

R# 3571

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF ANTRIM

WILLIAM BAILEY

Plaintiff

Case No. 20-9238-CZ

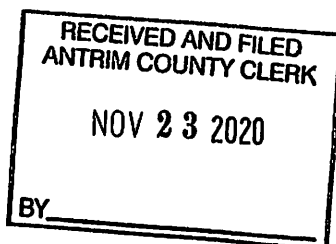
v.

ANTRIM COUNTY

HON. _____

Defendant.

Matthew S. DePerno (P52622)
DEPERNO LAW OFFICE, PLLC
Attorney for Plaintiff
951 W. Milham Avenue
PO Box 1595
Portage, MI 49081
(269) 321-5064



**PLAINTIFF'S MOTION AN *EX PARTE* TEMPORARY RESTRAINING ORDER,
SHOW CAUSE ORDER, AND PRELIMINARY INJUNCTION**

NOW COME Plaintiff, WILLIAM BAILEY, by and through his attorneys, DePERNO LAW OFFICE, PLLC, and moves this Honorable Court, pursuant to MCR 3.310 and the reasons set forth in the accompanying brief, for an *ex parte* temporary restraining order and an order to show cause why a preliminary injunction should not be issued pursuant to MCR 3.310(A) for the following reasons and for the reasons outlined in the attached brief in support.

GENERAL ALLEGATIONS

1. On November 23, 2020, Plaintiff filed a complaint with this Honorable Court.
2. The preservation of our form of government requires it to conduct its elections with accuracy and integrity, and Defendant's improper actions in the 2020 election using fraudulent equipment were neither accurate nor based on integrity.

3. Plaintiff's Verified Complaint provides eyewitness accounts and direct evidence that the Dominion Voting Systems election management system and voting machines (tabulators) ("Dominion") were shown to miscount votes cast for President Donald Trump and instead count them for Presidential Candidate Joe Biden.

4. For the reasons stated in Plaintiff's Verified Complaint, the election on November 3, 2020 in Antrim County was fraudulently manipulated.

5. For the reasons stated in Plaintiff's Verified Complaint, Defendant violated the Michigan Constitution and Michigan Election Law, specifically Mich. Const, art. 1, §2 and art. 2, §4, MCL 600.4545, MCL 600.605, and MCL 168.765(5); redressable pursuant to Mich. Const, art 2, sec 4, par 1(h); Mich. Const, art I, § 2; MCL 168.861; and MCL 600.4545(2).

6. For all the same reasons stated in Plaintiff's Verified Complaint, a protective order is necessary in this case. Defendant should be ordered to preserve and protect all evidence relevant to this case. This protection order should cover all "documents" and "computer records" used to tabulate votes in Antrim County.

7. The order also permits Plaintiff to conduct immediate discovery through a full investigation of the 22 precinct Dominion tabulators. Plaintiff will be allowed to immediately take a forensic image of the 22 precinct tabulators and conduct an investigation of those images.

8. Defendant will also not be permitted to turn on the Dominion voting machines (tabulators) in the 22 precincts in Antrim County, or (c) connect any of the Dominion voting machines (tabulators) in the 22 precincts in Antrim County to the internet.

9. Notice to Defendant was not attempted given the serious constitutional and statutory violations in this case. Moreover, there is concern that Defendant may destroy or conceal evidence unless a protective order is immediately entered. Any delay in the issuance of a

temporary restraining order until a hearing on a preliminary injunction will result in immediate and irreparable harm to Plaintiff, an Antrim County voter, and other similarly situated voters in Antrim County. The certification of Antrim County's November 2020 election results, replete with dishonesty and illegalities, undermines election accuracy and integrity and deprives Plaintiff and other similarly situated voters of Antrim County of the constitutional right of equal protection, so essential to the right to vote.

10. Plaintiffs seek an *ex-parte* temporary restraining order to enjoin the certification of the election results to ensure the accuracy and integrity of the election process. The acts personally observed and attested to by Plaintiffs and affiants demonstrate immediate and irreparable injury and any delay to give notice may precipitate further adverse actions by Defendants. Further, the loss of constitutional freedom, "for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v Burns*, 427 US 347 (1976).

11. This Motion requires immediate consideration because evidence may be destroyed. Indeed, the Dominion voting system permits destruction of evidence if the machines are turned on again following the election. Further, the Michigan Supreme Court recognizes that time-sensitive, election law cases merit immediate consideration. *Scott v Mich Dir of Elections*, 490 Mich 888, 889; 804 NW2d 119, 120 (2011).

12. Plaintiffs will suffer irreparable injury if the relief requested is not granted.

13. Plaintiffs have no adequate remedy of law if the relief requested is not granted.

14. The balance of the equities favor the maintenance of the status quo until such time as the matter is resolved in this action.

15. Because Defendant is moving forward in such a way as to deprive Plaintiff of his constitutional rights as outlined in the Verified Complaint, and in clear violation of multiple

laws, rules, and regulations a preliminary and permanent injunction restraining and enjoining Defendant from destroying evidence is the only remedy that will afford Plaintiff meaningful relief.

16. Defendant will suffer no injury in the event that the status quo is maintained.

17. Public policy strongly favors the grant of injunctive relief restraining Defendant from destroying evidence.

18. A proposed order is attached [Exhibit 1].

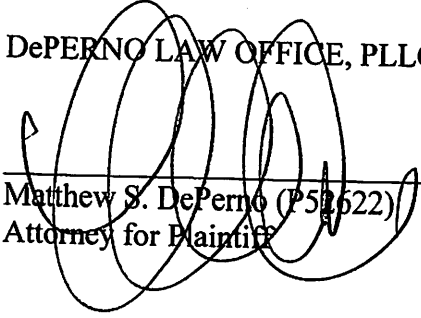
WHEREFORE, Plaintiffs request that this Court do the following:

- a. Plaintiff is immediately permitted to take a forensic image of the 22 precinct tabulators and conduct an investigation of those images, thumb drives, related software, and the Clerk's "master tabulator."
- b. Defendant be immediately enjoined and restrained, directly and indirectly, whether alone or in concert with others, including any officer, agent, employee, and/or representative of their present employers, until further order of this Honorable Court, from doing any of the following: (a) destroying any evidence related to the November 3, 2020 election; (b) turning on the Dominion voting machines (tabulators) in the 22 precincts in Antrim County, or (c) connecting any of the Dominion voting machines (tabulators) in the 22 precincts in Antrim County to the internet.
- c. Defendant be ordered to maintain the status quo until this matter can be heard by this Honorable Court.
- d. Plaintiff be granted leave to commence discovery immediately.

- e. That this order remain in full force and effect until this Honorable Court specifically orders otherwise.
- f. That a protective order issue as requested above.
- g. Award Plaintiffs' costs and attorneys' fees incurred in bringing this action and grant such other relief the Court deems appropriate and just.
- h. Defendants shall show cause before this Honorable Court on _____ at _____, or as soon thereafter as counsel may be heard, why a preliminary injunction should not be ordered according to the terms and conditions set forth above.

Respectfully submitted

DePERNO LAW OFFICE, PLLC


Matthew S. DePerno (P51622)
Attorney for Plaintiff

Dated: November 23, 2020

Exhibit 1

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ANTRIM

WILLIAM BAILEY

Plaintiff

Case No. _____

v.

ANTRIM COUNTY

HON. _____

Defendant.

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ORDER

At a session of said Court held in the Circuit Court for the County of Antrim, State of Michigan, on the ____ day of November 23, 2020

PRESENT: HONORABLE _____

Circuit Court Judge

Plaintiff has filed a Verified Complaint and Motion for Temporary Restraining Order with supporting Brief. This Honorable Court having reviewed these documents, it appears that unless this Honorable Court enters a protective order and also restrains and enjoins Defendant from destroying evidence until Plaintiff can conduct an independent forensic review of the tabulators, the integrity of the November 3, 2020 election, will be in doubt. Plaintiff will suffer irreparable harm because of the disenfranchisement of not only the voters of Antrim county, but the voters of Michigan, due to the material evidence of voter fraud committed that will sufficiently taint the results of the 2020 general election of Michigan and the United States. The Court being otherwise fully informed in the premises:

IT IS HEREBY ORDERED:

1. Plaintiff is immediately permitted to take a forensic image of the 22 precinct tabulators and conduct an investigation of those images, thumb drives, related software, and the Clerk's "master tabulator."
2. Defendant be immediately enjoined and restrained, directly and indirectly, whether alone or in concert with others, including any officer, agent, employee, and/or representative of their present employers, until further order of this Honorable Court, from doing any of the following: (a) destroying any evidence related to the November 3, 2020 election; (b) turning on the Dominion voting machines (tabulators) in the 22 precincts in Antrim County, or (c) connecting any of the Dominion voting machines (tabulators) in the 22 precincts in Antrim County to the internet.
3. This Order is binding, in accordance with MCR 3.310(C)(4), on Defendants' officers, agents, servants, employees, and attorneys and on all persons in active concert or participation with them who receive notice of this order by personal service or otherwise.
4. Defendant is enjoined from destroying all evidence in this matter and shall preserve and protect all evidence relevant to this case. This protection order should cover all "documents" and "computer records" used to tabulate votes in Antrim County.
5. Security is not required for issuing this restraining order because Defendant will not experience any monetary loss to maintain the status quo while this Honorable Court reviews this matter. Further, this is a matter of public interest.
6. Defendant will appear before this Honorable Court on the _____ day of November, 2020, at _____ to show cause why this restraining order should not be made a preliminary injunction.

7. A copy of the Summons, Complaint with all attachments, Motion for Temporary Restraining Order, Affidavits, and this Order will be served on Defendant on or before November _____ 2020, and Plaintiffs will file a proof of service.

IT IS SO ORDERED.

This is not a final order and does not resolve all claims in this Court.

Dated: November 23, 2020

Honorable
Circuit Court Judge