UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

GREAT AMERICA PAC,
STOP HILLARY PAC, and
RONALD R. JOHNSON,

Plaintiffs,

-against-

WISCONSIN ELECTIONS COMMISSION,
and MICHAEL HAAS, in his official capacity
as ADMINISTRATOR OF THE WISCONSIN
ELECTION COMMISSION,

Defendant,

JILL STEIN,

Intervenor.

No. 16 Civ. 00795

INTERVENOR JILL STEIN'S MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

PRELIMINARY STATEMENT

For the past week, Wisconsin has been conducting an orderly recount of the votes cast for President of the United States across the state on November 8. There is absolutely no evidence—none—that there is anything significantly irregular or chaotic about the recount. Against this backdrop, Plaintiffs' desperate desire to stop the recount in its tracks could charitably be described as bizarre.

As Dane County Circuit Court Judge Valerie Bailey-Rihn explained after hearing evidence of the need for a recount: "A recount isn't a threat. Instead, it should be an affirmation of the democratic process." Ex. A at 145.[1] Plaintiffs wish to subvert that democratic process. One might reasonably ask: What are they so afraid of?

The people of Wisconsin deserve to have faith in the integrity of the 2016 presidential election. That is why the Wisconsin legislature provided candidates a statutory right to seek a recount and it is why Jill Stein and her campaign petitioned for a recount. The Wisconsin Elections Commission is proceeding with a recount in accordance with Wisconsin law. Moreover, a recount is particularly important for voters to have confidence in the result, given the vulnerability of Wisconsin's voting system to cyberattacks and the evidence that foreign operators apparently used cyberattacks as part of a comprehensive strategy to influence the outcome of the presidential election.

There is no basis whatsoever for this Court to intervene to halt the recount.

ARGUMENT

"A preliminary injunction is an extraordinary equitable remedy that is available only when the movant shows clear need." *Turnell v. CentiMark Corp.*, 796 F.3d 656, 661 (7th

[1] All citations in the form "Ex. __" refer to the exhibits attached to the accompanying Declaration of David A. Lebowitz.

Cir. 2015). The court must undertake "a two-step analysis to decide whether such relief is warranted," first requiring Plaintiffs to show that "(1) absent preliminary injunctive relief, [they] will suffer irreparable harm in the interim prior to a final resolution; (2) there is no adequate remedy at law; and (3) [they have] a reasonable likelihood of success on the merits." *Id.* at 661-62. "If the movant makes the required threshold showing, then the court proceeds to the second phase, in which it considers: (4) the irreparable harm the moving party will endure if the preliminary injunction is wrongfully denied versus the irreparable harm to the nonmoving party if it is wrongfully granted; and (5) the effects, if any, that the grant or denial of the preliminary injunction would have on nonparties (the 'public interest')." *Id.* at 662. "The court weighs the balance of potential harms on a 'sliding scale' against the movant's likelihood of success: the more likely he is to win, the less the balance of harms must weigh in his favor; the less likely he is to win, the more it must weigh in his favor." *Id.*

Because Plaintiffs cannot succeed on the merits and will suffer no irreparable harm in the absence of preliminary relief—and because a preliminary injunction would cause irreparable harm to Dr. Stein and innumerable voters across Wisconsin, undermining the public interest—Plaintiffs' motion must be denied.

I. PLAINTIFFS HAVE NO CHANCE OF SUCCESS ON THE MERITS

A. Wisconsin's Recount Procedure Complies with Equal Protection

Plaintiffs seek to strike down Wisconsin's recount procedures because they are animated by legislative desire to discern voter intent. Their staggering theory would invalidate standards for counting votes used across the United States. *See, e.g.*, Ariz. Rev. Stat. § 16-645(A) ("the apparent intent of the voter shall be taken into consideration to the extent possible"); Conn. Gen. Stat. § 9-150a(j) ("the intent of the voter shall govern"); Ind. Code § 3-12-1-1 ("the primary factor to be considered in determining a voter's choice on a ballot is the

intent of the voter"); Me. Rev. Stat., Tit. 21-A, § 1(13) (employing "apparent intent of the voter" standard); Md. Ann. Code, Art. 33, § 11-302(d) ("the clarity of the intent of the voter is the overriding consideration in determining the validity of an absentee ballot or the vote cast in a particular contest"); 950 Mass. Code Regs. §52.04(16) ("All votes should be counted for the persons for whom they were intended, so far as the intent can be clearly ascertained from the ballots themselves."); Mo. Rev. Stat. § 115.453(3) ("The judges shall count votes marked substantially in accordance with this section . . . when the intent of the voter seems clear."); N.M. Stat. § 1-1-5.2(B)(4) (hand-tallied paper ballot votes should be counted where "the presiding judge and election judges for the precinct unanimously agree that the voter's intent is clearly discernable"); Tex. Elec. Code § 65.009(c) ("A vote on an office or measure shall be counted if the voter's intent is clearly ascertainable unless other law prohibits counting the vote."); Utah Code § 20A-4-104(56(b) ("the poll workers shall count the valid write-in vote as being the obvious intent of the voter"); Vt. Stat. § 2587(a) ("In counting ballots, election officials shall attempt to ascertain the intent of the voter, as expressed by markings on the ballot . . . ."); Va. Code § 24.2-644(A) ("Any ballot marked so that the intent of the voter is clear shall be counted."); Wash. Rev. Code § 29A.60.021(1) ("Any abbreviation used to designate office or position will be accepted if the canvassing board can determine, to its satisfaction, the voter's intent."); Wyo. Stat. § 22-14-114 (machine-rejected ballots can be counted by human tabulation "when the intent of the voter is unmistakable"). Plaintiffs articulate no basis in law or fact that would justify the sweeping order they seek, because none exists.

1. Determining Voter Intent During this Recount Is Not Arbitrary

"No balloting system is perfect." *Weber v. Shelley*, 347 F.3d 1101, 1106 (9th Cir. 2003). There is no system for tabulating votes that could magically ensure that the criteria used to count every single one of the millions of ballots cast across Wisconsin in a presidential

election are precisely identical in every possible respect, no matter how minute. This would require that not a single scanner ever be mis-calibrated, that not a single recount worker be capable of even the slightest misjudgment. But the constitution does not demand the impossible: "unavoidable inequalities in treatment . . . do not violate equal protection," for they exist "whenever lines have to be drawn." *Griffin v. Roupas*, 385 F.3d 1128, 1132 (7th Cir. 2004) (rejecting equal protection challenge to Illinois absentee voting laws). Nothing in *Bush v. Gore*, 531 U.S. 98 (2000), requires unrealistic total uniformity; the majority opinion does not quarrel with the commonsense proposition that election officials, "in the exercise of their expertise, may develop different systems for implementing elections" so long as those systems are fundamentally fair and equal. *Id.* at 109; *see also Wexler v. Anderson*, 452 F.3d 1226, 1232-33 (11th Cir. 2006) (rejecting *Bush v. Gore* challenge to manual recount procedures that varied by county and finding that "[t]he differences between these procedures are necessary given the differences in the technologies themselves and the types of errors voters are likely to make in utilizing those technologies").

Rather, the Supreme Court in *Bush v. Gore* relied on a carefully developed evidentiary record to arrive at its conclusion that in the Florida 2000 recount, "the standards for accepting or rejecting contested ballots might vary not only from county to county but indeed within a single county from one recount team to another." *Bush*, 531 U.S. at 106 (citing trial testimony that different members of the Miami-Dade County canvassing board "applied different standards in defining a legal vote" and that "at least one county changed its evaluative standards during the counting process"). Here, by contrast, Plaintiffs do not offer a single shred of admissible evidence to support their claims that the Wisconsin recount is likewise tainted. *See* Pls. Statement of Record Facts, ¶ 3.

The reality is that the paper ballots used in Wisconsin can be counted much more easily and reliably than the punched card paper ballots that were recounted in Florida during the 2000 presidential election. Affidavit of J. Alex Halderman ("Halderman Aff."), ¶ 24. The Florida recounts of 2000 raised serious questions about determining voter intent that are not raised in the 2016 Wisconsin recount. Declaration of Douglas W. Jones ("Jones Decl."), ¶ 22. During the Florida recount, it was generally agreed that a piece of chad hanging by one corner was intentionally punched by the voter, while a piece of chad hanging by three or more corners was agreed by most to be unpunched. Chads hanging by two corners were the subject of debate. *Id.*, ¶ 24. However, experimental evidence subsequently revealed that standards based on the number of detached corners make no sense because the effect of the amount of force a voter used varied widely depending on how well the voting machine was maintained. Whether a chad was merely dimpled or pushed out entirely was more a reflection of maintenance history than voter intent. *Id.*, ¶ 26. Additionally, the punched card ballots used in Florida are fragile, so each time they were counted, the record of voters' intent could be inadvertently altered. *Id.*, ¶ 30.

In contrast, paper ballots marked with a pen or pencil are very close to our everyday experience. Based on years of formal study and informal experience, the average person can easily distinguish erasures and smudges from deliberate marks and can easily discern intent in people's marks on paper. *Id.*, ¶ 28. An inspector looking at an optical scan ballot has years of real-life experience to understand the voters' likely purpose in marking an X, for example. The inspector, based on his years of experience with pen/pencil marks, can discern the import of that X in a way that an inspector looking at a hanging chad could not. *Id.*, ¶ 29.

For these reasons among others, in the post-punch-card era, "intent of the voter" tabulation standards analogous to Wisconsin's have repeatedly survived challenges invoking

Bush v. Gore. *See, e.g.*, *Miller v. Treadwell*, 736 F. Supp. 2d 1240, 1244 (D. Alaska 2010); *Wexler v. Lepore*, 342 F. Supp. 2d 1097, 1107-08 (S.D. Fla. 2004) (upholding Florida's standards for interpreting voter intent as revised after *Bush v. Gore* in light of adoption of "specific rules for each certified voting system, prescribing what constitutes a voter's definite choice"); *New Mexico ex rel. League of Women Voters v. Herrera*, 203 P.3d 94, 98 (N.M. 2009) (rejecting equal protection challenge to "voter's intent" standard where state "guidelines . . . provide[d] clear context and guidance for local election officials"). All the constitution requires is that the general search for voter intent "be confined by specific rules designed to ensure uniform treatment." *Bush*, 531 U.S. at 106. Wisconsin's specific and detailed rules amply satisfy that test.

2. Wisconsin Law and Administrative Guidance Contain Sufficiently Specific Rules to Impose Uniformity on the Search for Voter Intent

In sharp contrast to the situation in the 2000 Florida recount, Wisconsin statutory law, case law, and agency statements provide ample guidance on interpreting voter intent. Consistent with "Wisconsin's longstanding tradition of giving effect to the will of the voter," *Roth v. Lafarge Sch. Dist. Bd. of Canvassers*, 2004 WI 6, ¶ 25, 268 Wis. 2d 335, 350, 677 N.W.2d 599, 606, a Wisconsin voter will not have his or her ballot rejected simply because the voter did not "fully comply" with the ballot-marking instructions, Wis. Stat. § 7.50(2). Instead, the Wisconsin statutes include nearly 1,000 words describing, in precise detail, how a ballot inspector should ascertain voter intent when a ballot is mis-marked. *Id.*

To take just a few examples of the precision in the Wisconsin code: If the voter places an "X" or other mark in the "space in which" the candidate's name appears, that indicates an intent to vote for that candidate. Wis. Stat. § 7.50(2)(c). And if the voter marks the proper space for a candidate and also "writes in" that candidate's name (sometimes called an

"enthusiastic voter," Jones Decl., ¶ 20), the vote counts as the vote for that candidate. Wis. Stat. § 7.50(2)(d). At bottom, if there is a "qualifying mark in a qualifying place on the ballot at issue," the vote counts so as to give effect to the will of the voter. *Roth,* 268 Wis. 2d at 351, 677 N.W.2d at 607.

To further ensure uniformity, drawing on these statutory provisions, the Wisconsin Elections Commission—the state agency with statutory responsibility for election administration, *see* Wis. Stat. § 5.05—has provided resources for local officials to rely upon in carrying out its recount order. The Wisconsin Elections Commission has prepared several written guides designed to be accessible to the laypeople who inspect ballots, as well as a comprehensive mandatory training webinar. The Commission's November 29, 2016 Recount Order specifies that "[t]he recount shall be conducted using the procedures established by the Wisconsin Elections Commission's Recount Manual (November 2016) and the November 30, 2016 webinar presentation, which are incorporated into this Order by reference herein." Ex. B, ¶ 4.

The first of these resources, the "Election Recount Procedures" manual, contains detailed guidance for officials to carry out the recount process. *See generally* Ex. C. That document, in turn, requires each board of canvassers to review an *additional* "Counting Votes" manual "prior to the recount." Ex. C at 10. The Counting Votes Manual, in turn, contains additional guidance about interpreting voter intent. *See generally* Ex. D. A third distinct manual, the Election Day Manual, provides further standardized guidelines for determining voter intent that are applicable statewide. *See* Ex. E at 107-122. The Election Day Manual even contains pages of illustrated examples discussing whether and how a vote should be counted based on various ballot-marking scenarios. *Id.* at 115-22. The Commission also makes its staff

available to answer questions and address concerns throughout the recount process. *See* Ex. C at 14 (providing contact information).

The November 30, 2016 training webinar—which was mandatory for all County Clerks in Wisconsin—provided a further source of guidance to local officials. The Wisconsin Elections Commissions spent nearly two hours providing detailed training to the responsible officials in each county on recount procedures. *See generally* Ex. F. Courts have held that such uniform training is sufficient to guard against the potential for arbitrary or unequal vote counting. *See, e.g.*, *Lemons v. Bradbury*, 538 F.3d 1098, 1106 (9th Cir. 2008) (rejecting challenge to Oregon's referendum signature verification procedures under *Bush v. Gore* where Secretary of State "sponsors signature verification training sessions, and county elections officials regularly attend these sessions and use the materials provided"); *In re Contest of Gen. Election Held on Nov. 4, 2008*, 767 N.W.2d 453, 466 (Minn. 2009) (rejecting *Bush v. Gore* challenge raised in Minnesota senatorial election contest proceeding in light of "clear statutory standards for acceptance or rejection of absentee ballots, about which all election officials received common training").

These resources, in combination, prescribe the ballot inspectors' procedure in determining voter intent and cabin any exercise of discretion; Professor Douglas Jones concluded that Wisconsin provides "excellent guidance" to elections officials regarding how to ascertain voter intent. *See* Jones Decl., ¶¶ 16-21. That was the legislative purpose in enacting § 7.50(2)(c): "to minimize a board's discretion," as the Wisconsin Supreme Court has explained. *Roth*, 268 Wis. 2d at 351, 677 N.W.2d at 607. Wisconsin's procedures "provide excellent guidance for ascertaining voter intent," Jones Decl., ¶ 19, and "diminish the chance that different

ballot examiners will apply the 'intent of the voter' standard differently," *id.*, ¶ 21. The Constitution requires no more.

Moreover, Wisconsin provides ample procedural protection to resolve disputes, further diminishing any likelihood that one ballot inspector will act aberrantly. The decisions of the election inspectors are reviewable by the board of canvassers conducting the recount. Wis. Stat. §§ 7.50, 7.51, 7.60. The board of canvassers' decision is appealable—potentially, even up to the Wisconsin Supreme Court. *Roth*, 268 Wis. 2d at 341–42, 677 N.W.2d at 602 (resolving dispute about ballot marking and stating that "with proper application of Wis. Stat. § 7.50(2)(c) the intent of the voter becomes readily ascertainable").

Plaintiffs' attempt to compare this elaborate guidance to the bare-bones "intent of the voter" standard created by the Florida Supreme Court—without legislation, without case-law applying the rule, without a state agency providing interpretive manuals—is baseless. Moreover, while Plaintiffs attempt to parse this careful language to claim that the rules *create* discretion in some hypothetical case, they have presented no evidence that a single rule to determine voter intent has been applied differentially in this recount process.

B. Plaintiffs Present No Evidence that Wisconsin's Recount Is So Rushed or Chaotic as to Violate the Due Process Clause

Citing zero relevant authorities, Plaintiffs press baseless assertions that the recount will be "rushed" or "chaotic" and therefore violate the Due Process Clause in some unspecified way. Their claims are without basis in the law and rest on no more than rank speculation.

"The Due Process Clause is implicated" only "in the exceptional case where a state's voting system is fundamentally unfair." *League of Women Voters of Ohio v. Brunner*, 548 F.3d 463, 478 (6th Cir. 2008). Plaintiffs notably fail to submit a single affidavit from a

single witness testifying that the recount is proceeding in anything other than an orderly manner in any of the 72 counties around the State. To the contrary, the Wisconsin Elections Commission has publicly stated that "no significant issues have been reported" and that "[a]ll Wisconsin counties are on track to finish their work by the deadline of 8 p.m. Monday, December 12." Ex. G. There is certainly no basis to believe that the recount will result in "significant disenfranchisement and vote dilution," as would be necessary to establish a violation of due process, *see Warf v. Bd. of Elections*, 619 F.3d 553, 559 (6th Cir. 2010).

The information upon which Plaintiffs rely comes from two news articles. One, dated nearly a week before the recount actually began, attributes to Wisconsin Elections Commission Director Mike Haas—without a supporting quotation—the vague sentiment that "he is concerned that some counties will be challenged to finish on time." Compl. Ex. 1 at 3. The other, which also pre-dates the actual start of the recount, vaguely states that the timing of the recount is "a challenge that will play out across the state." Compl. Ex. 2 at 3. Of course, these statements are inadmissible hearsay and cannot be possibly be considered here. *Clancy v. Office of Foreign Assets Control*, No. 05-C-580, 2007 WL 1051767, at *13 (E.D. Wis. Mar. 31, 2007). The statements are also highly misleading, and fail to take into account (among other omissions) that:

- Dr. Stein has paid $3.5 million to satisfy cost estimates *provided by the counties themselves* to cover the logistical requirements of completing the recount by the night of December 12, *see* Ex. B, and the Elections Commission expressly authorized the counties to bill Dr. Stein's campaign for "things like overtime or other costs that you may have just because we only

have essentially 12 days to complete this," Ex. F at 17 ("The cost should not be something that keeps you back from completing this on time.");

- Mr. Haas and the Elections Commission have publicly stated repeatedly since the recount began that it is occurring in an orderly manner and is slated to conclude timely, *see* Ex. G;
- Publicly available statistics about the recount process to date confirm that there is no risk of a chaotic scramble to finish on time. Thirty-four counties have already concluded their recounts, *see* Affidavit of Michael Haas, ¶ 4, and the most recent figures available from the Elections Commission show that approximately 2,175,897 of the 2,939,293 ballots cast on election day—over 74%—have already been recounted. *See* Ex. H. At the current pace—more than 362,000 ballots recounted on average each day since the statewide recount began—the recount should conclude Friday.

There is no merit to Plaintiffs' unsubstantiated attempts to claim that the recount process is being conducted in a fundamentally unfair matter sufficient to violate their constitutional rights. Accordingly, they cannot succeed on the merits of their due process claim.

II. PLAINTIFFS HAVE MADE NO SHOWING OF IRREPARABLE HARM, WHEREAS ENJOINING THE RECOUNT WOULD IRREPARABLY HARM DR. STEIN AND WISCONSIN'S VOTERS AND WOULD UNDERMINE THE PUBLIC INTEREST

The Seventh Circuit has made clear that "speculative injuries do not justify" the "extraordinary remedy" of a preliminary injunction. *E. St. Louis Laborers' Local 100 v. Bellon Wrecking & Salvage Co.*, 414 F.3d 700, 704 (7th Cir. 2005). But as demonstrated above, Plaintiffs' request for equitable relief relies *exclusively* on speculation about the parade of horribles that they imagine may result from a statewide recount. Plaintiffs have submitted

absolutely no evidence—and certainly no admissible evidence—that they will suffer irreparable harm in the absence of preliminary relief. As detailed *supra*, all evidence indicates that the recount is proceeding in an orderly manner and will be complete by the December 12 deadline set by the Wisconsin Elections Commission. Under the circumstances, Plaintiffs' unexplained decision to wait until the recount was already underway to sue should not be rewarded with an opportunity to disrupt the process. *See Nader v. Keith*, 385 F.3d 729, 736 (7th Cir. 2004) (denying preliminary relief as "inequitable" where "any remedial order would throw the state's preparations for the election into turmoil").

By contrast, Dr. Stein and Wisconsin's voters would suffer irreparable harm of constitutional magnitude if the recount were enjoined. As the Sixth Circuit recognized yesterday with respect to Dr. Stein's recount petition in Michigan, the loss of a "state-recognized recount right" is a "severe burden" on First and Fourteenth Amendment election rights. Ex. I at 6, *Stein v. Thomas*, No. 16-2690, Slip Op. at 6 (6th Cir. Dec. 6, 2016). Any impediment to such rights constitutes "an extremely strong showing of irreparable harm." *Id.* at 5. Because Wisconsin provides a "right to a recount . . . designed to ensure a fair and accurate election," "the loss of a recount right would impair the right to vote." *Stein v. Thomas*, No. 16-14233, 2016 WL 7046022, at *2 (E.D. Mich. Dec. 5, 2016) (granting temporary restraining order to commence statewide recount), *aff'd*, *Stein v. Thomas*, No. 16-2690 (6th Cir. Dec. 6, 2016) (order affirming temporary restraining order).[2] Abridgement of the right to vote is a particularly acute constitutional violation that constitutes irreparable injury *per se*. *Touchston v. McDermott*, 234 F.3d 1133, 1158-59 (11th Cir. 2000) ("[B]y finding an abridgement to the voters' constitutional right to vote, irreparable harm is presumed and no further showing of injury need be made.");

[2] On December 7, 2016, the Eastern District of Michigan dissolved the temporary restraining order on grounds not applicable here.

Williams v. Salerno, 792 F.2d 323, 326 (2d Cir. 1986) (unjustified infringement of the right to vote constitutes "irreparable harm"); *see also Elrod v. Burns*, 427 U.S. 347, 373 (1976) (the loss of First Amendment freedoms, for even minimal periods of time, unquestionable constitutes irreparable injury.").

Finally, enjoining the recount would severely undermine the public interest by undercutting Wisconsin voters' fundamental "right to vote, and to have that vote conducted fairly and counted accurately." *Stein*, 2016 WL 7046022, at *3 (granting temporary restraining order to commence statewide recount). This right "is the bedrock of our Nation. Without elections that are conducted fairly—and perceived to be fairly conducted—public confidence in our political institutions will swiftly erode." *Id*. The unique circumstances of the 2016 presidential election particularly compel the conclusion that completing a recount is in the public interest. "The 2016 presidential election was subject to unprecedented cyberattacks apparently intended to interfere with the election." Halderman Aff., ¶ 7. American voting systems, including those employed in Wisconsin in 2016, are seriously vulnerable to attack. *See id.*, ¶¶ 10-14. A recount is the only way to truly ensure the integrity of the 2016 election results. *See id.*, ¶¶ 15-18; Jones Decl., ¶ 12. And because "a recount significantly improves the voters' likelihood of having their votes counted as intended and diminishes the impact of local variations," Jones Decl., ¶ 15, proceeding with the recount best serves Wisconsin's laudable public policy of giving effect to voter intent.

III. IF THE COURT GRANTS A PRELIMINARY INJUNCTION, PLAINTIFFS MUST BE REQUIRED TO POST A BOND IN THE AMOUNT OF $3,499,689

"The court may issue a preliminary injunction . . . only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c). Dr. Stein has paid nearly $3.5 million in accordance with Wisconsin law to cover the estimated costs

of the statewide recount. *See* Ex. B at 1; Wis. Stat. § 9.01(ag)(2). Under state law, Dr. Stein is entitled to a refund of those funds—or a portion thereof—only if it is determined that she "overpaid" the costs of a refund. *See id.* § 9.01(ag)(3m). But the recount is mostly completed, meaning that—presumably—those funds have already been largely exhausted. Should this Court enjoin the recount, Dr. Stein will potentially be out millions of dollars and have only a meaningless, incomplete recount to show for it.

The Seventh Circuit has held that when "setting the amount of security" on a preliminary injunction order, "district courts should err on the high side." *Mead Johnson & Co. v. Abbott Labs.*, 201 F.3d 883, 888 (7th Cir. 2000). Even if Plaintiffs are required to post a bond, Dr. Stein will only be entitled to recover her proven losses in the event an injunction is granted erroneously. *See id.* According to information available on the website of the Federal Election Commission, Plaintiff Stop Hillary PAC raised over $6 million in the 2016 election cycle, and had over $1 million cash on hand as of November 20, 2016. *See* Ex. J. Plaintiff Great America PAC raised over $16 million during the 2016 cycle, and ended the last reporting period with over $2 million cash on hand. *See* Ex. K. Accordingly, an injunction bond in an amount equal to Dr. Stein's out-of-pocket expenses in funding the recount—$3,499,689 raised from thousands of citizens around the country—is more than reasonable.

CONCLUSION

Lacking any legal basis for the injunction they seek, Plaintiffs attempt to smear Dr. Jill Stein with false and baseless accusations. Dr. Stein's motives are clear: she is committed to election integrity, so that all Americans can trust the outcome of our elections in this representative democracy. For the foregoing reasons, Intervenor Jill Stein respectfully submits that the motion for a preliminary injunction should be denied.

Respectfully submitted this 7th day of December, 2016

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