versions stating they did “not recall any redacted information that was publicly disclosed at the hearing.” (Ex. A.) As this objection demonstrates, State Defendants failed to conduct any meaningful analysis of the portions of the Fortalice assessments that were made public. Significant portions of the Fortalice assessments were discussed in open court. Therefore, State Defendants have failed to carry their significant burden to demonstrate that these assessments should be kept from the public.

Beaver and Ms. Payton discussed these vulnerabilities extensively in open court in response to both cross-examination and the Court's questioning. (*See* Doc. 570 at 32:15-38:4, 56:14-59:15, 63:23-71:15, 225:1-228:19.) State Defendants redacted portions of the October 2017 assessment related to Fortalice's penetration testing. (*Compare* Pls' Ex. 9 with Pls' Ex. 1 at Payton_000040-52.) Not only did Mr. Beaver extensively discuss this in open court, (Doc. 570 at 44:4-46:19), but he referenced this penetration testing in the August 2018 declaration he submitted in opposition to Plaintiff's motion for a preliminary injunction. (Doc. 265-1 at ¶ 6.) State Defendants redacted portions of the October 2017 assessment related to endpoint protection. (*Compare* Pls' Ex. 9 with Pls' Ex. 1 at Payton_000034-35.) But both Mr. Beaver and Ms. Payton discussed GA SOS's endpoint protection enhancements in response to questions from State Defendants' own counsel. (Doc. 570 at 59:6-61:10, 251:25-252:25.) State Defendants redacted references to vulnerabilities regarding non-unique local administrator passwords from the October 2017 assessment. But Ms. Payton discussed these vulnerabilities in open court during both direct and cross examination. (*Id.* at 222:9-19, 223:11-25, 262:16-263:4.) Indeed, State Defendants' counsel referred specifically by page number to an entirely redacted page. (*Id.* at 262:16-17.)

Because these issues were discussed at length in open court, without objection from State Defendants and in some cases in response to questioning by State Defendants, State Defendants cannot plausibly argue that this information must remain under seal.²

Second, State Defendants' basis for the 2018 assessments' redactions is wholly insufficient. Because "confidentiality of proceedings is the exception, not the rule," the burden is on State Defendants to justify their proposed redactions. (Doc. 11 at 22.) They have not. Instead, State Defendants stated reason for redacting all of the vulnerabilities in the 2018 assessments is that they did not have time to determine which vulnerabilities had been remediated. But a lack of time is not an appropriate reason to redact information from the public's view. As an initial matter, because these assessments were available since February 2018 (seventeen months prior to the hearing) and November 2018 (eight months prior to the hearing), State Defendants had ample time to determine which vulnerabilities had been remediated. They did not lack time, they lacked diligence. At any point

² State Defendants' redactions suffer from other deficiencies. They are internally inconsistent. For example, in the October 2017 assessment, State Defendants redacted descriptions of vulnerabilities from Page 3 and Pages 9 to 10, while displaying some of these same vulnerabilities on Pages 11 to 38. (*Compare* Pls' Ex. 9 *with* Pls' Ex. 1.) Other redactions are overbroad on their face. For example, in the October 2017 assessment, State Defendants redacted every recommended change to GA SOS's written policies including several notably mundane recommendations. (*Id.* at Payton_00055-56.)

during those ensuing months State Defendants could have asked Mr. Beaver or Ms. Payton to identify which of the vulnerabilities from the 2018 assessments have been remediated. They apparently made no attempt to do so. Moreover, almost two weeks have passed since State Defendants made these representations, and they still have made no apparent attempt to identify which vulnerabilities have been remediated and therefore can be made public.

Additionally, as with the October 2017 assessment, redacted portions of the 2018 assessments were also discussed in open court. For example, the vulnerabilities with PCC, Inc.'s operation of Georgia's voter database—the sole subject of the February 2018 assessment—were discussed at length in open court. (*See* ECF No. 570 at 32:15-38:4, 56:14-59:15, 63:23-71:15, 225:1-228:19, 291:3-21, 295:16-296:3.) Fortalice's identification of "several instances of voter registration data hosted on file shares" in the November 2018 assessment, which was redacted by State Defendants, was quoted and discussed at length, including by State Defendants' counsel, with references to specific pages in open court. (ECF No. 570 at 69:3-22, 288:11-289:5, 294:19-25.) And Fortalice's November 2018 penetration testing, which was redacted by State Defendants, was discussed at length by Ms. Payton in open court. (*Id.* at 248:1-250:15; 275: 9-12; 283:14-285.:12)

State Defendants seek to weaponize this Court's sealing procedures: publicly touting positive aspects of the Fortalice assessments while shielding from the public the many negative findings of those assessments. The Court should not condone such behavior and their proposed redactions should be rejected.

II. The GEMS Database Screenshots

The July 25 and 26 preliminary injunction hearing provides further cause for the Court to deny State Defendants' frivolous motion to seal screenshots of the GEMS databases.³ State Defendants' motion to seal claims that the screenshots of the GEMS database "disclose information regarding the GEMS database which is not otherwise public knowledge and the documents themselves speak to fact that disclosure of nonpublic details of this sensitive nature increase the risk to sensitive items." (Doc. 488-1 at 3.) At the preliminary injunction hearing, State Defendants' own witness, Merritt Beaver, confirmed that this assertion was false. (Doc. 570 at 29:2-15.) Instead, the Georgia GEMS table structure is exactly the same as the publicly-available Cobb County database that has been published on the internet since 2002. As Dr. Halderman testified: "contrary to the expressed

³ By email dated July 29, 2019, Plaintiffs requested that State Defendants withdraw their motion to seal the GEMS database screenshots because, based on testimony at the preliminary injunction hearing establishing that Georgia's GEMS database was identical to publicly-available GEMS databases, that motion was rendered moot. State Defendants refused, necessitating this objection.

position of the state that there was something unique to Georgia about these databases . . . there is actually nothing whatsoever unique about the structure of the Georgia GEMS databases. It is identical to the structure of databases in several other states, including databases that are public on the internet.” (Doc. 571 at 89:15-23.) Dr. Halderman’s testimony is also corroborated by the testimony of Merle King, the former Executive Director of Georgia’s CES. (*See* Doc. 441 at 6.)

Indeed, had State Defendants simply compared the names of the tables and names of the fields in the screenshots Plaintiffs submitted of the current Georgia GEMS database with the names of the tables and the names of the fields in the screenshots Plaintiffs previously submitted of the public Cobb County database, they readily could have seen that there was nothing confidential about the structure of the Georgia GEMS database. (*Compare, e.g.* Doc. 489 at 2 *with* Doc. 455, Ex. B at 5 (showing the same table and field names)). Beaver confirmed that he conducted no such review before representing to the Court that the databases were different. (Doc. 570 at 26:4-28:10.) Apparently, neither did State Defendants’ counsel. This fact too was discussed in open court during the preliminary injunction hearing. (*Id.* at 22:16-29:15.)

Notably, State Defendants did not object to the public dissemination of these facts during the hearing. In fact, news organizations have now reported these public statements made in open court.⁴

Because Georgia's GEMS database is identical to databases publicly available for more than a decade, and because this fact was publicly disclosed and discussed in open court at the preliminary injunction hearing, and in public media, State Defendants' motion to seal must be denied. *See Perez-Guerrero*, 717 F.3d at 1236.

CONCLUSION

For all the foregoing reasons, the Court should deny reject the proposed redactions by State Defendants to the Fortalice assessments and deny State Defendants' motion to seal screenshots of the GEMS database.

Respectfully submitted this 7th day of August, 2019.

⁴ See Jordan Wilkie, *'The selling of an election': how private firms compromised midterms security*, The Guardian (Aug. 1, 2019), <https://www.theguardian.com/us-news/2019/aug/01/the-selling-of-an-election-dangerous-level-of-private-control-revealed-in-2018-georgia-midterms>.

/s/ David D. Cross

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Counsel for Coalition Plaintiffs

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ David D. Cross
David D. Cross

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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2019, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record

/s/ David D. Cross
David D. Cross

EXHIBIT A

From: Cross, David D.
Sent: Tuesday, July 30, 2019 12:17 PM
To: Vincent Russo; Josh Belinfante
Cc: Carey Miller; Kimberly Anderson; Chapple, Catherine L.; Brian Lake; Bryan Tyson (btyson@taylorenghish.com); Bruce Brown; Manoso, Robert W.; Bentrott, Jane P.; Conaway, Jenna B.
Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

Vincent -

On GEMS, there's nothing confidential to seal. We'll alert the Court that you're persisting with a frivolous motion.

Regarding the Fortalice reports, it's not our job to go through them and identify what's now public. It's your duty to limit redactions only to actually confidential information that satisfies the rigorous standard for concealing information from the public in judicial proceedings. We'll alert the Court that you've declined to comply with that duty.

Thanks.
DC

From: Vincent Russo <vrusso@robbinsfirm.com>
Date: Tuesday, Jul 30, 2019, 11:17 AM
To: Cross, David D. <DCross@mofo.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>
Cc: Carey Miller <carey.miller@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Chapple, Catherine L. <CChapple@mofo.com>, Brian Lake <Brian.Lake@robbinsfirm.com>, Bryan Tyson (btyson@taylorenghish.com) <btyson@taylorenghish.com>, Bruce Brown <bbrown@brucebrownlaw.com>, Manoso, Robert W. <RManoso@mofo.com>, Bentrott, Jane P. <JBentrott@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>
Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

- External Email -

David –

I'm not aware of an order regarding disclosure of the GEMS information. Unsealing the documents would have the effect of disclosing the documents without a court order, which would be contrary to Georgia law. If the Court ordered the screenshots to be made public at the hearing, I expect that the Court will simply deny the motion to seal.

Regarding the Fortalice reports, what specific areas of the reports are you referring to? The questions to Theresa Payton and Merritt Beaver focused on unredacted portions of the redacted reports. I do not recall any redacted information that was publicly disclosed at the hearing. We are willing to consider whether additional portions of the redacted report should be unredacted, but it would help to know which sections of the report you are referencing.

Thanks,

Vincent

From: Cross, David D. [mailto:DCross@mofo.com]

Sent: Tuesday, July 30, 2019 12:21 AM

To: Vincent Russo <vrusso@robbinsfirm.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>

Cc: Carey Miller <carey.miller@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Chapple, Catherine L. <CChapple@mofo.com>; Brian Lake <Brian.Lake@robbinsfirm.com>; Bryan Tyson (btyson@taylorenghish.com) <btyson@taylorenghish.com>; Bruce Brown <bbrown@brucepbrownlaw.com>; Manoso, Robert W. <RManoso@mofo.com>; Bentrott, Jane P. <JBentrott@mofo.com>; Conaway, Jenna B. <JConaway@mofo.com>

Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

Can we please get a response to this?

From: Cross, David D. <DCross@mofo.com>

Date: Monday, Jul 29, 2019, 11:28 AM

To: Vincent Russo <vrusso@robbinsfirm.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>

Cc: Carey Miller <carey.miller@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Chapple, Catherine L. <CChapple@mofo.com>, Brian Lake <Brian.Lake@robbinsfirm.com>, Bryan Tyson (btyson@taylorenghish.com) <btyson@taylorenghish.com>, Bruce Brown <bbrown@brucepbrownlaw.com>, Manoso, Robert W. <RManoso@mofo.com>, Bentrott, Jane P. <JBentrott@mofo.com>, Conaway, Jenna B. <JConaway@mofo.com>

Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

Vincent -

Please provide today updated versions of the previously redacted Fortalice reports reflecting what was publicly disclosed in court last week so we can see if a disagreement remains for the court to resolve. Much of what you previously redacted was publicly disclosed in the hearing.

Also, please withdraw today your motion to seal the GEMS database screen shots. Given the testimony of Mr. Beaver and others in court last week, the basis for that motion is now moot. If you disagree, please explain why today.

Thanks.

DC

From: Vincent Russo <vrusso@robbinsfirm.com>

Date: Tuesday, Jul 23, 2019, 10:57 AM

To: Cross, David D. <DCross@mofo.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>

Cc: Carey Miller <carey.miller@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Chapple, Catherine L. <CChapple@mofo.com>, Brian Lake <Brian.Lake@robbinsfirm.com>, Bryan Tyson (btyson@taylorenghish.com) <btyson@taylorenghish.com>, Bruce Brown <bbrown@brucepbrownlaw.com>

Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

- External Email -

David – it is in the Attorneys Eyes Only provision in the protective order. Why do you think the Fortalice reports are not covered by that provision?

Thanks,

Vincent

From: Cross, David D. [<mailto:DCross@mofo.com>]

Sent: Tuesday, July 23, 2019 10:53 AM

To: Vincent Russo <vrusso@robbinsfirm.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>

Cc: Carey Miller <carey.miller@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Chapple, Catherine L. <CChapple@mofo.com>; Brian Lake <Brian.Lake@robbinsfirm.com>; Bryan Tyson (btyson@taylorenghish.com) <btyson@taylorenghish.com>; Bruce Brown <bbrown@brucepbrownlaw.com>

Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

How? And what specific order provisions are you referring to?

From: Vincent Russo <vrusso@robbinsfirm.com>

Date: Tuesday, Jul 23, 2019, 8:50 AM

To: Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Cross, David D. <DCross@mofo.com>

Cc: Carey Miller <carey.miller@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Chapple, Catherine L. <CChapple@mofo.com>, Brian Lake <Brian.Lake@robbinsfirm.com>, Bryan Tyson (btyson@taylorenghish.com) <btyson@taylorenghish.com>, Bruce Brown <bbrown@brucepbrownlaw.com>

Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

- External Email -

David,

The Court specifically ordered that AEO includes methods, tools, and instrumentalities of security tests, audits, and investigations, and includes findings that would create a threat to the security of voting systems or other State infrastructure. The Fortalice reports fall squarely within the PO.

Thanks,

Vincent

From: Josh Belinfante

Sent: Tuesday, July 23, 2019 10:41 AM

To: Cross, David D. <DCross@mofo.com>

Cc: Vincent Russo <vrusso@robbinsfirm.com>; Carey Miller <carey.miller@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Chapple, Catherine L. <CChapple@mofo.com>; Brian Lake <Brian.Lake@robbinsfirm.com>; Bryan Tyson (btyson@taylorenghish.com) <btyson@taylorenghish.com>; Bruce Brown <bbrown@brucepbrownlaw.com>

Subject: Re: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

On a separate note, are we going to learn the basis of the supposed confidentiality of the agreement between coalition plaintiffs and the fair fight plaintiffs? I'll defer to others on the answers to your questions, David.

Thanks

JB

Sent from my iPhone

On Jul 23, 2019, at 9:26 AM, Cross, David D. <DCross@mofo.com> wrote:

Vincent

We are going into a hearing where the parties will have to deal with the public's right to access evidence before the court. Obviously in any case the parties always have to confront disclosure obligations at trial, even when they themselves have treated something as confidential. So I'll ask you again: what is the basis for treating those documents and the related testimony confidential? I'm quite confident the court is not going to make a decision on the public's right to access evidence before the court, particularly in a case that has such important public interest aspects that she has emphasized, based on a procedural mechanism or deadline between the parties involving discovery.

Thanks.

From: Vincent Russo <vrusso@robbinsfirm.com>
Date: Tuesday, Jul 23, 2019, 8:12 AM
To: Cross, David D. <DCross@mofo.com>
Cc: Carey Miller <carey.miller@robbinsfirm.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Chapple, Catherine L. <CChapple@mofo.com>, Brian Lake <Brian.Lake@robbinsfirm.com>, Bryan Tyson <btyson@taylorenghish.com> <btyson@taylorenghish.com>, Bruce Brown <bbrown@brucebrownlaw.com>
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- External Email -

David –

Below are State Defendants' designations for Dr. Shamos' deposition transcript.

Attorneys Eyes Only:

- 134:10 – 146:22
- 204:3-11

The basis for the AEO designation is that examination involved documents previously marked AEO (Exhibits 75 and 76), and the contents of those documents are disclosed in the transcript. None of the parties challenged the AEO designation on those documents, and the deadline to challenge the AEO designation has passed.

Thanks,

Vincent

From: Cross, David D. [<mailto:DCross@mofo.com>]
Sent: Monday, July 22, 2019 8:09 PM
To: Vincent Russo <vrusso@robbinsfirm.com>
Cc: Carey Miller <carey.miller@robbinsfirm.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Chapple, Catherine L. <CChapple@mofo.com>; Brian Lake <Brian.Lake@robbinsfirm.com>; Bryan Tyson <btyson@taylorenghish.com> <btyson@taylorenghish.com>; Bruce Brown

<bbrown@brucepbrownlaw.com>

Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

Thanks. I can't think of anything that warrants confidential treatment. Please explain each designation when you provide them so we understand the basis. Please also explain the basis for designating as AEO (or Confidential at all) the assessments Ms. Payton relied on.

Thanks again for the quick turn on Dr. Shamos.

From: Vincent Russo <vrusso@robbinsfirm.com>

Date: Monday, Jul 22, 2019, 5:10 PM

To: Cross, David D. <DCross@mofo.com>

Cc: Carey Miller <carey.miller@robbinsfirm.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Chapple, Catherine L. <CChapple@mofo.com>, Brian Lake <Brian.Lake@robbinsfirm.com>, Bryan Tyson (btyson@taylorenghish.com) <btyson@taylorenghish.com>, Bruce Brown <bbrown@brucepbrownlaw.com>

Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

- External Email -

David,

We received the transcript of Dr. Shamos' deposition this evening. We will review and let you know what we are marking Confidential. We also intend to mark a portion of the transcript AEO. Although the PO allows parties to make confidentiality and AEO designations up to 7 days from the date the transcript is received, we will work on getting you our designations tonight given the circumstances.

Thanks,

Vincent

From: Cross, David D. [<mailto:DCross@mofo.com>]

Sent: Friday, July 19, 2019 7:17 PM

To: Vincent Russo <vrusso@robbinsfirm.com>

Cc: Carey Miller <carey.miller@robbinsfirm.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Chapple, Catherine L. <CChapple@mofo.com>; Brian Lake <Brian.Lake@robbinsfirm.com>

Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

Thanks for the explanation. On a separate issue, can you please let us know by EOD on Monday what, if any, portions of the Shamos transcript you are designating Confidential so we can proceed accordingly re use at the hearing?

Thanks.

DC

From: Vincent Russo <vrusso@robbinsfirm.com>

Date: Friday, Jul 19, 2019, 6:25 PM

To: Cross, David D. <DCross@mofo.com>

Cc: Carey Miller <carey.miller@robbinsfirm.com>, Josh Belinfante <Josh.Belinfante@robbinsfirm.com>, Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>, Chapple, Catherine L. <CChapple@mofo.com>, Brian Lake <Brian.Lake@robbinsfirm.com>
Subject: RE: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

- External Email -

David –

The Court asked for a supplemental affidavit that provides background on Mr. Shirley, similar to what had been provided about Paul Brandau previously. Mr. Brandau’s background was provided in Ms. Payton’s declaration attached to the State Defendants’ notice filing regarding the security review of Dr. Halderman’s memory card. Since the Court asked for a supplemental affidavit rather than an affidavit from Mr. Brandau, we proceeded in the same manner as before and supplied Mr. Shirley’s background through a declaration by Ms. Payton.

Vincent

From: Cross, David D. [<mailto:DCross@mofo.com>]
Sent: Friday, July 19, 2019 5:43 PM
To: Vincent Russo <vrusso@robbinsfirm.com>
Cc: Carey Miller <carey.miller@robbinsfirm.com>; Josh Belinfante <Josh.Belinfante@robbinsfirm.com>; Kimberly Anderson <Kimberly.Anderson@robbinsfirm.com>; Chapple, Catherine L. <CChapple@mofo.com>; Brian Lake <Brian.Lake@robbinsfirm.com>
Subject: FW: [89828-0000001] Curling et al v. Raffensperger et al (Doc# 514, N.D. Ga. 1:17-cv-02989-AT)

Vincent -

Why is this from Ms. Payton rather than Mr. Shirley? We’d understood the Court to request a declaration from him. Given this is about him and his role, why isn’t he telling the Court that information himself under oath?

Thanks.
DC

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