

CAUSE NO. _____

**JAMES MCINGVALE,
WAYNE DOLCEFINO, AND
DOLCEFINO COMMUNICATIONS,
LLC D/B/A DOLCEFINO
CONSULTING,**

Plaintiffs,

vs.

**HARRIS COUNTY ELECTIONS
ADMINISTRATOR’S OFFICE**

Defendant.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ **JUDICIAL DISTRICT**

PLAINTIFFS’ ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, JAMES MCINGVALE, WAYNE DOLCEFINO AND DOLCEFINO COMMUNICATIONS, LLC d/b/a DOLCEFINO CONSULTING (“Plaintiffs”), files this Plaintiffs’ Original Petition complaining of the HARRIS COUNTY ELECTIONS ADMINISTRATOR’S OFFICE (“Defendant” or “HCEAO”), and respectfully shows the following:

I. DISCOVERY CONTROL PLAN

1. Pursuant to TEX. R. CIV. P. 190.4, Plaintiffs request that discovery be conducted under a Level 3 discovery control plan.

II. PARTIES

2. Plaintiff, James McIngvale, is a natural person and resident of Harris County, Texas.

3. Plaintiff, Wayne Dolcefino, is a natural person and resident of Harris County, Texas.

4. Plaintiff, Dolcefino Communications, LLC d/b/a Dolcefino Consulting, is a Texas limited liability company.

5. Defendant, the Harris County Elections Administrator's Office, is the division of the Harris County, Texas government that is responsible for and oversees all elections occurring in Harris County, Texas. Defendant may be served through administrator, Clifford Tatum at 1001 Preston St. Houston, Texas 77002, or wherever he may be found.

III. JURISDICTION

6. The amount in controversy exceeds the Court's minimum jurisdictional requirements. The Court has personal jurisdiction over Defendant because Defendant is a Texas resident, and no diversity of citizenship exists.

7. Plaintiffs seek to recover monetary relief of \$100,000 or less and non-monetary relief.

8. Plaintiffs expressly disavow that any claims are being made pursuant to federal law.

IV. VENUE

9. Venue for this action is proper in Harris County because all or a substantial part of the transactions or occurrences made the basis of this lawsuit occurred in Harris County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.002.

V. NOTICE

10. Plaintiffs will show that in accordance with Texas Rules of Civil Procedure and all applicable Texas statutes, any notice required by law was given.

VI. SUMMARY

11. This case is about providing public access to information to ensure trust and confidence in Harris County elections. Voting is the language of American democracy. The ability to have a voice in choosing the elected officials whose decision impact our lives, families and communities is at the core of what it means to be an American and a Texan.

12. The preamble of the Public Information Act (“the Act”), Section 552.001 of the Texas Government Code, holds that “The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” The Act assures that government entities give citizens access to information about what public servants are doing on their behalf – information they need to gain a more complete understanding of how their government works and hold their public officials accountable.

13. Texans have the right to see how their government is spending their tax dollars and exercising the powers they have granted it. That knowledge is essential to preserving the rule of law, protecting the democratic process, and defending liberty and the Act is a critical protection for those rights. Texas government does not belong to elected officials, but to the people of Texas.

14. In recent years, elections in Harris County have been marred by a number of problems: voting-machine malfunctions, paper jams, and unusually long lines. The General Election on November 8, 2022 was no exception.

15. However, in the 2022 General Election, Harris County faced new problems. A dozen or more polling places ran out of ballots at some point during the election day. Several

polling places failed to open on time, prompting a local judge to extend voting by an hour – an extension that was later overruled by the Texas Supreme Court.

16. In a post-election assessment of the 2022 midterm elections issued by the Harris County Elections Administration, issues such as malfunctioning voting machines, short staffing, and lack of supplies were cited as causes for some of the issues on election day. The report also placed blame with the United States Postal Service for not moving mail-in ballots quickly enough and with the Astros World Series parade for causing school district closures that resulted in presiding judges at voting centers located in schools to delay set up for the election. Harris County Elections Administrator Clifford Tatum (“Tatum”) described the result of the county’s investigation into Election Day problems as “inconclusive.”

17. Between December 7, 2022 and January 23, 2023, Houston-based investigative media firm Dolcefino Communications, LLC d/b/a Dolcefino Consulting (“Dolcefino Consulting”) and President Wayne Dolcefino, at the behest and on behalf of James McIngvale submitted a number of requests for public information related to the 2022 General Election in Harris County to the Harris County Elections Administrator’s Office. On six of the requests submitted by Dolcefino Consulting, the HCEAO sought permission to withhold the requested information citing exceptions to the Act related to ongoing litigation and an anticipated/pending audit.

18. The records requested by Dolcefino Consulting are vital to the public’s comprehension of the issues that plagued the 2022 General Election in Harris County. understanding of the goings on and flaws in the 2022 General Election in Harris County,

VII. FACTUAL BACKGROUND

19. Between December 7, 2022 and January 23, 2023, Dolcefino Consulting and

President Wayne Dolcefino, at the behest and on behalf of James McIngvale, submitted a six separate requests under the Texas Public Information Act (the “Act”), seeking the production of twelve categories of documents. Those requests read as follows:

- a. December 7, 2022 (“Request One”)
 - i. PDF copies of the original detailed phone record for Clifford Tatum, on any device which Harris County election business is conduct, redacted to exclude personal phone calls and any other information made confidential under state law, between August 1, 2022 and the present. This request includes text and phone messages.
 - ii. All e-mail communications sent or received, including attachments, by Clifford Tatum on November 8, 2022.
 - iii. All e-mail communications sent or received, including attachments, between Harris County Precinct One’s office and Clifford Tatum since August 1, 2022.
- b. December 8, 2022 (“Request Two”)
 - i. Any documents detailing any maintenance issues with any election machines on November 8, 2022.
 - ii. Any documents detailing maintenance for logic and accuracy of election voting machines between October 30, 2022 and November 5, 2022.
- c. December 27, 2022 (“Request Three”)
 - i. Any documents detailing the amount of ballot paper originally provided on election day (November 8, 2022) to all precincts in Harris County.
 - ii. A document detailing the number of voters who voted at each precinct in

the Harris County 2020 election.

iii. Any emails, sent or received, including attachments, received by the Harris County Election Administrator's Office from any Harris County precinct judges regarding a shortage of paper for ballots on election day (November 8, 2022).

d. January 18, 2023 ("Request Four")

i. Any written complaints to documented phone call complaints regarding the Harris County 2022 election received by the Harris County Elections Administrator's Office or the Office of the Harris County Judge Lina Hidalgo between November 8, 2022 and the present.

e. January 18, 2023 ("Request Five")

i. A list of all polling locations for the Harris County 2020 and 2022 elections.
ii. Any emails, sent or received, including attachments, by Clifford Tatum regarding the Secretary of State audit of the Harris County 2022 election.

f. January 23, 2023 ("Request Six")

i. Any emails, sent or received, including attachments by Clifford Tatum regarding the maintenance of polling machines, supplies of ballot paper, and/or addition or removal of polling locations between May 1, 2022 and November 8, 2022.

20. The HCEAO has produced records responsive to portions of Request Three. HCEAO produced records identifying the number of voters who voted at each precinct in the Harris County 2020 and 2022 elections. The HCEAO has also produced records responsive to portions of Request Five. HCEAO produced records identifying polling locations for the Harris

County 2020 and 2022 elections. Of the twelve categories of information sought by Dolcefino Consulting, these are the only categories where HCEAO produced all records responsive to the request.

21. In response to each and every request, the HCEAO sought permission to withhold responsive information from the Office of the Texas Attorney General (“the Attorney General”). HCEAO claimed that information responsive to items in all six requests qualified for withholding pursuant to Tex. Gov’t Code Section 552.103, known as the “Litigation Exception.”

22. In their request to withhold records pursuant to the Litigation Exception, HCEAO cites three lawsuits in which Harris County is currently a party. The HCEAO claims that the information requested by Dolcefino Consulting relates to those pending suits. The HCEAO goes on to claim, in each and every request to withhold sent to the AG, that “Current events surrounding the November 8, 2022 elections has led the County to anticipate litigation. The Department has received emails threatening litigation in addition to several news sources reporting the threat of litigation in addition to investigations.”

23. The HCEAO cites three separate lawsuits as a “representative sample” of the litigation in which HCEAO is involved. Upon information and belief, these lawsuits are no longer a “representative sample” of the litigation in which HCEAO is involved – they are the only lawsuits in which HCEAO is currently involved. The lawsuits cited by HCEAO are the following:

- a. Case No. 4:22-cv-00576-P-BJ, *Strongin et.al. v. Secretary of State of Texas John B. Scott et.al.* currently pending in the United States District Court for the Northeastern District of Texas (“Strongin lawsuit”) which is a suit filed by 50 pro se litigants and claims in relevant part that Harris County Commissioners have “failed to confirm if the voting equipment” in Harris County has been properly

certified;

- b. Cause No. 2022-13773 *Hon. George Risner, Richard Vega, and Bianca Garcia v. Isabel Longoria, Election Administrator*, currently pending in the 133rd District Court (“Risner lawsuit”) which pertains to events surrounding constitutional and statutory violations of former Harris County Election Administrator Isabel Longoria during the 2022 Primary Election in February and March of 2022; and
- c. Cause No. 2022-74979 *Harris County Republican Party and Cindy Siegel, Chair of the Harris County Republican Party v. Clifford Tatum*, currently pending in the 157th District Court (“Republican Party lawsuit”) which seeks declaratory and injunctive relief for violations of Texas Election Code Section 276.019 for the improper handling of ballots, violations of the protocols for the use of the V-drive, and improper management of polling locations.

24. In addition, in response to Requests Two, Three, and Five the HCEAO claimed that items responsive to these requests qualified for withholding pursuant to Tex. Gov’t Code Section 552.116, known as the “Audit Working Papers Exception.”

25. The HCEAO claims that the information sought in Requests Two, Three, and Five is information maintained for the purposes of an audit being conducted by the Texas Secretary of State pursuant to the Texas Election Code and that the information must be maintained for the purposes of the audit. The HCEAO goes on to explain that “Harris County Elections Administration opposes the release of the requested information based on the fact that the records being maintained in conducting an audit which has been required by status and the Secretary of State.”

26. The Attorney General has not issued a ruling granting or denying HCEAO the

permission to withhold responsive information on any of the requests listed above.

VIII. CAUSES OF ACTION

A. DECLARATORY JUDGMENT

33. Plaintiffs seek declaratory relief under Chapter 37 of the Texas Civil Practice and Remedies Code (the “Texas Uniform Declaratory Judgment Act”). Section 37.004 of the Texas Uniform Declaratory Judgment Act provides that “[a] person . . . whose rights, status or other legal relations are affected by a statute . . . may have determined any question or construction or validity under the . . . statute . . . and obtain a declaration of rights, status, or other legal relations thereunder.” TEX. CIV. PRAC. & REM. CODE § 37.004(a).

34. There is a justiciable dispute between Dolcefino Consulting and the Harris County Elections Administrator’s Office considering the rights of the parties. Accordingly, Dolcefino Consulting seeks judicial declarations that:

- (1) Information responsive to Plaintiffs’ Request One shall not be withheld under Tex. Gov’t Code 552.103;
- (2) Information responsive to Plaintiffs’ Request Two shall not be withheld under Tex. Gov’t Code 552.103 or Tex. Gov’t Code 551.116;
- (3) Information responsive to Plaintiffs’ Request Three shall not be withheld under Tex. Gov’t Code 552.103 or Tex. Gov’t Code 552.116;
- (4) Information responsive to Plaintiffs’ Request Four shall not be withheld under Tex. Gov’t Code 552.103;
- (5) Information responsive to Plaintiffs’ Request Five shall not be withheld under Tex. Gov’t Code 552.103;
- (6) Information responsive to Plaintiffs’ Request Six shall not be withheld under Tex. Gov’t Code 552.103; and
- (7) the HCEAO must provide documents responsive to the above-listed requests, including cost and time of completion estimates when applicable.

B. TEXAS GOVERNMENT CODE 552.103(A) – THE LITIGATION EXCEPTION

35. Section 552.103(a) of the Government Code, excepts from public disclosure:

“Information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person’s office or employment, is or may be a party.”

36. Section 552.103(a) was intended to prevent the use of the Act as a method of avoiding the rules of discovery used in litigation.

37. This section is a discretionary exception to disclosure and does not make information confidential under the Act.

38. For information to be excepted from public disclosure by Section 552.103(a), litigation involving the governmental body must meet a two-prong test: (1) litigation must be pending or reasonably anticipated at the time of the request; and (2) the information must relate to that litigation.

39. With respect to the first prong of the test for the litigation exception - whether litigation is reasonably anticipated - must be determined on a case-by-case basis. Concrete evidence that litigation is realistically contemplated is required. There must be more than mere conjecture. The mere chance of litigation is not sufficient to trigger the litigation exception.

40. In establishing the second prong of the litigation exception, a governmental entity must establish the relatedness of the information to the subject matter of the pending or anticipated litigation. In order to meet this burden, the governmental body must identify the issues in the litigation and explain how the information relates to those issues.

C. TEXAS GOVERNMENT CODE SECTION 552.116 – AUDIT WORKING PAPER EXCEPTION

41. Section 552.116 of the Government Code excepts from public disclosure “audit working paper,” which is defined as all information prepared or maintained in conducting an audit

or preparing an audit report, including intra-agency or interagency communications and drafts of audit report.

42. Section 551.116 of the Government Code permits withholding of information created by a governmental body or used by that governmental body in conducting an audit.

D. HCEAO’S FAILURE TO MEET BURDEN FOR WITHHOLDING UNDER SECTIONS 551.103 OR 552.116.

43. With respect to Request One, HCEAO has withheld all responsive records and sought permission to withhold records from the Attorney General – seemingly indicating that they believe that all responsive records are protected by Section 552.103. In their brief to the Attorney General, HCEAO names the Strongin, Risner, and Republican Party lawsuits and claims that “The requested information relates to the complaint brought pursuant to the Constitution, the Texas Constitution, and the Texas Election’s Code.” Simply because a cause of action is brought under the Constitution, the Texas Constitution and/or the Texas Elections Code, does not mean that each and every one of the communications of the Harris County Election Administrator relates to the litigation cited by HCEAO. HCEAO fails to sufficiently explain, as the statute requires, how the information requested is related to ongoing or anticipated litigation. It is beyond the realm of comprehension that every phone call and text message sent by Clifford Tatum for four months, every e-mail communication Tatum sent on election day, and every e-mail between Tatum and Harris County Precinct One relates to ongoing or anticipated litigation. Simply because litigation pertaining to an election has been filed or is anticipated does not permit the Harris County Elections Administrator to withhold his communications simply by benefit of his office.

44. With respect to Request Two, HCEAO cannot withhold the requested information because none of the requested information relates to anticipated or ongoing litigation. Request Two seeks maintenance issues and maintenance logs for logic and accuracy of election voting

machines. HCEAO has failed to establish that any pending or ongoing litigation relates to the requested information – because it does not. The Strongin lawsuit relates to the failure of Harris County Commissioners to confirm a certification of Harris County voting equipment – yet nowhere in the 125+ page Second Amended Complaint does Strongin identify maintenance requirements for certification or maintenance issues with Harris County voting machines. The Risner lawsuit relates to issues that predate Request Two. The Republican Party lawsuit alleges violations of the protocols for damaged ballots or ballots that cannot be scanned. This lawsuit does not relate to the maintenance of the voting machines, but simply to the failures of the HCEAO when the voting machines malfunctioned.

45. Further, HCEAO cannot withhold the information sought in Request Two. HCEAO has mischaracterized Section 552.116 of the Government Code. The Audit Working Papers exception permits a governmental entity to withhold information used by that governmental entity in an audit conducted by the governmental entity. It does not permit the withholding of information used in an audit conducted by a separate government entity. In HCEAO's request to Attorney General to withhold the information, HCEAO cites Tex. Att'y Gen. Op. OR2012-03989 (2012), involving a request to the Brownsville Independent School District. HCEAO claims that the Attorney General's office concluded that information could be withheld based on an ongoing forensic audit and because the information was preliminary in nature and part of an ongoing process to create the final audit report. What HCEAO fails to mention is that the information requested was a copy of an audit being conducted by the Brownsville Independent School District of the Brownsville Independent School District. The Attorney General permitted withhold as the audit was not complete at the time of the request. This is not the case at hand with respect to Request Two. The Texas Secretary of State is conducting an audit authorized by statute. HCEAO

has received instructions to maintain the requested records for the purposes of the audit – which simply just requires HCEAO to preserve the documents as they exist and not destroy them prior to the completion of the audit. The instructions to maintain the requested records does not prohibit their disclosure under the Act.

46. With respect to Request Three, HCEAO can establish that the information requested is related to the Republican Party litigation. However, the Republican Party litigation was filed on November 14, 2022. The only document that has been filed in the case is Plaintiffs' Original Petition. No case information sheet, request for citation, answer, or other document has been filed in the case. This litigation has effectively sat stagnant for nearly 90 days. To permit HCEAO to withhold records related to litigation that the opposing party has taken no steps to prosecute, defies entirely the purpose and spirit of the Act and permits HCEAO to withhold information critical to the understanding of the failings of the 2022 General Election.

47. Further, HCEAO cannot withhold the information sought in Request Three. HCEAO has mischaracterized Section 552.116 of the Government Code. The Audit Working Papers exception permits a governmental entity to withhold information used by that governmental entity in an audit conducted by the governmental entity. It does not permit the withholding of information used in an audit conducted by a separate government entity. In HCEAO's request to Attorney General to withhold the information, HCEAO cites Tex. Att'y Gen. Op. OR2012-03989 (2012), involving a request to the Brownsville Independent School District. HCEAO claims that the Attorney General's office concluded that information could be withheld based on an ongoing forensic audit and because the information was preliminary in nature and part of an ongoing process to create the final audit report. What HCEAO fails to mention is that the information requested was a copy of an audit being conducted by the Brownsville Independent School District

of the Brownsville Independent School District. The Attorney General permitted withhold as the audit was not complete at the time of the request. This is not the case at hand with respect to Request Three. The Texas Secretary of State is conducting an audit authorized by statute. HCEAO has received instructions to maintain the requested records for the purposes of the audit – which simply just requires HCEAO to preserve the documents as they exist and not destroy them prior to the completion of the audit. The instructions to maintain the requested records does not prohibit their disclosure under the Act.

48. HCEAO has failed to produce any information responsive to Request Four – seeming to indicate that they believe that each and every written complaint or documented phone call complaint relates to the ongoing litigation. It is beyond comprehension that the entire body of complaints regarding the 2022 election relates to the Strongin, Risner, or Republican Party lawsuits. Complaints about things like parking, the number of voting machines, the demeanor of poll workers, and other general complaints certainly don't relate to the litigation identified by HCEAO.

49. HCEAO has additionally failed to produce information responsive to Request Five, Item 2. HCEAO has requested to withhold any emails sent by Clifford Tatum regarding the Secretary of State audit of the Harris County 2022 election. None of the litigation identified by HCEAO pertains in any way to the audit being conducted by the Secretary of State and as a result, none of the e-mail communication Mr. Tatum has sent regarding that audit can be withheld.

50. Further, HCEAO cannot withhold the information sought in Request Five. HCEAO has mischaracterized Section 552.116 of the Government Code. The Audit Working Papers exception permits a governmental entity to withhold information used by that governmental entity in an audit conducted by the governmental entity. It does not permit the withholding of information

used in an audit conducted by a separate government entity. In HCEAO's request to Attorney General to withhold the information, HCEAO cites Tex. Att'y Gen. Op. OR2012-03989 (2012), involving a request to the Brownsville Independent School District. HCEAO claims that the Attorney General's office concluded that information could be withheld based on an ongoing forensic audit and because the information was preliminary in nature and part of an ongoing process to create the final audit report. What HCEAO fails to mention is that the information requested was a copy of an audit being conducted by the Brownsville Independent School District of the Brownsville Independent School District. The Attorney General permitted withhold as the audit was not complete at the time of the request. This is not the case at hand with respect to Request Five. The Texas Secretary of State is conducting an audit authorized by statute. HCEAO has received instructions to maintain the requested records for the purposes of the audit – which simply just requires HCEAO to preserve the documents as they exist and not destroy them prior to the completion of the audit. The instructions to maintain the requested records do not prohibit their disclosure under the Act.

51. Finally, with respect to Request Six, HCEAO has withheld all responsive records, seemingly arguing that all responsive information relates to the litigation identified by HCEAO. This is patently false. As established above, there is no ongoing litigation regarding the maintenance of polling machines. There is no litigation ongoing about the addition or removal of polling locations between May 1, 2022 and November 8, 2022. With respect to the withholding of information relating to the supplies of ballot paper, HCEAO can establish that the information requested is related to the Republican Party litigation. However, the Republican Party litigation was filed on November 14, 2022. The only document that has been filed in the case is Plaintiffs' Original Petition. No case information sheet, request for citation, answer, or other document has

been filed in the case. This litigation has effectively sat stagnant for nearly 90 days. To permit HCEAO to withhold records related to litigation that the opposing party has taken no steps to prosecute, defies entirely the purpose and spirit of the Act and permits HCEAO to withhold information critical to the understanding of the failings of the 2022 General Election.

52. HCEAO cannot meet the burden that withholding under 552.103 or 552.116 requires and the requested information must be released.

53. Plaintiffs seek an equitable and just award of reasonable and necessary attorney fees under TEX. CIV. PRAC. & REM. CODE § 37.009.

E. SECTIONS 552.103 AND 552.116 AS DISCRETIONARY EXCEPTIONS

54. The preceding paragraphs are incorporated for all purposes.

55. Pleading further and in the alternative, if necessary, the litigation exception and audit working papers exception are discretionary exceptions to the Act. When an exception is discretionary, information may be released to the public that is protected under the Act's exceptions to disclosure but not deemed confidential by law.

56. With recent threats to the integrity of the electoral process in the United States – like Russian interference in the 2016 election and the January 6, 2021 insurrection at the US Capitol, faith in the sanctity, security, and accuracy of elections has never been more paramount in importance.

57. In recent years, elections in Harris County have been marred by a number of problems: voting-machine malfunctions, paper jams, and unusually long lines. The General Election on November 8, 2022 was no exception.

58. However, in the 2022 General Election, Harris County faced additional new problems. A dozen or more polling places ran out of ballots at some point during the election day.

When polling places ran out of ballots, voters were turned away. Several polling places failed to open on time, prompting a local judge to extend voting by an hour – an extension that was later overruled by the Texas Supreme Court.

59. In a post-election assessment of the 2022 midterm elections issued by the HCEAO, issues such as malfunctioning voting machines, short staffing, and lack of supplies were cited as causes for some of the issues on election day. The report also placed blame with the United States Postal Service for not moving mail-in ballots quickly enough and with the Astros World Series parade for causing school district closures that resulted in presiding judges at voting centers located in schools to delay set up for the election. Harris County Elections Administrator Clifford Tatum described the result of the county’s investigation into Election Day problems as “inconclusive.”

60. In December 2022, the Texas Secretary of State released the findings of a full forensic audit conducted in Harris, Dallas, Collin, and Tarrant Counties and the findings in the Harris County audit were startling. Mobile ballot boxes containing 184,999 cast vote records that were included in the tally did not have a proper chain of custody. Documentation for the creation of 17 mobile ballot boxes accounting for 124,630 cast vote records could not be produced. Harris County did not have an inventory of their warehoused records for the 2020 elections. Harris county was the only county that did not produce a list of Early Voting or Election Day polling locations that had a discrepancy of one percent or more between the number of voters checked in to the number of votes cast. These records are a basic reconciliation and should have been easily produced. The Secretary of State’s Forensic Audit Division was not allowed to speak to pertinent staff until October 2022 – the month before the 2022 General Election – to address issues with 2020 Tally Audit Log.

61. The investigation of voting and election issues is tedious and time-consuming without transparency issues. With transparency issues, these investigations border on the impossible. The Secretary of State's forensic audit of the 2020 election was released after the 2022 general election occurred, making it impossible to acknowledge the issues found in the audit and implement appropriate solutions. This is not an uncommon issue for voting/election audits to encounter. The inability of governmental bodies to provide voting/election audits in a manner timely enough to allow for remediation of the issues identified is not an uncommon issue. However, voters deserve accurate, transparent, timely information about elections and voting.

62. If the HCEAO is permitted to withhold the information responsive to Dolcefino Consulting's Requests One through Six, the issues plaguing Harris County year after year, like voting machine malfunctions, paper jams, and long lines will persist. Issues like running out of ballots and polls opening later will not be resolved prior to the next election. The next election runs the risk of being plagued with additional issues as the issues from the election prior will not have been resolved. The persons responsible for the myriad of problems during the 2022 election need to be held responsible – and promptly. Continued faith and assurance in Harris County's democratic process demands it. HCEAO should be ordered to produce the information requested by Dolcefino Consulting.

VIII. ATTORNEY'S FEES

63. Pursuant to Chapter 37 of the Texas Civil Practice & Remedies Code and Chapters 551 and 552 of the Texas Government Code, Plaintiffs specifically request that it be awarded reasonable attorney fees and costs.

IX. PRE- AND POST-JUDGMENT INTEREST

64. Plaintiffs seek pre-judgment and post-judgment interest at the highest allowable rate

under Texas law.

X. RESERVATION OF RIGHTS

65. Plaintiffs reserve the right to prove damages at trial. Plaintiffs further reserve the right to amend this Petition to add additional causes of action and/or parties as discovery continues.

XII. CONDITIONS PRECEDENT

66. Pursuant to Rule 54 of the Texas Rules of Civil Procedure, all conditions precedent to Plaintiffs' rights to recover and Defendant's liability have been performed or have occurred.

XIII. JURY DEMAND

67. Plaintiffs demand a trial by jury on all issues and tenders the applicable fee.

XIV. REQUEST FOR DISCLOSURE

68. Pursuant to TEX. R. CIV. P. 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose, within 30 days of service of this request, the information or material described in TEX. R. CIV. P. 194.2 (a) through (l).

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, James McIngvale, Wayne Dolcefino and Dolcefino Communications, LLC d/b/a Dolcefino Consulting pray that citation be issued and served upon Defendant, the Harris County Elections Administrator's Office, commanding Defendant to appear and answer this lawsuit and that upon final hearing of this cause, that Plaintiffs have a judgment against Defendant in an amount to be determined by the Court and Jury, for all damages, plus pre-judgment interest and post-judgment interest, costs of Court, attorney fees, mandamus relief, and for such other and further relief, at law or in equity, both general and special, to which Plaintiffs may be entitled.

DATED: February 13, 2023.

Respectfully submitted,

JEFF DIAMANT, PC



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