



July 7, 2022

James M. Fox
Office of Disciplinary Counsel
437 Grant Street
Frink Building, Suite 1300
Pittsburgh, PA 15219

VIA FACSIMILE: [REDACTED]

Dear Mr. Fox:

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 Disciplinary Counsel investigate the actions taken by Ronald L. Hicks, Jr. (Attorney Identification No. 49520) relating to his representation of Donald J. Trump in his effort to overturn the 2020 presidential election. Mr. Hicks signed and filed the initiating complaint in *Donald J. Trump for President, Inc., et al. v. Boockvar, et al.*, 4:20-cv-02078 (M.D. Pa.), in which he sought to have the court disenfranchise nearly seven million voters. As the district court stated when denying the effort:

This Court has been unable to find any case in which a plaintiff has sought such a drastic remedy in the contest of an election, in terms of the sheer volume of votes asked to be invalidated. One might expect that when seeking such a startling outcome, a plaintiff would come formidably armed with compelling legal arguments and factual proof of rampant corruption, such that this Court would have no option but to regrettably grant the proposed injunctive relief despite the impact it would have on such a large group of citizens.

That has not happened. Instead, this Court has been presented with strained legal arguments without merit and speculative accusations, unpled in the operative complaint and unsupported by evidence. In the United States of America, this cannot justify the disenfranchisement of a single voter, let alone all the voters of its

sixth most populated state. Our people, laws, and institutions demand more.¹

Pennsylvania’s Rules of Professional Conduct demand more, as well. “The primary purpose of our lawyer discipline system in Pennsylvania is to protect the public, preserve the integrity of the courts, and deter unethical conduct.” *Off. of Disciplinary Couns. v. Czmus*, 586 Pa. 22, 32–33, 889 A.2d 1197, 1203 (2005) (citing *In re Iulo*, 564 Pa. 205, 766 A.2d 335, 339 (2001)). “Truth is the cornerstone of the judicial system; a license to practice law requires allegiance and fidelity to truth.” *Office of Disciplinary Counsel v. Surrick*, 561 Pa. 167, 749 A.2d 441, 449 (2000) (citation omitted). “Whenever an attorney is dishonest, that purpose is served by disbarment.” *Office of Disciplinary Counsel v. Grigsby*, 493 Pa. 194, 425 A.2d 730, 733 (1981).

By filing a frivolous lawsuit untethered to either law or fact and in seeking an extreme remedy unheard of in any court of law, Mr. Hicks crossed the ethical standards to which he is bound. His conduct violated Rules of Professional Conduct 3.1 (Meritorious Claims and Contentions), 4.4 (Rights of Third Parties), and 8.4 (Misconduct).

In addition, *Donald J. Trump for President, Inc., et al. v. Boockvar, et al.* was not the only litigation Mr. Hicks worked on as part of his efforts to overturn democracy. Indeed, Mr. Hicks initiated at least five other matters in state court after the 2020 election, as well as litigated a pre-election claim in which a federal court issued a 138-page opinion granting summary judgment to the state defendants.² Although these other matters, standing alone, may not so flagrantly violate the Rules of Professional Conduct as to warrant discipline, they do help inform your office about Mr. Hicks’s purposes and intent.

Further, the Complaint Mr. Hicks filed in *Donald J. Trump for President, Inc., et al. v. Boockvar, et al.* borrowed significantly from allegations and claims that he had brought – and lost – in the earlier matter. He therefore knew he was bringing meritless claims that had already been decided by a federal court.

In fact, Mr. Hicks’s efforts were so baseless and problematic that his law firm required him to withdraw from the *Boockvar* matter and not associate with Mr. Trump’s legal team any further. His early exit from the litigation, however, does not relieve him from disciplinary action. It simply underscores that even his law partners knew that the matter should never have been brought and that Mr. Hicks’s work posed a grave threat to American democracy.

A full investigation by the Office of Disciplinary Counsel will demonstrate the disturbing nature of Mr. Hicks’s actions, especially when considered in light of his objectives and the direct and likely consequences of his behavior.

¹ *Donald J. Trump for President, Inc., et al. v. Boockvar, et al.*, 4:20-cv-02078 (M.D. Pa.) Nov. 21, 2020 Memorandum Opinion (“Memorandum Opinion”) at 2.

² *Donald J. Trump for President, Inc. v. Boockvar*, 2:20-cv-00966-NR (W.D. Pa.) Oct. 10, 2020 Opinion.

CONDUCT GIVING RISE TO THE COMPLAINT

Donald Trump lost the 2020 presidential election.³ He also lost Pennsylvania and its 20 electoral votes.⁴ In an effort to overturn the legitimate results, Mr. Trump and his allies filed at least 65 baseless lawsuits across the country, alleging conspiracies and fraud and claiming the election was stolen. They brought these claims despite the fact that officials across the country and at every level of government have called the 2020 election “the most secure in American history.”⁵

None of Mr. Trump’s efforts succeeded. In some instances, courts have imposed sanctions on the lawyers who participated in the lawsuits and referred them for sanctions by their respective state bars.⁶ The disciplinary arms of various state bars are pursuing the matters.⁷

On November 9, 2020, Mr. Hicks signed and filed a Complaint for Declaratory and Injunctive Relief, which initiated *Donald J. Trump for President, Inc., et al. v. Boockvar, et al.* The Complaint sought unheard of relief from the federal court: invalidating millions of votes based on the allegation that two voters’ absentee ballots were not counted for failing to comply with applicable standards.⁸

Not long after filing the Complaint, Mr. Hicks withdrew from the case after other attorneys at his law firm expressed concerns that his efforts were undermining American democracy.⁹ And they

³ See United States National Archives, Electoral College Results – 2020, available at <https://www.archives.gov/electoral-college/2020>.

⁴ See Certificate of Ascertainment, Commonwealth of Pennsylvania, available at <https://www.archives.gov/files/electoral-college/2020/ascertainment-pennsylvania.pdf>.

⁵ Maria Henriquez, *Director of CISA Chris Krebs Says There's No Evidence of Foreign Interference in the 2020 Election*, Security Magazine (Nov. 5, 2020), <https://www.securitymagazine.com/articles/93846-director-of-cisa-chris-krebs-says-theres-no-evidence-of-foreign-interference-in-the-2020-election>.

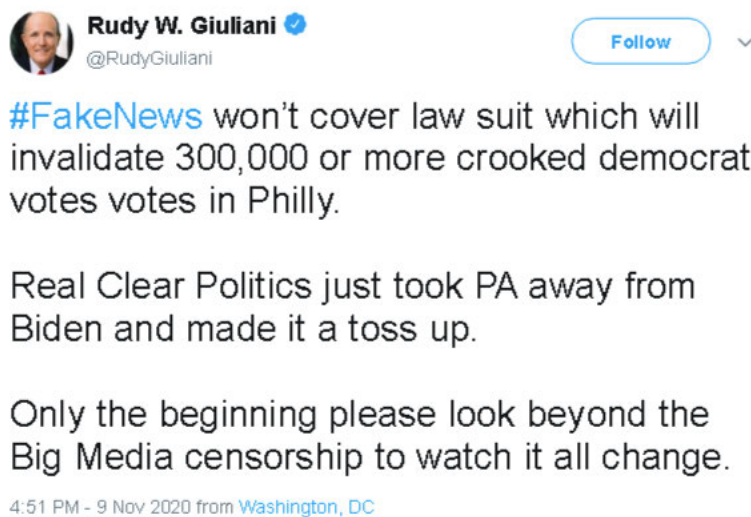
⁶ See, e.g., *King v. Whitmer*, Case No. 21-13134 (E.D. Mich.), Aug. 25, 2021 Opinion and Order, available at https://www.michigan.gov/documents/ag/172_opinion__order_King_733786_7.pdf; *Washington Election Integrity Coalition United v. Inslee*, Case No. 100202-0, May 17, 2022 Clerk’s Ruling Setting Amount of Attorney Fees and Expenses, available at https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/029_Order_DeputyClerkRulingSetAttorneyFees.pdf.

⁷ See, e.g., *In the Matter of Rudolph W. Giuliani*, Supreme Court of the State of New York Appellate Division, First Judicial Dept., May 3, 2021, available at [https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20\(2021-00506\)%20PC.pdf](https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20(2021-00506)%20PC.pdf); *State Bar Announced John Eastman Ethics Investigation*, available at <https://www.calbar.ca.gov/About-Us/News/News-Releases/state-bar-announces-john-eastman-ethics-investigation>; *State Bar Sues Trump Lawyer Sidney Powell*, available at <https://www.houstonchronicle.com/politics/texas/article/Texas-State-Bar-sues-Trump-lawyer-Sidney-Powell-16989673.php>; *Two Former U.S. Officials Help Ethics Probe of Trump Ally Clark*, Source Says, available at <https://www.reuters.com/world/us/exclusive-two-former-us-officials-help-ethics-probe-trump-ally-clark-source-says-2022-03-29/>.

⁸ *Donald J. Trump for President, Inc., et al. v. Boockvar, et al.*, 4:20-cv-02078 (M.D. Pa.) Compl. at p. 84.

⁹ Rachel Abrams, et al., *Once Loyal to Trump, Law Firms Pull Back from His Election Fight*, N.Y. Times, Nov. 13, 2020, available at <https://www.nytimes.com/2020/11/13/business/porter-wright-trump-pennsylvania.html>.

were. In fact, that was largely the design of the lawsuits. Mr. Hicks, and the other lawyers filing similar lawsuits in the battleground states that Mr. Biden won, knew that they would not prevail on the merits. Instead, they were using the courts as part of their political propaganda. They littered their complaints with allegations of fraud and malfeasance and then publicly sought to bolster those bogus assertions by pointing to their legal filings:



Thus, by filing the Complaint, Mr. Hicks lent his law license and the legal professional’s integrity and power to an orchestrated effort to undermine our nation’s elections so that the person who lost the 2020 presidential election could remain in power. A direct line exists between this abuse of the court system and the January 6, 2021 attack on the United States Capitol. Withdrawing from the matter after helping light the fuse does not shield Mr. Hicks from responsibility, nor does it alter the fact that appropriately disciplining his for this misconduct is an essential part of deterring future abuse.

As evidence of Mr. Hicks’s violations of the Rules of Professional Conduct your office should consider the following:

The Pleadings Included Allegations Recycled from a Lawsuit Dismissed a Month Earlier in a 138-page Opinion. Nearly half of the paragraphs in the original Complaint filed by Mr. Hicks were duplicates of allegations made in *Donald J. Trump for President, Inc. v. Boockvar*, 2:20-cv-00966-NR (W.D. Pa.). The Court in that case granted summary judgment to defendants, holding that plaintiff relied on “hypotheticals, rather than actual events” and that the plaintiffs’ theory “does not appear to be any law to support it.”¹⁰ Importantly, the plaintiffs did not appeal that decision.

The lawsuit named Secretary of State Boockvar and Seven Democratic County Boards of Elections as Defendants. The factual basis for suing Secretary Boockvar and the seven Democratic counties rested on two Individual Plaintiffs having had their mail-in votes canceled.

¹⁰ *Donald J. Trump for President, Inc. v. Boockvar*, 2:20-cv-00966-NR (W.D. Pa.) Oct. 10, 2020 Opinion at 82, 108.

Prior to election day, Secretary Boockvar had sent an email to counties encouraging them to allow mail-in voters to cure their ballots if any problems are detected during the pre-canvas period. Importantly, the two Individual Plaintiffs' ballots were canceled not by any of the Defendants, but by Lancaster and Fayette counties – neither of which Plaintiffs chose to sue. In other words, Mr. Hicks chose to bring this matter not against the counties who caused his clients' harm, but against counties whose voters favored Joe Biden.

The requested relief for the alleged harm of Lancaster and Fayette Counties canceling the two Individual Plaintiffs' ballots was to prevent Defendants from certifying the entire election. The Individual Plaintiffs theorized that failing to count their ballots violated the Equal Protection Clause. As a remedy to the alleged violation, they sought either: (1) an order “prohibit[ing] the Defendant County Boards of Elections and Defendant Secretary Boockvar from certifying the results of the 2020 General Election in Pennsylvania on a Commonwealth-wide basis” or (2) an order “prohibit[ing] Defendants from certifying the results of the General Elections which include the tabulation of absentee and mail-in ballots which Defendants improperly permitted to be cured.”¹¹ Thus, Individual Plaintiffs asserted as their injury the denial of their right to vote and to redress that injury, they sought to have millions of others' right to vote denied. As the District Court noted:

Neither of these orders would redress the injury the Individual Plaintiffs allege they have suffered. Prohibiting certification of the election results would not reinstate the Individual Plaintiffs' right to vote. It would simply deny more than 6.8 million people their right to vote. “Standing is measured based on the theory of harm and the specific relief requested.” It is not “dispensed in gross: A plaintiff's remedy must be tailored to redress the plaintiff's particular injury.” Here, the answer to invalidated ballots is not to invalidate millions more.¹²

The District Court Found that Plaintiffs Concocted Their Theories to Avoid Controlling Precedent. The Complaint that Mr. Hicks filed included an equal protection claim that, according to the District Court, was “like Frankenstein's Monster...haphazardly stitched together from two distinct theories in an attempt to avoid controlling precedent.”¹³

The Complaint Makes Dozens of References to “Fraud,” But Does Not Actually Assert Any Claims Premised on Fraud. In an effort to support their public propaganda, Plaintiffs littered their Complaint with allegations or references to fraud or fraudulent actions. But, importantly, none of their actual claims rested on any claims of fraud or improper conduct. Indeed, as Plaintiffs' counsel stated at the motion to dismiss hearing, the Trump Campaign “doesn't plead fraud. ... [T]his is not a fraud case.”¹⁴

¹¹ *Donald J. Trump for President, Inc., et al. v. Boockvar, et al.*, 4:20-cv-02078 (M.D. Pa.) Compl. at p. 84.

¹² Memorandum Opinion at 18.

¹³ Memorandum Opinion at 11.

¹⁴ *Donald J. Trump for President, Inc., et al. v. Boockvar, et al.*, 4:20-cv-02078 (M.D. Pa.) Nov. 17, 2020 Transcript of Oral Argument Proceedings In Re: Motion to Dismiss at 137:18.

The District Court Denied Plaintiffs’ Motion for Leave to File a Second Amended Complaint and the Third Circuit Upheld That Order. After Mr. Hicks withdrew from the case, Plaintiffs filed an Amended Complaint. Later, Plaintiffs sought leave to file a Second Amended Complaint that was quite similar to the original Complaint that Mr. Hicks filed. Despite a favorable standard that encourages district courts to freely grant leave to file amended complaints, the District Court denied the request. The Plaintiffs appealed that decision and the Third Circuit upheld the District Court, finding that allowing an amended complaint would be inequitable and, importantly, futile. The Court focused on the fact that that, like the two other complaints: (1) the Second Amended Complaint “is light on facts,”¹⁵ (2) that “[t]he Campaign has already litigated and lost most of these issues”¹⁶ and instead was improperly seeking to “collaterally attack those prior rulings,”¹⁷ (3) no factual allegations actually support the causes of action,¹⁸ and (4) “the Second Amended Complaint seeks breathtaking relief: barring the Commonwealth from certifying its results or else declaring the election results defective and ordering the Pennsylvania General Assembly, not the voters, to choose Pennsylvania’s presidential electors. It cites no authority for this drastic remedy.”¹⁹ Given the similarity between the Complaint that Mr. Hicks filed and the proposed Second Amended Complaint, the Court’s holding regarding the futility of a second amendment stands as an indictment of Mr. Hicks’s original pleading, as well.

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

The Office of Disciplinary Counsel should investigate Mr. Hicks’s actions on the following bases:

1. Mr. Hicks Violated Rule 3.1 By Bringing and Defending a Matter He Knew Lacked Merit

Rule 3.1 provides, in part, as follows: “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.”

Comment 2 states that: “The action is frivolous...if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law.”

¹⁵ [Donald J. Trump for President, Inc. v. Sec’y of Pennsylvania](#), 830 F. App’x 377, 386 (3d Cir. 2020).

¹⁶ *Id.* at 387.

¹⁷ *Id.*

¹⁸ *Id.* at 388.

¹⁹ *Id.*

Further, “[a] claim advanced in a proceeding is considered frivolous if it lacks any basis in law and fact.” *Adams v. Dep’t of Pub. Welfare*, 781 A.2d 217, 220 (Pa. Commw. Ct. 2001).

As the District Court’s and Third Circuit’s treatment of the matter demonstrate, the Complaint that Mr. Hicks signed and filed lacked any basis in law or fact. As a sampling of their views of the litigation:

- “This Court has been unable to find any case in which a plaintiff has sought such a drastic remedy in the contest of an election, in terms of the sheer volume of votes asked to be invalidated.”²⁰
- “This Court has been presented with strained legal arguments without merit and speculative accusations, unpled in the operative complaint and unsupported by evidence.”²¹
- “This claim, like Frankenstein’s Monster, has been haphazardly stitched together from two distinct theories in an attempt to avoid controlling precedent.”²²
- “That Plaintiffs are trying to mix-and-match claims to bypass contrary precedent is not lost on the Court. The Court will thus analyze Plaintiffs’ claims as if they had been raised properly and asserted as one whole for purposes of standing and the merits.”²³
- “The former finds no support in the operative pleading, and neither states an equal protection violation.”²⁴
- “That deficiency aside, to the extent this new theory is even pled, Plaintiffs fail to plausibly plead that there was ‘uneven treatment’ of Trump and Biden watchers and representatives. Paragraphs 132-143 of the [First Amended Complaint] are devoted to this alleged disparity. None of these paragraphs support Plaintiffs’ argument.”²⁵
- “Granting Plaintiffs’ requested relief would necessarily require invalidating the ballots of every person who voted in Pennsylvania. Because this Court has no authority to take away the right to vote of even a single person, let alone millions of citizens, it cannot grant Plaintiffs’ requested relief.”²⁶
- “Rather than requesting that their votes be counted, they seek to discredit scores of other votes, but only for one race. This is simply not how the Constitution works.”²⁷
- Four times in the Third Circuit opinion, the Court refers to the Plaintiffs citing no authority for its propositions:
 - “The Campaign cites no authority suggesting that an actor discriminates by treating people equally while harboring a partisan motive, and we know of none.”²⁸
 - “[T]he Second Amended Complaint seeks breathtaking relief: barring the Commonwealth from certifying its results or else declaring the election results

²⁰ Memorandum Opinion at 2.

²¹ *Id.*

²² *Id.* at 11.

²³ *Id.* at 12.

²⁴ *Id.* at 33.

²⁵ *Id.*

²⁶ *Id.* at 32.

²⁷ *Id.* at 31.

²⁸ *Donald J. Trump for President, Inc.*, 830 F. App’x at 388.

defective and ordering the Pennsylvania General Assembly, not the voters, to choose Pennsylvania’s presidential electors. It cites no authority for this drastic remedy.”²⁹

- “It cites no federal authority regulating poll watchers or notice and cure. It alleges no specific discrimination. And it does not contest that it lacks standing under the Elections and Electors Clauses. These claims cannot succeed.”³⁰
- “But nothing in the Due Process Clause requires having poll watchers or representatives, let alone watchers from outside a county or less than eighteen feet away from the nearest table. The Campaign cites no authority for those propositions, and we know of none. (Ditto for notice-and-cure procedures.) And the Campaign litigated and lost that claim under state law too.”³¹

Indeed, perhaps the Third Circuit said it most clearly: “Free, fair elections are the lifeblood of our democracy. Charges of unfairness are serious. But calling an election unfair does not make it so. Charges require specific allegations and then proof. We have neither here... *The Campaign’s claims have no merit.*”³²

“Knowledge” under the Rules of Professional Conduct can be “inferred from circumstances.”³³

Ample evidence demonstrates that Mr. Hicks knew of the frivolous nature of the litigation he initiated. As the District Court noted, the Plaintiffs “haphazardly stitched together” their claims to avoid controlling precedent.³⁴ Further, these matters had already been litigated (and lost) as state-law claims. Moreover, the clear disconnect between the asserted injuries and requested relief would be apparent to any lawyer seeking to make a meritorious and redressable claim. Finally, both the District Court and Court of Appeals repeatedly refer to the Plaintiffs’ failure to allege relevant facts or cite any authority for their legal propositions. For that reason, the Third Circuit held that allowing the second amended complaint, which mirrored the Complaint Mr. Hicks filed, would be futile.

Mr. Hicks knew the claims he was advancing in this matter lacked any basis in law or fact. He did not seek a good-faith extension, modification, or reversal of the law – he simply ignored it.

It is unnecessary to speculate about the motivations giving rise to Mr. Hicks’s disregard for Rule 3.1 – unnecessary both because the Rule does not require it and because the intent is clear from the disconnect between the stated injury (two individuals’ votes being canceled in non-Defendant counties) and the requested relief (invalidating between 1.5 million and 6.8 million votes).

No matter the reasoning or rationale, Mr. Hicks violated Rule 3.1 and his actions warrant discipline.

²⁹ *Id.*

³⁰ *Id.* at 389.

³¹ *Id.* at 387.

³² *Id.* at 381 (emphasis added).

³³ Rule 1.0(f).

³⁴ Memorandum Opinion at 11.

2. Mr. Hicks Violated Rule 4.4 Command That Lawyers Respect the Rights of Third Parties

Pursuant to Rule 4.4, “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.”

Comment 1 to the Rule states, “Responsibility to a client requires a lawyer to subordinate the interests of others to those of the client, but that responsibility does not imply that a lawyer may disregard the rights of third persons.”

In the interests of his clients, Mr. Hicks sought to have between 1.5 million and 6.8 million Pennsylvanians lose their right to vote. Incredibly, while asserting that, “Every legal – not illegal – vote should be counted,”³⁵ Plaintiffs sought the opposite. Paradoxically, while challenging the denial of two people’s right to vote, the remedy Plaintiffs fought for was the canceling of every validly cast ballot.³⁶ The District Court stated as much: “Granting Plaintiffs’ requested relief would necessarily require invalidating the ballots of every person who voted in Pennsylvania. Because this Court has no authority to take away the right to vote of even a single person, let alone millions of citizens, it cannot grant Plaintiffs’ requested relief.”³⁷

The Court of Appeals went further, directly calling the Plaintiffs’ effort one that would harm others:

Granting relief would harm millions of Pennsylvania voters too. The Campaign would have us set aside 1.5 million ballots without even alleging fraud. As the deadline to certify votes has already passed, granting relief would disenfranchise those voters or sidestep the expressed will of the people. Tossing out those ballots could disrupt every down-ballot race as well. There is no allegation of fraud (let alone proof) to justify harming those millions of voters as well as other candidates.³⁸

3. Mr. Hicks Engaged in Misconduct that Violates Rule 8.4

Under Rule 8.4, “It is professional misconduct for a lawyer to...violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; [or] engage in conduct involving dishonesty, fraud, deceit or misrepresentation; [or] engage in conduct that is prejudicial to the administration of justice.”

Mr. Hicks participated in a purposefully dishonest effort to undermine the 2020 election. He brought frivolous claims that the Constitution, prior court decisions, and relevant statutes barred. The bare “factual” bases he relied on were supported by false statements and wild speculation. As both the District Court and Court of Appeals found, no legal or factual grounds existed for the claims Mr. Hicks advanced.

³⁵ Compl. ¶ 1.

³⁶ Compl. at p. 84.

³⁷ Memorandum Opinion at 32.

³⁸ *Donald J. Trump for President, Inc.*, 830 F. App’x at 390.

Furthermore, Mr. Hicks assisted others in violating the Rules of Professional Conduct. It is clear that the Pennsylvania effort was part of a larger national scheme orchestrated by Mr. Trump’s legal team. Mr. Hicks, along with his law partner, was involved in numerous cases representing Mr. Trump’s campaign. And, during the 2020 election cycle, Mr. Trump’s campaign paid Mr. Hicks’s firm over \$700,000.³⁹ Rudy Giuliani, who headed Mr. Trump’s post-election legal team, actively participated in the *Boockvar* litigation and attended the November 17, 2020 hearing. The Appellate Division of the Supreme Court of New York has suspended Mr. Giuliani for his role in the efforts to overturn the 2020 election – and specifically cited the *Boockvar* litigation as a basis for his discipline.⁴⁰

Finally, although the strongest basis for disciplining Mr. Hicks rests in his conduct around the *Boockvar* litigation, the Office of Disciplinary Counsel should consider the fact that he participated in multiple other litigated matters between June 29, 2020 and December 8, 2020, with all allegations of fraud or a basis for overturning the election being rejected by courts. Just as Mr. Giuliani sought to create a national narrative of fraud, Mr. Hicks endeavored to do the same within Pennsylvania. It all amounted to a dishonest attempt to undermine the public confidence in the 2020 election. It is important to also recognize the direct link between the use of the courts to bolster a false narrative about the vote’s outcome and the events of January 6, 2021, when people believing that the 2020 election was stolen stormed the Capitol in a violent insurrection.

The United States Supreme Court has long recognized in upholding disciplinary actions that “speech by an attorney is subject to greater regulation than speech by others.”⁴¹ As officers of the court an attorney is “an intimate and trusted and essential part of the machinery of justice” and a “crucial source of information and opinion.”⁴² Although attorneys, of course, maintain First Amendment rights, the actions in question here cross far beyond protected speech. Indeed, disciplinary boards and courts considering the conduct of other lawyers involved in the effort to overturn the 2020 election have rejected assertions that the attorneys enjoyed First Amendment protections for their conduct.

That members of our esteemed profession would engage in such actions – conduct that contributed to substantial harm to American democracy – should cause considerable distress within the entire legal community.

³⁹ Charlotte Klein, *Turns Out Some Lawyers Don’t Want to Help Trump Undermine the Election*, Vanity Fair, Nov. 10, 2020, available at <https://www.vanityfair.com/news/2020/11/jones-day-porter-wright-law-firms-trump-election-lawsuits>.

⁴⁰ *In the Matter of Rudolph W. Giuliani*, Supreme Court of the State of New York Appellate Division, First Judicial Dept., May 3, 2021 at 11-14, available at [https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20\(2021-00506\)%20PC.pdf](https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20(2021-00506)%20PC.pdf).

⁴¹ *Ohralik v. Ohio State Bar Assn.*, 436 U.S. 447, 465 (1978).

⁴² *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1056, 1072 (1991).

False statements intended to foment a loss of confidence in our elections and resulting loss of confidence in government generally damage the proper functioning of free society. When those false statements are made by an attorney, it also erodes the public's confidence in the integrity of attorneys admitted to our bar and damages the profession's role as a crucial source of reliable information.⁴³

Mr. Hicks chose to offer his professional license to an assault on our democracy. He pursued litigation that lacked any basis in law or fact. He participated in an organized effort to sow discord and doubt about the 2020 elections. He helped lead the charge in Pennsylvania to disenfranchise millions of his fellow citizens because he did not like how they voted.

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

Sincerely,



Michael Teter
Managing Director



On behalf of The 65 Project

⁴³ *In the Matter of Rudolph W. Giuliani*, Supreme Court of the State of New York Appellate Division, First Judicial Dept., May 3, 2021 at 30-31.