



October 20, 2022

Lawyer Regulation Division
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, AZ 85016-6288

Dear Lawyer Regulation Division:

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 Lawyer Regulation Division investigate the actions taken by Alexander Kolodin (State Bar No. 030826) relating to his effort to overturn the 2020 presidential election. Mr. Kolodin 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. Kolodin worked on *Bowyer v. Ducey* from the litigation’s inception. That action not only lacked any basis in law or fact, but included the Plaintiffs’ counsel presenting patently false evidence that the lawyers did not investigate before bringing it to federal court. Indeed, *Bowyer* was nearly a carbon copy 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. Kolodin’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. Kolodin lent his Arizona law license to the effort. Mr. Kolodin also participated in three other matters, all lacking merit and quickly dismissed by the court. Arizona’s Rules of Professional Conduct demand more. By filing frivolous lawsuits untethered to either law or fact

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.

and in seeking an extreme remedy unheard of in any court of law, Mr. Kolodin not only crossed, but blew past, the ethical standards to which he is bound.

A full investigation by the Lawyer Regulation Division will demonstrate the egregious nature of Mr. Kolodin's actions, especially when considered in light of his purposes, the direct and possible consequences of his behavior, and the serious risk that Mr. Kolodin 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

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.

Department of Justice – Mr. Trump’s own Department of Justice – had concluded that “the major allegations are not supported by the evidence developed.”⁷

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. Kolodin helped lead the charge on behalf of Mr. Trump in Arizona.

On December 2, 2020 – four weeks after the presidential election – Mr. Kolodin filed a Complaint for Declaratory, Emergency, and Permanent Injunctive Relief, which initiated *Bowyer v. Ducey*. About the only thing Mr. Kolodin got right in that filing was the use of the Oxford comma in its caption.

In that lawsuit, Mr. Kolodin sought to have the federal court order state officials to decertify the election results.

As noted above, *Bowyer* was a carbon copy of complaints filed in other states – an effort that Mr. Kolodin’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)
- *Feehan v. Wisconsin Elections Commission*, Case No. 20-cv-1771 (E.D. Wis. 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 Mr. Kolodin filed asserted:

This civil action brings to light a massive election fraud, of the Election and Electors Clauses, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment, of the U.S. Constitution and multiple violations of the Arizona election laws. These violations occurred during the 2020 General Election throughout the State of Arizona, as set forth in the affidavits of eyewitnesses and the voter data cited, the statistical anomalies and

⁷ Interview with Richard Donoghue.

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.

mathematical impossibilities detailed in the affidavits of expert witnesses.

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.” It has now been amplified and rendered virtually invisible by computer software created and run by domestic and foreign actors for that very purpose. This Complaint details an especially egregious range of conduct in Maricopa County and other Arizona counties using employing Dominion Systems, though this conduct occurred throughout the State at the direction of Arizona state election officials.

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 Arizona, that collectively add up to multiples of Biden’s purported lead in the State of 10,457 votes.

While this 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 Arizona’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 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 Ex. 12, copy of redacted witness affidavit).¹⁰

Throughout the Complaint, “fraud” or its variations appear 56 times, “Venezuela” or “Venezuelan” appear 15 times, and there are at least 11 references to Hugo Chavez.¹¹ Indeed, Mr. Kolodin 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).¹² Moreover, the 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.”¹³ 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.¹⁴

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

¹⁰ *Bowyer v. Ducey*, No. 2:20-cv-02321 (D. Ariz. 2020) Compl. (Compl.), available at <https://storage.courtlistener.com/recap/gov.uscourts.azd.1255923/gov.uscourts.azd.1255923.1.0.pdf>.

¹¹ *See generally id.*

¹² 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>.

¹³ Compl. ¶ 7.

¹⁴ *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/>.

- The Plaintiffs allege that the Dominion software misallocates, redistributes, or deletes votes, but prior to including those allegations in the complaints, Mr. Kolodin knew that the Chairman of the Maricopa County Board of Supervisors had released a statement explaining, “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.”¹⁵
- The Complaint refers repeatedly to Wisconsin, but fails to acknowledge that Wisconsin conducted a post-election audit that included fifteen percent of Dominion machines and Wisconsin Election Commissioner Knudson, a former Republican state legislator, stated that the audit showed “no evidence of systemic problems” or “hacking” or of “switched votes.”¹⁶ 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.”¹⁷
- The lawyers included a declaration of an anonymous source – a “code-named “Spyder” – who the Plaintiffs stated was a “military intelligence expert.”¹⁸ 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.”¹⁹
- The complaint also selectively quoted Princeton professor Andrew Appel and indicated he was speaking about Dominion in 2020, when, in fact Dr. Appel was

¹⁵ 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>.

¹⁶ Video available at <https://wiseeye.org/2020/12/01/wisconsin-elections-commission-december-2020-meeting> at 2:05:18.

¹⁷ 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>.

¹⁸ See, e.g., Compl. ¶ 13.

¹⁹ 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.

speaking about a decades-old machine.²⁰ In reality, Dr. Appel and 58 other specialists in election security rebutted the assertions made about his views in the 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.”²¹

- The attorneys for Plaintiffs submitted sworn statements from individuals that contained identical explanations for speaking up:²²

| 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 | “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 |

²⁰ 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>.

²¹ *Id.*

²² 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.

| | |
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| free will of the people and subverting the proper course of governing.” | free will of the people and subverting the proper course of governing.” |
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- 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.”²³ 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.”²⁴ A North Dakota court entered a judgment against Ms. Maras-Lindeman finding that she engaged in fraud and deceptive behavior.²⁵ 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.”²⁶ 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 Mr. Kolodin never informed the Court of

²³ 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.

²⁴ 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>.

²⁵ 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>.

²⁶ 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>.

those errors.²⁷

Additionally, sufficient public information about his co-counsel's work existed to have put Mr. Kolodin 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.²⁸

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.”²⁹

Mr. Kolodin 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 believe those assertions to be “statements of fact.”³⁰

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

²⁷ 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/>.

²⁸ 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.

²⁹ 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>.

³⁰ 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.

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 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.³¹

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

³¹ *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.1255923.84.02.pdf>.

case.³²

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.³³ 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.”³⁴

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

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.³⁵

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.³⁶

And in Michigan, the Court held:

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

³² *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.

³³ *Id.* at 22 (emphasis in original).

³⁴ *Id.* at 23 (emphasis in original).

³⁵ *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>.

³⁶ *Pearson, et al. v. Kemp, et al.*, Case No. 1:20-v-04809-TCB (N.D. Ga. 2020) Tr. from Dec. 7, 2020 hearing.

dignity, hope, and a promise a voice, participated in the 2020 General Election. The Court declines to grant Plaintiffs this relief.³⁷

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 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.

...

³⁷ *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.

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.*³⁸

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.³⁹

Mr. Kolodin 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 LAWYER REGULATION DIVISION TO
INVESTIGATE MR. KOLODIN’S CONDUCT AND TO
IMPOSE APPROPRIATE DISCIPLINE**

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

1. Mr. Kolodin 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 good faith basis in law and fact for doing so that

³⁸ *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).

³⁹ See <https://storage.courtlistener.com/recap/gov.uscourts.mied.350905/gov.uscourts.mied.350905.193.0.2.pdf>.

is not frivolous, which may include a good faith and nonfrivolous 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.”⁴⁰

Ample evidence demonstrates that Mr. Kolodin knew of the frivolous nature of the litigation he initiated. 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. Kolodin.

Further, the surrounding context demonstrates the frivolousness of Mr. Kolodin’s conduct. Public reports available prior to Mr. Kolodin’s initiating *Bowyer* showed that the Trump campaign’s attorneys did not believe Ms. Powell had any evidence to support her claims. Mr. Kolodin 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. Kolodin’s conduct violated Rule 3.1.

2. Mr. Kolodin 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 Complaint and accompanying affidavits that Mr. Kolodin filed included false statements regarding the background of at least two witnesses. That information was available publicly prior to Mr. Kolodin’s filing the 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 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.

⁴⁰ Rule 1.0(f).

Mr. Kolodin's conduct violated Rule 3.3.

3. Mr. Kolodin 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. Kolodin sought to have millions of voters lose their right to decide the 2020 presidential election. Every court addressing the same complaint filed by Mr. Kolodin and his co-counsel noted the extraordinary remedy they sought and the effect it would have on millions of Americans.

Mr. Kolodin 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. Kolodin 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. Kolodin 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. Kolodin assisted others in violating the Rules of Professional Conduct. Ms. Powell actively participated in the *Bowyer* 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 *Bowyer*.⁴¹ A Texas court recently denied Ms. Powell's motion to dismiss the petition.

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

⁴¹ https://courtsportal.dallascounty.org/DALLASPROD/DocumentViewer/Embedded/ye0-5n-ZNL7oyR1i6dndFnGQjA9qBJlrva-IvUlu1xeuIp-m_RTyMkwd1O6ghQITaElOonF8oaAAp0SfE3OCw2?p=0.

His actions must be scrutinized and disciplined.

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.”⁴² 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.”⁴³ 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.⁴⁴

Mr. Kolodin 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 Arizona 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 Lawyer Regulation Division investigate Mr. Kolodin’s conduct and pursue appropriate discipline.

Sincerely,



Michael Teter
Managing Director

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On behalf of The 65 Project

⁴² *Ohralik v. Ohio State Bar Assn.*, 436 U.S. 447, 465 (1978).

⁴³ *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1056, 1072 (1991).

⁴⁴ *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.