

Exhibit 5

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

DONNA CURLING, *et al.*

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

CIVIL ACTION

FILE NO. 1:17-cv-2989-AT

DECLARATION OF C. RYAN GERMANY

Pursuant to 28 U.S.C. § 1746, I, C. Ryan Germany, make the following declaration:

1. My name is Ryan Germany. I am over the age of 21 years, and I am under no legal disability which would prevent me from giving this declaration. If called to testify, I would testify under oath to these facts.

2. I am the General Counsel of the Office of the Georgia Secretary of State (“SOS” or the “Secretary”).

3. As the Court is aware, the Secretary’s office has maintained an ongoing working relationship with Fortalice Solutions, LLC (“Fortalice”), for purposes of security review of the SOS network, domains, and applications, generally. Fortalice’s work in this regard is not limited to the elections

division but also covers the Secretary's other divisions and related networks, applications, and web presence like those for Professional Licensing Boards, Corporations, and Securities Divisions. In the course of their work in this regard, Fortalice created the reports relied on by Ms. Payton in the July 2019 Preliminary Injunction Hearing, and filed with this Court at [Docs. 510-5, 510-6, 510-7].

4. Even before filing Curling Plaintiffs' Third Amended Complaint and Coalition Plaintiffs' First Supplemental Complaint asserting claims about BMD's, it has long been apparent, even before the law was amended, the bid was published, the system was purchased, and the system implemented, that Plaintiffs intended to challenge the State's BMD-based voting system.

5. To that end, after discussion and consultation, the Robbins Firm and Taylor English law firms, our outside counsel in this case, directed me to engage Fortalice in a review of the BMD system and PollPads to assess that equipment for the purpose of litigation and allegations of vulnerabilities with that equipment.

6. I then directed other SOS staff to engage Fortalice for that purpose. At the conclusion of their work, Fortalice produced the November

2019 report at issue, which is marked “attorney client privilege” on each page of the report.

7. The November 2019 Fortalice report at issue was not undertaken to provide recommendations regarding cybersecurity for the SOS network or applications, which is the purpose of previous reports that Fortalice prepares for SOS as part of regular cyber-hygiene. Fortalice does not generally provide reports on hardware for SOS. This report was different and was undertaken for the purpose of litigation that we knew was coming.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

This 31st day of August, 2020.


C. Ryan Germany