



March 7, 2022

VIA FACSIMILE: [REDACTED]

State Bar of Texas
Office of Chief Disciplinary Counsel
P.O. Box 13287
Austin, TX 78711

Dear Office of Chief Disciplinary Counsel:

The 65 Project is a bipartisan, nonprofit effort to protect democracy from abuse of the legal system by holding accountable lawyers who engage in fraudulent and malicious efforts to overturn legitimate elections.

We write to request that the Office of Chief Disciplinary Counsel investigate the actions taken by Paul M. Davis (Bar No. 24078401) relating to the lawsuits he has filed seeking to have the 117th Congress declared unconstitutional, President Biden's assumption of office invalidated, and the federal judiciary recognized as the only legitimate branch of the U.S. government that "is now effectively in charge of the United States government, assuming entry of the Temporary Restraining Order, to which Plaintiffs are entitled."

Mr. Davis's conduct appears to have violated numerous Rules of Professional Conduct, including 3.01 (Meritorious Claims and Contentions), 3.02 (Minimizing the Burdens and Delays of Litigation), 4.04 (Respect for Rights of Third Persons), and 8.04 (Misconduct). A full investigation by the Office of Chief Disciplinary Counsel will demonstrate the egregious nature of Mr. Davis's actions, especially when considered in light of his intent and the serious risk that Mr. Davis will repeat such conduct.

BACKGROUND

On January 6, 2021, Mr. Davis participated¹ in a rally that culminated with many of the attending then marching to the Capitol, breaching security, vandalizing the building, assaulting police officers, and attempting to hunt down members of Congress and Vice President Mike Pence. Nine people died as a result of the insurrection, including four police officers who committed

¹ See Decl. of Paul M. Davis (Jan. 22, 2021), *Latinos for Trump v. Sessions*, 6:21-cv-00043-ADA (W.D. Tex).

suicide within seven months of responding to the attack.² The insurrectionists injured over 138 police officers.³ To date, 769 people have been charged in connection with the January 6 insurrection, with 165 of those defendants pleading guilty, and courts have imposed sentences reaching over 60 months.⁴

Mr. Davis has not been charged in connection with January 6, 2021.

Twelve days after the insurrection, Mr. Davis filed a complaint and application for injunctive relief, *Latinos for Trump v. Sessions, et al.*, 6:21-cv-00043-ADA, in the U.S. District Court for the Middle District of Texas. Mr. Davis filed the suit against: Congressman Pete Sessions, Senator Mitch McConnell, Speaker Nancy Pelosi, Mark Zuckerberg, Senator Charles Schumer, Congresswoman Alexandria Ocasio-Cortez, Georgia Secretary of State Brad Raffensperger, all Members of the 117th Congress, and the governors and secretaries of state of all 50 states. The full list of additional state defendants ran over ten pages long.

The complaint Mr. Davis filed alleges, in part:

The evidence that will come forth in the course of this lawsuit will establish an intentional concert of conduct between federal, state, and local government officials and various partisan enterprises that should be considered a boot to the throat of every American who believes that the Constitution of the United States guarantees every citizen the right to a government elected by the People.

Mr. Davis's filing contends:

The truth of the allegations set forth herein compels the shocking conclusion that every member of currently-seated 117th U.S. Congress and the President-Elect, who is scheduled to be sworn in this coming Wednesday, January 20th, were not legitimately elected because the People of the United States were given ballots that were patently illegal under federal law, namely HAVA. Therefore, the entire 117th Congress is illegitimate and all actions taken since January 3, 2021, including the counting of the Electoral College votes and confirmation of Joseph Biden as President-Elect and the impeachment of President Donald J. Trump are null and void.

² Wolfe, Jan, *Four Officers Who Responded to U.S. Capitol Attack Have Died by Suicide*, Reuters (Aug. 2, 2021), available at <https://www.reuters.com/world/us/officer-who-responded-us-capitol-attack-is-third-die-by-suicide-2021-08-02/>.

³ Schmidt, Michael S.; Broadwater, Luke, *Officers' Injuries, Including Concussions, Show Scope of Violence at Capitol Riot*, N.Y. Times (Feb. 12, 2021), available at <https://www.nytimes.com/2021/02/11/us/politics/capitol-riot-police-officer-injuries.html>.

⁴ See <https://www.insider.com/all-the-us-capitol-pro-trump-riot-arrests-charges-names-2021-1>.

Never before in the history of the United States of America (the “Republic”) has the entire federal election been conducted in clear and unequivocal violation of duly-enacted federal election law. With the sitting President’s term set to expire this Wednesday, January 20th, this situation is a Constitutional Crisis of cataclysmic proportion unlike any seen since the Southern States seceded from the Republic in 1861. The only conceivable remedy is for this Honorable Court to enter an injunction to restrain all further action and to enjoin the enforcement and effect of all previous actions of the 117th Congress until trial upon the merits, and, upon a verdict for the Plaintiffs, for the Court to order the 50 states to conduct a new federal election that conforms to the minimum standards of HAVA.

The 20th Amendment mandates that President Trump’s term must end at noon on January 20th, but since Congress’s act on January 6, 2021 in confirming Joseph Biden as President-Elect was clearly illegitimate, and there is effectively no lawfully existing Legislative Branch this means that the Presidential Inauguration cannot lawfully go forward on Wednesday. Thankfully, there is still time for the only the only [sic] lawfully and constitutionally remaining federal public official, President Donald Trump to take all reasonable and necessary action consistent with the Take Care Clause of Article II, Section 1 and all the original intents and purposes of the Constitution of the United States to preserve the lawful and orderly continuity of government.

Accordingly, this Court should rest assured that the relief requested in this lawsuit will not result in the destruction of democracy, as the dishonest national news media, who has been complicit in this crisis and as will be shown in the course of this lawsuit, will attempt to claim. No, it is actually the exact opposite. The purpose of this lawsuit is merely to enforce the laws and Constitution of the Republic to SAVE AND RESTORE the democratic republican process on which the People have depended to protect their individual rights since the dawn of our Republic.

The complaint contains a slew of additional accusations, for example:

- “By filing this lawsuit exposing the shocking illegal acts of the Defendants in furtherance of their conspiracy to crush the freedom and individual rights of the People by replacing our republican form of government with an illegitimately-elected Congress and President-Elect, Plaintiffs and Counsel have essentially signed their own death warrants, or at least the chance at any meaningful career, at the hands of powerful figures who acted, funded, directed, and/or otherwise conspired in furtherance of the evil scheme to strip all power of self-government from the People.”

- “If the Defendants and the illegitimate Congress their actions installed are able to continue [to] govern the Republic, it will cease to be a republic. It may become a true RINO “*republic* in name only” in the sense that the “People’s Republic of China” contains the word “Republic,” although it is common public knowledge that the China [sic] does not in any way belong to its people. It belongs to a tyrannical, authoritarian, communist police state that engages in atrocities against humanity, including the active persecution of proponents of free speech, democracy, Christians, and anyone else who poses a view that does not demonstrate absolute and unquestioning loyalty to the state and whatever ideologies it chooses to cram down the throats of its citizens.”
- “The sheer volume of evidence in this action revealing Defendants’ shocking acts and omissions that deprived Plaintiffs of their constitutional and statutory rights to participate in the democratic election of their representatives to Congress could give anyone the impression that this lawsuit presents convoluted or complex legal theories. To the contrary, Plaintiffs’ right to relief in this matter is so simple that a 3rd grader could be taught to understand it.”

On January 19, 2021, the day after filing the complaint, Mr. Davis filed a motion for temporary restraining order. The next day, he filed a supplemental memorandum in support of the motion. On January 21, he filed an amended motion for temporary restraining order and then a supplement to the amended motion. On January 25, Mr. Davis filed a memorandum in support of the amended motion.

The court issued an order to show cause, directed at Mr. Davis, because:

Here, the Court finds that Plaintiff’s claims are without merit, because the federal statute under which they seek relief do not permit them to sue Defendants to restrain Defendants from “participating in any action relating to the process of electing public officials, holding public office or any official government position, or position in any partisan enterprise related to American politics, and from defaming or threatening or otherwise interfering with the life, liberty, or property of Plaintiffs.” Pls.’ Compl. Plaintiffs have not pleaded sufficient facts to state a claim to relief that is plausible on its face under either the Help America Vote Act (HAVA) or § 1983.⁵

Therefore, on February 10, 2021, Mr. Davis filed an amended complaint and, then, on February 16, 2021, Mr. Davis filed a second amended complaint.

The amended complaints put forward the same type of allegations described above. Mr. Davis’s motion for a temporary restraining order, and its amendments, also contained similar arguments, referred to President Biden, Vice President Harris, and the 117th Congress as “the Usurpers,”

⁵ See Order to Show Cause (Jan. 27, 2021), *Latinos for Trump v. Sessions*, 6:21-cv-00043-ADA.

and cited exclusively to the Lord of the Rings as authority for Mr. Davis's requested relief that the district court place the Legislative and Executive branches under a stewardship:⁶

² During the course of the epic trilogy, the rightful King of Gondor had abandoned the throne. Since only the rightful king could sit on the throne of Gondor, a steward was appointed to manage Gondor until the return of the King, known as "Aragorn," occurred at the end of the story. This analogy is applicable since there is now in Washington, D.C., a group of individuals calling themselves the President, Vice President, and Congress who have no rightful claim to govern the American People. Accordingly, as set forth in the Proposed Temporary Restraining Order, as a remedy the Court should appoint a group of special masters (the "Stewards") to provide a check the power of the illegitimate President until this Constitutional Crisis can be resolved through a peaceful legal process of a Preliminary Injunction Hearing and a jury trial on the merits.

Mr. Davis also filed a document captioned, "Memorandum to Support Entry of Alternative Temporary Restraining Order," which he filled with responses to "news outlets" that "have mischaracterized the nature of this the relief [sic] as 'seeking to install Donald Trump as President.'"⁷ Mr. Davis included this footnote:

⁶ Further complicating this process is Counsel's intense amount of sleep-deprivation, having to do the work of several attorneys, mostly alone, with a skeleton staff while being plagued with threats to his safety and an apparent act of vandalism at his home where someone stuffed bundles of wood and garbage into the drain sewer at his home causing a massive sewage backup. Indeed, it is now 5:21 A.M. and counsel has not slept in an attempt to get more reasonable relief in front of the Court prior to the court opening at 9:00 A.M.

Then, after all of that, on February 19, 2021, Mr. Davis withdrew as counsel for several plaintiffs and then voluntarily dismissed the claims on behalf of the plaintiffs he continued to represent.

On August 20, 2021, the assigned magistrate judge issued an Order and Report and Recommendation, adopted in whole by the District Court, which dismissed the lawsuit **on its own motion**. The Court said this about the complaints Mr. Davis filed:

The facts undergirding the lawsuit hardly bear repeating due to the suit's **fantastic and outright nonsensical nature**, but what follows is a sampling of some of the allegations included in this purported "class action" suit:

- Congress, Biden, and Harris are the illegitimate fruit of an unconstitutional 2020 federal election process because state election officials and executives, using the COVID-19 pandemic as an excuse, made changes in election procedures in violation of federal election law and thereby violated Plaintiffs' constitutional rights. Pls.' Am. Compl. at 25.
- Congress and Mark Zuckerberg distributed \$700 million in federal and private funds, respectively, to state election

⁶ See Amended Motion for Temporary Restraining Order (Jan. 21, 2021), *Latinos for Trump v. Sessions*, 6:21-cv-00043-ADA.

⁷ Memorandum to Support Entry of Alternative Temporary Restraining Order (Jan. 25, 2021), *Latinos for Trump v. Sessions*, 6:21-cv-00043-ADA.

officials, who used the funds to conduct the 2020 election in violation of federal election law. *Id.* at 11.

- A “cabal” took clandestine measures to make sure that traditional Democrat voters did not defect from the ranks to vote for a populist candidate, Donald Trump. *See id.* at 9-10.⁸

From January 18, 2021, until he withdrew as counsel on February 19, 2021, Mr. Davis filed over 3,300 pages – averaging over 100 pages a day of court filings.

On February 22, 2021, Mr. Davis filed a new lawsuit, *Bravo v. Pelosi, et al.*, 6:21-cv-00162-ADA-JCM, on behalf of the plaintiffs who had dismissed the initial lawsuit. The new complaint contained the same allegations as that Mr. Davis filed (three times) in the original action. Indeed, other than the first five paragraphs, the complaint was nearly identical to the original action.

Those first five paragraphs do set the tone:

I.

INTRODUCTION:

This, the People's Lawsuit gives notice that the era of rule by the wealthy elites and rule of their corrupt two-party system is now over.

1. Plaintiffs' lawsuit (the "People's Lawsuit" or "Lawsuit") is unlike any other lawsuit that has been before the American courts related to the 2020 elections because it does not seek a *political* outcome, but a *constitutional* outcome. It also does not challenge the outcome in the presidential election, except to the extent that Congress had no authority to confirm Mr. Biden and Ms. Harris as "President-elect" and "Vice President-elect," respectively. This is because the 117th Congress is itself illegitimate as the fruit of an unconstitutional 2020 *congressional* election process. Unlike the presidential election lawsuits recently dismissed by the Supreme Court, this lawsuit does not depend on any allegations of "election fraud" because the members of Congress themselves willfully participated in a conspiracy to violate federal congressional election laws, which clearly preempt state law under Article I, § 4 of the Constitution.

2. These laws were put in place long ago for the very purpose of protecting all Americans from ballot box stuffing and all other fraudulent schemes designed to deprive Americans of their "most precious" right: "the right to choose their own officers for governmental administration."¹ When the very laws put in place to prevent the theft of, or perhaps more accurately, the *purchase* of the federal elections by the wealthiest and most powerful Americans using the tax dollars of working class

⁸ Order and Report and Recommendations (Aug. 20, 2021), *Latinos for Trump v. Sessions*, 6:21-cv-00043-ADA.

Americans and obscene profits from the cattle-like commoditization of human beings on social media and elsewhere, no proof of fraud is necessary. The violation of the election integrity laws themselves is enough to show violations of constitutional rights. The People's Lawsuit sets forth conclusive, irrefutable proof of such violations.

3. The People's Lawsuit is unlike any other lawsuit in history because it is the first time that a class of all Americans, who are not members of the wealthiest 1%, the political elite, or the corporations that all run the corrupt two-party system, has sued to win back their constitutional rights to a representative form of government. Plaintiffs sue to reestablish the nation that was originally envisioned and framed by their forefathers, the revolutionaries who laid down their lives and everything they held dear, to establish the first nation in world history that was a government of the people, by the people, and for the people.

4. The People's Lawsuit is about how both state and federal officials acted together as both "Democrats" and "Republicans" and as part of a "well-funded cabal"² and "conspiracy"³ with various private persons, including persons in the news media, social media, and technology industry, high net worth individuals, and others, to willfully deprive the American People of their "most precious" and fundamental right: the right to the "Republican Form of Government" guaranteed by Article IV, Section 4 (the "Guarantee Clause") of the Constitution of the United States and other fundamental civil rights.

5. The "Cabal" is now at an end. No longer will these wealthy elites rule "We The People of the United States."⁴ Our Founding Fathers *already* paid for the rights and the relief set forth in this Lawsuit *with their own blood*. No court, including this one, has any legitimate right to deny such rights and the enforcement thereof. The era of the elite class is now at an end.

Additionally, Mr. Davis sought, in part:

c. Permanent injunctive relief forever restraining Defendants from ever holding public office or participating in any way in an election campaign to public office other than exercising their own right to vote;

A few months later, Mr. Davis voluntarily dismissed the matter. The exhibit listing the defendants being dismissed ran 24 pages. He dismissed the matter only after:

- Mr. Davis filed 20 requests for summonses
- The court issued 54 summonses
- Mr. Davis filed 13 motions
- Mr. Davis filed an amended complaint
- At least 25 attorneys representing various defendants appeared, many requiring pro hac vice applications

In his notice of dismissal, Mr. Davis wrote:

4. As a final note, Plaintiffs and counsel are encouraged to see other lawsuits being filed around the country to fight for election integrity and against government tyranny. Plaintiffs and counsel have no regrets for doing their best to fight tyranny with this lawsuit and will now devote their modest means to assisting in these other efforts around the country to restore the republic envisioned by our founding fathers in the Constitution and to protect the individual God-given “unalienable rights” as set forth in the Declaration of Independence. May God bless these United States of America, deliver us from evil, and bring us back to our founding principles of equality before God, liberty, and justice for all.

Respectfully submitted this July 27, 2021.

/s/ Paul M. Davis

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ATTORNEY FOR PLAINTIFFS

A SUBSTANTIAL BASIS EXISTS FOR THE OFFICE OF CHIEF DISCIPLINARY COUNSEL TO INVESTIGATE MR. DAVIS’S CONDUCT AND TO IMPOSE APPROPRIATE DISCIPLINE

The Office of Chief Disciplinary Counsel should investigate Mr. Davis’s conduct on the following bases:

1. Mr. Davis Repeatedly Brought Frivolous Claims

Rule 3.01 (Meritorious Claims and Contentions) of the Rules of Professional Conduct provides that, “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous.” Further, Comments 1 and 2 to Rule 3.01 provide:

1. The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure. The law, both procedural and substantive, affects the limits within which an advocate may proceed. Likewise, these Rules impose limitations on the types of actions that a lawyer may take on behalf of his client...
2. All judicial systems prohibit, at a minimum, the filing of frivolous or knowingly false pleadings, motions or other papers with the court or the assertion in an adjudicatory proceeding of a knowingly false claim or defense. A filing or assertion is frivolous if it is made primarily for the purpose of harassing or maliciously injuring a person. It also is frivolous if the lawyer

is unable either to make a good faith argument that the action taken is consistent with existing law or that it may be supported by a good faith argument for an extension, modification or reversal of existing law.

Rule 4.04(a) (Respect for Rights of Third Persons) states, “In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.”

The claims that Mr. Davis brought in the course of filing five separate complaints in the two actions described above lacked any basis in law or fact. The allegations were, in the words of the District Court, “fantastic” and “outright nonsensical.” Indeed, the Court *sua sponte* dismissed the matter.

A claim that the entire federal government, but for the judiciary, was unconstitutional, and should be disbanded, and that President Biden, Vice President Harris, every member of Congress, every governor, and every secretary of state should be “forever restrain[ed] from ever holding public office or participating in any way in an election campaign for public office other than exercising their own right to vote” may very well be the definition of frivolous.

The underlying harassing purpose of Mr. Davis’s lawsuits is also revealed in the timing and his choice to name some defendants in the caption. Mr. Davis did not file his suit when the alleged actions took place. He did not file his suit right after the 2020 election. He did not even file his suit after the states had completed the electoral vote count on December 14, 2020. Instead, he waited until *after* the January 6, 2021 insurrection – which he participated in, at the very least, as an observer. Additionally, he included in the caption second-term congresswoman Alexandria Ocasio-Cortez, despite also suing “all members of the 117th Congress,” a group in which Congresswoman Ocasio-Cortez would be included.

Mr. Davis violated both Rule 3.01 and Rule 4.04(a) through this litigation.

2. Mr. Davis Engaged in Conduct that Increased Costs and Placed Significant Burdens on Others

Rule 3.02 (Minimizing the Burdens and Delays of Litigation) specifies that, “In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.”

Mr. Davis was involved in the *Latinos for Trump* matter for 32 days, during which time he filed over 3,300 pages of documents. In the *Bravo* case, court staff issued 54 summonses for Mr. Davis and 25 attorneys had to appear for out-of-state defendants. Additionally, there is no justifiable explanation for Mr. Davis initiating an entirely separate action when the 60-page *Bravo* complaint was nearly identical to the 59-page *Latinos of Trump* complaint he had filed.

He abused the process, all so that he could voluntarily dismiss the claims.

3. Mr. Davis Engaged in Misconduct and Aided Others to do So

Rule 8.04(a)(1) (Misconduct) provides that, “A lawyer shall not...violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship.”

By commencing these actions, bringing two frivolous claims before the court, and aiding others in these efforts, Mr. Davis engaged in misconduct requiring discipline.⁹

Mr. Davis made clear that he has no regrets for abusing the court system in such frivolous ways for the purposes of subverting the legitimate results of American elections. That demonstrates a greater likelihood that he will repeat similar efforts.

For the reasons set forth above, we respectfully request that the Office of Chief Disciplinary Counsel investigate Mr. Davis’s conduct and impose appropriate discipline.

Sincerely,



Michael Teter
Managing Director, The 65 Project

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⁹ In filing his motion to withdraw in the first matter, Mr. Davis may also have violated his duties to his clients by revealing matters related to their differences of opinion regarding strategy that cast his former clients in a bad light. The Office of Chief Disciplinary Counsel may wish to review that motion, as well, as part of its investigation.