



August 4, 2022

Office of Bar Counsel  
200 Harry S. Truman Parkway  
Suite 300  
Annapolis, MD 21401

Dear Office of Bar 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 Bar Counsel investigate the actions taken by Kurt Olsen relating to a concerted effort to overturn the legitimate 2020 presidential election results. Mr. Olsen served as a Special Counsel to Texas Attorney General Ken Paxton in Mr. Paxton's effort to invalidate the electoral votes of four other states. Texas's solicitor general at the time refused to participate in the filing, necessitating Mr. Olsen's retention. Mr. Paxton's effort has led the State of Texas's Commission on Lawyer Discipline to pursue sanctions against him. The Supreme Court summarily rejected the effort four days after Texas filed the Bill of Complaint.

Mr. Olsen then sought to interfere within the Department of Justice to force Acting Attorney General to Jeffrey Rosen to file a similar Bill of Complaint with the United States Supreme Court on behalf of the United States of America. Mr. Rosen refused, despite Mr. Olsen's threats to go directly to Mr. Trump with the matter.

Mr. Olsen continued to have Mr. Trump's ear, speaking to him several times on January 6, 2021.

Then, with the election's validity long established, Mr. Olsen has engaged in spurious, baseless litigation. He represents a group of plaintiffs suing Dominion Voting for sending the plaintiffs a cease-and-desist letter and a document preservation notice. And he has refused to comply with a subpoena from the Select Committee to Investigate the January 6th Attack on the United States Capitol (Select Committee), accusing the Select Committee of pursuing a "Soviet-style show trial against political opponents" and declaring the subpoena unconstitutional "because it was issued in furtherance of an investigation in search of a purported crime."

A full investigation by your office will demonstrate the egregious nature of Mr. Olsen's actions, especially when considered in light of his purposes and the direct and possible consequences of his behavior.

## BACKGROUND

Donald Trump lost the 2020 presidential election.<sup>1</sup> Anticipating his loss, Mr. Trump and his allies began questioning the election's legitimacy months before even one voter had cast a ballot.<sup>2</sup> In fact, this fit a pattern of Mr. Trump declaring fraud or a rigged election any time he lost or anticipated a loss.

Joe Biden received over 81 million votes in November 2020, defeating Mr. Trump by over seven million votes and over four percentage points.<sup>3</sup> Mr. Trump's head of the U.S. Cybersecurity and Infrastructure Security Agency, Christopher Krebs, [announced](#) that the "November 3<sup>rd</sup> 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.<sup>4</sup>

Many of Mr. Trump's own senior advisors agreed with Attorney General Barr and Mr. Krebs.<sup>5</sup> 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.<sup>6</sup> Mr. Rosen has testified that on December 15, 2020, at a meeting that included Mark Meadows, White House Chief of Staff, that he and others told Mr. Trump that the information he was receiving from his political allies was not correct.<sup>7</sup> And Mr. Donoghue has testified to the Select Committee that on December 27, 2020, he told Mr. Trump "in very clear terms" that after "dozens of investigations,

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<sup>1</sup> See United States National Archives, Electoral College Results – 2020, available at <https://www.archives.gov/electoral-college/2020>.

<sup>2</sup> Kevin Liptak, *A List of the Times Trump Has Said He Won't Accept the Election Results or Leave Office if He Loses*, CNN (Sept. 24, 2020), <https://www.cnn.com/2020/09/24/politics/trump-election-warnings-leaving-office/index.html>.

<sup>3</sup> See Federal Election Commission, *Official 2020 Presidential General Election Results*, available at <https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf>.

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

<sup>5</sup> 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>.

<sup>6</sup> 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>

<sup>7</sup> Interview of Jeffrey Rosen.

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.”<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup>

But as the Select Committee has revealed, lawyers participated in the effort to overturn the presidential election from behind the scenes, as well. Indeed, these lawyers played an even more malevolent role because they largely orchestrated the effort and continue to propagate lies and misinformation that imperils American democracy.

Mr. Olsen is one such attorney.

### FACTS GIVING RISE TO COMPLAINT

The effort to overturn the 2020 presidential election contained multiple strands. One involved litigating the 65 bogus lawsuits. When courts across the country uniformly rejected claims and allegations, many of Mr. Trump’s advisors became more extreme in their efforts.

Two significant undertakings to disrupt the election’s outcome centered on lawsuits filed by several Pennsylvania Republicans and by the State of Texas. The Pennsylvania Republicans, in *Kelly v. Pennsylvania*, sought to have the courts throw out nearly all absentee ballots cast in the 2020 election. The Pennsylvania Supreme Court rejected the effort and the plaintiffs sought to have the United States Supreme Court hear that matter.

Additionally, on December 7, 2020, the State of Texas initiated a lawsuit in the United States Supreme Court against Pennsylvania, Georgia, Michigan, and Wisconsin. As part of the effort, Texas’s Attorney General, Ken Paxton, retained Mr. Olsen to assist in preparing the Bill of Complaint. Mr. Olsen has discussed working on the matter as a special counsel.

Through its filing, Texas sought for the Court to enjoin Pennsylvania and the other three defendant states from using the 2020 election results to appoint electors and to instead have the state legislatures choose electors or to have no electors at all. Texas based the request to disenfranchise over 20 million voters on factual and legal assertions that lacked any foundation and that state and lower federal courts had already uniformly rejected. Texas asserted that it – or

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<sup>8</sup> Interview with Richard Donoghue.

<sup>9</sup> 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/>.

<sup>10</sup> 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](https://www.michigan.gov/documents/ag/172_opinion__order_King_733786_7.pdf).

any state – had the right to pursue these claims before the Supreme Court under its original jurisdiction, even though lower courts had already determined that substantially similar claims lacked merit.

Texas’s own solicitor general at that time refused to allow his name to be added to the matter, likely because of its frivolous nature.<sup>11</sup> United States Senator John Cornyn, also a Texas Republican – and former Texas Supreme Court justice – said at the time, “I frankly struggle to understand the legal theory” behind the lawsuit.<sup>12</sup> Republican Senator Ben Sasse called it a “PR stunt rather than a lawsuit.”<sup>13</sup> Conservative commentators and legal scholars lambasted the filing.<sup>14</sup> And Mr. Olsen’s own law partners separated him from the firm and renamed their partnership to remove his name, and placed a disclaimer where his biography used to be on the firm website that, “Kurt Olsen is not affiliated in any way with Klafter Lesser LLP.”<sup>15</sup>

The Supreme Court summarily rejected the Pennsylvania Republican case on December 8, 2020<sup>16</sup> and the Texas effort on December 11, 2020.<sup>17</sup> The Texas State Bar Commission on Lawyer Discipline is pressing forward with an action against Mr. Paxton for bringing that matter. The Commission’s initial filing states:

Respondent’s pleadings requesting this extraordinary relief misrepresented to the United States Supreme Court that an “outcome-determinative” number of votes in each Defendant States supported Respondent’s pleadings and injunction requests. Respondent made representations in his pleadings that: 1) an outcome determinative number of votes were tied to unregistered voters; 2) votes were switched by a glitch with Dominion voting

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<sup>11</sup> See Jim Rutenberg et. al., *77 Days: Trump’s Campaign to Subvert the Election*, N.Y. Times (Jan. 31, 2021), <https://www.nytimes.com/2021/01/31/us/trump-election-lie.html>.

<sup>12</sup> *Cornyn Questions ‘Legal Theory’ of Texas’ Suit to Overturn Other States’ Election Results*, CBS Austin (Dec. 10, 2020), <https://cbsaustin.com/news/local/cornyn-questions-legal-theory-of-texas-suit-to-overturn-other-states-election-results>.

<sup>13</sup> Mairead McArdle, *Sasse Predicts Supreme Court Will Toss ‘PR Stunt’ Texas Election Lawsuit*, Nat’l. Rev. (Dec. 10, 2020), <https://www.nationalreview.com/news/sasse-predicts-supreme-court-will-toss-pr-stunt-texas-election-lawsuit/>.

<sup>14</sup> Emma Platoff, *U.S. Supreme Court Throws Out Texas Lawsuit Contesting 2020 Election Results in Four Battleground States*, Texas Tribune (Dec. 11, 2020), <https://www.texastribune.org/2020/12/11/texas-lawsuit-supreme-court-election-results>.

<sup>15</sup> Tom Boggioni, *Lawyer Who Fed Trump “Nonsense” Legal Theories Ahead of Jan. 6 Dumped by Firm’s Partners: Report*, Salon (Aug. 16, 2021), [https://www.salon.com/2021/08/16/lawyer-who-fed-trump-nonsense-legal-theories-ahead-of-jan-6-dumped-by-firms-partners-report\\_partner/](https://www.salon.com/2021/08/16/lawyer-who-fed-trump-nonsense-legal-theories-ahead-of-jan-6-dumped-by-firms-partners-report_partner/).

<sup>16</sup> Order Denying Application for Injunctive Relief, available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/20a98.html>.

<sup>17</sup> Order Denying Motion for Leave to File a Bill of Complaint, available at [https://www.supremecourt.gov/orders/courtorders/121120zr\\_p860.pdf](https://www.supremecourt.gov/orders/courtorders/121120zr_p860.pdf).

machines; 3) state actors “unconstitutionally revised their state’s election statutes;” and 4) “illegal votes” had been cast that affected the outcome of the election.

Respondent’s representations were dishonest. His allegations were not supported by any charge, indictment, judicial finding, and/or credible or admissible evidence, and failed to disclose to the Court that some of his representations and allegations had already been adjudicated and/or dismissed in a court of law.

In addition, Respondent misrepresented that the State of Texas had “uncovered substantial evidence... that raises serious doubts as to the integrity of the election process in Defendant States,” and had standing to bring these claims before the United States Supreme Court.<sup>18</sup>

Mr. Olsen helped draft that “dishonest” brief.

Two weeks after the Supreme Court rejected the Texas’s effort Mr. Olsen began pushing Mr. Trump to pressure his Acting Attorney General to file a nearly identical Bill of Complaint with the Supreme Court on behalf of the United States of America. Mr. Trump quickly accepted the idea, with Mr. Olsen apparently suggesting to Mr. Trump that it was a slam dunk.

Mr. Olsen then emailed Acting Solicitor General Jeffrey Wall, stating:<sup>19</sup>

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<sup>18</sup> *Comm’n for Lawyer Discipline v. Paxton*, Cause No. 471-02574-2022 (Dist. Ct. Collin Cty., Tex.) Original Disciplinary Pet. at 4.

<sup>19</sup> *Subverting Justice: How the Former President and His Allies Pressured DOJ to Overturn the 2020 Election*, Senate Committee on the Judiciary at Ex. K, available at <https://www.judiciary.senate.gov/imo/media/doc/Interim%20Staff%20Report%20FINAL.pdf>

kurtols

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**From:** kurtols  
**Sent:** Tuesday, December 29, 2020 10:57 AM  
**To:** jeffrey.b.wall@usdoj.gov  
**Subject:** AG Rosen

Dear SG Wall,

I represented Texas in the action filed in the SCT against Pennsylvania et al. Last night, the President directed me to meet with AG Rosen today to discuss a similar action to be brought by the United States. I have not been able to reach him despite multiple calls/texts. This is an urgent matter. Please call me at (b) (6) or ask AG Rosen to contact me asap. Thank you.

Sincerely,

Kurt B. Olsen

The Senate Judiciary Committee found that Mr. Olsen contacted Mr. Rosen or his assistant multiple times over the next two days, including this email:<sup>20</sup>

**From:** kurt olsen  
**Sent:** Tuesday, December 29, 2020 12:45 PM  
**To:** john.moran3@usdoj.gov  
**Subject:** Meeting with AG Rosen  
**Attachments:** US-v-States-Compl 2020-12-29 (final draft).docx

Dear John,

Thank you for calling me on behalf of AG Rosen. Attached is a draft complaint to be brought by the United States modeled after the Texas action. As I said on our call, the President of the United States has seen this complaint, and he directed me last night to brief AG Rosen in person today to discuss bringing this action. I have been instructed to report back to the President this afternoon after this meeting. I can be at Main Justice (or anywhere else in the DC Metropolitan area) with an hour's notice. I will call you at 1:15 pm today to follow up on when and where I can meet AG Rosen. Another lawyer may accompany me. Please acknowledge receipt of this email. Thank you.

Sincerely,

Kurt B. Olsen

Mr. Rosen, however, understood that Mr. Olsen was advancing an approach that had no support in law, that the Supreme Court had rejected two nearly identical Bills of Complaint just weeks

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<sup>20</sup> *Id.* at 25, Ex. O.

earlier, and that the Justice Department had investigated and found no evidence of the asserted fraud that served as the foundation for the Complaint. When Mr. Olsen called him directly, Mr. Rosen attempted a polite brushoff.<sup>21</sup>

Instead, Mr. Olsen called Mr. Rosen again the next day. According to the Senate Judiciary Committee report:

Olsen reached Rosen again on December 30. Donoghue was present for the entire call and took notes. Rosen recalled Olsen being “aggressive,” telling him that Trump wanted DOJ to “file this brief by noon today,” and threatening to report Rosen’s position back to Trump. Rosen responded that he would discuss the matter with Trump but not Olsen, and recalled this being the last and only time he spoke to an outside Trump ally about challenges to the election results.<sup>22</sup>

The Bill of Complaint that Mr. Olsen helped draft contained multiple false statements of fact and law. For example, the Complaint stated:

The rampant lawlessness arising out of Defendant States’ unconstitutional acts is described in a number of currently pending lawsuits in Defendant States or in public view including:

Dozens of witnesses testifying under oath about: the physical blocking and kicking out of Republican poll challengers; thousands of the same ballots run multiple times through tabulators; mysterious late night dumps of thousands of ballots at tabulation centers; illegally backdating thousands of ballots; signature verification procedures ignored;

Videos of: poll workers erupting in cheers as poll challengers are removed from vote counting centers; poll watchers being blocked from entering vote counting centers—despite even having a court order to enter; suitcases full of ballots being pulled out from underneath tables after poll watchers were told to leave.

Facts for which no independently verified reasonable explanation yet exists: On October 1, 2020, in Pennsylvania a laptop and several USB drives, used to program Pennsylvania’s Dominion voting machines, were mysteriously stolen from a warehouse in Philadelphia. The laptop and the USB drives were the only items taken, and potentially could be used to alter vote tallies; In Michigan, which also employed the same Dominion voting system,

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<sup>21</sup> *Id.* at 26.

<sup>22</sup> *Id.* at 27.

on November 4, 2020, Michigan election officials have admitted that a purported “glitch” caused 6,000 votes for President Trump to be wrongly switched to Democrat Candidate Biden. A flash drive containing tens of thousands of votes was left unattended in the Milwaukee tabulations center in the early morning hours of Nov. 4, 2020, without anyone aware it was not in a proper chain of custody.<sup>23</sup>

These claims had been asserted and reasserted by the Trump campaign many times, even after the allegations were shown to be false. Further, it was not accurate to claim that they were part of pending lawsuits.

Additionally, the Complaint contained false statements regarding the statistical likelihood that Mr. Biden would win – claims that state bar associations and the New York Court of Appeals have cited as a basis for seeking and imposing discipline on those assertions who made them. The Complaint repeats:

The probability of former Vice President Biden winning the popular vote in four of the Defendant States—Georgia, Michigan, Pennsylvania, and Wisconsin—independently given President Trump’s early lead in those States as of 3 a.m. on November 4, 2020, is less than one in a quadrillion, or 1 in 1,000,000,000,000,000. For former Vice President Biden to win these four States collectively, the odds of that event happening decrease to less than one in a quadrillion to the fourth power (i.e., 1 in 1,000,000,000,000,0004).<sup>24</sup>

Further, Mr. Olsen’s draft sought to have all votes cast in the seven proposed defendant states thrown out. As the Complaint said, “Voters who cast lawful ballots cannot have their votes diminished by states that administered their 2020 presidential elections in a manner where it is impossible to distinguish a lawful ballot from an unlawful ballot.”<sup>25</sup> Of course, Mr. Olsen sought to have tens of millions of legal votes invalidated based on unsupported factual allegations and a theory of constitutional law and remedies that lacks any basis in law.

Finally, as Mr. Rosen repeatedly affirmed to each person pressuring him to file the Complaint, the United States had no authority to bring the suit.<sup>26</sup>

Eventually, Mr. Rosen succeeded in convincing Mr. Trump that the Department could not file the Complaint that Mr. Olsen was pushing. Mr. Rosen’s conduct stands in sharp contrast to Mr.

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<sup>23</sup> The full Bill of Complaint can be found at *Subverting Justice: How the Former President and His Allies Pressured DOJ to Overturn the 2020 Election*, Senate Committee on the Judiciary at Ex. L.

<sup>24</sup> *Id.* (at Bill of Complaint ¶ 11.)

<sup>25</sup> *Id.* (at Bill of Complaint ¶ 16.)

<sup>26</sup> *Id.* at 26-27.



Olsen's, who – despite being a private citizen – sought to harness the power and authority of the Justice Department to seek to overturn the 2020 presidential election based on bogus and fraudulent claims that continue to harm our nation.

Indeed, Mr. Olsen's conduct following Mr. Biden's swearing in further demonstrates his willingness to violate the Rules of Professional Conduct in furtherance of his political objectives.

Mr. Olsen commenced a lawsuit against Dominion Voting on behalf of eight individuals in Michigan who received cease and desist and document preservation letters from the company. The Amended Complaint that Mr. Olsen drafted and filed asserts that Dominion Voting violated his clients First and Fourteenth Amendment rights, as well as the Racketeer Influenced and Corrupt Organizations Act (RICO).<sup>27</sup> The RICO claims cannot pass even the most basic laugh test. In the Amended Complaint, Mr. Olsen failed to allege any of the facts requisite to showing "racketeering" activity, nor any of the harms to his clients' property as a result of the phantom racketeering, nor even the existence of the necessary "enterprise," since under the law, a corporation cannot be both the defendant and the enterprise.

The First and Fourteenth Amendment claims are equally baseless. Private conduct cannot give rise to a First or Fourteenth Amendment violation, other than in the most exceptional circumstances of private conduct amounting to state action.<sup>28</sup> Mr. Olsen attempted to assert such an exception by claiming that because various state entities purchased Dominion's voting machines, the company was fulfilling a traditional state function and acted under color of law. That assertion relies on misrepresented facts and inaccurate characterizations of law regarding private action giving rise to state actor liability under the Constitution.<sup>29</sup>

But Mr. Olsen took it further. The case law is very clear that when seeking to allege that private conduct amounted to state action, the plaintiff must demonstrate that the *challenged action* is a traditional state function.<sup>30</sup> In other words, whether supplying the government with voting machines is a traditional state function is irrelevant to the analysis of whether sending cease and desist letters amounts to state action. And the notion that Dominion was acting as the government when it mailed the letters finds no support in the law.

Any responsible attorney would have known these points and refused to participate in the effort to bring this matter to court. Mr. Olsen, however, has demonstrated a disregard for the governing rules around the professional. This litigation, like the proposed Bill of Complaint, aided his personal and political agenda and so he brought it.

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<sup>27</sup> *Cooper, et al. v. US Dominion, Inc., et al.*, No. 1:21-cv-02672 (D. Colo.) Am. Compl., available at <https://storage.courtlistener.com/recap/gov.uscourts.cod.210144/gov.uscourts.cod.210144.31.0.pdf>.

<sup>28</sup> *See, e.g., Gallagher v. "Neil Young Freedom Concert"*, 49 F.3d 1442, 1447-57 (10th Cir. 1995).

<sup>29</sup> *See generally* Am. Compl., ¶¶ 36-43, 111-13, 116.

<sup>30</sup> *Wittner v. Banner Health*, 720 F.3d 770, 776-77 (10th Cir. 2013)

Mr. Olsen has also shown contempt for the Rules – and the rule of law – by refusing to comply with a subpoena issued by the Select Committee.<sup>31</sup> He has sued House of Representatives Speaker Nancy Pelosi, along with the members of the Select Committee and the Select Committee, itself. The complaint alleges that the Select Committee is illegitimate because it “predetermined” that the false narratives fueled the January 6<sup>th</sup> insurrection.<sup>32</sup> Mr. Olsen used his Complaint to attempt to relitigate the already rejected claims of fraud in the 2020 presidential election. He stated, “The Select Committee never intended for its investigation to be a balanced inquiry to determine the truth. An investigation with public hearings, subpoenas, and depositions devoted to confirming a predetermined conclusion is reminiscent of Soviet ‘show trials’ intended to intimidate and silence political opponents.”<sup>33</sup> And, finally, Mr. Olsen also objected to the subpoena on the grounds that the Select Committee was a “partisan exercise,” while Mr. Olsen, seemingly unironically, cited reports from Republican legislators in Wisconsin and Arizona to prove voter fraud occurred in 2020.<sup>34</sup> No proper basis existed for refusing to comply with the Select Committee’s subpoena, as Steven Bannon’s recent conviction demonstrates.

All of these actions by Mr. Olsen create serious concerns about whether he should remain a member in good standing of the Maryland State Bar.

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

The Office of Bar Counsel should investigate on the following bases:

1. Mr. Olsen Violated Rule 19-303.1 By Bringing and Defending Matters He Knows Lacked Merit.

Rule 19-303.1 provides, in part, as follows: “An attorney shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes, for example, 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.”

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<sup>31</sup> See March 10, 2022 Letter to The Honorable Bennie G. Thompson, available at [https://cdn.locals.com/documents/640135/640135\\_3gwx82s3rxxqpwn.pdf](https://cdn.locals.com/documents/640135/640135_3gwx82s3rxxqpwn.pdf).

<sup>32</sup> *Olsen v. Pelosi, et al.*, No. 1:2022:cv00807 (D. D.C.) Compl. ¶ 6, available at <https://storage.courtlistener.com/recap/gov.uscourts.dcd.241574/gov.uscourts.dcd.241574.1.0.pdf>.

<sup>33</sup> *Id.* at ¶ 9.

<sup>34</sup> *Id.* at ¶¶ 8, 14-17.

A court finding of frivolity is not necessary prior to imposing discipline for violating Rule 19-303.1.<sup>35</sup> Instead, Maryland courts have cited approvingly to the federal standard that frivolous arguments are those that “a reasonable attorney could not have believed were justified and that have absolutely no chance of success under existing precedent.”<sup>36</sup>

Additionally, an attorney violates Rule 19-303.1 when using “a legal process merely as a device to apply pressure to the other party.”<sup>37</sup>

Mr. Olsen has initiated two lawsuits – one against Dominion and one against Ms. Pelosi and the Select Committee – that have no basis in law and/or fact. More than that, the litigation appears on their face to simply be an extension of Mr. Olsen’s effort to discredit the 2020 presidential election. Courts across the country, the Department of Justice, and the national security agencies all determined that claims of fraud and voter irregularities lacked any basis. Mr. Olsen concocted causes of action to further pursue his bogus claims and to harass Dominion and the Select Committee. His actions warrant discipline.

2. Mr. Olsen violated his duty of candor to a tribunal.

Rule 19-303.3 commands that an

Attorney shall not knowingly:

(1) 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 attorney;

...

(4) offer evidence that the attorney knows to be false. If an attorney has offered material evidence and comes to know of its falsity, the attorney shall take reasonable remedial measures.

As Comment 3 makes clear, this Rule governs “an assertion purporting to be on the attorney’s own knowledge, as in an affidavit by the attorney or in a statement in open court,” which, under the Rule, “may properly be made only when the attorney knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry.”

Mr. Olsen’s Complaint against Ms. Pelosi and the Select Committee included his own signed verification attesting to the truth of the factual assertions contained therein. The document’s statement of facts includes false claims about the 2020 presidential election results. Mr. Olsen continues the effort begun by Mr. Trump’s campaign and carried out through over 65 lawsuits across the country seeking to claim that Mr. Biden stole the 2020 election. He reasserts the well-worn allegations and concludes by stating, “These are but a few examples of clear evidence of outcome-determinative fraudulent or illegal voting in swing states in the November 2020

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<sup>35</sup> *Att’y Grievance Comm’n v. Worsham*, 441 Md. 105, 127, 105 A.3d 515, 528 (2014)

<sup>36</sup> *Id.*

<sup>37</sup> *Att’y Grievance Comm’n of Maryland v. Powers*, 454 Md. 79, 97, 164 A.3d 138, 148 (2017).

election that was public both before and after January 6, 2021. The Select Committee not only deliberately ignores the evidence but seeks to criminalize the discussion of it.”<sup>38</sup>

As discussed above, courts uniformly rejected these factual assertions and lawyers who perpetrated the effort have faced discipline by their respective state bars. Mr. Olsen, too, should be subject to discipline for offering these same baseless claims.

3. Mr. Olsen used tactics to burden other persons.

Rule 19-304.4(a) provides that, “In representing a client, an attorney 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.”

Mr. Olsen has indicated that Mr. Trump was his client. On behalf of Mr. Trump, he sought to pressure Mr. Rosen and the White House Counsel’s Office to pursue his client’s interests. He called Mr. Rosen repeatedly, despite being rebuffed. He emailed and called Mr. Rosen’s assistant. And he threatened Mr. Rosen when Mr. Rosen refused to carry out the demand to file the Bill of Complaint.

Moreover, Mr. Olsen pursued a Complaint that would invalidate the votes of tens of millions of citizens. The Third Circuit Court of Appeals addressed the notion of throwing out the valid votes of millions of Pennsylvanians by stating:

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.<sup>39</sup>

Mr. Olsen’s effort went further than the plaintiffs in the Pennsylvania case. He drafted a Complaint that, if not stopped by Mr. Rosen and Mr. Donoghue, would have led to a constitutional crisis and possibly the disenfranchisement of tens of millions of voters. He sought to harm those individuals without any basis and his effort burdened nothing less than American democracy.

4. Mr. Olsen Engaged in Misconduct that Violates Rule 19-308.4

Rule 19-308.4 provides that it constitutes professional misconduct to:

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<sup>38</sup> *Olsen v. Pelosi, et al.*, No. 1:2022:cv00807 (D. D.C.) Compl. ¶ 21.

<sup>39</sup> *Donald J. Trump for President, Inc.*, 830 F. App’x at 390.

(a) [V]iolate or attempt to violate the Maryland Attorneys’ Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

...

(c) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation...

As discussed above, Rule 19-303.1 provides that an attorney “shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes, for example, a good faith argument for an extension, modification or reversal of existing law.”

Mr. Olsen violated Rule 19-308.4(a) by attempting to file a Bill of Complaint with the United States Supreme Court that asserted knowingly false claims about the 2020 presidential election and that lacked any legal basis. He also knew, based on the Court’s own recent rejections of similar efforts – and Mr. Rosen’s analysis – that the United States did not have standing to bring such a suit against six states.

In addition, Mr. Olsen lacked any basis for asserting that the 2020 presidential election resulted in a fraudulent outcome. Courts across the country had rejected the claims he wrote in his draft of the Complaint. In fact, the Justice Department found no such concerns and the Department’s leadership – including the Attorney General – had publicly stated no fraud occurred.

That Mr. Rosen’s and Mr. Donoghue’s integrity prevented the Complaint from being filed does not save Mr. Olsen from having violated Rule 19-308.4. Under subsection (a), a lawyer engages in misconduct by violating or *attempting* to violate the Rules or by assisting another in doing so. By drafting the Complaint and pressing the matter at the Department of Justice, Mr. Olsen attempted to violate the Rules of Professional Conduct.

Finally, the entire enterprise that Mr. Olsen participated in involved dishonesty, fraud, deceit, and misrepresentation. Further, this ethical standard applies to conduct that occurs outside of a tribunal.

The potential consequence of Mr. Olsen’s attempted interference with the administration of justice cannot be overstated. His proposed Complaint would have, as a co-drafter stated, spark a “constitutional crisis.”<sup>40</sup> His conduct warrants the severest of discipline.

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That a member 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.

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<sup>40</sup> Letter from William Olson to The President, Dec. 28, 2020, available at <https://int.nyt.com/data/documenttools/olson-memo-trump-election/e59dca011b5db8c5/full.pdf>.

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.<sup>41</sup>

Mr. Olsen abused his place of trust and played a significant role in the effort to overturn the 2020 election results.

For the reasons set forth above, The 65 Project respectfully requests that the Office of Bar Counsel investigate Mr. Olsen's conduct and impose appropriate discipline. And, because he has demonstrated a willingness – perhaps even eagerness – to engage in the same problematic behaviors and to defend his conduct, we ask that you treat this matter with urgency.

Sincerely,



Michael Teter  
Managing Director, The 65 Project

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<sup>41</sup> *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).