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3 MAP 2022

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

No. 3 MAP 2022

COUNTY OF FULTON, FULTON COUNTY BOARD OF ELECTIONS, STUART L. ULSH, IN HIS OFFICIAL CAPACITY AS COUNTY COMMISSIONER OF FULTON COUNTY AND IN HIS CAPACITY AS A RESIDENT, TAXPAYER AND ELECTOR IN FULTON COUNTY, AND RANDY H. BUNCH, IN HIS OFFICIAL CAPACITY AS COUNTY COMMISSIONER OF FULTON COUNTY AND IN HIS CAPACITY AS RESIDENT, TAXPAYER AND ELECTOR OF FULTON COUNTY,

Petitioners/Appellees,

v.

SECRETARY OF THE COMMONWEALTH,

Respondent/Appellant.

Appeal from the January 14, 2022,
Single-Judge Order of the Commonwealth Court,
No. 277 M.D. 2021

THE SECRETARY'S ANSWER IN OPPOSITION TO PETITIONERS' APPLICATION FOR RELIEF AND REVIEW OF SPECIAL MASTER'S FINAL APPOINTMENT ORDER AND MEMORANDUM OPINION

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TABLE OF CONTENTS

I. INTRODUCTION

In its April 19, 2023, decision sanctioning Petitioners and their counsel Attorney Carroll, this Court directed, *inter alia*, that the Dominion voting equipment currently in Fulton County's possession be impounded and placed in the custody of a neutral third-party escrow agent to be agreed upon by the parties or, in the alternative, appointed by the Special Master. The Court made clear that the sanctions were intended to "underscore for the County [and] Attorney Carroll … that they trifle with judicial orders and time-honored rules and norms in litigation at their peril." *County of Fulton v. Sec'y of the Commw.*, 292 A.3d 974, 1020 (Pa. 2023).

Yet in the subsequent impoundment proceedings before the Special Master, Petitioners and their counsel have, if anything, doubled down on their "remarkable obstinacy," *id.* at 979, and "relentlessly dilatory, obdurate, vexatious, and bad-faith conduct," *id.* at 1018. After failing to negotiate with the Secretary in good faith regarding appointment of an escrow agent, Petitioners proceeded to do everything they could to sabotage the evidentiary hearing *they themselves had requested*. As the Special Master noted, Petitioners' conduct during the impoundment proceedings has been "nearly identical" to the "pattern of behavior that took place

during the contempt proceedings before the Special Master in November 2022."[1] Memorandum Opinion at 21 (Sept. 15, 2023) ("Memorandum Opinion").

In the face of these tactics, the Special Master once again displayed preternatural patience and restraint, affording Petitioners and the other parties every reasonable opportunity to present their evidence and arguments during a three-day hearing. On the basis of that evidence, the Special Master determined to appoint as the escrow agent the Secretary's and Dominion's proposed candidate, Pro V&V, rather than Petitioners' proposed candidate, Cerberus Dynamic Solutions. This determination—which is supported by the Special Master's detailed, 56-page Memorandum Opinion—was not a close call. As a Voting System Test Laboratory federally accredited to securely store electronic voting equipment, Pro V&V is extraordinarily well qualified to provide the escrow-agent services called for by this Court's April 2023 decision. Indeed, the Special Master found that Pro V&V was superior to Cerberus on every relevant metric—including cost. Moreover, Cerberus was plainly *un*qualified to play the role of a neutral escrow agent. Cerberus could not identify the specific voting equipment at issue; did not know how many devices it comprises or the amount of space it occupies; had not determined where the equipment would be stored; and could not say how

[1] The Secretary intends to file shortly an application seeking additional sanctions on the basis of this continuing misconduct.

much Cerberus would charge to provide the escrow services. What is more, the evidence showed that Cerberus would not be a "neutral" entity as this Court required; the hearing revealed that Cerberus's principal subscribes to conspiracy theories that the 2020 election was "stolen" with the help of voting machines, and that the January 6, 2021 insurrection at the U.S. Capitol was "staged" to cover up the supposed scheme.

On October 27, 2023, thirty-one days after the Special Master entered her Final Appointment Order, and more than seven months after this Court's decision directing impoundment of the voting machines, Petitioners filed their present Application seeking, yet again, to prevent the impoundment from occurring. As discussed below, the Application reprises a grab bag of disjointed arguments, all of which are meritless and many of which are presented in purely conclusory fashion. To a large extent, the Application improperly seeks to re-litigate this Court's April 2023 decision, notwithstanding that the Supreme Court of the United States has since denied Petitioners' petition for a writ of certiorari. In addition, Petitioners' objections to Pro V&V's qualifications entirely ignore the reasoning and evidence set forth in the Special Master's Memorandum Opinion and are unsupported by any evidence actually admitted in the August 2023 hearing. Petitioners' remaining objections to the Final Appointment Order simply misconstrue the Order itself, this Court's April 2023 Opinion, or both.

The Secretary respectfully requests that the Court swiftly deny Petitioners' Application, so that the impoundment of the voting equipment at issue can finally proceed as directed by the Special Master.

II. RELEVANT FACTS AND PROCEDURAL HISTORY

A. The Events Preceding This Court's April 19, 2023, Decision to Impose Sanctions

The Court is familiar with the history of this case prior to its April 2023 decision. During 2021, the Secretary learned that Fulton County had, without notice, permitted Wake Technology Services, Inc. ("Wake TSI"), a private company with no election-related experience, "to perform a probing inspection" of electronic voting equipment that the County had leased from Dominion Voting Systems, Inc. and used in the 2020 general election, "as well as the software and data" residing on that equipment. *County of Fulton*, 292 A.3d at 978. As a result of Wake TSI's breach of election security, the Secretary prohibited the future use of the compromised voting equipment. *See id.* at 981. To prevent similar breaches in the future, the Secretary also issued Directive 1 of 2021, which made clear that counties "shall not" provide "third-party entities not directly involved with the conduct of elections" with certain types of access to state-certified electronic voting systems or their components, as such access "undermines chain of custody

requirements" and "jeopardizes the security and integrity of these systems."[2] *See County of Fulton*, 292 A.3d at 981.

In August 2021, Petitioners—Fulton County, the Fulton County Board of Elections, and Fulton County Commissioners Stuart Ulsh and Randy Bunch in their individual and official capacities—initiated the underlying action by filing a Petition for Review in the Commonwealth Court's original jurisdiction. "The County challenged the Secretary's authority to promulgate Directive 1 and sought vacatur or reversal of the Secretary's decertification of the County's voting equipment." *Id.* Among other things, the Petition for Review alleged that an "[]examination" of the voting machines at issue would show that, following Wake TSI's actions, Fulton County's electronic voting equipment "continued to meet the [security] requirements of the Election Code and that such … machines could readily be used by Fulton County" in the future. (R.303a ¶ 48.[3])

Before the pleadings in this case were closed, Petitioners announced—on Fulton County's website, without any direct notice to the Secretary—that they intended to turn over the electronic voting equipment to yet another unaccredited,

[2] Directive Concerning Access to Electronic Voting Systems, Including but not Limited to the Imaging of Software and Memory Files, Access to Related Internal Components, and the Consequences to County Boards of Allowing Such Access, Directive 1 of 2021 (July 8, 2021), https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/Directive-1-of-2021_Access-to-Electronic-Voting-Systems_7-8-2021.pdf.

[3] References to page numbers with an "R." prefix are to the pages in the Reproduced Record filed by the Secretary under docket number 3 MAP 2022 on February 16, 2022.

unqualified third party, Envoy Sage, LLC, for an "inspection" that would image the entirety of the electronic voting systems. (R.1192a.) *See County of Fulton*, 292 A.3d at 983-84. Because the planned inspection threatened the integrity of electronic voting systems—and posed an obvious and substantial risk of spoliating important evidence in the case—the Secretary filed emergency applications asking the Commonwealth Court to "enjoin Petitioners' planned 'inspection'" and enjoin Petitioners "from providing any third party (other than Dominion Voting Systems) with access to the electronic voting machines in Fulton County's possession." (R.384a-R.390a (some capitalization omitted)). *See County of Fulton*, 292 A.3d at 984-86.

On January 14, 2022, just hours before the scheduled inspection, the Commonwealth Court denied the Secretary's applications. The Secretary immediately appealed and filed an emergency application asking this Court to enjoin any third-party inspection pending resolution of the appeal. On the same day, Justice Wecht issued a single-Justice temporary order granting the Secretary's application pending review by the full Court. *See id.* at 987-88. On January 27, 2022, the full Court extended the injunction pending resolution of the Secretary's appeal (the "Injunction Order"). *See id.* at 988.

On April 12, 2022, the Fulton County Commissioners "voted unanimously to terminate the engagement of the attorneys who had represented [Petitioners] to

that date in the instant litigation." *Id.* By a 2-1 vote, with Petitioners Ulsh and Bunch voting in favor, the Commissioners then determined "to appoint Pennsylvania Attorney Thomas Carroll and Michigan Attorney Stefanie Lambert to represent the County moving forward." *Id.* "At noon on that same day, Commissioner Ulsh signed out a key to the locked room in which the voting equipment at issue was stored." *Id.*

On September 21, 2022, Petitioners, represented by Attorney Carroll, filed a breach of contract action against Dominion in the Court of Common Pleas of Fulton County. Petitioners' Complaint revealed that, in July 2022, Petitioners had turned over the voting machines at issue to yet another third party, Speckin Forensics, LLC, ("Speckin") to be manipulated and imaged. "So closely held was the news of the planned inspection [(the 'Speckin Inspection')] that it only came to public light (indirectly) when Fulton County filed [its lawsuit against Dominion]." *Id.* at 992. "Neither the Commissioners' intent, nor the fact, nature and scope of this inspection, were addressed in a public proceeding by the Fulton County Commission or Election Board, nor was the inspection approved by a formal vote of either body." *Id.* Petitioners had not notified the Secretary or Dominion of the inspection. *Id.* Nor had they notified even the third Fulton County Commissioner, Paula Shives; she "did not learn until September 2022 that the July inspection was planned or had occurred." *Id.* at 992. Indeed, at the most recent August 2023

hearing before the Special Master, the Secretary learned that Petitioners had also concealed the Speckin inspection from both Fulton County's Director of Elections and its Director of Technology. *See* 9/15/23 Memorandum Opinion at 28, 33.

On October 18, 2022, after learning of the Speckin Inspection, the Secretary filed an application asking this Court to, *inter alia*, hold Petitioners in civil contempt and otherwise sanction them for willfully violating the Injunction Order. In response, this Court appointed President Judge Cohn Jubelirer of the Commonwealth Court as a special master, directing her to develop an evidentiary record and issue proposed findings of fact and recommendations as to the Secretary's requested relief. After holding a three-day evidentiary hearing, the Special Master issued a 77-page Report recommending that the Court hold Petitioners in contempt and impose monetary and other sanctions under a variety of legal authorities. *See* 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, *reproduced in County of Fulton*, 292 A.3d at 1021-63.

B. The April 19, 2023, Sanctions Decision

1. This Court Holds Petitioners in Contempt and Sanctions Petitioners and Their Counsel for Dilatory, Obdurate, Vexatious, and Bad-Faith Conduct

After reviewing the evidentiary record and the Special Master's Report, this Court issued a decision on April 19, 2023, granting the Secretary's application. "[A]gree[ing] with the Special Master that [Petitioners] deliberately, willfully, and wrongfully violated this Court's [Injunction Order] when it allowed Speckin to inspect the voting equipment," this Court "adopt[ed] the Special Master's recommendation that [it] hold Fulton County in contempt." 292 A.3d at 1010.

Notably, this Court's rebuke extended beyond the Speckin Inspection itself. This Court found that "Fulton County and its various attorneys ha[d] engaged in a sustained, deliberate pattern of dilatory, obdurate, and vexatious conduct and have acted in bad faith throughout these sanction proceedings." *Id.* at 979. This Court's Opinion set out a long, detailed catalogue of "remarkable obstinacy," *id.* at 978, and "neglect and non-compliance" with court orders, *id.* at 989, observing that "the County repeatedly confounded the Special Master's efforts to conduct the [sanctions] proceedings in an orderly and efficient manner with serial interruptions, delays, and even what can only be described as defiance." *Id.* at 994. As recounted by this Court, Attorney Carroll not only engaged in "transparent efforts to delay the [commencement of the] hearing," but during the hearing itself, he

"frequently derailed and delayed the proceedings through a combination of dubious objections, lines of questioning on irrelevant subjects, and legal digressions and conspiratorial hypotheses with little discernible bearing upon the matter at hand." *Id.* at 1016. Based on this fulsome record of misconduct, this Court found, "[i]n sum, … 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 the[] sanction proceedings." *Id.* at 1018.

To compensate the Secretary and Dominion for Petitioners' violation of the Injunction Order and other misconduct, the Court ordered, *inter alia*, that Petitioners must reimburse the Secretary and Dominion for their "counsel fees and costs incurred from the effective inception of the underlying protective order litigation" in December 2021 "through the conclusion of the[] sanction proceedings, including proceedings necessary to determine the reasonable fees to which the Secretary [and Dominion are] entitled." *Id.* at 1011, 1018. This Court held Attorney Carroll jointly and severally liable for the amount of such fees and costs incurred after April 12, 2022, the apparent date of "his and Attorney Lambert's appointment as special counsel for the County." *Id.* at 1018.[4]

[4] Although the Court observed that "Attorney Lambert may be every bit as culpable as Attorney Carroll, at least in the pattern of non-compliance that … led [the Court] to impose upon him joint and several responsibility with the County," it did not sanction Attorney Lambert

2. This Court Directs the Special Master to Appoint a Neutral Third-Party Escrow Agent to Impound the Voting Equipment at Issue

Petitioners' present Application arises primarily from a different facet of the relief awarded by this Court. To "ensure that [Petitioners] cannot again compromise the integrity of the [voting] machines," the Court adopted the Special Master's recommendation that the equipment be removed from Fulton County's possession and transferred to "the custody and control of a neutral escrow agent," who would hold the equipment pending further order of court. *Id.* at 1011; *see also id.* ("[A[t] this point the County has given us no reason to trust that it will honor a mere reiteration of the same [Injunction Order] it disregarded before."). To effectuate this impoundment remedy, the Court instructed "the parties to confer and agree on a neutral third-party escrow agent to take and retain possession of the voting equipment." *Id.* at 1020. The Court "direct[ed] the Special Master to see that this task is completed—and to appoint a neutral agent if the parties cannot agree on one." *Id.* And the Court made clear that Petitioners, the parties whose

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because "she [had] failed to satisfy the requirements for applying for [admission *pro hac vice*]." *Id.* at 1018. The Court noted that, "[h]ad she gained admission, the result might have been different." *Id.* at 1019. The Court did, however, transmit a copy of its Opinion to the Michigan Attorney Grievance Commission so that it could examine "Attorney Lambert's … role in the misconduct" highlighted in the Court's Opinion. *Id.* at 1019. The Court similarly "refer[red] Attorney Carroll to the Pennsylvania Attorney Disciplinary Board for further examination of his conduct throughout the litigation of the [Secretary's] appeal … and throughout the[] sanction proceedings." *Id.*

contumacious conduct was the cause of the impoundment order, would be "responsible for all costs associated with the impoundment." *Id.*

C. The Impoundment Proceedings Before the Special Master

In its April 19, 2023, decision, this Court expressed the "hope that the sanctions [it imposed] 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." *Id.* at 1020. Unfortunately, with respect to Petitioners and their counsel, this hope has not come to fruition. As revealed by the subsequent proceedings, Petitioners and their counsel have refused to reform their conduct.

1. Unable to Agree on an Escrow Agent, the Parties Submit Competing Proposals to the Special Master, and Petitioners Seek an Evidentiary Hearing

Following this Court's decision, the Special Master directed the parties to file status reports concerning their discussions regarding the appointment of a neutral third-party escrow agent. The Secretary attempted to negotiate in good faith with Petitioners regarding the selection of a qualified agent. Regrettably, those efforts were not reciprocated by Petitioners, and the parties were unable to reach agreement.[5] In accordance with the Special Master's orders, on July 28,

[5] The parties' communications—and Petitioners' repeated failure to respond to the Secretary's reasonable requests for basic information about the escrow-agent candidates proposed by Petitioners, or to the Secretary's requests seeking clarification of Petitioners' vague "concerns" regarding the Secretary's candidate—are described in detail in The Secretary's Application to Appoint Escrow Agent, which was filed under docket number 277 MD 2021 on

2023, the parties filed separate applications seeking appointment of each party's preferred escrow-agent candidate. The Secretary and Dominion each requested appointment of Pro V&V, one of two Voting System Test Laboratories accredited by the United States Election Assistance Commission ("EAC"), which has detailed knowledge of the voting equipment at issue and a facility custom-built for securely storing electronic voting machines.[6] Petitioners proposed that the Special Master appoint a company called Cerberus Dynamic Solutions, a company based in Florida that provides personal-security (*i.e.*, bodyguard), event-security, and "hurricane-security" services.[7] Although the Secretary and Dominion were content for the Special Master to resolve the competing applications on the papers, Petitioners requested an evidentiary hearing.

2. The Special Master Grants Petitioners' Request for a Hearing, Which Petitioners Then Do Everything in Their Power to Obstruct

By Order dated August 3, 2023, the Special Master granted Petitioners' request, scheduling an evidentiary hearing on appointment of a neutral third-party

July 28, 2023. *See* The Secretary's Application to Appoint Escrow Agent at 5-11 & n.3 (July 28, 2023).

[6] *See* The Secretary's Application to Appoint Escrow Agent (July 28, 2023); Intervenor Dominion Voting System's Application to Appoint Third-Party Escrow Agent (July 28, 2023).

[7] *See* Fulton County's Response to Dominion's Application for Appointment of Third-Party Escrow Agent (July 28, 2023).

escrow agent for August 28, 2023. Petitioners then set about attempting to subvert the very hearing they had sought.

The Secretary will not undertake to describe here the full breadth and depth of Petitioners' litigation misconduct with respect to the impoundment proceedings—in part because much of that behavior is chronicled in the Special Master's Memorandum Opinion, and in part because Petitioners' incorrigibility will be the subject of the Secretary's forthcoming application seeking additional sanctions. For present purposes, it suffices to point out that—just as they had done during the proceedings before this Court and the Special Master in 2022—Petitioners' counsel serially made untimely and bad-faith requests to stay the August 2023 hearing[8] and repeated attempts to mislead the Court.[9] As the Special

[8] *See* Memorandum Opinion at 21 (noting that "the County moved, either orally or in writing, to delay the impoundment proceedings no fewer than **eight** times"); *see also id.* at 10-19 & nn. 11, 14, 19, 22, 24, 26, 28-29 (identifying eight separate motions).

[9] One salient example involves Attorney Carroll's response to a direct question posed by the Special Master regarding Attorney Stefanie Lambert's role in the impoundment proceedings. While participating in the August 2023 evidentiary hearing via a remote audio connection (the Special Master having excused him from appearing in person in response to his assertion of purported medical issues), Attorney Carroll—apparently believing himself to be on mute—"interrupted the proceedings, saying "[c]an you hear me Ste[f]anie"? Memorandum Opinion 15 (quoting 8/28 Hr'g Tr. 237). But when the Special Master asked Attorney Carroll to identify whom he was addressing, he denied that he was speaking to Stefanie Lambert, instead insisting that what he was actually saying—to his mother—was "can you hear what they're saying about Ste[f]anie." *Id.* (quoting 8/28 Hr'g Tr. 242). The hearing transcript flatly contradicts Attorney Carroll's assertion. *See* 8/28 Hr'g Tr. 237. And that transcript is corroborated by the accounts of others in the courtroom (or otherwise watching the hearing live) at the time, including at least one reporter. *See* Matthew Santoni, *Pa. County Loses Bid to Delay Voting Machine Custody Case*, Law360, Aug. 28, 2023, https://www.law360.com/articles/1715837/pa-county-loses-bid-to-delay-voting-machine-custody-case (attached hereto as Exhibit 1) ("[A]t one point, Carroll could be heard over his remote connection saying something like, 'Can you hear this, Stefanie?'

Master explained, "the County's attorneys' continuous pattern of dilatory conduct throughout the impoundment proceedings" was "not novel to the impoundment proceedings, but has remained consistent in this litigation since the [Special Master's] appointment." Memorandum Opinion at 21. "Notwithstanding the Supreme Court's lengthy admonishment of Attorney Carroll's behavior and the imposition of joint and several liability for the opposing parties' counsel fees during the period for which Attorney Carroll shared responsibility for the misconduct, *see Fulton I*, 292 A.3d at 1013-19, the County, led again by Attorney Carroll, has persisted in such behavior." Memorandum Opinion at 22. So egregious was this behavior that the Special Master felt she had "no choice but to explicitly admonish Attorney Carroll" in her post-hearing Opinion, *sua sponte*, "for his continued bad-faith litigation conduct." *Id.*

One element of this misconduct was the repeated efforts by Petitioners and their counsel to conceal Attorney Lambert's continuing, prominent role in these proceedings.[10] In her August 3, 2023, Order scheduling the August 28, 2023,

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but upon questioning from the judge, said he was telling someone else with him, 'Can you hear what they're saying about Stefanie?'").

[10] Shortly before the August 2023 evidentiary hearing, Attorney Lambert was indicted by a Michigan prosecutor on felony charges alleging that she unlawfully possessed and damaged voting machines. *See* Office of the Muskegon County Prosecutor, *Lambert-Juntilla Charged in Election Tabulator Investigation* (Aug. 3, 2023) (attached hereto as Exhibit 2); Joey Cappelletti, *Trump allies who 'orchestrated' plan to tamper with voting machines face charges in Michigan*, A.P. News, Aug. 3, 2023, https://apnews.com/article/stefanie-lambert-trump-michigan-election-fraud-bf9608af4b0972d41b5f4d303f5f6a29; Patrick Marley and Aaron Schaffer, *More charges filed in Michigan voting machine investigation*, Wash. Post, Aug. 3, 2023,

hearing, the Special Master set a deadline of August 18, 2023, for any applications for admission *pro hac vice*. The Order emphasized that, absent a timely application, "counsel not admitted to practice in the Commonwealth of Pennsylvania will not be permitted to participate in the hearing or sit at counsel table." This provision was presumably based, at least in part, on the unsuccessful, disruptive application for admission *pro hac vice* that Attorney Lambert had filed just hours before the November 2022 sanctions hearing began, *see County of Fulton*, 292 A.3d at 999-1000, as well as Attorney Lambert's conduct when, despite denying the application, the Special Master permitted her to sit at counsel table during that hearing.[11] Attorney Lambert did not file a *pro hac vice* application prior to the August 2023 hearing, nor did she attend that hearing in person. Nonetheless, it was apparent that counsel appearing for Petitioners were communicating with Attorney Lambert during the hearing—a fact that, as the

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https://www.washingtonpost.com/national-security/2023/08/03/michigan-voting-machine-investigation/; *see also* Jon Swaine, *Clues point to identities of 'unindicted co-conspirators' in alleged Coffee County breach*, Wash. Post, Aug. 16, 2023, https://www.washingtonpost.com/investigations/2023/08/16/coffee-county-fulton-unindicted-coconspirators/ (discussing evidence that Attorney Lambert is one of the unindicted alleged co-conspirators in a recent criminal indictment in Georgia alleging, *inter alia*, a conspiracy to copy and distribute data from elections equipment in Coffee County, Georgia).

[11] *See id.* at 1017 (noting "credible assertions that Attorney Carroll was taking dictation from Attorney Lambert for substantial periods of the [November 2022] hearing" as "an *ad hac* work-around to avoid the intended limiting effect of the Special Master's denial of *pro hac vice* admission to Attorney Lambert"); *accord id.* at 1000 & n.101 (observing that the Secretary had "on several occasions" during the hearing made a contemporaneous record of the fact "that Attorney Lambert was persistently and audibly dictating questions and arguments directly into Attorney Carroll's ear").

record indicates, they attempted to conceal from the Special Master, *see supra* note 9. Counsel also sought to obscure Attorney Lambert's continuing, significant role in the proceedings—which included her solicitation of, and past relationship with, Petitioners' proposed escrow agent, Cerberus, *see* Memorandum Opinion at 39-40, 52-53—by repeatedly interposing meritless objections to questions posed to witnesses. *See, e.g.*, 8/28/23 Hr'g Tr. 215:17-218:5; 8/30/23 Hr'g Tr. 381:10-394:5, 397:8-399:10, 400:17-404:25; 8/31/23 Hr'g Tr. 105:4-25.

3. Following a Three-Day Evidentiary Hearing, the Special Master Appoints Pro V&V as the Escrow Agent, Finding It Superior to Cerberus in Every Relevant Respect

Notwithstanding the significant burdens and repeated delays caused by Petitioners' conduct, the Special Master managed to ensure that a fair hearing, affording all parties every reasonable opportunity to be heard, was conducted over three days at the end of August. The Secretary presented testimony by Ryan Macias, an expert in election technology and security, explaining the knowledge, experience, and capabilities needed to securely take possession of, and store, electronic voting equipment and the data residing thereon; and assessing the respective qualifications of Pro V&V and Cerberus to serve as the neutral escrow agent in this matter. *See* Memorandum Opinion at 22-27. The Secretary also presented testimony by Pro V&V's Program Manager, Michael Walker, regarding Pro V&V's knowledge, experience, and facilities; how Pro V&V proposed to pick

up, inventory, securely store, and maintain proper chain of custody of the voting equipment; and what Pro V&V would charge for the escrow services. *See id.* at 29-32. In addition, the Secretary called several Fulton County witnesses—namely, each of the County's three Commissioners, its Director of Elections, and its Director of Technology—to testify about their knowledge (if any) regarding Cerberus and how the County had come to propose that entity as its preferred escrow agent. *See id.* at 27-28, 33-37.

Only one witness provided substantive testimony during Petitioners' case in chief: Joseph Sabia, Jr., part owner and Chief Financial Officer of Cerberus.[12] *See id.* at 37-44. As the Special Master's Opinion recounts,

[12] Petitioners also attempted to present testimony from Benjamin Cotton, a purported technology expert who reportedly was previously retained by Attorney Lambert to analyze voting-machine data that she had allegedly obtained unlawfully. *See, e.g.*, State of Michigan, Office of the Attorney General, Petition for Appointment of Special Prosecutor (attached as Exhibit 3 hereto) (alleging that Attorney Lambert "orchestrated a coordinated plan to gain access to voting tabulators that had been used [in certain counties]," and that Mr. Cotton and others then "broke into the tabulators and performed 'tests' on the equipment"); Joey Cappelletti, *Trump allies who 'orchestrated' plan to tamper with voting machines face charges in Michigan*, AP, Aug. 3, 2023, https://apnews.com/article/stefanie-lambert-trump-michigan-election-fraud-bf9608af4b0972d41b5f4d303f5f6a29 (noting that Attorney Lambert was criminally indicted in connection with this alleged scheme while Mr. Cotton was not). But the Special Master sustained the Secretary's and Dominion's objections to his expert testimony because Petitioners had inexcusably failed to comply with the expert-witness disclosure requirements clearly set forth in the Special Master's August 3, 2023 scheduling Order. That Order mandated that the parties serve expert reports and a curriculum vitae for any expert witness by no later than August 14, 2023, and warned that no extension of that deadline would be granted "**absent extraordinary circumstances**." Order ¶¶ 2, 5 (Aug. 3, 2023). Nonetheless, Petitioners did not provide the Secretary or Dominion with a curriculum vitae for Mr. Cotton until August 31, 2023, the last day of the hearing. The Secretary and Dominion were unfairly prejudiced by this breach of the Special Master's disclosure requirement, as they "were deprived of the opportunity to test [Mr. Cotton's] qualifications." Memorandum Opinion at 44.

> Mr. Sabia agreed that he did not know anything about the Voting Equipment and has never had any experience with electronic voting machines other than as a voter himself.… He had not reviewed any documents that list or itemize the Voting Equipment and could not recall any information about the Voting Equipment other than news coverage. Mr. Sabia had not, prior to the hearing, considered how the Voting Equipment should be transported properly or how Cerberus would acquire possession of it. He had "no idea" about the location of serial numbers on the voting equipment, and did not know whether the Voting Equipment contained tamper-evident seals.… Regarding price, Mr. Sabia stated that he could not "give … an honest price" [for the escrow services] without knowing where the Voting Equipment would be stored.… Mr. Sabia was unwilling to estimate a monthly storage price in his testimony, conceding that he could not do so without knowing the size of the Voting Equipment, the necessary environmental and security conditions, and whether he would need to lease storage space.

Id. at 41-42 (internal record citations omitted).

On cross-examination, Mr. Sabia's credibility was severely impeached. He admitted to writing and/or sharing a number of social media posts since June 2023 that promoted conspiracy theories that the 2020 election had been stolen—supposedly by means of, among other things, "voting machines"—and that the insurrection at the U.S. Capitol on January 6, 2021, was "a staged riot" that "the government set up … to cover up the fact they certified a fraudulent election[.]" *Id.* at 42-43 (capitalization omitted). In addition, after initially claiming that he did not know who the current Secretary of the Commonwealth is, Mr. Sabia was

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Even after ruling that Mr. Cotton could not present expert testimony, the Special Master stated that she would allow him to testify as a fact witness. Mr. Cotton admitted, however, that any relevant testimony he might offer would be based on his purported technical expertise. *Id.*

compelled to admit that, only two months earlier, he had made social media posts specifically "criticizing current Secretary … Al Schmidt before and during his confirmation by the Pennsylvania Senate." *Id.* at 43.

On September 15, 2023, after entertaining a written post-hearing submission by Petitioners, the Special Master entered an Order preliminarily appointing Pro V&V as the third-party escrow agent. *See* Preliminary Appointment Order (Sept. 15, 2023). The Order was accompanied by a 56-page Memorandum Opinion.

The Opinion explained that the Special Master had "carefully examined" and compared the parties' proposed agents with respective to five criteria, namely, their "relative abilities" to (1) "maintain chain of custody" of the election equipment; (2) "prevent unauthorized access"; (3) "protect evidentiary value"; (4) "behave neutrally and in compliance with court orders"; and (5) "provide services at a reasonable cost." Memorandum Opinion at 56; *see also id.* at 45 (explaining that the Special Master derived these criteria from the directives in this Court's April 19, 2023, Opinion). The Special Master found "each factor to favor Pro V&V as the more suitable escrow agent." *Id.* at 56.

Chain of Custody

The Special Master found that, "to ensure continuity in the chain of custody, technical expertise and experience specific to digital voting systems is a highly preferable qualification." *Id.* at 46. "This factor militates in favor of appointing

Pro V&V, an entity with technical experience and familiarity with voting systems," which can "identify serial numbers on the various components [of the voting equipment] and identify and/or add specific seals and locks to the Voting Equipment in order to prevent and detect tampering," "as opposed to Cerberus, which lacks technical expertise and is unfamiliar with this specific type of digital asset." *Id.* at 46-47.

Prevention of Unauthorized Access

"Mr. Walker testified, in great detail, about the security measures undertaken at Pro V&V's facility [in Huntsville, Alabama], which include badge-access doors, interior and exterior security cameras, and interior locked doors to each of the 11 laboratories within the facility." *Id.* at 48. In stark contrast to "[t]his detailed testimony[,] … Mr. Sabia's less precise testimony … evidenced that he had not developed a specific proposal as to where to place the Voting Equipment, no less secure it." *Id.* at 49. Accordingly, the security factor "also favors the appointment of Pro V&V." *Id.*

Protection of Evidentiary Value

The parties agreed that "in order to protect the evidentiary value of the Voting Equipment, the components must be stored in a location that maintains appropriate temperature and humidity levels for the duration of the escrow period." *Id.* The evidence demonstrated that "Pro V&V's Huntsville facility was custom

built to maintain and house election technology and is fully equipped with the environmental controls needed to maintain these exact types of digital assets." *Id.* Moreover, Pro V&V "is regularly subjected to audits" to ensure it maintains these environmental controls. *Id.* "On the other hand, Mr. Sabia offered no specific explanation as to how he would maintain appropriate environmental controls at the various proposed storage locations…." *Id.* at 50. "Accordingly, the Special Master conclude[d] that Pro V&V" is "more qualified" and "more likely to be able to protect the evidentiary value of the Voting Equipment." *Id.*

Neutrality and Compliance

The Special Master recognized that, given the need to remove the voting equipment from Fulton County's control and protect it "from any actors that would seek further unauthorized access," "the appointed agent's neutrality, independence, and willingness and ability to comply with court orders are critical considerations." *Id.* at 50. These criteria weighed heavily in favor Pro V&V. Although Petitioners were critical of the fact that Pro V&V, as a Voting System Test Laboratory ("VSTL"), had an "ongoing relationship" with Dominion (insofar as Pro V&V evaluated Dominion's voting equipment, like that of other voting-machine manufacturers, to determine whether it complied with standards set forth by the EAC), the Special Master noted that "the relationship between Pro V&V and Dominion is subject to a robust framework requiring Pro V&V to prevent and

disclose conflicts of interests." *Id.* at 51. Indeed, "Pro V&V is regulated and periodically audited for conflicts of interest, both institutionally and for its personnel, as part of its EAC accreditation." *Id.* Because "Pro V&V's business as a VSTL depends entirely upon its accreditation and ongoing good standing with the EAC—an accreditation that would be jeopardized by any partiality or favoritism toward Dominion, or any failure to address a conflict of interest"—"Pro V&V has financial and legal incentives to disclose conflicts of interest, to prevent such conflicts, and to follow the law and court orders." *Id.* at 51, 53. Accordingly, "[t]he Special Master conclude[d] that Pro V&V is both sufficiently neutral and sufficiently independent from undue influence to serve as escrow agent." *Id.* at 54.

By contrast, the record supported the conclusion that "Cerberus is not neutral on the issue of who should have access to the Voting Equipment." *Id.* at 53. The evidence showed that Attorney Lambert—who, the Special Master observed, "continues to influence these proceedings in less-than-transparent ways, … and whose 'pattern of non-compliance' with court orders drew criticism from [this] Court'"—"selected Cerberus" as the County's proposed agent, based at least in part on Attorney Lambert's past relationship with Mr. Sabia. *Id.* at 52, 54. Moreover, Mr. Sabia's social media posts directly opposed "the appointment and confirmation of the current Secretary, who is a party to this suit." *Id.* "Mr. Sabia's social media posts also include statements calculated to undermine trust in

elections in general and in the reliability of voting machines in particular." *Id.* at 52-53. As the Special Master explained, "Mr. Sabia's election-related statements, Attorney Lambert's ongoing relationship with Cerberus, and [this] Court's concerns surrounding Attorney Lambert's conduct, all support an inference that Cerberus is not neutral on the issue of who should have access to the Voting Equipment." *Id.* at 53. "Indeed, the record testimony suggests that Cerberus and/or Mr. Sabia has a philosophical and financial precommitment to Attorney Lambert's position on that issue, which could unduly subject Cerberus to Attorney Lambert's influence if it served as escrow agent." *Id.*

Costs

Finally, Pro V&V was also superior from the standpoint of cost. As the Special Master noted, Pro V&V's charges for transport and storage of the equipment would come to "approximately $16,840 for the first year of the impoundment." *Id.* at 55. Cerberus, on the other hand, was unable to give any specific cost estimate. As the Special Master found, this "very failure weighs in favor of Pro V&V and creates doubt about the seriousness with which Cerberus has offered its services," particularly given that "[i]t has been clear from before the impoundment proceedings began that the cost of escrow services should be considered." *Id.* at 55-56. Moreover, "using one potential conservative estimate, based on a $50 per hour security fee [that Mr. Sabia cited], Cerberus's cost for the

first year of the escrow could amount to approximately $438,000 just to monitor, exclusive of transportation, storage, or other costs." *Id.* at 55. Viewed from any angle, Pro V&V outperformed Cerberus on cost.

* * *

The Special Master's Preliminary Appointment Order directed the Secretary to "file and serve a Proposed Final Appointment Order executed by Pro V&V that [would] include[] all terms relating to the escrow arrangement," including certain specific terms required by the Special Master. Preliminary Appointment Order ¶ 1 (Sept. 15, 2023). The Secretary complied, and the Special Master entered a Final Appointment Order on October 27, 2023, directing that Pro V&V should take possession of the voting equipment at issue within 14 days of the forthcoming installation of certain remote-video-monitoring equipment required by the Special Master. Final Appointment Order ¶ 2.1 (Oct. 27, 2023).[13]

On November 27, 2023, Petitioners filed their present Application challenging the Final Appointment Order and seeking a stay of the Order pending this Court's disposition of the Application.

[13] Pro V&V has advised that the required monitoring equipment will likely be installed in late December. Accordingly, the Secretary currently anticipates that Pro V&V will acquire the voting equipment at some point in January 2024.

III. ARGUMENT

Petitioners' Application largely rehashes their previous arguments to this Court and the Special Master, yet Petitioners make almost no attempt to address, let alone rebut, the reasoning in this Court's April 2023 decision or the Special Master's Memorandum Opinion. Petitioners' claims of error are supported by neither the law nor the robust record developed at the August 2023 hearing.

A. Petitioners Cannot Re-Litigate This Court's April 19, 2023, Decision

Petitioners puzzlingly devote the first part of their Application to continuing to contest the October and November *2022* sanctions proceedings before the Special Master, as well as this Court's April 19, 2023, decision holding Petitioners in contempt and ordering, *inter alia*, the impoundment of the voting equipment at issue. Attempting to revive their primary argument in opposition to the Secretary's October 2022 sanctions application, Petitioners contend that "this Court erroneously and retroactively expanded [its January 2022 Injunction Order]"; Petitioners continue to insist that the Injunction Order "only applied to [Senator Dush's] proposed inspection [by Envoy Sage]" in January 2022, and not to any other third-party inspections of the same voting equipment. Pet'rs Appl. at 6. This Court thoroughly considered and expressly rejected that argument in its April 2023 Opinion. *County of Fulton*, 292 A.3d at 1002, 1004-10; *see also id.* at 1064 (Brobson, J., concurring and dissenting) (rejecting Petitioners' argument because

the evidence established that Petitioners engaged in "a purposeful scheme to circumvent the plain text of the [Injunction Order] so as to achieve that which the order was obviously intended to foreclose").

Petitioners also continue to complain that the impoundment of the voting machines will impair their ability to litigate their separate breach of contract action against Dominion—an action that, Petitioners assert, "serves the direct interest of Fulton County and its citizenry." Pet'rs Appl. at 3. As an initial matter, there is significant reason to doubt Petitioners' assessment of their contract action.[14] More

[14] On September 28, 2023, the federal district court presiding over the breach of contract action dismissed Petitioners' initial Complaint against Dominion—in part with prejudice, and in part without prejudice—based on lack of subject-matter jurisdiction and failure to state a claim. Memorandum, *County of Fulton v. Dominion Voting Sys.*, No. 22-CV-1639 (M.D. Pa.) (ECF 9). Dominion's motion to dismiss Petitioners' Amended Complaint is currently pending. *See County of Fulton*, No. 22-CV-1639 (M.D. Pa.) (ECF 14).

A federal lawsuit recently filed against Attorney Lambert casts further doubt on the merits—and even the good faith—of Petitioners' allegations in the breach of contract suit. *See Apelbaum v. Lambert*, No. 2:23-cv-11718 (E.D. Mich.). The Complaint in the federal lawsuit, filed on behalf of plaintiffs Yaacov Apelbaum and XRVision, Ltd. (together, "Plaintiffs"), alleges that Plaintiffs were hired by Attorney Lambert in March 2022 (a month before the Fulton County Board of Elections voted to engage Attorney Lambert) to conduct a "forensic analysis" of Fulton County's electronic elections systems. Complaint ¶ 41 (attached hereto as Exhibit 4). According to the Complaint, Attorney Lambert falsely told Plaintiffs that a Pennsylvania state court had "authorized" Fulton County "to conduct a forensic and cyber analysis of electronic elections systems as part of the discovery in Fulton County." *Id.* ¶¶ 37-38. The Complaint further alleges that when Plaintiffs informed Lambert that their analysis did not identify any "evidence that [Fulton County's voting machines] had been hacked … or were pre-configured to favor one candidate," Lambert nonetheless "requested that the Plaintiffs write a report stating that there were cheat codes in the software and that there was evidence of remote/local hacking of the elections systems," which "was not true." *Id.* ¶¶ 48-50. When Plaintiffs refused to write the requested report, the Complaint alleges, Lambert "unilaterally terminate[d]" the agreement with Plaintiffs on June 22, 2023, *id.* ¶ 53—less than a month before Speckin Forensics, LLC inspected and imaged components of the Dominion voting system in Fulton County's possession, *see County of Fulton*, 292 A.3d at 991-92. The inspection report written by Speckin Forensics—and the complaint Fulton County filed against Dominion Voting Systems, Inc.—

importantly for present purposes, this Court already considered and rejected Petitioners' argument in its April 2023 decision. *See County of Fulton*, 292 A.3d at 1012 (explaining that "the County has never explained *how* its litigation interests in any other case are disserved [by impoundment]," despite "several opportunities to do so in appropriate detail"; and that any such interests "can be dealt with as they arise," including by filing a request asking the Commonwealth Court to modify the impoundment).

It is far too late for Petitioners to seek reconsideration of the April 19, 2023, decision. *See* Pa.R.A.P. 2542(a)(1) ("an application for reargument shall be filed … within 14 days after entry of the judgment or other order involved"). And, in any event, that decision was rendered final and conclusive when the Supreme Court of the United States denied Petitioners' petition for writ of certiorari (which raised the same arguments Petitioners repeat in capsule form here).[15] Finally, Petitioners' Application does not address—let alone attempt to rebut—the reasoning set forth in the April 19, 2023, Opinion. Even if this Court could

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"contain fraudulent claims and statements of fact designed to deceive the Court," according to the Complaint. Complaint ¶ 56.

Although the Secretary cannot, at this time, confirm the veracity of the allegations in the *Apelbaum* Complaint, it alleges conduct that is virtually identical to that for which Petitioners have been sanctioned by this Court.

[15] Order dated October 10, 2023, *Fulton Cnty., Pa. v. Sec'y of the Commw. of Pa.*, No. 23-96 (U.S.).

reconsider its decision at this juncture, Petitioners have provided no basis to do so.[16] *See* Pa.R.A.P. 2543 (setting forth considerations governing disposition of applications for reargument).

B. Petitioners Fail to Impeach Pro V&V's Qualifications to Serve as the Escrow Agent

Also meritless is Petitioners' challenge to Pro V&V's qualifications. As an initial matter, Petitioners entirely ignore the Special Master's extensive discussion of these qualifications in her Memorandum Opinion—and also disregard the Special Master's findings regarding the severe deficiencies in Petitioners' proposed escrow agent.

Moreover, in attempting to attack Pro V&V's qualifications, Petitioners improperly rely on hearsay—in the form of two purported affidavits/declarations—that was not admitted into evidence at the August 2023 hearing. *See* Pet'rs Appl.

[16] Petitioners continue to assert that this Court "never addressed Petitioners' argument" that the Court's January 2022 Injunction Order violated Article I, section 4, clause 1 of the United States Constitution (the "Elections Clause") because the Pennsylvania General Assembly had supposedly given the Fulton County Board of Elections exclusive, unlimited authority to turn over state-certified electronic voting equipment in its possession to any third party for any type of inspection the County desires, even if that inspection threatens to spoliate important evidence in litigation the County itself has brought. Pet'rs Appl. at 6. This was the principal argument in Petitioners' unsuccessful petition for certiorari to the United States Supreme Court. It is wrong on multiple levels. First, it misconstrues the Pennsylvania Election Code, ignoring provisions that expressly vest authority to regulate the use of electronic voting machines in the Secretary. *See County of Fulton*, 292 A.3d at 1002 & n.109. Second, "no provision of the Election Code"—and nothing in the U.S. Constitution's Elections Clause—"suggests that a county may unilaterally disregard a court order," particularly one intended to preserve the integrity of evidence. *Id.*; *cf. Moore v. Harper*, 600 U.S. 1, 22 (2023) ("The Elections Clause does not insulate state legislatures from the ordinary exercise of state judicial review.").

at 7-8 & Attachments 3, 4. Neither document was drafted in connection with this case. The first document, which appears to lack any legitimate signature and is neither sworn nor made subject to penalties for perjury, is purportedly by Ryan David Hartwig, who claims to have "a bachelor's degree in Spanish Linguistics" and "part-time experience as a licensed unarmed security officer in Arizona." *Id.*, Attachment 3. Petitioners rely exclusively on this document for the proposition that "Pro V&V engaged in improper security practices and questionable behavior" when "perform[ing] an audit in Maricopa County, Arizona." Pet'rs Appl. 7. But Hartwig's "Declaration" says nothing whatsoever about Pro V&V. And, in any event, Petitioners never offered Hartwig's testimony at the evidentiary hearing before the Special Master.

The second document on which Petitioners rely purports to be an "affidavit" offering expert opinions by Benjamin Cotton regarding forensic analysis of hard drives. *See id.*, Attachment 4. Notably, the "affidavit" lacks any caption, bears two different dates,[17] and was plainly drafted for some other, unspecified proceeding. The affidavit critiques the manner in which Pro V&V "acquire[d] the hard drives of an ES&S voting system" as part of an unspecified audit in an unspecified jurisdiction. *Id.* This testimony, however, was not admitted into

[17] The title of the affidavit bears a date of "8 June 2021." But the signature page states that the affidavit was signed on January 25, 2022.

evidence at the hearing. Although Petitioners offered Mr. Cotton to testify regarding the opinions in the affidavit, the Special Master properly sustained the Secretary's and Dominion's objections to his testimony because Petitioners had failed to comply with the Special Master's expert-disclosure requirements, unfairly prejudicing the other parties. *See* Memorandum Opinion at 44. Moreover, the opinions in the affidavit are facially irrelevant, as the escrow agent in this matter will have no occasion to conduct *any* acquisition of hard drives or to connect *any* external electronic devices to the voting equipment at issue. *See id.* at 25, 29.

Petitioners likewise spin their wheels in attempting to promote vague, "conspiratorial hypotheses," *see County of Fulton*, 292 A.3d at 1016, regarding Pro V&V and the EAC's alleged "collaborat[ion]." *See* Pet'rs Appl. at 9. As the record shows, there is nothing nefarious or suspicious about Pro V&V's relationship with the EAC. The EAC is the federal-government entity that accredits Voting System Test Laboratories, conducts periodic audits of VSTLs to ensure they are continuing to satisfy the accreditation requirements, and certifies electronic voting equipment. Memorandum Opinion at 23-24. Although the Special Master recognized that the EAC may, in the discharge of its oversight responsibilities, conduct unannounced inspections of Pro V&V's facilities, the Final Appointment Order makes clear that the EAC will not be permitted to access

the locked room at Pro V&V's facility where the voting equipment at issue will be stored.[18] Final Appointment Order ¶ 2.3.2.3.

In sum, the Special Master properly found Pro V&V qualified to perform the escrow services—and certainly far more qualified than Cerberus, the entity proposed by Petitioners. Petitioners fail to identify any basis to reject this finding, which is well supported by the live witness testimony and other evidence admitted at the August hearing.[19]

C. The Final Appointment Order Does Not Abridge Petitioners' "Appellate Rights"

Petitioners argue at some length that the Special Master's Final Appointment Order somehow operates to "forbid[] appellate rights." Pet'rs Appl. at 11. At the outset, it is not clear how the Special Master *could*, as a practical matter, limit this Court's review of her orders, as it would be this Court that would adjudicate any

[18] Petitioners also express vague, unelaborated "concerns that the machines will be leaving the state and taken from possession of the county, or placed in an unknown location." Pet'rs Appl. at 8. As an initial matter, the machines will not be placed in an "unknown location"; they will be taken via secure transport to Pro V&V's secure facility in Huntsville, Alabama. In addition, as the Special Master noted in rejecting this argument, "[t]o the extent the County is concerned with jurisdictional uncertainties during the transport of the voting machines, Section 5.1 of the Final Appointment Order provides that '[a]ll disputes or motions regarding this Order or the Escrow Services shall be governed by the substantive and procedural law of the Commonwealth of Pennsylvania.'" Memorandum & Order at 3 (Oct. 27, 2023).

[19] "[A]lthough the findings of fact made by [the Special Master] are not binding on this Court," this Court "'will afford them due consideration, as the jurist who presided over the hearings was in the best position to determine the facts." *League of Women Voters v. Commonwealth*, 178 A.3d 737, 802 n.62 (Pa. 2018) (quoting *Annenberg v. Commonwealth*, 757 A.2d 338, 343 (Pa. 2000)).

purported "appeal" (including Petitioners' present Application). But, in any event, Petitioners misconstrue the Final Appointment Order. That Order does not purport to preclude this Court's review of the Order itself. It simply provides—consistent with this Court's April 19, 2023, Opinion—that any applications seeking relief under the terms of the Order, or seeking to modify or terminate the provisions of the Order based on any intervening developments, should be filed in the Commonwealth Court in the first instance. *Compare* Final Appointment Order ¶ 5.1, *with County of Fulton*, 292 A.3d at 1012, 1020. As this Court previously made clear, "any party that is aggrieved by an impoundment-related order [by the Commonwealth Court] may seek emergency relief in this Court." *Id.* at 1012.

D. The Special Master Did Not Exceed Her Authority, or Otherwise Err, in Requiring Petitioners to Pay Pro V&V's Counsel Fees Related to the Impoundment

Petitioners also complain that the Special Master erred in (1) directing that Pro V&V engage counsel to enter an appearance in the impoundment proceedings on Pro V&V's behalf; and (2) making Fulton County responsible for payment of Pro V&V's legal fees in connection with those proceedings. Pet'rs Appl. at 12. According to Petitioners, these provisions of the Final Appointment Order were "not originally contemplated in the contempt proceedings, nor included in any discussions during the hearing on the appointment decision," and the Special Master "exceeded her appointment authority in making these rulings." *Id.* at 12.

Petitioners' argument is without merit. This Court's April 2023 decision charged the Special Master with appointing an escrow agent and effectuating the impoundment of the voting machines at issue. This Court further directed that the Commonwealth Court judge presiding over Petitioners' underlying action would be responsible for supervising the impoundment and ruling in the first instance on any disputes or motions for relief in relation thereto. *See County of Fulton*, 292 A.3d at 1012, 1020. The Special Master sensibly concluded that, given these responsibilities, it was appropriate to require Pro V&V to enter the appearance of counsel in the Commonwealth Court proceeding, "so that the Court may appropriately communicate with counsel for Pro V&V directly." Preliminary Appointment Order ¶ 1(e) (Sept. 15, 2023). Petitioners had an opportunity to challenge this requirement—and did so (albeit on different grounds than they raise here)[20]—but the Special Master, having considered Petitioners' position, correctly concluded that it lacked merit. *See* Memorandum & Order at 4 (Oct. 27, 2023).

Also meritless is Petitioners' objection to responsibility for paying Pro V&V's legal fees incurred in connection with the impoundment proceedings—legal fees that, it is worth noting, were not anticipated by Pro V&V at the time it submitted its proposal to serve as the escrow agent, and were thus not reflected in

[20] *See* Fulton County's Response to the Secretary's Proposed Final Order Filed October 10, 2023, at 14-15 (Oct. 17, 2023) (arguing that Pro V&V's entry of an appearance would somehow "automatically shield it from … liabilities that it might incur").

the fees it quoted for the escrow services. The challenged provision of the Final Appointment Order is perfectly consonant with the terms of this Court's April 19, 2023, Opinion. Indeed, the Opinion expressly directed that "[Fulton] County is responsible for *all costs associated with the impoundment*." *County of Fulton*, 292 A.3d at 1020 (emphasis added). But for Petitioners' contempt of court and dilatory, vexatious, obdurate, and bad-faith conduct, there would be no need for Pro V&V to incur the legal fees at issue. In sum, the Final Appointment Order is reasonable, fair, and faithful to this Court's mandate.

IV. CONCLUSION

For the foregoing reasons, the Secretary respectfully requests that the Court deny Petitioners' Application, overrule Petitioners' objections to the Special Master's Final Appointment Order, and adopt the Final Appointment Order as an order of this Court.

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

Dated: December 11, 2023

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CERTIFICATE OF COMPLIANCE WITH Pa.R.A.P. 127

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

Dated: December 11, 2023

/s/ *Robert A. Wiygul*
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EXHIBIT 1

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Pa. County Loses Bid To Delay Voting Machine Custody Case

By **Matthew Santoni**

Law360 (August 28, 2023, 7:26 PM EDT) -- A Pennsylvania county in hot water for allowing an unauthorized inspection of its voting machines lost its last-minute bid to delay a hearing on who should take custody of the equipment, though testimony about qualifications for the proposed "escrow agents" proceeded haltingly Monday.

The Supreme Court of Pennsylvania had **ordered in April** that Fulton County's voting machines be held by a neutral third party while the county and state litigate whether they could still be used after multiple inspections following the 2020 election, but a hearing on appointing that third party was delayed several hours when Fulton County's lead attorney said he was hampered by medication for a recent injury.

"On August 26, 2023, counsel for petitioners went to an urgent care facility, as he was experiencing severe right upper quadrant abdominal pain. … Counsel for petitioner continues to be in significant pain as a result of both the broken rib and the infection and as a result of the pain and the taking of the prescribed medications cannot be available for the hearing pursuant to doctor's orders," said the **emergency motion** filed Monday morning by Thomas J. Carroll, the independent attorney representing the central Pennsylvania county.

Commonwealth Court President Judge Renee Cohn Jubelirer, sitting as the Supreme Court's "special master" in the case, **denied the request for a delay**, noting that she had admitted Tennessee attorney Russell A. Newman to represent the county, and either Carroll or another attorney could participate in the hearing remotely to assist him.

Newman initially argued Monday morning that he could not proceed without the presence of an in-state, sponsoring attorney. Robert Wiygul of Hangley Aronchick Segal Pudlin & Schiller, representing the secretary of the commonwealth, noted that one of his witnesses would not be available if the hearing were delayed to another day.

"Both sides are facing prejudice if a witness is unavailable," Judge Cohn Jubelirer said. "The emergency motion was not filed until this morning, instead of over the weekend, when it would have been more timely for people to make arrangements."

The court was considering an escrow agent because the Supreme Court of Pennsylvania's April ruling had held Fulton County and Carroll in contempt for delaying the underlying lawsuit and violating a court order prohibiting third-party inspections of the Dominion Voting Systems machines the county used in 2020, when Donald Trump won the county with 6,824 votes to President Joe Biden's 1,085.

After an initial inspection by Wake Technology Services, Pennsylvania's then-secretary of the commonwealth had ordered the machines be "decertified" because the inspection had allegedly violated the state's chain of custody and could have compromised the machines' security.

Fulton County sued and **initially won its case** in the Commonwealth Court, but while the state's appeal was pending before the state Supreme Court, the county indicated it might allow a second inspection by a different company **suggested by the state Senate**. The state got a court order in January 2022 barring that company from inspecting the machines, but the county allowed another company, Speckin Forensics LLC, to conduct its own inspection.

Because of the extra inspection and allegations that Carroll had unduly delayed proceedings before Judge Cohn Jubelirer, the Supreme Court ordered that the county and Carroll pay legal bills for the state and Dominion, which had joined the suit as an intervenor, and pay for someone else to keep the voting equipment. Fulton County appealed the state justices' ruling to the U.S. Supreme Court, but without a stay, Judge Cohn Jubelirer said Aug. 23 that the hearing Monday would proceed. Newman said Carroll's injury — a fall down some stairs — occurred soon after.

Resuming Monday afternoon, the county asked several times to pause the hearing or the suit pending its appeal to the U.S. Supreme Court or its appeal to the state Supreme Court of the judge's Aug. 23 order, but Judge Cohn Jubelirer said the hearing would go on until justices from one court or the other granted a stay.

Testimony from election security expert witness Ryan Macias of RSM Election Solutions LLC focused on how the federal Election Assistance Commission, which Macias had previously worked for, inspected and accredited "voting system test laboratories" including Pro V&V Inc., the Huntsville, Alabama, company that the state and Dominion had proposed as the escrow agent for Fulton County's voting machines.

Macias said VSTLs had to meet standards set by the EAC in areas such as not having conflicts of interest with the companies whose voting systems they evaluate, and having policies to prevent hiring of employees with past convictions for fraud. Pro V&V, he said, was "very qualified," detailing the security it had and the separate, climate-controlled areas the company kept for holding and testing different voting equipment and digital storage media.

"They have the equipment and the things you are looking for to maintain the chain of custody," Macias said. Maintaining its EAC accreditation through audits in 2018 and 2021 was "good business" for Pro V&V as one of only two accredited labs in the United States, he testified.

Macias contrasted that with the county's proposed escrow agent, private security company Cerberus Dynamic Solutions, which he said did not have similar accreditation.

On cross-examination, Newman pressed him on why accreditation was necessary for the machines to be held securely and in a controlled climate, or who would transport the machines to Pro V&V's facility if it were appointed. He asked if a local facility would be more convenient, though Macias said the court's order was for the voting machines to be kept secure until the court released them.

Carroll had raised additional objections to the testimony of Fulton County Commissioner Paula Shives because she was technically his client when she had spoken to Wiygul about being unable to testify outside of Monday's scheduled hearing. Judge Cohn Jubelirer overruled him, as Wiygul said they only discussed her schedule and availability.

Shives said the commissioners — who also act as the county's board of elections — had not voted on choosing Cerberus, but Carroll objected again when Wiygul started suggesting that Cerberus had been proposed by Carroll's former co-counsel, Michigan attorney Stefanie Lambert. Lambert, Wiygul noted, had been **charged Aug. 3** in her home state over alleged conspiracy to improperly possess voting equipment there, but Shives said she hadn't heard the particulars.

At one point, Carroll could be heard over his remote connection saying something like, "Can you hear this, Stefanie?" but upon questioning from the judge, said he was telling someone else with him, "Can you hear what they're saying about Stefanie?"

After detouring to take Shives' testimony so she could be excused before her availability ran out, Newman finished his cross-examination of Macias; during Wiygul's redirect, Macias noted the possibility that an untrained custodian might accidentally damage the machines. Judge Cohn Jubelirer said the hearing would continue Wednesday morning.

Fulton County is represented by James M. Stein of Dick Stein Schemel Wine & Frey LLP, Russell A. Newman of the Newman Law Firm, and Thomas J. Carroll.

The Pennsylvania secretary of the commonwealth is represented by Michael J. Fischer and Jacob B. Boyer of the Pennsylvania Attorney General's Office, Robert Andrew Wiygul, John B. Hill and Eitan

Gavriel Kagedan of Hangley Aronchick Segal Pudlin & Schiller, and Joe H. Tucker Jr., Jessica Ann Rickabaugh and Dimitrios Mavroudis of the Tucker Law Group.

Dominion Voting Systems is represented by Shawn Gallagher, Brendan Lucas, Robert Fitzgerald and Kathleen Jones Goldman of Buchanan Ingersoll & Rooney PC.

The case is County of Fulton et al. v. Secretary of the Commonwealth, case number 277 MD 2021, in the Commonwealth Court of Pennsylvania.

--Editing by Patrick Reagan.

Update: This article has been updated with additional counsel information.

EXHIBIT 2

OFFICE OF THE
MUSKEGON COUNTY PROSECUTOR

HALL OF JUSTICE
FIFTH FLOOR
990 TERRACE STREET
MUSKEGON, MICHIGAN 49442

CRIMINAL DIVISION (231) 724-6435
VICTIM SERVICES (231) 724-6676
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August 3, 2023

Contact: DJ Hilson
hilsonda@muskegoncounty.net

FOR IMMEDIATE RELEASE

LAMBERT-JUNTILLA CHARGED IN ELECTION TABULATOR INVESTIGATION

Lambert joins Mathew DePerno and Daire Rendon in facing citizen grand jury authorized charges

Special Prosecutor D.J. Hilson, Muskegon County Prosecutor, and his team announced today that a third individual has been charged in the ongoing Election Tabulator Case. Charges were authorized by a citizens grand jury against Stephanie Lambert-Juntilla. This follows the charges that were filed on Tuesday Aug 1, 2023 against Matthew DePerno and Daire Rendon.

"As special prosecutor for the Attorney General, our review of the police investigation has led to charges related to the unauthorized possession and access to voting tabulators," Hilson said. "These charges were authorized by an independent citizens grand jury." Hilson added. "Protecting the election process is of the utmost importance for our state and country." "This investigation and prosecution is an important step in that direction."

The Lambert-Juntilla charges are:

COUNT I – Undue Possession of a Voting Machine, MCL 168.932(b) 5 Years and/or $1,000.00
COUNT II – Conspiracy to Commit Undue Possession of a Voting Machine, MCL 168.932(b) 5 Years and/or $1,000.00

COUNT III – Conspiracy to Commit Unauthorized Access to a Computer or Computer System, MCL 752.797(2)(a) 5 Years and/or $10,000.00
COUNT IV - Willfully Damaging a Voting Machine, MCL 168.932(b). 5 Years and/or $1,000.00

Ms. Lambert was arraigned in an Oakland County Circuit Court this afternoon and has been released on a personal recognizance bond.

"This citizen's grand jury carefully listened to the sworn testimony and analyzed the evidence as required by law and returned a decision to indict each of the defendants, Hilson stated. "We thank the grand jury for their careful deliberation and for fulfilling their sworn commitment to make a decision that was not influenced by politics, bias or prejudice."

This ends the charging decisions in this investigation. The decision not to issue charges on the other identified suspects, including Barry County Sheriff Dar Leaf and Jason Rybak, was based on careful consideration of the totality of the evidence gathered by investigators, review of the witness statements, evaluation of the law related to viable defenses, and decisions on what is fair and just.

It was determined that the county and municipal clerks that turned over the tabulators to the unauthorized third parties were deceived by some of the charged defendants. The clerks had no idea of the scope, nature or duration of how their tabulators were going to be manipulated or that they would be out of their possession for an extended period of time.

The computer experts that were asked to analyze the tabulators were also deceived by some of the charged Defendants and made to falsely believe on multiple occasions that their possession and tampering of the tabulators was lawful.

As it relates to Sheriff Dar Leaf and Jason Rybak there is not sufficient evidence to prove a crime and therefore charges will not be filed.

Pursuant to MRPC 3.6 the public is notified that a "charge is merely an accusation, and that the defendant(s) are each presumed innocent until and unless proven guilty.

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EXHIBIT 3

STATE OF MICHIGAN

OFFICE OF THE ATTORNEY GENERAL

IN THE MATTERS OF:
Matthew DePerno
Stefanie Lambert Juntilla
Daire Rendon
Ann Howard
Ben Cotton
Jeff Lenberg
Douglas Logan
James Penrose
Dar Leaf

_____/

PETITION FOR APPOINTMENT
OF SPECIAL PROSECUTOR

NOW COMES Dana Nessel, Attorney General for the State of Michigan, and petitions the Prosecuting Attorneys Coordinating Council (PACC) for the appointment of a Special Prosecuting Attorney for the following reasons:

1. The Michigan State Police and the Michigan Department of Attorney General (MDAG) are jointly investigating a conspiracy to unlawfully obtain access to voting machines used in the 2020 General Election.
2. The Michigan State Police and the special agents with the MDAG have completed a preliminary review and it is now time for a prosecutorial review for charges that include but are not limited to Conspiracy, MCL 750.157a; Using a Computer System to Commit a Crime, MCL 752.796; Willfully Damaging a Voting Machine, MCL 168.932(b); Malicious Destruction of Property, MCL 750.377a; Fraudulent Access to a Computer or Computer System, MCL 752.795a; and False Pretenses, MCL 750.218.

3. On February 10, 2022, Michigan Secretary of State Jocelyn Benson requested the MDAG and MSP investigate third party access to vote tabulators, components and technology in Roscommon, Michigan. That investigation has now been presented to the Criminal Trials and Appeals Division seeking approval for criminal charges against the above listed individuals.
4. It is alleged that DePerno, Lambert Juntilla and Rendon orchestrated a coordinated plan to gain access to voting tabulators that had been used in Roscommon County and Richfield Township (Roscommon County), Irving Township (Barry County) and Lake City Township (Missaukee County). In Roscommon County the clerk stated she was told by Rep Rendon that the House of Representatives was conducting an investigation in election fraud.
5. All 5 tabulators were taken to hotels and/or AIRBNB's in Oakland County where Lenberg, Cotton, Penrose and Logan broke into the tabulators and performed "tests" on the equipment. It was determined during the investigation that DePerno was present at a hotel room during such "testing."
6. Howard coordinated printing of fake ballots to be run through the tabulators and recruitment of "volunteers."
7. Irving Township Clerk Sharon Olson indicated that she was asked by Barry County Sheriff Dar Leaf to cooperate with investigators regarding an election fraud investigation. Subsequent to this conversation, Olson turned over her tabulator to a third party.
8. When this investigation began there was not a conflict of interest. However, during the course of the investigation, facts were developed that DePerno was one of the prime instigators of the conspiracy.

9. DePerno is now the presumptive Republican nominee for Attorney General.

10. A conflict arises when "the prosecuting attorney has a personal interest (financial or emotional) in the litigation." *People v Doyle*, 159 Mich App 632 (1987).

11. It is hereby understood and agreed that pursuant to the provisions of MCL 49.160, if any Special Prosecutor appointed pursuant to this petition shall handle any matter on behalf of the petitioner, all costs of prosecution, other than personnel costs, shall be borne by the Michigan Department of Attorney General, who has been determined disqualified or otherwise unable to serve.

WHEREFORE, your Petitioner prays:

A. That a Special Prosecuting Attorney be appointed in this matter to review the charging request and handle any prosecution that may result against DePerno, Lambert Juntilla, Rendon, Howard, Cotton, Lenberg, Logan, Penrose and Leaf.

B. For any additional relief that law and justice may require.

Dated: August 5, 2022

Danielle Hagaman-Clark (P63017)
Division Chief
Criminal Trials and Appeals Division
Michigan Department of Attorney General

EXHIBIT 4

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN

YAACOV APELBAUM, a New York resident,
and XRVISION, LTD., a New York corporation,

Plaintiffs,

Case No. _____

v.

Hon. _____

STEFANIE LAMBERT, a Michigan resident, and
THE LAW OFFICE OF STEFANIE L. LAMBERT,
PLLC, a Michigan professional limited liability company
and BILL BACHENBERG, a Pennsylvania resident,

TRIAL BY JURY DEMANDED

Defendants.

BURNS LAW FIRM
John C. Burns*
Attorneys for Plaintiffs
PO Box 191250
St. Louis, Missouri 63119
P: (314) 329-5040
F: (314) 282-8136
TBLF@pm.me
* *admission to the Eastern District of Michigan pending*

STUART LAW, PLC
Todd A. Stuart
Attorneys for Plaintiffs
429 Turner Ave. NW
Grand Rapids, MI 49504
Office: 616-284-1658
tstuart@stuartlawplc.com

COMPLAINT AND JURY DEMAND

COME NOW Plaintiffs YAACOV APELBAUM ("Apelbaum") and XRVISION, LTD. ("XRV"), (collectively, "Plaintiffs"), by and through undersigned counsel, and for their Complaint against STEFANIE LAMBERT ("Lambert"), THE LAW OFFICE OF STEFANIE L. LAMBERT, PLLC ("PLLC"), and BILL BACHENBERG ("Bachenberg") (collectively, "Defendants"), state to the Court as follows:

PARTIES AND JURISDICTION

1. Plaintiff Yaacov Apelbaum ("Apelbaum") is an expert in cybersecurity. He is the President

and Chief Technology Officer of Plaintiff XRVision, Ltd. At all times relevant hereto, Apelbaum was a resident of the State of New York.

2. Plaintiff XRVision, Ltd. is a New York corporation that specializes in cybersecurity and which maintains its principal place of business in New York, New York.

3. Apelbaum founded XRV in 2015. XRV is a security firm specializing in cutting-edge mobile and wearable AI-based analytics and award-winning intelligent cybersecurity IoT technology. It solves some of the toughest analytics and cyber security challenges that law enforcement and government agencies face.

4. Prior to founding XRV, Apelbaum was the Head of Engineering and CTO for the Safe/Smart City product line in one of the world's leading safe/smart city companies, offering comprehensive and integrated platforms in a wide range of analytics, homeland security, critical infrastructure, OSINT, and smart/safe city spaces.

5. Apelbaum's expertise includes leading R&D and Center of Excellence technology teams in developing and delivering Big Data, video analytics, OSINT engines, IoT, and cyber security solutions for urban surveillance and management, critical infrastructure, border protection, and national security.

6. Defendant Stefanie Lambert is a Michigan attorney. Lambert is the CEO and owner of Defendant The Law Office of Stefanie L. Lambert, PLLC, and a resident of the State of Michigan.

7. Defendant The Law Office of Stefanie L. Lambert, PLLC, is a Michigan professional limited liability company. At all times, PLLC was acting by or through its authorized agent(s), employee(s), representative(s), or owner(s).

8. Defendant Bill Bachenberg is a resident of the State of Pennsylvania.

9. Pursuant to 28 USC § 1332(a)(1), this Court has subject matter jurisdiction over this action because the amount in controversy exceeds $75,000, exclusive of interest and costs, and is between citizens

of different states.

10. This Court has personal subject matter jurisdiction over Lambert and PLLC because each is a citizen of Michigan, and because this action arises out of Defendants' transaction of business within Michigan, Defendants' doing or causing an act to be done, or consequences to occur, in Michigan resulting in an action for tort, and/or Lambert's actions as an officer of PLLC.

11. This Court has personal subject matter jurisdiction over Bachenberg because this action arises out of Bachenberg's agreement(s) with Lambert and PLLC and his transaction of business within Michigan.

12. Venue is proper in this Court because all or part of the causes of action occurred and/or arose in this district.

GENERAL ALLEGATIONS

13. During and in the aftermath of the 2020 Presidential Election, various individuals and organizations made innumerable allegations of election fraud, focusing their accusations on approximately six "battleground" states, including, but not limited to, Michigan and Pennsylvania.

14. In challenging the propriety of the 2020 Presidential Election in those states, these individuals and organizations alleged that various elections systems, including electronic voting equipment, were compromised, either because the equipment was intentionally configured to favor certain candidates or that the result of the elections was modified via domestic and/or international interference and hacking.

15. In the immediate aftermath of the 2020 election, various individuals and organizations in Michigan alleged that the Presidential Election in Michigan had been tainted by voter fraud in jurisdictions throughout the state.

16. Multiple attorneys throughout Michigan, including Defendants Stefanie Lambert and the

Law Offices of Stefanie Lambert, PLLC, also alleged voter fraud occurred during the 2020 Presidential Election in Michigan and in other states.

17. Defendants Lambert and PLLC promoted multiple claims that election fraud occurred in the 2020 Presidential Election.

18. Defendants Lambert and PLLC used the public controversy from the 2020 Presidential Election to establish themselves as leading promoters (and profiteers) of election fraud narratives, and earned substantial income by receiving payments from investors across the country, who paid her to participate in election fraud investigations and lawsuits.

19. One such investor was Defendant Bill Bachenberg.

20. Upon information and belief, Defendant Bachenberg and Defendants Lambert and PLLC entered into an agreement in which Bachenberg agreed to fund their attorney fees and expenses (including expert cyber and forensic expenses) in various election fraud investigations and lawsuits.

21. Upon information and belief, Bachenberg also provided a $1 million line of credit for Lambert and PLLC.

22. While Bachenberg funded Lambert and PLLC's investigations into possible voter fraud in the 2020 Presidential Election, he also **directed** these efforts in great detail, deciding, *inter alia*, which forensic experts to hire and which election controversies to pursue.

23. Bachenberg funded these investigations because he sought local and national fame, glory, and esteem for discovering and proving voter fraud in the 2020 Presidential Election.

24. Lambert requested Plaintiffs travel to Michigan for a meeting on prospective cyber and forensic analysis work relating to the 2020 election. Bachenberg promised to pay for Plaintiffs' time, irrespective of whether Plaintiffs were ultimately engaged.

25. Plaintiffs met Defendants on May 13, 2021, at a meeting at a hotel in Detroit, Michigan.

During this meeting, the parties discussed multiple projects relating to intelligence collection, and forensic and cyber analyses of various voting systems used in Antrim County during the 2020 Presidential Election ("Initial Antrim County Projects").

26. At the May 13, 2021 meeting in Detroit, Defendants retained Plaintiffs for the Initial Antrim County Projects.

27. On August 4, 2021, Plaintiffs met again with Bachenberg to provide Bachenberg with project updates.

28. Between May and December of 2021, Plaintiffs' work on the Initial Antrim County Projects resulted in the Defendants paying the Plaintiffs nearly $200,000.

29. Plaintiffs received one payment for one project on December 29, 2021.

30. In each and every project, Bachenberg guaranteed payment to Plaintiffs.

31. In each and every instance, Bachenberg paid the money to Lambert and PLLC, who then paid Plaintiffs.

32. At all relevant times, Bachenberg operated as the principal funder of these projects, orchestrated the projects, and directed Lambert and PLLC's activities relating to the projects – including determining which vendors should Lambert and PLLC's hire (e.g., Plaintiffs).

33. Upon information and belief, in early 2022, and at Bachenberg's direction, Lambert and PLLC asked Plaintiffs to travel to Michigan to discuss a new cyber and forensic project related to elections systems in Antrim County ("Project Sampson") which would be funded by Bachenberg.

34. In a January 12, 2022, meeting, Bachenberg specifically discussed with the Plaintiffs the status of the cyber and forensic services Plaintiff was providing Lambert and PLLC and committed to paying for the work.

35. On March 8, 2022, Plaintiffs flew to Michigan to meet with Defendants Lambert and PLLC.

The parties signed an agreement for this project. Plaintiffs would not have entered into the contract if Bachenberg had not agreed to fund it and provide payment in advance.

36. Subsequent to the signing of the agreement relating to one project, the parties entered negotiations for a new project – forensic analysis of elections systems in Fulton County, Pennsylvania ("Fulton County Project").

37. During these discussions, Lambert and PLLC represented to Plaintiffs that they represented Fulton County, Pennsylvania in an ongoing lawsuit and had been authorized by a Pennsylvania state court to conduct a forensic and cyber analysis of electronic elections systems as part of the discovery in Fulton County, Pennsylvania.

38. This was a lie.

39. In fact, while Lambert and PLLC did represent Fulton County, Pennsylvania, they had **not** been authorized to conduct a forensic analysis of Fulton County's elections systems.

40. Had Plaintiffs known that Defendants Lambert and PLLC misrepresented this fact, Plaintiffs would **not** have entered into an agreement to conduct a cyber and forensic analysis of Fulton County's election systems.

41. On March 29, 2022, Plaintiffs and Defendants entered into an agreement for Plaintiffs to perform a forensic analysis of Fulton County, Pennsylvania's elections systems, in exchange for $200,000, with the funding to be provided by Bachenberg, although all Defendants guaranteed payment as of the time of contracting.

42. For this and all forensic work described herein, Bachenberg specifically guaranteed payment to Plaintiffs at the time of contracting.

43. All of Plaintiffs' forensic services described herein for which payment was guaranteed by Bachenberg were capable of being performed – and, in fact, were performed – in less than one year.

44. For all of Plaintiffs' forensic services described herein, Bachenberg guaranteed payment at the time of contracting.

45. All of Bachenberg's guarantees for payment were for work to be performed by Plaintiffs in the future, but across periods less than one year.

46. Defendants later expanded the scope of the Fulton County Project to include additional cyber analysis functions, such as determining the system hardening state and code analysis, for an additional fee of $350,000, owed to Plaintiffs.

47. On April 22, 2022, Plaintiffs met with Bachenberg to provide him with a status update on both Project Sampson and the Fulton County project. At which time, Bachenberg reiterated his commitment to pay Plaintiffs, including the expanded scope of work.

48. On June 4, 2022, the parties met at an airport near Detroit, Michigan to discuss Plaintiffs' findings in their Fulton County analysis.

49. During that meeting, Plaintiffs informed Defendants that while the elections systems were highly insecure, *there was no evidence that they had been hacked internationally or domestically or were pre-configured to favor one candidate*.

50. Lambert and PLLC requested that the Plaintiffs write a report stating that there were cheat codes in the software and that there was evidence of remote/local hacking of the elections systems. However, Plaintiffs refused to do this because it was not true.

51. On or about June 22, 2022, Plaintiffs produced their forensic analysis pursuant to the Fulton County Project agreement.

52. This report did not find any evidence of election fraud in the 2020 election, and Defendants were furious.

53. Upon information and belief, on or about June 22, 2022, Defendants indicated that they

intended to unilaterally terminate and alter the terms of the Fulton County project agreement. Defendants demanded that Plaintiffs refund all of the money Plaintiffs had been paid on the Fulton County project.

54. On or about July 23, 2022, in a sudden about-face, Defendants indicated a sudden interest in performing their obligations under the agreement.

55. To date, the Plaintiffs still remain unpaid for the work they performed pursuant to the Fulton County agreement.

56. On or about September 20, 2022, Lambert and PLLC filed a second lawsuit on behalf of Fulton County PA, using a forensic and cyber report produced by a Michigan company called Speckin Forensics, LLC. Both the allegations in the second lawsuit and the supporting forensic report contain fraudulent claims and statements of fact designed to deceive the Court.

57. Upon information and belief, on or about August of 2022, Defendants Lambert and PLLC began a defamation campaign directed against Plaintiffs.

58. Upon information and belief, Lambert and PLLC began speaking with Plaintiffs' business relationships, including but not limited to the Pennsylvania Senate, in texts, phone calls, in person, and in other communications, actively and deliberately trying to persuade these business relationships against doing business with Plaintiffs.

59. Upon information and belief, as reasons to avoid doing business with the Plaintiffs, Defendants Lambert, and PLLC falsely stated that the Plaintiffs had conflicts of interest with her clients and/or her firm, that she would sue the Plaintiffs if they were to be engaged in these relationships, and implicitly that she would take legal action against the relationships themselves if they were to hire Plaintiffs. To wit:

> "Your office will receive a formal letter from my office today. Yaacov Apelbaum has a conflict of interest. He was hired by Fulton County.

He is bound by privilege. His firm will be sued if he performs any analysis on Fulton County data for the Senate."

60. Specifically, upon information and belief, Lambert and PLLC also indicated, in written and verbal communications with representatives of the Pennsylvania Senate, the Wisconsin State Legislature, and the Arizona Senate, that the Plaintiffs were:

a. incompetent.

b. secretly working as malicious operatives of the federal government; and

c. entirely lacking any ability in the fields of cybersecurity and forensic analysis.

61. At the time Lambert and PLLC made these statements, Plaintiffs and their partners had finalized negotiations as sub-contractors and contractors for the Pennsylvania Senate to perform forensic analyses of various Pennsylvania elections systems, including Fulton County PA.

62. As a direct result of Lambert and PLLC's conduct described herein, the Pennsylvania Senate terminated its relationship with Plaintiffs.

COUNT 1 – LIBEL WITH COMMON LAW MALICE
Brought by Plaintiffs Against Defendants Lambert and PLLC

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Libel with Common Law Malice against STEFANIE LAMBERT ("Lambert") and THE LAW OFFICE OF STEFANIE L. LAMBERT, PLLC ("PLLC") (collectively, "Defendants"), state to the Court as follows:

63. Plaintiff incorporates by reference all prior paragraphs as though fully restated and set forth herein.

64. As stated more fully above, Defendants have published false and defamatory statements about Plaintiffs, as more fully stated in paragraphs 57-60 above ("Statements").

65. These Statements are defamatory on their face because they accuse Plaintiffs of knowingly seeking business from parties despite possessing conflicts of interest.

66. These Statements are further defamatory because they accuse Plaintiffs of being incompetent and providing subpar and low-quality services in their line of work.

67. These Statements were deliberately made to persuade the Pennsylvania Senate against using Plaintiffs' forensic and intelligence services.

68. These Statements were and are provably false statements of fact.

69. These defamatory statements were unprivileged and were made to third parties, including but not limited to members of the Pennsylvania State Senate.

70. These statements were negligently published by Defendants.

71. These statements are capable of defamatory meaning because, when read by a reasonable person in context, the aforementioned specific Statements tend to:

i. subject Plaintiffs to hatred, ridicule, and contempt;

ii. diminish Plaintiffs' standing in the community; and

iii. denigrate the Plaintiffs' fitness as an intelligence, cyber security, and forensic expert.

72. These Statements are defamatory per se because they are defamatory on their face without reference to outside material.

73. Defendants published their false and defamatory Statements as fact.

74. Defendants did not publish their false and defamatory Statements as mere parody or opinions.

75. Defendants negligently published these false and defamatory Statements.

76. Even though the Statements are defamatory per se and actionable irrespective of allegations

of special harm, but for Defendants' Statements, Plaintiffs would not have suffered significant pecuniary damages. As a direct and proximate cause of Defendants' defamatory Statements, Plaintiffs' reputations and brand have been damaged in excess of seventy-five thousand dollars, in an amount to be fully determined at trial.

77. Defendants' statements damaged Plaintiffs' reputation in their profession and with friends.

78. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered significant, general, actual, consequential, and special damages including, without limitation, impairment of reputation and standing in the community, personal humiliation, mental anguish and suffering, emotional distress, anxiety, lost earnings, and other pecuniary loss. Among other things, Plaintiffs lost business contracts.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendants for reputational damages, business losses, and branding damages in such sum in excess of $75,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendants' defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT 2 – LIBEL WITH ACTUAL MALICE
Brought by Plaintiffs Against Defendants Lambert and PLLC

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Libel with Common Law Malice against STEFANIE LAMBERT ("Lambert") and THE LAW OFFICE OF STEFANIE L. LAMBERT, PLLC ("PLLC") (collectively, "Defendants"), state to the Court as follows:

79. Plaintiff incorporates by reference all prior paragraphs as though fully restated and set forth herein.

80. As stated more fully above, Defendants have published false and defamatory statements about Plaintiffs, as more fully stated in paragraphs 57-60 above ("Statements").

81. These Statements are defamatory on their face because they accuse Plaintiffs of knowingly seeking business from parties despite possessing conflicts of interest.

82. These Statements are further defamatory because they accuse Plaintiffs of being incompetent and providing subpar and low-quality services in their line of work.

83. These Statements were deliberately made to persuade the Pennsylvania Senate against using Plaintiffs' forensic and intelligence services.

84. These Statements were and are provably false statements of fact.

85. These defamatory statements were unprivileged and were made to third parties, including but not limited to members of the Pennsylvania State Senate.

86. These Statements were published by Defendants either with knowledge of their falsity or with reckless disregard for their truth.

87. These Statements are capable of defamatory meaning because, when read by a reasonable person in context, the aforementioned specific Statements tend to:

i. subject Plaintiffs to hatred, ridicule, and contempt;

ii. diminish Plaintiffs' standing in the community; and

iii. denigrate the Plaintiffs' fitness as an intelligence, cyber security, and forensic expert.

88. These Statements are defamatory per se because they are defamatory on their face without reference to outside material.

89. Defendants published their false and defamatory Statements as fact.

90. Defendants did not publish their false and defamatory Statements as mere parody or opinions.

91. Even though the Statements are defamatory per se and actionable irrespective of allegations of special harm, but for Defendants' Statements, Plaintiffs would not have suffered significant pecuniary damages. As a direct and proximate cause of Defendants' defamatory Statements, Plaintiffs' reputations and brand have been damaged in excess of seventy-five thousand dollars, in an amount to be fully determined at trial.

92. Defendants acted with willful misconduct, malice, fraud, wantonness, oppression, and/or entire want of care which would raise the presumption of conscious indifference to consequences, and they specifically intended to cause Plaintiffs harm.

93. Defendants had both political and financial motives for promulgating lies about Plaintiffs.

94. Defendants' statements damaged Plaintiffs' reputation in their profession and with friends.

95. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered significant, general, actual, consequential, and special damages including, without limitation, impairment of reputation and standing in the community, personal humiliation, mental anguish and suffering, emotional distress, anxiety, lost earnings, and other pecuniary loss. Among other things, Plaintiffs lost business contracts.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendants for reputational damages, business losses, and branding damages in such sum in excess of $75,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of

Defendants' defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT 3 – SLANDER WITH COMMON LAW MALICE
Brought by Plaintiffs Against Defendants Lambert and PLLC

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Slander with Common Law Malice against STEFANIE LAMBERT ("Lambert") and THE LAW OFFICE OF STEFANIE L. LAMBERT, PLLC ("PLLC"), state to the Court as follows:

96. Plaintiff incorporates by reference all prior paragraphs as though fully restated and set forth herein.

97. As stated more fully above, Defendants have made false and defamatory statements about Plaintiffs, as more fully stated in paragraphs 57-60 above ("Statements").

98. These Statements are defamatory on their face because they accuse Plaintiffs of knowingly seeking business from parties despite possessing conflicts of interest.

99. These Statements are further defamatory because they accuse Plaintiffs of being incompetent and providing subpar and low-quality services in their line of work.

100. These Statements were deliberately made to persuade the Pennsylvania Senate against using Plaintiffs' forensic services.

101. These Statements were also deliberately made to persuade other prospective clients to avoid hiring Plaintiffs as forensic investigators and analysts.

102. These Statements were and are provably false statements of fact.

103. These defamatory statements were unprivileged and were made to third parties, including but not limited to members of the Pennsylvania State Senate.

104. These statements were negligently published by Defendants.

105. These statements are capable of defamatory meaning because, when read by a reasonable person in context, the aforementioned specific Statements tend to:

i. subject Plaintiffs to hatred, ridicule, and contempt;

ii. diminish Plaintiffs' standing in the community; and

iii. denigrate the Plaintiffs' fitness as an intelligence, cyber security, and as computer forensic expert.

106. These Statements are defamatory per se because they are defamatory on their face without reference to outside material.

107. Defendants issued their false and defamatory statements as fact.

108. Defendants did not issue their false and defamatory statements as mere parody or opinion.

109. Defendants negligently issued these false and defamatory Statements.

110. Even though the Statements are defamatory per se and actionable irrespective of allegations of special harm, but for Defendants' Statements, Plaintiffs would not have suffered significant pecuniary damages. As a direct and proximate cause of Defendants' defamatory Statements, Plaintiffs' reputations and brand have been damaged in excess of seventy-five thousand dollars, in an amount to be fully determined at trial.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendants for reputational damages, business losses, and branding damages in such sum in excess of $75,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendants' defamatory content regarding Plaintiffs from the internet, and for such other and further relief

as the Court deems just and proper.

COUNT 4 – SLANDER WITH ACTUAL MALICE
Brought by Plaintiffs Against Defendants Lambert and PLLC

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Slander with Common Law Malice against STEFANIE LAMBERT ("Lambert") and THE LAW OFFICE OF STEFANIE L. LAMBERT, PLLC ("PLLC"), state to the Court as follows:

111. Plaintiff incorporates by reference all prior paragraphs as though fully restated and set forth herein.

112. As stated more fully above, Defendants have made false and defamatory statements about Plaintiffs, as more fully stated in paragraphs 57-60 above ("Statements").

113. These Statements are defamatory on their face because they accuse Plaintiffs of knowingly seeking business from parties despite possessing conflicts of interest.

114. These Statements are further defamatory because they accuse Plaintiffs of being incompetent and providing subpar and low-quality services in their line of work.

115. These Statements were deliberately made to persuade the Pennsylvania Senate against using Plaintiffs' forensic services.

116. These Statements were also deliberately made to persuade other prospective clients to avoid hiring Plaintiffs as forensic investigators and analysts.

117. These Statements were published by Defendants either with knowledge of their falsity or with reckless disregard for their truth.

118. These Statements were and are provably false statements of fact.

119. These defamatory statements were unprivileged and were made to third parties, including

but not limited to members of the Pennsylvania State Senate.

120. These Statements are capable of defamatory meaning because, when read by a reasonable person in context, the aforementioned specific Statements tend to:

i. subject Plaintiffs to hatred, ridicule, and contempt;

ii. diminish Plaintiffs' standing in the community; and

iii. denigrate the Plaintiffs' fitness as an intelligence, cyber security, and as computer forensic expert.

121. These Statements are defamatory per se because they are defamatory on their face without reference to outside material.

122. Defendants issued their false and defamatory statements as fact.

123. Defendants did not issue their false and defamatory statements as mere parody or opinion.

124. Even though the Statements are defamatory per se and actionable irrespective of allegations of special harm, but for Defendants' Statements, Plaintiffs would not have suffered significant pecuniary damages. As a direct and proximate cause of Defendants' defamatory Statements, Plaintiffs' reputations and brand have been damaged in excess of seventy-five thousand dollars, in an amount to be fully determined at trial.

125. Defendants acted with willful misconduct, malice, fraud, wantonness, oppression, and/or entire want of care which would raise the presumption of conscious indifference to consequences, and they specifically intended to cause Plaintiffs harm.

126. Defendants had both political and financial motives for promulgating lies about Plaintiffs.

127. Defendants' statements damaged Plaintiffs' reputation in their profession, with the public, and with friends.

128. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered

significant, general, actual, consequential, and special damages including, without limitation, impairment of reputation and standing in the community, personal humiliation, mental anguish and suffering, emotional distress, anxiety, lost earnings, and other pecuniary loss. Among other things, Plaintiffs lost business contracts.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendants for reputational damages, business losses, and branding damages in such sum in excess of $75,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendant; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; the removal of all of Defendants' defamatory content regarding Plaintiffs from the internet, and for such other and further relief as the Court deems just and proper.

COUNT 5 – BREACH OF CONTRACT
Brought by Plaintiffs Against Defendants Lambert, PLLC, and Bachenberg

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Breach of Contract against STEFANIE LAMBERT ("Lambert"), THE LAW OFFICE OF STEFANIE L. LAMBERT, PLLC ("PLLC"), and BILL BACHENBERG ("Bachenberg") (collectively, "Defendants"), state to the Court as follows:

129. Plaintiffs incorporate by reference all prior paragraphs as though fully restated and set forth herein.

130. As stated above in paragraph, Defendants entered into a contract with Plaintiffs. The terms of that contract required performance by Plaintiffs to Defendants in exchange for compensation.

131. Before and at the time of contracting, as part of the agreement for Plaintiffs to perform

services to be rendered in the future, Bachenberg guaranteed payment.

132. Plaintiffs performed fully and completely under the contract.

133. Defendants have refused to perform their obligations under the contract, causing the instant breach.

134. Specifically, Defendants have failed to pay Plaintiffs fees under the contract in the amount of five-hundred and fifty thousand dollars ($550,000).

135. The breach by Defendants has caused significant and serious injury to Plaintiffs.

136. Plaintiffs have spent a great deal of time and resources – including money – in complying with their obligations under the contract. They remain uncompensated for their work.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendants for damages in such sum in the amount of $550,000.00; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendants; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; and for such other and further relief as the Court deems just and proper.

COUNT 6 – TORTIOUS INTERFERENCE
Brought by Plaintiffs Against Defendants Lambert, and PLLC

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Tortious Interference against STEFANIE LAMBERT ("Lambert"), and THE LAW OFFICE OF STEFANIE L. LAMBERT, PLLC ("PLLC"), (collectively, "Defendants"), state to the Court as follows:

137. Plaintiffs incorporate by reference all prior paragraphs as though fully restated and set forth herein.

138. Plaintiff had contractual and business relationships and expectancies with prospective

customers as more fully stated above.

139. Defendants were aware of these relationships and expectancies.

140. Defendants intentionally and improperly interfered with these relationships and expectancies in the ways described above.

141. The actions by Defendants were fraudulent, unlawful, unethical, unjustified, and per se wrongful, and were done with malice for the improper purpose of causing the termination or disruption of Plaintiff's relationships and expectancies.

142. The conduct of Defendants has caused and threatened to cause breaches and disruptions of Plaintiff's relationships and expectancies.

143. Plaintiff has suffered and will continue to suffer, damages as a result of Defendants' conduct.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendants for damages in such sum in excess of $550,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendants; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; an injunction enjoining Defendants from interfering with Plaintiffs' business relationships and expectancies now and in the future; and for such other and further relief as the Court deems just and proper.

COUNT 7 – PROMISSORY ESTOPPEL
Brought by Plaintiffs Against Defendants Lambert, and PLLC

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Tortious Interference against STEFANIE LAMBERT ("Lambert"), and THE LAW OFFICE OF STEFANIE L.

LAMBERT, PLLC ("PLLC") (collectively, "Defendants"), state to the Court as follows:

144. Plaintiffs incorporate by reference all prior paragraphs as though fully restated and set forth herein.

145. As more fully described above, Defendants made an enforceable promise to Plaintiffs.

146. This promise by Defendants created reliance and induced Plaintiffs to perform. The promise was that Defendants would ensure that Plaintiffs were fully compensated if they performed the work as requested.

147. This promise in fact produced reliance by Plaintiffs to perform, and Plaintiffs fully performed the work.

148. If this promise is not enforced under these circumstances, it would result in a significant and avoidable injustice.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendants for damages in the sum of $550,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendants; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; and for such other and further relief as the Court deems just and proper.

COUNT 8 – PROMISSORY ESTOPPEL
Brought by Plaintiffs Against Defendant Bachenberg

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Promissory Estoppel against BILL BACHENBERG ("Bachenberg" or "Defendant") state to the Court as follows:

149. Plaintiffs incorporate by reference all prior paragraphs as though fully restated and set forth

herein.

150. As more fully described above, Defendant Bachenberg made an enforceable promise to Plaintiffs.

151. As more fully described above, this promise by Defendant created reliance and induced Plaintiffs to perform. The promise was that Defendants would ensure that Plaintiffs were fully compensated if they performed the work as requested.

152. This promise in fact, produced reliance by the Plaintiffs to perform, and Plaintiff fully performed the work.

153. If this promise is not enforced under these circumstances, it will result in a significant and avoidable injustice.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendants for damages in the sum of $550,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendants; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; and for such other and further relief as the Court deems just and proper.

COUNT 9 – QUANTUM MERUIT / UNJUST ENRICHMENT
Brought by Plaintiffs Against Defendant Bachenberg

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV") (collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Quantum Meruit/ Unjust Enrichment against BILL BACHENBERG ("Bachenberg" or "Defendant") state to the Court as follows:

154. Plaintiffs incorporate by reference all prior paragraphs as though fully restated and set forth herein.

155. As stated more fully above, Bachenberg asked Plaintiffs to perform forensic analysis services, and also actively worked with and directed Defendants Lambert and PLLC to ensure that Plaintiffs were retained to perform said services.

156. Bachenberg wanted Plaintiffs to perform their forensic services because he wanted to receive local and national glory and esteem for having uncovered massive voter fraud in the 2020 election.

157. As stated more fully above, Plaintiffs performed the forensic analysis services as requested by Defendants.

158. Bachenberg benefitted from the expert forensic services provided by Plaintiffs.

159. Plaintiffs were not compensated for the services they provided.

160. Plaintiffs are owed in excess of $550,000 in fees for the services they provided to Defendant.

161. It is inequitable to allow Bachenberg to retain the benefit of Plaintiffs' services while Plaintiffs remain totally uncompensated.

162. Upon information and belief, the existence of a contract between the Plaintiffs and Defendants is disputed in part or in whole.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment against Defendant Bachenberg for damages in the sum of $550,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendants; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; and for such other and further relief as the Court deems just and proper.

COUNT 10 – QUANTUM MERUIT / UNJUST ENRICHMENT
Brought by Plaintiffs Against Defendants Lambert and PLLC

COME NOW Plaintiffs Yaacov Apelbaum ("Apelbaum") and XRVision, Ltd. ("XRV")

(collectively "Plaintiffs"), by and through undersigned counsel, and for their Complaint alleging Quantum Meruit/ Unjust Enrichment against STEFANIE LAMBERT ("Lambert") and THE LAW OFFICES OF STEFANIE LAMBERT, PLLC ("PLLC") (collectively, "Defendants") state to the Court as follows:

163. Plaintiffs incorporate by reference all prior paragraphs as though fully restated and set forth herein.

164. As stated more fully above, Defendants asked Plaintiffs to perform forensic analysis services, and also actively worked with Defendant Bachenberg to ensure that Plaintiffs were retained to perform said services.

165. Defendants wanted Plaintiffs to perform their forensic services because they wanted to receive local and national glory and esteem for having uncovered massive voter fraud in the 2020 election, and because they wanted to continue to receive extremely lucrative legal representation contracts to hunt for voter fraud.

166. As stated more fully above, Plaintiffs performed the forensic analysis services as requested by Defendants.

167. Plaintiffs are owed in excess of $550,000 in fees for the services they provided to Defendants.

168. Defendants benefitted from the expert forensic services provided by Plaintiffs.

169. Plaintiffs were not compensated for the services they provided.

170. It is inequitable to allow Defendants to retain the benefit of Plaintiffs' services while Plaintiffs remain totally uncompensated.

171. Upon information and belief, the existence of a contract between the Plaintiffs and Defendants is disputed in part or in whole.

WHEREFORE, Plaintiffs pray this Honorable Court make and enter its Order and Judgment

against Defendants for damages in the sum of $550,000.00 as is fair, reasonable, and certain, to be determined at trial; punitive damages in an amount to be determined at trial; that all costs be taxed to Defendants; pre and post-judgment interest; that Plaintiffs recover their reasonable attorney's fees; trial by jury on all issues so triable; and for such other and further relief as the Court deems just and proper.

CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the Court enter judgment against Defendants Stefanie Lambert, The Law Offices of Stefanie Lambert, PLLC, and Bill Bachenberg, jointly and severally, as follows:

A. Compensatory damages in the amount of $5,000,000.00;

B. Compelling specific performance on the various contracts, amounting to an award of $550,000.00 to Plaintiffs;

C. Punitive damages in the amount of $5,000,000.00;

D. Prejudgment interest on the principal sum awarded by the Jury at the maximum rate allowed by law;

E. Postjudgment interest at the maximum rate allowed by law;

F. Costs and other recoverable amounts as allowed by law;

G. Such other and further relief as the Court deems just and proper.

TRIAL BY JURY IS DEMANDED

Dated: July 18, 2023

Signature of Counsel on Next Page

Respectfully submitted,

BURNS LAW FIRM

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**Admission to the Eastern District of Michigan Pending*

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