August 31, 2022

Keith Sellen, Director
Wisconsin Office of Lawyer Regulation
P.O. Box 1648
Madison, WI 53701

Dear Mr. Sellen:

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 Lawyer Regulation investigate the actions taken by Michael D. Dean (State Bar No. 01019171) relating to his effort to overturn the 2020 presidential election. Mr. Dean served as part of a coordinated attempt to "release the Kraken" on American democracy, alongside Sidney Powell, Rudy Giuliani, Lin Wood, and John Eastman as they abused the judicial system to promote and amplify bogus, unsupported claims of fraud to discredit an election that Mr. Trump lost.

Mr. Dean worked on two matters in Wisconsin: *Langenhorst v. Pecore* and *Feehan v. Wisconsin Elections Commission*. Both of these actions lacked any basis in law or fact. Indeed, they were nearly carbon copies of litigation filed in several other states, as national lawyers sought to create a false narrative about voter fraud that was based on conjecture and conspiracy theories. Incredibly, and perhaps conclusively for your investigation, Mr. Dean's own co-counsel has defended herself against a defamation claim based on the assertions she made regarding the 2020 election by stating that, "no reasonable person" would believe those assertions to be "statements of fact."[1]

Mr. Dean lent his Wisconsin law license to the effort. But Wisconsin's Rules of Professional Conduct demand more. 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. Dean not only crossed, but blew past, the ethical standards to which he is bound.

[1] *See U.S. Dominion, Inc. v. Powell*, Case No. 1:21-cv-00040 (D.D.C. 2021), Mot. to Dismiss at 27, available at https://storage.courtlistener.com/recap/gov.uscourts.dcd.225699/gov.uscourts.dcd.225699.22.2_3.pdf.

A full investigation by the Office of Lawyer Regulation will demonstrate the egregious nature of Mr. Dean's actions, especially when considered in light of his purposes, the direct and possible consequences of his behavior, and the serious risk that Mr. Dean will repeat such conduct unless disciplined.

BACKGROUND

Joe Biden received over 81 million votes in November 2020, defeating Mr. Trump by over seven million votes and over four percentage points.[2] Mr. Trump's head of the U.S. Cybersecurity and Infrastructure Security Agency, Christopher Krebs, announced that the "November 3rd election was the most secure in American history. . . . There is no evidence that any voting system deleted or lost votes or changed votes or was in any way compromised." Mr. Trump fired him. William Barr, Mr. Trump's own Attorney General, declared that the Department of Justice has "not seen fraud on a scale that could have effected a different outcome in the election." Attorney General Barr announced his resignation less than two weeks later, but not before again confirming that the 2020 elections had been free and fair.[3]

Many of Mr. Trump's own senior advisors agreed with Attorney General Barr and Mr. Krebs.[4] Indeed, Deputy (and later Acting) Attorney General Jeffrey Rosen and Associate (and later Acting) Deputy Attorney General Richard Donoghue regularly refuted the false information and allegations that Mr. Trump and his allies asserted about a fraudulent election.[5] Mr. Rosen has testified that on December 15, 2020, at a meeting that included Mark Meadows, White House Chief of Staff, he and others told Mr. Trump that the information he was receiving from his political allies was not correct.[6] And Mr. Donoghue has testified to the Select Committee to Investigate the January 6th Attack on the United States Capitol (Select Committee) that on December 27, 2020, he told Mr. Trump "in very clear terms" that after "dozens of investigations, hundreds of interviews" looking at "Georgia, Pennsylvania, Michigan, and Nevada," the Department of Justice – Mr. Trump's own Department of Justice – had concluded that "the major allegations are not supported by the evidence developed."[7]

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[2] *See* Federal Election Commission, *Official 2020 Presidential General Election Results*, available at https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf.

[3] M. Balsamo, *Disputing Trump, Barr says no widespread election fraud*, Associated Press (Dec. 1, 2020), https://perma.cc/4U8N-SMB5.

[4] *See* Deposition of Jason Miller (Feb. 3, 2022), available at https://january6th.house.gov/sites/democrats.january6th.house.gov/files/2022.03.02%20%28ECF%20160%29%20Opposition%20to%20Plaintiff%27s%20Privilege%20Claims%20%28Redacted%29.pdf; Interview of Jeffrey Rosen (Aug. 7, 2021), United States Senate Committee on the Judiciary, 117th Cong. 30, available at https://www.judiciary.senate.gov/rosen-transcript-final.

[5] *See* Interview of Jeffrey Rosen *see also* Interview of Richard Donoghue (Oct. 1, 2021), available at https://january6th.house.gov/sites/democrats.january6th.house.gov/files/2022.03.02%20%28ECF%20160%29%20Opposition%20to%20Plaintiff%27s%20Privilege%20Claims%20%28Redacted%29.pdf

[6] Interview of Jeffrey Rosen.

[7] Interview with Richard Donoghue.

Despite clear proof that no fraud occurred, and that no one stole the election from him, Mr. Trump and his lawyers sought to overturn the legitimate results by filing 65 baseless lawsuits across the country.[8] None succeeded and, in fact, courts have imposed sanctions on the lawyers who participated in these suits and referred them for sanctions to their respective state bars.[9]

CONDUCT GIVING RISE TO THE COMPLAINT

Mr. Dean helped lead the charge on behalf of Mr. Trump in Wisconsin.

On November 12, 2020, Mr. Dean initiated *Langenhorst v. Pecore* in United States District Court for the Eastern District of Wisconsin. He was the only Wisconsin-based and licensed attorney on the matter, working with four out-of-state lawyers. The complaint Mr. Dean filed was nearly identical to three others filed by Mr. Dean's co-counsel in Pennsylvania, Georgia, and Michigan around the same time – despite the case-specific factual assertions of illegal voting.

For example, in *Langenhorst*, the Plaintiffs stated:

> In addition to the foregoing evidence, Voters will provide evidence, upon information and belief, that sufficient illegal ballots were included in the results to change or place in doubt the November 3 presidential-election results. This will be in the form of expert reports based on data analysis comparing state mail-in/absentee, provisional, and poll-book records with state voter-registration databases, United States Postal Service ("USPS") records, Social Security records, criminal-justice records, department-of-motor-vehicle records, and other governmental and commercial sources by using sophisticated and groundbreaking programs to determine the extent of illegal voters and illegal votes, including double votes, votes by ineligible voters, votes by phantom (fictitious) voters, felon votes (where illegal), non-citizen votes, illegal ballot harvesting, and pattern recognition to identify broader underlying subversion of the election results. Plaintiffs have persons with such expertise and data-analysis software already in place who have begun preliminary analysis of available data to which final data, such as the official poll list, will be added and reports generated.
>
> Upon information and belief, the expert report will identify persons who cast votes illegally by casting multiple ballots, were deceased, had moved, or were otherwise not qualified to vote in the November 3 presidential election, along with evidence of illegal

[8] W. Cummings, J. Garrison & J. Sergent, *By the numbers: President Donald Trump's failed efforts to overturn the election*, USA Today (Jan. 6, 2021), available at https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/.
[9] *See, e.g.*, *King v. Whitmer*, No. 20-13134 (U.S. Dist. Ct. E. Dist. Mich. Aug. 25, 2021), available at https://www.michigan.gov/documents/ag/172_opinion__order_King_733786_7.pdf.

> ballot stuffing, ballot harvesting, and other illegal voting. This evidence will be shortly forthcoming when the relevant official documents are final and available, for which discovery may be required, and the result of the analysis and expert reports based thereon will show that sufficient illegal ballots were included in the results to change or place in doubt the November 3 presidential-election results.[10]

They repeated those same lines in Pennsylvania[11] and Georgia.[12]

And the "foregoing evidence" referred to in the above paragraph were allegations that:

- Two non-election inspectors gave advice to poll workers at a Brown County counting facility;[13]
- Fourteen people allege to have received absentee ballots without requesting them, with twelve of these examples coming entirely through word of mouth and rumor;
- A volunteer who was knocking on doors for a conservative organization before the election was told by one person that he had received ten ballots from the Wisconsin Elections Commission and so had his neighbor; and
- Three people died after they mailed their completed absentee ballots.

"This evidence," the Amended Complaint, "suffices to place in doubt the November 3 presidential-election results in identified counties and/or the state as a whole."

But, of course, that was hardly true. First, the Plaintiffs were not even suing Brown County – probably because that county's total vote favored President Trump. Second, voters' statements that they did not recall requesting absentee ballots or that they heard other people say they did not request absentee ballots is not evidence of fraud. Third, relying on the statement from a conservative volunteer who reported that a like-minded voter alleged to have received ten ballots from the Wisconsin Election Commission is an absurd basis for bringing an action seeking to invalidate 3.3 million votes, especially when the Wisconsin Election Commission does not even send out ballots. And finally, the fact that three people requested absentee ballots, completed and returned those ballots, and then later died reveals nothing nefarious and fraudulent.

Including these types of allegations to support any lawsuit would be problematic. More troubling, though, is that Mr. Dean sought to disqualify *every vote* in Dane and Milwaukee counties so that Mr. Trump would prevail. In addressing the idea of invalidating hundreds of

[10] *Langenhorst, et al. v. Pecore, et al.*, Case No. 1:20-cv-1701 (E.D. Wis.), Nov. 12, 2020, Am. Compl. ¶¶ 44-45.
[11] *Pirkle v. Wolf*, Case No. 4:20-cv-2088 (M.D. Pa.), Nov. 10, 2020, Compl. ¶¶ 26-27.
[12] *Brooks, et al. v. Mahoney, et al.*, Case No. 4:20-cv-00281 (S.D. Ga.), Nov. 11, 2020, Compl. ¶¶ 45-46.
[13] *Langenhorst, et al. v. Pecore, et al.*, Case No. 1:20-cv-1701 (E.D. Wis.), Nov. 12, 2020, Am. Compl. ¶ 36.

thousands of legally cast votes, Mr. Dean's co-counsel said that they wanted the court to throw out, "Every fricking one of them."[14]

Further, Mr. Dean's co-counsel acknowledged that they lacked a proper factual basis for bringing the matter. He said, "There's sufficient suspicion that [the election's] been stolen. Our case does not end there. Our case begins there. We want the poll lists so that we can analyze the poll list to see if in fact it was stolen."[15] In other words, suspicion and conjecture – not facts – underlie their effort.

After a flurry of activity on the case – including the court issuing over a dozen requested summonses, a Plaintiffs' motion for expedited scheduling and discovery, and several motions to intervene – Mr. Dean voluntarily dismissed the matter four days after filing. Mr. Dean's co-counsel dismissed the similar lawsuits brought in other states the same day.

Mr. Dean did not stop there. On December 1, 2020 – four weeks after the presidential election – Mr. Dean filed a Complaint for Declaratory and Injunctive Relief, which initiated *Feehan v. Wisconsin Election Commission*. In that lawsuit, Mr. Dean sought to have the federal court "order state officials to decertify the election results that state officials had certified the day before, order the Governor not to transmit to the Electoral College the certified results he'd transmitted the day before and order the Governor to instead transmit election results that declared Donald Trump to be 'the winner of this election.'"

Feehan, like *Langenhorst*, was a carbon copy of other complaints filed in other states – an effort that Mr. Dean's co-counsel Sidney Powell called "releasing the Kraken":

- *King, et al. v. Whitmer, et al*., Case No. 20-cv-13134 (E.D. Mich. 2020)
- *Bowyer, et al. v. Ducey, et al.*, Case No. 2:20-cv-02321-DJH (D. Ariz. 2020)
- *Pearson, et al. v. Kemp, et al*., Case No. 1:20-v-04809-TCB (N.D. Ga. 2020)

As just a sampling, the Complaint (and Amended Complaint) Mr. Dean filed asserted:

> This civil action brings to light a massive election fraud, multiple violations of Wisconsin Statutes Chapters 5 – 12 (hereafter, "Wisconsin Election Code"), *see, e.g.,* Wis. Stat. §§ 5.03, *et. seq.*, in addition to the Election and Electors Clauses and Equal Protection Clause of the U.S. Constitution. These violations occurred during the 2020 General Election in the City of Milwaukee, southeastern Wisconsin counties, and throughout the State of Wisconsin, as set forth in the affidavits of dozens of eyewitnesses and the statistical anomalies and mathematical

[14] Tony Cook & Johnny Magdaleno, *Top Indiana Election Attorney Rushes to Defend Trump's Fraud Claims, Then Quietly Retreats*, Indianapolis Star (Nov. 17, 2020), https://www.indystar.com/story/news/politics/2020/11/17/top-indiana-election-drops-lawsuits-challenging-trump-loss-4-states/6258104002/.

[15] Tony Cook & Johnny Magdaleno, *Top Indiana Election Attorney Rushes to Defend Trump's Fraud Claims, Then Quietly Retreats*, Indianapolis Star (Nov. 17, 2020).

impossibilities detailed in the affidavits of expert witnesses. *See* Exh. 19, Declaration of affiant presenting statistical analysis prediction of 105,639 fraudulent ballots cast for Joe Biden in the City of Milwaukee and Exh. 17, Declaration of Russell James Ramsland, Jr. wherein he demonstrates it is statistically impossible for Joe Biden to have won Wisconsin.

…

The scheme and artifice to defraud was for the purpose of illegally and fraudulently manipulating the vote count to manufacture an election of Joe Biden as President of the United States, and also of various down ballot democrat candidates in the 2020 election cycle. The fraud was executed by many means, but the most fundamentally troubling, insidious, and egregious ploy was the systemic adaptation of old-fashioned "ballot-stuffing" techniques. *See* Exh. 16, U. S. Senator Elizabeth Warren (D. Mass.) letter of December 6, 2019 concerning the dangers of private equity control and censorship of election technology in the United States.
The fraud has now been amplified and rendered virtually invisible by computer software created and run by domestic and foreign actors for that very purpose.

…

The multifaceted schemes and artifices implemented by Defendants and their collaborators to defraud resulted in the unlawful counting, or fabrication, of hundreds of thousands of illegal, ineligible, duplicate or purely fictitious ballots in the State of Wisconsin, that collectively add up to multiples of Biden's purported lead in the State of 20,565 votes.

…

While this Amended Complaint, and the eyewitness and expert testimony incorporated herein, identify with specificity sufficient ballots required to set aside the 2020 General Election results, the entire process is so riddled with fraud, illegality, and statistical impossibility that this Court, and Wisconsin's voters, courts, and legislators, cannot rely on, or certify, any numbers resulting from this election. Accordingly, this Court must set aside the results of the 2020 General Election and grant the declaratory and injunctive relief requested herein.

…

The fraud begins with the election software and hardware from Dominion Voting Systems Corporation ("Dominion") used by the Wisconsin Elections Commission. The Dominion systems derive from the software designed by Smartmatic Corporation, which became Sequoia in the United States.

…

Smartmatic and Dominion were founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election. See Exh. 1, Redacted Declaration of Dominion Venezuela Whistleblower ("Dominion Whistleblower Report") and Exh. 8, Statement by Ana Mercedes Diaz Cardozo outlining actual examples of election manipulation by hacking and misuse of technology in Venezuelan elections. Notably, Chavez "won" every election thereafter.

…

As set forth in the Dominion Whistleblower Report, the Smartmatic software was contrived through a criminal conspiracy to manipulate Venezuelan elections in favor of dictator Hugo Chavez.

…

In addition to the Dominion computer fraud, this Amended Complaint identifies several additional categories of "traditional" voting fraud that occurred as a direct result of Defendant Wisconsin Election Commission ("WEC") and other Defendants directing Wisconsin clerks and other election officials to ignore or violate the express requirements of the Wisconsin Election Code. First, the WEC issued "guidance" to county and municipal clerks not to reject "indefinitely confined" absentee voters, even if the clerks possess "reliable information" that the voter is no longer indefinitely confined, in direct contravention of Wisconsin Statute § 6.86(2)(6), which states that clerks must remove such voters. Second, the WEC issued further guidance directing clerks – in violation of Wisconsin Statute § 6.87(6)(d), which states that an absentee envelope certification "is missing the address of a witness, the ballot may not be counted" – to instead fill in the missing address information.

…

> In the accompanying redacted declaration of a former electronic intelligence analyst with 305th Military Intelligence with experience gathering SAM missile system electronic intelligence, the Dominion software was accessed by agents acting on behalf of China and Iran in order to monitor and manipulate elections, including the most recent US general election in 2020. *See* Exh. 12 (copy of redacted witness affidavit).[16]

Throughout the Amended Complaint in these actions, "fraud" or its variations appear 45 times, "Venezuela" or "Venezuelan" appear 16 times, and there are at least nine references to Hugo Chavez.[17] Indeed, Mr. Dean and his co-counsel appeared to purposefully seek to link Smartmatic and Dominion, even though they are actually rival companies (for example, both bid for contracts in Georgia).[18] Moreover, the Amended Complaint falsely states that Dominion was "founded by foreign oligarchs and dictators to ensure computerized ballot-stuffing and vote manipulation to whatever level was needed to make certain Venezuelan dictator Hugo Chavez never lost another election."[19] In actuality, John Poulos founded the company in Toronto, Canada in 2002 – a publicly available fact – and in 2009, Dominion Voting Systems, Inc. incorporated in Delaware and headquartered in Denver, Colorado.[20]

The efforts contained other concerning features, as well. For example:

- The Plaintiffs allege that the Dominion software misallocates, redistributes, or deletes votes, but prior to including those allegations in the complaints, Mr. Dean knew that Georgia had completed two hand recounts that confirmed the accuracy of Dominion's tabulation.[21] He also knew that the Chairman of the Maricopa County Board of Supervisors in Arizona had released a statement explaining,

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[16] *Feehan v. Wisconsin Elections Commission*, Case No. 20-cv-1771 (E.D. Wis. 2020), Am. Compl. ¶¶ 1-16, available at https://storage.courtlistener.com/recap/gov.uscourts.wied.92717/gov.uscourts.wied.92717.9.0.pdf.

[17] *See generally id*.

[18] Georgia Secretary of State, Elections Security Is Our Top Priority: Security-Focused Tech Company, Dominion Voting to Implement New Verified Paper Ballot System, available at https://sos.ga.gov/news/security-focused-tech-company-dominion-voting-implement-new-verified-paper-ballot-system.

[19] *Feehan v. Wisconsin Elections Commission*, Case No. 20-cv-1771 (E.D. Wis. 2020), Am. Compl. ¶ 7.

[20] *See, e.g.*, Neena Stija, *What You Need to Know About Dominion, the Company that Trump and His Lawyers Baselessly Claim "Stole" the Election*, Wash. Post., Nov. 20, 2020, available at https://www.washingtonpost.com/politics/2020/11/20/dominion-voting-trump-faq/.

[21] Georgia Secretary of State, *3rd Strike Against Voter Fraud Claims Means They're Out After Signature Audit Finds No Fraud*, https://sos.ga.gov/news/3rd-strike-against-voter-fraud-claims-means-theyre-out-after-signature-audit-finds-no-fraud.

"The Dominion tabulation equipment met mandatory requirements during logic and accuracy testing before the Presidential Preference Election, the Primary Election and the General Election. And after each of these 2020 elections, the hand count audit showed the machines generated an accurate count."[22]

- Wisconsin conducted a post-election audit that included fifteen percent of Dominion machines and Wisconsin Election Commissioner Eastman Knudson, a former Republican state legislator, stated that the audit showed "no evidence of systemic problems" or "hacking" or of "switched votes."[23] The audit results were posted online and available prior to the Amended Complaint's filing.

- On December 1, 2020, Attorney General Barr reiterated that no fraud occurred, specifically rebutting the claims regarding Dominion by saying, "There's been one assertion that would be systemic fraud and that would be the claim that machines were programmed essentially to skew the election results. And the DHS and DOJ have looked into that, and so far, we haven't seen anything to substantiate that."[24]

- The lawyers included a declaration of an anonymous source – a "code-named "Spyder" – who the Plaintiffs stated was a "military intelligence expert."[25] In fact, "Spyder" (which a mistaken filing by Ms. Powell revealed to be Josh Merritt) never actually worked in military intelligence and he himself acknowledged that the declaration that Plaintiffs' counsel wrote for him was "misleading."[26]

- The complaints also selectively quoted Princeton professor Andrew Appel and indicated he was speaking about Dominion in 2020, when, in fact Dr. Appel was speaking about a decades-old machine.[27] In reality, Dr. Appel had 58 other specialists in election security rebut the assertions made about his views in the

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[22] Letter from Clint Hickman to Maricopa County Voters (Nov. 17, 2020), available at https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters#:~:text=Here%20are%20the%20facts%3A&text=The%20evidence%20overwhelmingly.

[23] Video available at https://wiseye.org/2020/12/01/wisconsin-elections-commission-december-2020- meeting at 2:05:18.

[24] Michael Balsamo, *Disputing Trump, Barr says no widespread election fraud*, Associated Press (Dec. 1, 2020), available at https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d.

[25] *See, e.g.*, *Pearson v. Kemp*, No. 1:20- cv-04809 (N.D. Ga. Nov. 25, 2020) Compl. ¶ 111.

[26] Emma Brown, Aaron C. Davis & Alice Crites, *Sidney Powell's secret 'military intelligence expert,' key to fraud claims in election lawsuits, never worked in military intelligence*, Wash. Post (Dec. 11, 2020), available at, https://www.washingtonpost.com/investigations/sidney-powellspider-spyder-witness/2020/12/11/0cd567e6-3b2a-11eb-98c4-25dc9f4987e8_story.html.

[27] *See* Tony Adams, Prof. Andrew W Appel, et al., *Scientists say no credible evidence of computer fraud in the 2020 election outcome, but policymakers must work with experts to improve confidence*, Matt Blaze (Nov. 16, 2020), available at, https://www.mattblaze.org/papers/election2020.pdf.

complaints and stated, "no credible evidence has been put forth that supports a conclusion that the 2020 election outcome in any state has been altered through technical compromise."[28]

- The attorneys for Plaintiffs submitted sworn statements from individuals that contained identical explanations for speaking up:[29]

Declaration of Anonymous Source Claiming to be on the National Security Guard Detail of the President of Venezuela:	**Declaration of Ana Mercedes Dias Cardozo:**
"I want to alert the public and let the world know the truth about the corruption, manipulation, and lies being committed by a conspiracy of people and companies intent upon betraying the honest people of the United States and their legally constituted institutions and fundamental rights as citizens. This conspiracy began more than a decade ago in Venezuela and has spread to countries all over the world. It is a conspiracy to wrongfully gain and keep power and wealth. It involves political leaders, powerful companies, and other persons whose purpose is to gain and keep power by changing the free will of the people and subverting the proper course of governing."	"I want to alert the public and let the world know the truth about the corruption, manipulation, and lies being committed by a conspiracy of people and companies intent upon betraying the honest people of the United States and their legally constituted institutions and fundamental rights as citizens. This conspiracy began more than a decade ago in Venezuela and has spread to countries all over the world. It is a conspiracy to wrongfully gain and keep power and wealth. It involves political leaders, powerful companies, and other persons whose purpose is to gain and keep power by changing the free will of the people and subverting the proper course of governing."

[28] *Id*.

[29] *Compare* Declaration of an anonymous source claiming to have been selected for the "national security guard detail of the President of Venezuela" at ¶ 4 *with* Statement by Ana Mercedes Diaz Cardozo at ¶ 4.

- Plaintiffs' attorneys cited, and attached to their complaints, a declaration from Terpsichore Maras-Lindeman without ever speaking to Ms. Maras-Lindeman. Instead, Ms. Maras-Lindeman "distributed her affidavit widely to like-minded people and was unaware it had come to Powell's attention until it appeared as an exhibit in one of her cases."[30] Had Plaintiffs' counsel actually spoken to Ms. Maras-Lindeman, or conducted even the most rudimentary investigation, they would have learned that Ms. Maras-Lindeman has an extensive history of making false claims about her career, education, and training. The North Dakota Attorney General's Office investigated her for violating consumer fraud and charitable solicitation laws and noted that "it has been very difficult to determine the truth among Maras-Lindeman's various claims."[31] A North Dakota court entered a judgment against Ms. Maras-Lindeman finding that she engaged in fraud and deceptive behavior.[32] All of this information was publicly available before Ms. Newman and her co-counsel relied on her affidavit that happened to find its way into their hands.

- Another affiant relied on by Plaintiffs' counsel was Russell Ramsland, a conspiracy theorist who has asserted that George Soros (born in 1930) helped form the "Deep State" in Nazi Germany in the 1930s, working alongside Senator Prescott Bush (President George H.W. Bush's father), the Muslim Brotherhood, and "leftists."[33] Mr. Ramsland made these publicly reported statements, as far back as 2018. Mr. Ramsland's analysis of voter turnout was riddled with obvious and quickly documented errors and Ms. Newman never informed the Court of those errors.[34]

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[30] Jon Swaine, *Sidney Powell's Secret Intelligence Contractor Witness is a Pro-Trump Podcaster*, Wash. Post. (Dec. 24, 2020), available at https://www.washingtonpost.com/investigations/sidney-powells-secret-intelligence-contractor-witness-is-a-pro-trump-podcaster/2020/12/24/d5a1ab9e-4403-11eb-a277-49a6d1f9dff1_story.html.

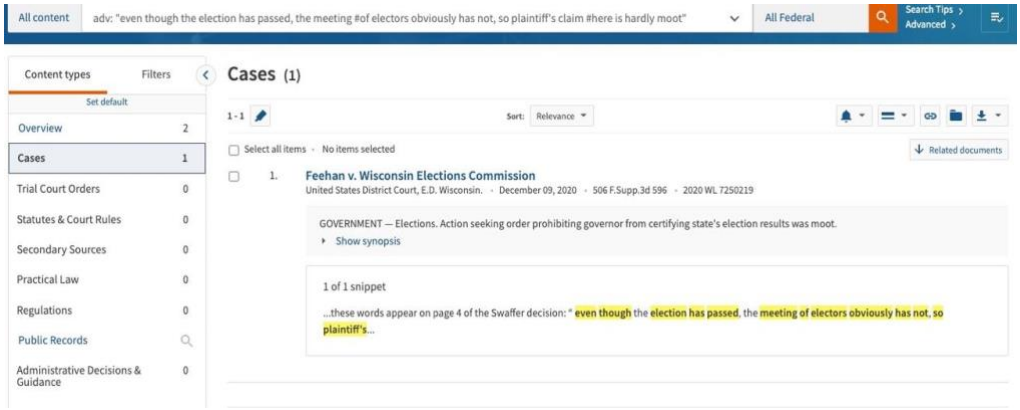
[31] North Dakota Attorney General, *Attorney General Details Investigation of Unlicensed Business for Alleged Fraud* (Apr. 4, 2018), available at https://attorneygeneral.nd.gov/news/attorney-general-details-investigation-unlicensed-business-alleged-fraud-tore-maras-lindeman.

[32] Findings of Fact, Conclusions of Law, and Order for Judgment, State v. Maras, No. 51-2018-CV-01339 (Dist. Ct. N. Central Jud. Dist., N.D. Sept. 11, 2020), available at https://attorneygeneral.nd.gov/sites/ag/files/documents/RecentActions/2020-09-14-MagicCityChristmas-Judgment.pdf.

[33] John Savage, *Texas Tea Partiers Are Freaking Out Over 'Deep State' Conspiracy Theories*, Vice (Sept. 20, 2018), available at, https://www.vice.com/en/article/mbwgxx/texas-tea-partiersare-freaking-out-over-deep-state-conspiracy-theories.

[34] Clara Hendrickson, *Affidavit in Michigan lawsuit seeking to overturn election makes wildly inaccurate claims about vote*, PolitiFact (Dec. 4, 2020), available at https://www.politifact.com/factchecks/2020/dec/04/russell-james-ramsland-jr/affidavit-michigan-lawsuit-seeking-overturn-electi/.

- The District Court in Wisconsin noted in its decision dismissing the case that the Plaintiffs' counsel "seems to have made up the 'quote' in his brief that purports to be from [a cited case]."[35] Indeed, the Court read the cited opinion "three times" and could not find that quote.[36] In fact, we have reviewed the quoted language and run it through Westlaw, without any citations, other than the Court's decision in *Feehan*, coming up:



- They also misrepresented well-established caselaw and standards. For example, Plaintiffs contended that *Whitford v. Nichol*, 151 F. Supp. 3d 918 (W.D. Wis. 2015), established standing "to challenge state laws that collectively reduce the value of one party."[37] However, they did not inform the Court that the Supreme Court expressly overruled that exact rationale in that exact case.[38] They relied on notice pleading standards that have long since been overtaken by *Twombly* and *Iqbal*.

- One of the original plaintiffs in the Complaint Mr. Dean signed and filed was not aware he was a plaintiff in the case:

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[35] *Feehan v. Wisconsin Election Commission, et al.*, Case No. 20-cv-1771 (E.D. Wisc. 2020), Order Granting Defendants' Motion to Dismiss at 32, available at https://storage.courtlistener.com/recap/gov.uscourts.wied.92717/gov.uscourts.wied.92717.83.0_5.pdf.

[36] *Id*.

[37] *Feehan v. Wisconsin Election Commission, et al.*, Case No. 20-cv-1771 (E.D. Wisc. 2020), Brief in Opposition to Motion to Dismiss at 20, available at https://storage.courtlistener.com/recap/gov.uscourts.wied.92717/gov.uscourts.wied.92717.72.0.pdf.

[38] See *Gill v. Whitford*, 138 S. Ct. 1916, 1921 (2018).

Additionally, sufficient public information about her co-counsel's work existed to have put Mr. Dean on notice that he needed to ensure that the claims he would be advancing in court had a factual basis. In a November 28, 2020 article, the *Washington Post* reported that:

> Campaign lawyers Justin Clark and Matt Morgan told others they should not present the Dominion theory because there was no evidence for it, the two officials said. The campaign official who was surprised by her sudden involvement said she did not seem interested in having the evidence.
>
> "What you saw with Sidney Powell and Rudy, it wasn't shoot first and ask questions later. It was shoot first and don't ask questions at all," that official said.[39]

Other, even presumably friendlier sources called Ms. Powell's claims into question. Fox News's Tucker Carlson stated on the air on November 19, 2020, that he invited Ms. Powell to appear on his show and present her evidence, but, he noted, "She never sent [] any evidence, despite a lot of requests…not a page…[Powell] never demonstrated that a single actual vote moved illegitimately by software from one candidate to another. Not one."[40]

Mr. Dean either failed to conduct the requisite reasonable inquiry to ascertain whether the claims he was bringing had a factual basis or he knew that he was falsely asserting facts to the court. Afterall, as Ms. Powell has since argued, "no reasonable person" would

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[39] Aaron C. Davis, Josh Dawsey, Emma Brown, and Jon Swaine, *For Trump Advocate Sidney Powell, a Playbook Steeped in Conspiracy Theories*, Wash. Post (Nov. 28, 2020), available at https://www.washingtonpost.com/investigations/sidney-powell-trump-kraken-lawsuit/2020/11/28/344d0b12-2e78-11eb-96c2-aac3f162215d_story.html.

[40] MUST-SEE: Tucker Carlson ABANDONS Trump's election fraud case on air, YouTube (Nov. 19, 2020), available at, https://www.youtube.com/watch?v=BspHzH6RRxo.

believe those assertions to be "statements of fact."[41]

Either way, all of the United States District Courts soundly rejected the effort.

In Wisconsin:

> [T]he legal question at the heart of this case is simple. Federal courts have limited jurisdiction. Does the federal court have the jurisdiction and authority to grant the relief this lawsuit seeks? The answer is no.
>
> Federal judges do not appoint the president in this country. One wonders why the plaintiffs came to federal court and asked a federal judge to do so. After a week of sometimes odd and often harried litigation, the court is no closer to answering the "why." But this federal court has no authority or jurisdiction to grant the relief the remaining plaintiff seeks. The court will dismiss the case.[42]

The Court also noted that the Plaintiffs in "presented *no* case, statute or constitutional provision providing the court with" the authority Plaintiff sought the Court to exercise.[43] Further, "Plaintiffs' alleged injury does not entitle them to seek their requested remedy because the harm of having one's vote invalidated or diluted is not remedied by denying millions of others *their* right to vote."[44]

Because the Amended Complaint was nearly identical to others filed in Arizona, Georgia, and Michigan, it's also instructive to know how those courts dealt with the claims and allegations.

In Arizona, federal judge Diane Humetewa, who was on Mr. Trump's shortlist for United States Supreme Court vacancies, held:

> By any measure, the relief Plaintiffs seek is extraordinary. If granted, millions of Arizonans who exercised their individual right to vote in the 2020 General Election would be utterly disenfranchised. Such a request should then be accompanied by

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[41] *See U.S. Dominion, Inc. v. Powell*, Case No. 1:21-cv-00040 (D.D.C. 2021), Mot. to Dismiss at 27, available at https://storage.courtlistener.com/recap/gov.uscourts.dcd.225699/gov.uscourts.dcd.225699.22.2_3.pdf.

[42] *Feehan v. Wisconsin Election Commission, et al.*, Case No. 20-cv-1771 (E.D. Wisc. 2020), Order Granting Defendants' Motion to Dismiss at 2, available at https://storage.courtlistener.com/recap/gov.uscourts.wied.92717/gov.uscourts.wied.92717.83.0_5.pdf.

[43] *Id*. at 22 (emphasis in original).

[44] *Id.* at 23 (emphasis in original).

> clear and conclusive facts to support the alleged "egregious range of conduct in Maricopa County and other Arizona counties . . . at the direction of Arizona state election officials." Yet the Complaint's allegations are sorely wanting of relevant or reliable evidence, and Plaintiffs' invocation of this Court's limited jurisdiction is severely strained…
>
> The allegations they put forth to support their claims of fraud fail in their particularity and plausibility. Plaintiffs append over three hundred pages of attachments, which are only impressive for their volume. The various affidavits and expert reports are largely based on anonymous witnesses, hearsay, and irrelevant analysis of unrelated elections…
>
> Allegations that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings and procedure in federal court. They most certainly cannot be the basis for upending Arizona's 2020 General Election.[45]

In Georgia, the Court stated:

> [T]he burden is on the Plaintiffs, and the relief that they seek is extraordinary. And although they make allegations of tremendous worldwide improprieties regarding the Dominion voting machines, those allegations are supported by precious little proof.[46]

The Court added in its order dismissing the case:

> [T]he Plaintiffs essentially ask the Court for perhaps the most extraordinary relief ever sought in any Federal Court in connection with an election. They want this Court to substitute its judgment for that of two-and-a-half million Georgia voters who voted for Joe Biden, and this I am unwilling to do.[47]

And in Michigan, the Court held:

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[45] *Bowyer, et al. v. Ducey, et al.*, Case No. 2:20-cv-02321-DJH (D. Ariz. 2020) Order, available at https://storage.courtlistener.com/recap/gov.uscourts.azd.1255923/gov.uscourts.azd.1255923.84.0_2.pdf.

[46] *Pearson, et al. v. Kemp, et al.*, Case No. 1:20-v-04809-TCB (N.D. Ga. 2020) Tr. from Nov. 29, 2020 hearing at 15:24-16:3, available at https://storage.courtlistener.com/recap/gov.uscourts.gand.284055/gov.uscourts.gand.284055.23.0.pdf.

[47] *Pearson, et al. v. Kemp, et al.*, Case No. 1:20-v-04809-TCB (N.D. Ga. 2020) Tr. from Dec. 7, 2020 hearing.

> Plaintiffs . . . [bring] forth claims of widespread voter irregularities and fraud in the processing and tabulation of votes and absentee ballots. They seek relief that is stunning in its scope and breathtaking in its reach. If granted, the relief would disenfranchise the vote of more than 5.5 million Michigan citizens who, with dignity, hope, and a promise a voice, participated in the 2020 General Election. The Court declines to grant Plaintiffs this relief.[48]

But the federal court in Michigan went further when presented with a motion for sanctions against the attorneys who brought that matter forward:

> This lawsuit represents a historic and profound abuse of the judicial process. It is one thing to take on the charge of vindicating rights associated with an allegedly fraudulent election. It is another to take on the charge of deceiving a federal court and the American people into believing that rights were infringed, without regard to whether any laws or rights were in fact violated. This is what happened here.
>
> Individuals may have a right (within certain bounds) to disseminate allegations of fraud unsupported by law or fact in the public sphere. But attorneys cannot exploit their privilege and access to the judicial process to do the same. And when an attorney has done so, sanctions are in order.
>
> Here's why. America's civil litigation system affords individuals the privilege to file a lawsuit to allege a violation of law. Individuals, however, must litigate within the established parameters for filing a claim. Such parameters are set forth in statutes, rules of civil procedure, local court rules, and professional rules of responsibility and ethics. Every attorney who files a claim on behalf of a client is charged with the obligation to know these statutes and rules, as well as the law allegedly violated.
>
> Specifically, attorneys have an obligation to the judiciary, their profession, and the public (i) to conduct some degree of due diligence before presenting allegations as truth; (ii) to advance only tenable claims; and (iii) to proceed with a lawsuit in good

[48] *King, et al. v. Whitmer, et al*., Case No. 20-cv-13134 (E.D. Mich. 2020) Opinion and Order 2, available at https://storage.courtlistener.com/recap/gov.uscourts.mied.350905/gov.uscourts.mied.350905.62.0_11.pdf.

> faith and based on a proper purpose. Attorneys also have an obligation to dismiss a lawsuit when it becomes clear that the requested relief is unavailable.
>
> …
>
> The attorneys who filed the instant lawsuit abused the well-established rules applicable to the litigation process by proffering claims not backed by law; proffering claims not backed by evidence (but instead, speculation, conjecture, and unwarranted suspicion); proffering factual allegations and claims without engaging in the required prefiling inquiry; and dragging out these proceedings even after they acknowledged that it was too late to attain the relief sought.
>
> *And this case was never about fraud—it was about undermining the People's faith in our democracy and debasing the judicial process to do so.*[49]

The Court granted the motion for attorney's fees and sanctions and directed that a copy of that order be sent to the appropriate disciplinary authority where each attorney involved in the matter is admitted. The Plaintiffs' counsel appealed the order to the Sixth Circuit, which denied the appeal.[50]

Mr. Dean advanced the same claims, the same allegations, and the same assertions as those put forward in *King v. Whitmer*. He did so without any more evidence; he did so despite public information that would have called into question the reasonableness of the efforts; and he did so without regard to their consequence.

His actions warrant discipline.

A SUBSTANTIAL BASIS EXISTS FOR THE OFFICE OF LAWYER REGULATION TO INVESTIGATE MR. DEAN'S CONDUCT AND TO IMPOSE APPROPRIATE DISCIPLINE

The Office of Lawyer Regulation should investigate Mr. Dean's actions on the following basis:

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[49] *King, et al. v. Whitmer, et al*., Case No. 20-cv-13134 (E.D. Mich. 2020) Opinion and Order 1-3, available at https://storage.courtlistener.com/recap/gov.uscourts.mied.350905/gov.uscourts.mied.350905.172.0_8.pdf (emphasis in original).

[50] *See* https://storage.courtlistener.com/recap/gov.uscourts.mied.350905/gov.uscourts.mied.350905.193.0_2.pdf.

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

Rule 3.1 provides, in part, as follows: "In representing a client, a lawyer shall not…knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by 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."

"Knowledge" under the Rules of Professional Conduct can be "inferred from circumstances."[51]

Ample evidence demonstrates that Mr. Dean knew of the frivolous nature of the litigation he initiated. In *Langenhorst,* the Amended Complaint specifically acknowledged that counsel had not had ample opportunity to investigate the matter. Further, no reasonable person would consider the cited evidence a sufficient basis for throwing out nearly a million votes in two counties.

In fact, the pleadings themselves make clear that when filing the claims, Mr. Dean did not have a proper basis for bringing them because the Plaintiffs did not have even a shred of the evidence they claimed they would produce. As Mr. Dean's co-counsel said, there was "suspicion" that the election was stolen and "our case begins there."[52] The Complaint repeatedly states, "upon information and belief," but as the Third Circuit said in rejecting a Trump Campaign lawsuit, "'Upon information and Belief' is a lawyerly way of saying that the Campaign does not know that something is a fact but just suspects it or has heard it."[53]

Finally, the fact that Mr. Dean's co-counsel filed complaints containing nearly identical allegations in three other states that Mr. Biden won helps confirm that the efforts were part of a larger effort to undermine the legitimacy of the entire 2020 presidential election.

Mr. Dean knew the claims he was advancing in *Langenhorst* lacked any basis in law or fact.

And as the District Court in *Feehan* found, the Plaintiffs "presented *no* case, statute or constitutional provision providing the court with" the authority they sought for the Court to exercise.

Four separate federal courts reviewed the allegations – nearly identical across the board – and rejected the efforts. And the defendants in the Michigan matter successfully requested sanctions against the attorneys advancing the same claims as Mr. Dean.

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[51] Rule 1.0(f).

[52] Tony Cook & Johnny Magdaleno, *Top Indiana Election Attorney Rushes to Defend Trump's Fraud Claims, Then Quietly Retreats,* Indianapolis Star (Nov. 17, 2020).

[53] *Donald J. Trump for President, Inc*., 830 F. App'x at 387.

Further, the surrounding context demonstrates the frivolousness of Mr. Dean's conduct. Public reports available prior to Mr. Dean's initiating *Feehan* showed that the Trump campaign's attorneys did not believe Ms. Powell had any evidence to support her claims. Mr. Dean did not speak to, or apparently ascertain whether anyone of the legal team had spoken to, the witnesses whose declarations he submitted to the Court. He filed a complaint on behalf of a plaintiff who did not even know of, or give approval to, the filing.

In short, for the many reasons provided above, Mr. Dean's conduct violated Rule 3.1.

2. Mr. Dean Violated Rule 3.3 By Making False Statements to the Court and Failing to Correct Those Statements

Rule 3.3(a)(1) of the Rules of Professional Conduct provides that: "A lawyer shall not knowingly…make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."

The District Court's opinion notes that Plaintiffs' counsel made up an entire quote from a case that does not exist, neither in the cited case nor in any federal court decision. Mr. Dean signed that filing.

Additionally, the Amended Complaint and accompanying affidavits that Mr. Dean filed included false statements regarding the background of at least two witnesses. That information was available publicly prior to Mr. Dean's filing the Amended Complaint, but he filed the affidavits nevertheless, referred to the mistaken background throughout the Amended Complaint and filings, and failed to correct the record even after the matter was published in a national newspaper.

Further, the Amended Complaint and briefing made purposefully false statements regarding Dominion's founding, sought to connect Smartmatic and Dominion even though the two companies are competitors, and used affiant allegations about Smartmatic against Dominion in a deliberate effort to mislead the Court regarding Dominion.

Mr. Dean's conduct violated Rule 3.3.

3. Mr. Dean Violated Rule 4.4 Command That Lawyers Respect the Rights of Third Parties

Pursuant to Rule 4.4(a), "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. Dean sought to have millions of voters lose their right to decide the 2020 presidential election. As his co-counsel said, "Every fricking one of them."[54] Every court addressing the same complaint filed by Mr. Dean and his co-counsel noted the extraordinary remedy they sought and the effect it would have on millions of Americans.

Mr. Dean disregarded the potential consequences of his proposed remedy – showing no respect for the rights of millions of third persons whose votes would be invalidated – and his actions warrant discipline.

4. Mr. Dean 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] violate the attorney's oath."

The oath that Mr. Dean took to gain admission to the State Bar of Wisconsin states, in part:

> I will support the constitution of the United States and the constitution of the state of Wisconsin...I will employ, for the purpose of maintaining the causes confided in me, such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law…So help me God.

Mr. Dean 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 from discredited sources.

Furthermore, Mr. Dean assisted others in violating the Rules of Professional Conduct. Ms. Powell actively participated in the *Feehan* litigation. The State Bar of Texas's Committee for Lawyer Discipline filed a petition against Ms. Powell for her conduct related to the post-election cases she filed, including *Feehan*.[55] A Texas court recently denied Ms. Powell's motion to dismiss the petition.

Without Mr. Dean's assistance as local counsel, Ms. Powell could not have proceeded in Wisconsin. He assisted her efforts to violate the rules.

He also ignored his oath, which required him to act consistent with honor and truth.

His actions must be scrutinized and disciplined.

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[54] Tony Cook & Johnny Magdaleno, *Top Indiana Election Attorney Rushes to Defend Trump's Fraud Claims, Then Quietly Retreats*, Indianapolis Star (Nov. 17, 2020).

[55] https://courtsportal.dallascounty.org/DALLASPROD/DocumentViewer/Embedded/ye0-5n-ZNL7oyR1i6dndFnGQjA9qBJlrva-lvUlu1xeuIp-m_RTyMkwd1O6ghQITaElOonF8oaAAp0SfE3OCw2?p=0.

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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."[56] 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."[57] 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.

> 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.[58]

Mr. Dean 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 Wisconsin 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 Lawyer Regulation investigate Mr. Dean's conduct and pursue appropriate discipline.

Sincerely,

Michael Tobin

Managing Director
[redacted]

On behalf of The 65 Project

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[56] *Ohralik v. Ohio State Bar Assn*., 436 U.S. 447, 465 (1978).
[57] *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1056, 1072 (1991).
[58] *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.