

IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

FULTON COUNTY REPUBLICAN PARTY

Plaintiff,

v.

FULTON COUNTY BOARD OF  
COMMISSIONERS, ROBB PITTS,  
BRIDGET THORNE, BOB ELLIS, DANA  
BARRETT, NATALIE HALL, MARVIN S.  
ARRINGTON, JR., and KHADIJAH  
ABDUR-RAHMAN,

Defendants.

Case No. 2023CV382174

**NOTICE OF FILING**

COMES NOW Attorney David Oles, Attorney for Plaintiff, and hereby gives notice that he is filing the following:

A. AFFIDAVIT OF MARK WINGATE IN SUPPORT OF AMENDED COMPLAINT FOR DECLARATORY JUDGMENT AND APPLICATION FOR WRIT OF MANDAMUS

Respectfully submitted this 27th day of July, 2023.

/s/ David E. Oles, Sr.  
David Edward Oles, Sr., Esq.  
Georgia Bar No. 551544

5755 North Point Parkway  
Suite 25  
Alpharetta, GA 30022  
(770) 753-9995  
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**Notice of Filing**

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FULTON COUNTY REPUBLICAN  
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**AFFIDAVIT OF MARK WINGATE IN SUPPORT OF AMENDED  
COMPLAINT FOR DECLARATORY JUDGMENT AND APPLICATION FOR  
WRIT OF MANDAMUS**

The undersigned Affiant, being duly sworn on his oath, deposes and says that:

1.

My name is Mark Wingate, I reside in Fulton County, and I am of legal age to make this affidavit.

2.

I was a member of the Fulton County Board of Registration and Elections (the "BRE"), a position I have held since 2017, when I was nominated by the Fulton County Republican Party ("FCRP") and appointed by the Fulton County Board of Commissioners ("BoC"). I submit this affidavit in support of the FCRP's AMENDED COMPLAINT FOR DECLARATORY JUDGMENT AND APPLICATION FOR WRIT OF MANDAMUS filed concurrently herewith (the "Second Complaint").

3.

I have personal knowledge concerning the matters discussed herein and am under no disability that would prevent my testimony.

4.

I have now seen the initial COMPLAINT FOR DECLARATORY JUDGMENT AND APPLICATION FOR WRIT OF MANDAMUS AND INJUNCTIVE RELIEF filed with the Fulton County Superior Court on June 29, 2023 and accepted for filing on June 30, 2023 (the "Initial Complaint"). I am aware of and have been asked to provide this record of my experience in connection with the Second Complaint.

5.

I have served on the BRE since 2017, when I was nominated by the FCRP. During that six-year term, I have become aware of the intricacies of election operations and maintenance in Fulton County and throughout Georgia. I voted not to certify the results of the 2020 general election because, as a result of my service on the BRE, I was not comfortable with the processes and procedures used to derive the final election results, including, among other things:

- (a) The voter registration counts in the active/inactive voter rolls, which I had questioned for months;
- (b) The Board was told that Fulton County did not perform any signature verification on any absentee-by-mail ballot in the 2020 election;
- (c) The Board was never provided chain of custody documents that it requested;

- (d) The Board was never provided the surveillance footage of the drop boxes that we requested; and
- (e) There had been no answers to the allegations of misconduct in the final counting at State Farm Arena used to certify the 2020 election.

6.

While I take my duties to the citizens of Fulton County seriously and have exercised those duties without regard to partisan interests, I have always considered myself a representative of the FCRP on the BRE. The statute authorizing my nomination and requiring my appointment limits the appointees to the BRE to two representatives from each of the two parties that obtained the highest number of votes in a recent election. I have read that statute and understand that my duties as a member of the BRE include my duties as a representative of a political party and an obligation to communicate with the FCRP. The BRE website has always identified me as one of the two “Republican Members.”

7.

I am aware that the FCRP nominated Messrs. Mike Heekin and Jason Frazier as their new appointees to the BRE. I became aware that Messrs. Heekin and Frazier were presented to the BoC for appointment on June 7, 2023, but the BoC rejected the appointment of Mr. Frazier. To my knowledge, that was an unprecedented act in Fulton County or any other county that I have become aware of. I am aware that the BoC again rejected the appointment of Mr. Frazier at a subsequent BoC meeting on June 21, 2023.

8.

Prior to the scheduled end of my term on June 30, 2023, I had made my intentions clear to members of the FCRP and BRE that I had no intention of serving another term. I have

suffered serious health issues for several years from progressively worsening back issues. This fact was well known to all members of the BRE and to Ms. Patrise Perkins-Hooker, who had served as counsel to the BRE.

10.

I was therefore surprised when Ms. Perkins-Hooker sent me an email on Sunday night, July 2, 2023 (attached as Exhibit A). I read the email as saying that I was “required” to stay on the BRE. In the email, Ms. Perkins-Hooker stated she “hate[d] to let me know” that “our bylaws state that you serve until your replacement is named.”

11.

I expressed my surprise in my response to Ms. Perkins-Hooker. But I knew that she had served as the attorney for and counsel to the BRE, and was aware of the facts and the law, and trusted her to give me correct advice.

12.

Based on a subsequent email from Mr. Chad Alexis, Senior Assistant County Counsel for Fulton County, I became aware that the FCRP had served the BoC with a Temporary Restraining Order ("TRO") seeking to prevent the BoC from appointing a member of its own choosing to the BRE.

13.

No representative of or person associated with the FCRP contacted me about the Initial Complaint. Although I considered myself a representative of the FCRP, I did not expect to receive any such communication since I believed my term had expired on June 30, 2023.

14.

I knew that Ms. Perkins-Hooker had also recently been appointed to serve as the Chair of BRE. I subsequently was led to believe by Ms. Perkins-Hooker and Mr. Alexis that Mr. Frazier had been appointed to fill “my” seat and that, because he had not been appointed, I would be required to stay on the BRE as what I understood to be a “placeholder” in “my seat” until a replacement was named.

15.

I do not know if any similar representation was made to Dr. Kathleen Ruth, the other outgoing Republican Member of the BRE, whose term had also expired on June 30, 2023. I do not believe that the appointments of the FCRP are specific to individual replacements on the BRE.

16.

At 5:33 pm on July 5, 2023, Mr. Alexis sent an urgent request for an affidavit attached as Exhibit B, asking for an immediate signature and notarization. Mr. Alexis stated that the FCRP had “served” the BoC with a “Temporary Restraining Order” because of the “vacancy” on the BRE. Mr. Alexis’ email continued as follows:

[P]er your email exchange with Chairperson Perkins-Hooker, your willingness to serve until a successor is appointed (as per the Fulton County Code) ensures that no such vacancy occurs. To that end, we have attached an Affidavit to this effect for your review and signature, and to be notarized. This affidavit is needed for the TRO Hearing set for tomorrow, so we will need the fully executed document no later than tomorrow at 9:00am. Please let me know if you have any questions or concerns.

17.

Based on the emails with Ms. Perkins-Hooker and Mr. Alexis, both of whom I knew as lawyers, and their citing of the “Fulton County Code” and “bylaws,” I understood I was required to act as they directed.

18.

Mr. Alexis prepared the affidavit without any input from me. He had a notary drive to my daughter’s house, where I was staying, at approximately 7:30 pm on the night of July 5, 2023 to witness my signature on the affidavit he had prepared. I was not advised as to how the affidavit would be used in litigation and was not advised to contact counsel. The notary did not leave me with a copy of what I was asked to sign and I have never received a copy of that notarization.

19.

I trusted Ms. Perkins-Hooker to provide appropriate legal advice, as I felt that she had done in the past. I knew that was also the role of Mr. Alexis. During my tenure on the BRE, I have been involved in several lawsuits, and I have, like other BRE members, relied upon the advice of counsel to direct our submissions. I was told only that the affidavit was needed for court hearing on July 6, 2023.

20.

Not until after the July 13 Zoom meeting of the BRE did I know that future surgery was scheduled that would make it difficult for me to continue in my role as a “placeholder” on the BRE.

21.

On July 14, 2023, I sent Ms. Perkins-Hooker an email (reproduced as Exhibit C) and told her that I had back surgery scheduled for August 9, 2023 with a long period of recovery. I notified her that I was “discontinuing my placeholder services on the BRE.”

22.

Ms. Perkins-Hooker responded to me and interpreted my email as a “resignation. (See Exhibit D.) She added that “Your resignation should be sent to all of the members of the Board of Commissioners and the Clerk because they are the appointing authority. I have copied the others that you did not include on your previous email for that purpose.” She also stated in that email that, “Pursuant to Fulton County Code Section 14-37, the Board of Commissioners will have the power to appoint a successor for you as an interim appointment.”

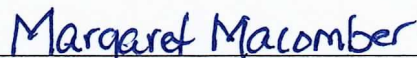
FURTHER AFFIANT SAYETH NOT.

Respectfully this 27<sup>th</sup> day of July, 2023.

  
\_\_\_\_\_  
Mark Wingate

Subscribed and sworn to before me, this 27<sup>th</sup> day of July, 2023. [Notary Seal:]

  
\_\_\_\_\_  
[Signature of Notary]

  
\_\_\_\_\_  
[printed name of Notary]  
NOTARY PUBLIC

My commission expires: May 23<sup>rd</sup>, 2025.



## EXHIBIT A

### FWD: EXTENSION OF TERM

From: Mark Wingate <wingate01md@gmail.com>  
Sent: Sun, Jul 9, 2023 at 7:48 pm  
To: sendres@fultongop.org

---

----- Forwarded message -----

From: **Mark Wingate**  
<wingate01md@gmail.com> Date: Sun, Jul 2,  
2023 at 8:49 PM  
Subject: Re: Extension of Term  
To: Patrise Perkins-Hooker <pperkins-hooker@jflc.com>  
CC: Bodison, Mariska <Mariska.Bodison@fultoncountyga.gov>, Waller, Regina  
<Regina.Waller@fultoncountyga.gov>, Williams, Nadine <Nadine.Williams@fultoncountyga.gov>

Well ok. Bit of a surprise but of course I will serve until this is straightened out. Thank you for giving me this advanced notice Patrise.

On Sun, Jul 2, 2023 at 7:55 PM Patrise Perkins-Hooker <pperkins-hooker@jflc.com> wrote:

Mr. Wingate, I hate to let you know that until the Board of Commissioners approves a nomination to replace you, our bylaws state that you serve until your replacement is named. As a result, I need you to make arrangements to attend the July 13th meeting via Zoom just in case the Board of Commissioners does not approve someone prior to the July 13th meeting. If they do, they you will not have to participate. I just wanted to give you a heads up.

Patrise Perkins-Hooker  
Administrative Partner  
[pperkins-hooker@jflc.com](mailto:pperkins-hooker@jflc.com)  
3915 Cascade Rd.  
Suite 205  
Atlanta, Georgia 30331-8522  
770-415-1026 (Main)  
770-769-1578 (Direct)  
404-254-2387 (Fax)

## EXHIBIT B

----- Forwarded message -----

**From:** Mark Wingate

<wingate01md@gmail.com> Date: Wed, Jul 5, 2023 at 6:27 PM

**Subject:** Re: Affidavit

**To:** Alexis, Chad <Chad.Alexis@fultoncountyga.gov>

**CC:** Burwell, Kaye <Kaye.Burwell@fultoncountyga.gov>, Forsyth, Adrienne <Adrienne.Forsyth@fultoncountyga.gov>, Lowman, David <David.Lowman@fultoncountyga.gov>

**Ok**

On Wed, Jul 5, 2023 at 6:27 PM Alexis, Chad <Chad.Alexis@fultoncountyga.gov> wrote:  
Great, we will be sending someone over to ADDRESS REDACTED for 7:30 tonight.

### CHAD D. ALEXIS

Senior Assistant County Counsel  
Office of the Fulton County  
Attorney 141 Pryor Street, SW,  
Suite 4038  
Atlanta, Georgia 30303  
(404) 612-0217 (direct)  
Chad.Alexis@fultoncountyga.gov  
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This communication constitutes an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. Section 2510, and its disclosure is strictly limited to the recipient intended by the sender of this message. This communication, and any attachments thereto, contain confidential attorney-client privileged information and attorney work product. If you are not the intended recipient, any disclosure, viewing, copying, distribution or use of any of the information contained in or attached to

this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the message and deleting it from your computer. Thank you.

**From:** Mark Wingate <wingate01md@gmail.com>

**Sent:** Wednesday, July 5, 2023 6:25 PM

**To:** Alexis, Chad <Chad.Alexis@fultoncountyga.gov>

**Cc:** Burwell, Kaye <Kaye.Burwell@fultoncountyga.gov>; Forsyth, Adrienne <Adrienne.Forsyth@fultoncountyga.gov>; Lowman, David <David.Lowman@fultoncountyga.gov>

**Subject:** Re:

*Affidavit 7:30.*

On Wed, Jul 5, 2023 at 6:21 PM Alexis, Chad <Chad.Alexis@fultoncountyga.gov> wrote:

*Can we send someone this evening? Tomorrow morning may be cutting it a bit too close.*

Chad D. Alexis

Senior Assistant County Counsel  
Office of the Fulton County  
Attorney 141 Pryor Street, SW,  
Suite 4038  
Atlanta, Georgia 30303  
(404) 612-0217 (direct)  
Chad.Alexis@fultoncountyga.  
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---

**From:** Mark Wingate <wingateOImd@gmail.com>

**Sent:** Wednesday, July 5, 2023 6:17 PM

**To:** Alexis, Chad <Chad.Alexis@fultoncountyga.gov>

**Cc:** Burwell, Kaye <Kaye.Burwell@fultoncountyga.gov>; Forsyth, Adrienne <Adrienne.Forsyth@fultoncountyga.gov>; Lowman, David <David.Lowman@fultoncountyga.gov>

**Subject:** Re: Affidavit

I am at my daughter's residence tomorrow all day. Address:

**ADDRESS REDACTED**

Let me know the time of arrival.

On Wed, Jul 5, 2023 at 6:14 PM Alexis, Chad <Chad.Alexis@fultoncountyga.gov> wrote:

Will you be amenable to us sending a notary to your location to witness your signature and notarize the Affidavit? If so, let us know where you would like to meet.

Chad D. Alexis  
Senior Assistant County Counsel  
Office of the Fulton County  
Attorney 141 Pryor Street, SW,  
Suite 4038  
Atlanta, Georgia 30303  
(404) 612-0217 (direct)

Chad.Alexis@fultoncountyga.gov

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---

**From:** Mark Wingate <wingate01md@gmail.com>

**Sent:** Wednesday, July 5, 2023 6:07 PM

**To:** Alexis, Chad <Chad.Alexis@fultoncountyga.gov>

**Cc:** Burwell, Kaye <Kaye.Burwell@fultoncountyga.gov>; Forsyth, Adrienne <Adrienne.Forsyth@fultoncountyga.gov>; Lowman, David <David.Lowman@fultoncountyga.gov>

**Subject:** Re: Affidavit

I have no way to get this notarized by 9am tomorrow.

On Wed, Jul 5, 2023 at 5:33 PM Alexis, Chad <Chad.Alexis@fultoncountyga.gov>

wrote: Good day,

Today, the Fulton County Republican Party served the Board of Commissioners ("BOC") with a Temporary Restraining Order ("TRO") seeking to prevent the BOC from appointing a member of their own choosing to the Board of Registration and Elections ("BRE"). The Fulton County Republican Party believes that such an appointment will take place in the event that there is a vacancy on the BRE. However, per your email exchange with Chairperson Perkins-Hooker, your willingness to serve until a successor is appointed (as per the Fulton County Code) ensures that no such vacancy occurs. To that end, we have attached an Affidavit to this effect for your review and signature, and to be notarized. This affidavit is needed for the TRO Hearing set for tomorrow, so we will need the fully executed document no later than tomorrow at 9:00am. Please let me know if you have any questions or concerns.

Chad D. Alexis

Senior Assistant County Counsel

Office of the Fulton County

Attorney 141 Pryor Street, SW,

Suite 4038

Atlanta, Georgia 30303

(404) 612-0217 (direct)

Chad.Alexis@fultoncountyga

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## EXHIBIT C

**From:** Mark Wingate <wingate01md@gmail.com>  
**Sent:** Friday, July 14, 2023 10:43 AM  
**To:** Patrise Perkins-Hooker <pperkins-hooker@jflc.com>  
**Cc:** Bob Ellis <bob.ellis@fultoncountyga.gov>; Thorne, Bridget <Bridget.Thorne@fultoncountyga.gov>; sendres@fultongop.org <sendres@fultongop.org>  
**Subject:** BRE seat

Patrise:

My neurosurgeon has scheduled my next lower spine surgery for August 9. This will cause a recovery period of several weeks if not months.

I will not be able to continue on the BRE going forward for this reason therefore this notice serves as my notification of discontinuing my placeholder services on the BRE.

I wish you and the Board as well as the department much success.

--

Mark Wingate

## EXHIBIT D

-----Original Message-----

From: "Patrise Perkins-Hooker" <pperkins-hooker@jflc.com>

Sent: Friday, July 14, 2023 5:20pm

To: "Mark Wingate" <wingate01md@gmail.com>

Cc: "Bob Ellis" <bob.ellis@fultoncountyga.gov>, "Thorne, Bridget" <Bridget.Thorne@fultoncountyga.gov>, "sendres@fultongop.org" <sendres@fultongop.org>, "Arrington, Marvin S" <Marvin.arrington@fultoncountyga.gov>, "Pitts, Robb" <robb.pitts@fultoncountyga.gov>, "Hall, Natalie" <natalie.hall@fultoncountyga.gov>, "Abdur-Rahman, Khadijah" <khadijah.abdur-rahman@fultoncountyga.gov>, "dana.barrett@fultoncountyga.gov" <dana.barrett@fultoncountyga.gov>, "Grier, Tonya" <Tonya.Grier@fultoncountyga.gov>

Subject: Re: BRE seat of Mark Wingate

Mr. Wingate,

I am very sorry that you have to undergo yet another surgery on your lower back. I know that these issues with your back have been inconveniencing you for a while and I had hoped that you would not have to have any more surgeries. I hope that this one is successful and ends the needs for any further surgery.

Thank you for confirming previously that your tenure with the BRE would continue as required under the County Code Section 14-36 until "a successor is appointed and qualified". You were not a placeholder but a valuable member of the board trying to hold out until a new Republican representative was appointed. I understand that your health issues will not allow you to complete the term until a successor is appointed and qualified. Your resignation should be sent to all of the members of the Board of Commissioners and the Clerk because they are the appointing authority. I have copied the others that you did not include on your previous email for that purpose.

Pursuant to Fulton County Code Section 14-37, the Board of Commissioners will have the power to appoint a successor for you as an interim appointment.

Thank you for your service to the BRE. I wish you the best of luck.

**Patrise Perkins-Hooker**  
Administrative Partner  
[pperkins-hooker@jflc.com](mailto:pperkins-hooker@jflc.com)

3915 Cascade Rd.  
Suite 205  
Atlanta, Georgia 30331-8522

770-415-1026 (Main)  
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BRIDGET THORNE, BOB ELLIS, DANA  
BARRETT, NATALIE HALL, MARVIN S.  
ARRINGTON, JR., and KHADIJAH  
ABDUR-RAHMAN,

Defendants.

Case No. 2023CV382174

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day electronically filed and served NOTICE OF FILING using the Odyssey e-File GA system, which automatically sends email notification of such filing to all attorneys of record, and which constitutes effective service upon all attorneys of record, including:

Kaye Woodard Burwell  
Kaye.burwell@fultoncountyga.gov  
Office of the Fulton County Attorney  
141 Pryor Street, S.W.  
Suite 4038  
Atlanta, Georgia 30303

THIS 27<sup>th</sup> day of July, 2023.

/s/ David E. Oles, Sr.  
David Edward Oles, Sr., Esq.  
Georgia Bar No. 551544

**Notice of Filing**

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